

## The Treaty of Amsterdam of 2 October 1997

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## The Treaty of Amsterdam

In June 1995 — one and a half years after the 1992 Treaty on European Union came into force — a Reflection Group was set up to prepare the ground for a new Intergovernmental Conference. The Group submitted its report to the Madrid European Council in December 1995. The Conference, responsible for resolving certain institutional issues and differentiating between Member States in the integration process, opened in Turin in March 1996 and concluded at the meeting of the European Council in Amsterdam on 16 and 17 June 1997. Since the Amsterdam Council had secured a consensus on the draft document, the Treaty was signed in Amsterdam on 2 October 1997. Following the process of ratification by the Member States, the Treaty of Amsterdam came into force on 1 May 1999.

### Structure of the Treaty

The Treaty of Amsterdam consists of 15 articles, 13 protocols — some annexed to the Treaty on European Union, some to the Treaty on European Union and the Treaty establishing the European Community, some to the Treaty establishing the European Community, and some to the Treaty on European Union and the Treaties establishing the European Community, the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (Euratom) — and 59 declarations.

The Treaty is structured as follows:

- First part: Substantive amendments
- Second part: Simplification
- Third part: General and final provisions
- Annex
- Protocols
- Final Act

### The European Union

Since the conclusion of the Maastricht Treaty, the European Union had been based on a three-pillar structure, the first pillar representing the European Communities, the second the Common Foreign and Security Policy (CFSP) and the third cooperation in justice and home affairs. The Treaty of Amsterdam altered the third pillar, confining it to the realm of **police and judicial cooperation in criminal matters** (PJCC), and brought the section concerned with the free movement of persons — and thus with visa, asylum and immigration issues — within the scope of Community policy-making.

The Treaty affirmed that the European Union (EU) was based on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law and made compliance with these principles a prior condition for accession to the Union by new Member States.

In order to make the Treaties more readily comprehensible, the Treaty of Amsterdam introduced a new system of numbering for the provisions of the Treaty on European Union and the Treaty establishing the European Community, and it also repealed certain provisions that had become void. The numbering of the articles in the ECSC and Euratom Treaties, however, remained unchanged.

The substance of the decision taken in 1992 by the Edinburgh European Council on the **seats of the institutions** was incorporated into a protocol annexed to the Treaty on European Union and the three Community Treaties.

A further protocol provided that all Commission consultation documents and proposals for legislation

presented by the Commission to Parliament and the Council should be notified to the national parliaments. The Conference of Community and European Affairs Committees of Parliaments of the EU (COSAC) acquired the right to submit contributions to the EU institutions and to review draft legislation and proposals for legal measures in connection with the establishment of a European area of freedom, security and justice.

## First pillar

### Institutional framework

The Treaty provided for an extension of the powers of **Parliament**.

Parliament acquired the power to approve the President-designate of the Commission.

The cooperation procedure was simplified and became the most widely applicable legislative procedure. It was, henceforth, applicable to the new provisions enshrined in the Treaty concerning employment, equality of opportunity and equal treatment, public health, transparency, protection of the Community's financial interests, customs cooperation, statistics and data protection, as well as to many existing provisions.

A maximum of 700 Members was established for the European Parliament so as to avoid the number of MEPs becoming unmanageable following any further enlargement of the Union. Parliament was empowered to establish a standard procedure — or a set of principles common to all the Member States — for its election by direct universal suffrage. It was also empowered to determine the status of its Members and the general conditions governing the exercise of their functions, subject to the opinion of the Commission and the unanimous approval of the Council.

The **Commission** was affected by a further major innovation, apart from the requirement of Parliamentary approval for its President-designate. Its members were now to be appointed by common accord of the governments of the Member States and the President-designate. The Commission was also to work under the political guidance of its President.

In the **Council**, qualified majority voting was extended both to new Treaty provisions and to certain existing provisions. Newly introduced areas in which the procedure was to apply included employment guidelines and incentive measures, social exclusion, equality of opportunity and treatment of men and women, public health, transparency, combating fraud, statistics, establishment of an independent advisory body on data protection, the outermost regions and customs cooperation. The Treaty also provided that the procedure would become applicable to compensatory aid for imports of raw materials, certain aspects of the right of establishment, specific research and technology development programmes, and the setting up of joint undertakings in research and technology development.

Nonetheless, important areas of policy — such as the free movement of persons, right of residence, social security for migrant workers, amendment of the legal principles governing the exercise of professions in the Member States, culture, industry, aspects of environmental policy, social policy and policy on Economic and Monetary Union, and subsidiary powers — remained subject to the principle of unanimity.

The Treaty provided that the **Court of Justice of the European Communities** should have jurisdiction, under certain conditions, within the third pillar — i.e. in the field of police and judicial cooperation in criminal matters — and with regard to enhanced cooperation. The Commission was also made responsible for ensuring that the institutions respected fundamental rights.

The supervisory remit of the **Court of Auditors** was extended, and it was given the right to bring actions for annulment before the Court of Justice for the purpose of protecting its prerogatives.

A further provision facilitated consultation by Parliament of the **Economic and Social Committee** and the **Committee of the Regions**, and the range of matters on which these committees' views had to be sought

was extended.

There had been much debate, prior to the drafting of the Treaty of Amsterdam, about whether and how to enable States to proceed with European integration at differing speeds, but it was not until the Treaty had been signed that the **enhanced cooperation** procedure came into being. The Council, acting by a qualified majority on a proposal from the Commission and after consulting with Parliament, could, under certain conditions, authorise a number of Member States to establish closer cooperation between themselves, making use of the institutions, procedures and mechanisms laid down by the Treaty.

## Community policies

The Treaty of Amsterdam brought no major changes in the powers of the European Coal and Steel Community or the European Atomic Energy Community.

By contrast, it gave the European Community new powers and introduced changes into some of its existing areas of competence. New Community responsibilities included combating all forms of discrimination on grounds of sex, race, ethnic origin, religion or beliefs, disability, age or sexual orientation; provisions concerning job creation and combating unemployment; the substance of the Social Policy Agreement; and provisions on the free movement of persons with regard to visas, asylum and immigration. Other areas of responsibility that already lay with the Community were amended: the provisions in question here concerned the environment, public health and consumer protection, European citizenship, promotion of cultural diversity, sport and services of general economic interest.

A Protocol annexed to the EC Treaty set out the criteria for assessing observance of the principle of subsidiarity, which had been introduced by the 1992 Treaty on European Union.

The principle of transparency became an integral part of the Treaty, through the requirements that debates in and decisions taken by the Council in its legislative capacity should be in the public domain and that individuals should have a right of access to European Parliament, Council and Commission documents, subject to general principles and conditions laid down by the Council.

A declaration on the quality of the drafting of Community legislation provided for more rapid codification of legislative texts and for improvement in the editorial quality of Community legislation so that it might be properly implemented by the competent national authorities and better understood by the general public.

## Second pillar

### Institutional framework

Innovations resulting from the Treaty concerned the progressive framing of a common defence policy, cooperation in the field of armaments, the concept of constructive abstention in the Council, a reinforced role for Western European Union (WEU), creation of the post of High Representative for the Common Foreign and Security Policy — a *Mr (or Mrs) CFSP* — and establishment of a policy planning and early warning unit. The European troika was also redefined: it would now consist of the current President of the Council of the European Union, the High Representative for the Common Foreign and Security Policy and the Commissioner responsible for External Relations.

### Legal instruments

In addition to **joint actions** and **common positions** adopted by the Council, there was now a new tool, the **common strategy**, available to the European Council for its role in defining principles and general guidelines for the CFSP.

## Policies

The CFSP would now include the progressive framing of a common defence policy. This might entail humanitarian and rescue missions, peacekeeping tasks, and missions by combat forces in crisis management. WEU was to play an integral part in the development of the Union.

### **Third pillar**

#### Institutional framework

The Treaty provided for the Commission and Parliament to play a more important role with regard to police and judicial cooperation in criminal matters. The Court of Justice was also given jurisdiction over measures taken in this field.

**Enhanced cooperation** under the third pillar was provided for, but the conditions under which it was possible were even stricter than those governing enhanced cooperation on matters falling under the Community pillar. Expenditure arising from such cooperation was to be charged to the participating Member States, unless the Council took a unanimous decision otherwise.

#### Legal instruments

A new type of tool, known as the **framework decision**, was introduced in addition to **common positions** and **conventions**.

## Policies

Now that policies (on visas, asylum and immigration) relating to the free movement of persons had been transferred to the sphere of Community responsibility, the third pillar was concerned solely with **police and judicial cooperation in criminal matters**. The Union's aim here was to offer citizens a high level of safety within an area of freedom, security and justice, through the development of common action by the Member States in the fields of police and judicial cooperation in criminal matters, and measures to prevent and combat racism and xenophobia.