

## EU and EC TREATY

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March 2003

### Treaty on European Union and Treaty establishing the European Community

#### 1. Selected Parts of the (consolidated version of the) Treaty on European Union

##### COMMON PROVISIONS

###### *Article 1 (ex Article A)*

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called 'the Union'.

This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

The Union shall be founded on the European Communities, supplemented by the policies and forms of cooperation established by this Treaty. Its task shall be to organise, in a manner demonstrating consistency and solidarity, relations between the Member States and between their peoples.

###### *Article 2 (ex Article B)*

The Union shall set itself the following objectives:

- to **promote** economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of this Treaty;
- to **assert** its identity on the international scene, in particular through the implementation of a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence, in accordance with the provisions of Article 17;
- to **strengthen** the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union;
- to **maintain** and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime;
- to **maintain** in full the acquis communautaire and build on it with a view to considering to what extent the policies and forms of cooperation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

The objectives of the Union shall be achieved as provided in this Treaty and in accordance with the conditions and the timetable set out therein while respecting the principle of subsidiarity as defined in Article 5 of the Treaty establishing the European Community.

###### *Article 3 (ex Article C)*

The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the *acquis communautaire*.

The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency and shall cooperate to this end. They shall ensure the implementation of these policies, each in accordance with its respective powers.

**Article 6 (ex Article F)**

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.

3. The Union shall respect the national identities of its Member States.

4. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

**Article 7 (ex Article F.1)**

1. The Council, meeting in the composition of the Heads of State or Government and acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1), after inviting the government of the Member State in question to submit its observations.

2. Where such a determination has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.

3. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 2 in response to changes in the situation which led to their being imposed.

4. For the purposes of this Article, the Council shall act without taking into account the vote of the representative of the government of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 1. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 2.

5. For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its members.

## 2. Selected Parts of the (consolidated version of the) Treaty establishing the European Community

### *Article 12 (ex Article 6a)*

Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, **any discrimination on grounds of nationality shall be prohibited.**

...

### *Article 14 (ex Article 7a)*

...

2. The internal market shall comprise an area without internal frontiers in which the **free movement of goods, persons, services and capital** is ensured in accordance with the provisions of this Treaty.

...

## CITIZENSHIP OF THE UNION

### *Article 17 (ex Article 8)*

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.

2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.

### *Article 18 (ex Article 8a)*

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.

2. The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save as otherwise provided in this Treaty, the Council shall act in accordance with the procedure referred to in Article 251. The Council shall act unanimously throughout this procedure.

### *Article 19 (ex Article 8b)*

1. Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

2. Without prejudice to Article 190(4) and to the provisions adopted for its implementation, every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

**Article 20 (ex Article 8c)**

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State. Member States shall establish the necessary rules among themselves and start the international negotiations required to secure this protection.

...

**FREE MOVEMENT OF GOODS**

**Article 23 (ex Article 9)**

1. The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries. respective powers and within the scope of application of this Treaty, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions.

2. The provisions of Article 25 and Chapter 2 of this Title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States

**Article 24 (ex Article 10)**

Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

Chapter 1

The customs union

**Article 25 (ex Article 12)**

Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

**Article 26 (ex Article 28)**

Common Customs Tariff duties shall be fixed by the Council acting by a qualified majority on a proposal from the Commission.

**Article 27 (ex Article 29)**

In carrying out the tasks entrusted to it under this Chapter the Commission shall be guided *by*:

- (a) the need to promote trade between Member States and third countries;
- (b) developments in conditions of competition within the Community insofar as they lead to an improvement in the competitive capacity of undertakings;
- (c) the requirements of the Community as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;
- (d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Community.

Chapter 2  
Prohibition of quantitative restrictions between Member States  
**Article 28 (ex Article 30)**

Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.

**Article 29 (ex Article 34)**

Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.

**Article 30 (ex Article 36)**

The provisions of Articles 28 and 29 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

**Article 31 (ex Article 37)**

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.

2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the Articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.

3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying the rules contained in this Article to ensure equivalent safeguards for the employment and standard of living of the producers concerned. 4. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Community.

**FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL**

Chapter 1  
**Workers**  
**Article 39 (ex Article 48)**

1. Freedom of movement for workers shall be secured within the Community.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
  - (a) to accept offers of employment actually made;
  - (b) to move freely within the territory of Member States for this purpose;

(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;

(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.

4. The provisions of this Article shall not apply to employment in the public service.

**Article 40 (ex Article 49)**

The Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 39, in particular:

(a) by ensuring close cooperation between national employment services;

(b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;

(c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;

(d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

**Article 41 (ex Article 50)**

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

**Article 42 (ex Article 51)**

The Council shall, acting in accordance with the procedure referred to in Article 251, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for migrant workers and their dependants

(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;

(b) payment of benefits to persons resident in the territories of Member States.

The Council shall act unanimously throughout the procedure referred to in Article 251.

Chapter 2

**Right of establishment**

**Article 43 (ex Article 52)**

Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 48, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the Chapter relating to capital.

**Article 44 (ex Article 54)**

1. In order to attain freedom of establishment as regards a particular activity, the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall act by means of directives.

2. The Council and the Commission shall carry out the duties devolving upon them under the preceding provisions, in particular:

(a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;

(b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Community of the various activities concerned;

(c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;

(d) by ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;

(e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, insofar as this does not conflict with the principles laid down in Article 33(2);

(f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

(g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and other, are required by Member States of companies or firms within the meaning of the second paragraph of Article 48 with a view to making such safeguards equivalent throughout the Community;

(h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

**Article 45 (ex Article 55)**

The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

The Council may, acting by a qualified majority on a proposal from the Commission, rule that the provisions of this Chapter shall not apply to certain activities.

**Article 46 (ex Article 56)**

1. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

2. The Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the abovementioned provisions.

**Article 47 (ex Article 57)**

1. In order to make it easier for persons to take up and pursue activities as self-employed persons, the Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.

2. For the same purpose, the Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons. The Council, acting unanimously throughout the procedure referred to in Article 251, shall decide on directives the implementation of which involves in at least one Member State amendment of the existing principles laid down by law governing the professions with respect to training and conditions of access for natural persons. In other cases the Council shall act by qualified majority.

3. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for their exercise in the various Member States. *Article 48 (ex Article 58)*

Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States.

Companies or firms' means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

Chapter 3

**Services**

**Article 49 (ex Article 59)**

Within the framework of the provisions set out below, restrictions on freedom to provide services within the Community shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.

The Council may, acting by a qualified majority on a proposal from the Commission, extend the provisions of the Chapter to nationals of a third country who provide services and who are established within the Community.

**Article 50 (ex Article 60)**

Services shall be considered to be 'services' within the meaning of this Treaty where they are normally provided for remuneration, insofar as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

Services' shall in particular include:

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) activities of craftsmen;
- (d) activities of the professions.

Without prejudice to the provisions of the Chapter relating to the right of establishment, the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

**Article 51 (ex Article 61)**

1. Freedom to provide services in the field of transport shall be governed by the provisions of the Title relating to transport.
2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the liberalisation of movement of capital.

**Article 52 (ex Article 63)**

1. In order to achieve the liberalisation of a specific service, the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament, issue directives acting by a qualified majority.
2. As regards the directives referred to in paragraph 1, priority shall as a general rule be given to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.

**Article 53 (ex Article 64)**

The Member States declare their readiness to undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 52(1), if their general economic situation and the situation of the economic sector concerned so permit.  
To this end, the Commission shall make recommendations to the Member States concerned.

**Article 54 (ex Article 65)**

As long as restrictions on freedom to provide services have not been abolished, each Member State shall apply such restrictions without distinction on grounds of nationality or residence to all persons providing services within the meaning of the first paragraph of Article 49.

**Article 55 (ex Article 66)**

The provisions of Articles 45 to 48 shall apply to the matters covered by this Chapter.

Chapter 4

**Capital and payments**

**Article 56 (ex Article 73b)**

1. Within the framework of the provisions set out in this Chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.
2. Within the framework of the provisions set out in this Chapter, all restrictions on payments between Member States and between Member States and third countries shall be prohibited.

**Article 57 (ex Article 73c)**

1. The provisions of Article 56 shall be without prejudice to the application to third countries of any restrictions which exist on 31 December 1993 under national or Community law adopted in respect of the movement of capital to or from third countries involving direct investment - including in real estate - establishment, the provision of financial services or the admission of securities to capital markets.
2. Whilst endeavouring to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to the other Chapters of this Treaty, the Council may, acting by a qualified majority on a proposal from the Commission, adopt measures on the movement of capital to or

from third countries involving direct investment - including investment in real estate - establishment, the provision of financial services or the admission of securities to capital markets. Unanimity shall be required for measures under this paragraph which constitute a step back in Community law as regards the liberalisation of the movement of capital to or from third countries.

**Article 58 (ex Article 73d)**

1. The provisions of Article 56 shall be without prejudice to the right of Member States:  
(a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;  
(b) to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.  
2. The provisions of this Chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with this Treaty. 3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 56.

**Article 59 (ex Article 73f)**

Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the operation of economic and monetary union, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the ECB, may take safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary.

**Article 60 (ex Article 73g)**

1. If, in the cases envisaged in Article 301, action by the Community is deemed necessary, the Council may, in accordance with the procedure provided for in Article 301, take the necessary urgent measures on the movement of capital and on payments as regards the third countries concerned.  
2. Without prejudice to Article 297 and as long as the Council has not taken measures pursuant to paragraph 1, a Member State may, for serious political reasons and on grounds of urgency, take unilateral measures against a third country with regard to capital movements and payments. The Commission and the other Member States shall be informed of such measures by the date of their entry into force at the latest.

The Council may, acting by a qualified majority on a proposal from the Commission, decide that the Member State concerned shall amend or abolish such measures. The President of the Council shall inform the European Parliament of any such decision taken by the Council.

TITLE XII (ex Title IX)  
**CULTURE**  
**Article 151 (ex Article 128)**

1. The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

2. Action by the Community shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:

- improvement of the knowledge and dissemination of the culture and history of the European peoples;
- conservation and safeguarding of cultural heritage of European significance; non-commercial cultural exchanges;
- artistic and literary creation, including in the audiovisual sector.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.

4. The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.

5. In order to contribute to the achievement of the objectives referred to in this Article, the Council

- acting in accordance with the procedure referred to in Article 251 and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 251;
- acting unanimously on a proposal from the Commission, shall adopt recommendations.

### **The Council**

#### *Article 202 (ex Article 145)*

To ensure that the objectives set out in this Treaty are attained **the Council shall**, in accordance with the provisions of this Treaty:

- ensure coordination of the general economic policies of the Member States;
- **have power to take decisions;**
- confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down. The Council may impose certain requirements in respect of the exercise of these powers. The Council may also reserve the right, in specific cases, to exercise directly implementing powers itself. The procedures referred to above must be consonant with principles and rules to be laid down in advance by the Council, acting unanimously on a proposal from the Commission and after obtaining the Opinion of the European Parliament.

#### *Article 205 (ex Article 148)*

1. Save as otherwise provided in this Treaty, the Council shall act by a majority of its members.

2. 'Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as follows:

Belgium 5 Denmark 3 Germany 10 Greece 5 Spain 8 France 10 Ireland 3 Italy 10 Luxembourg 2 Netherlands 5 Austria 4 Portugal 5 Finland 3 Sweden 4 United Kingdom 10.

For their adoption, acts of the Council shall require at least:

62 votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,

62 votes in favour, cast by at least 10 members, in other cases.

3. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

The **Commission**

...

**Article 226 (ex Article 169)**

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

**Article 227 (ex Article 170)**

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

**Article 228 (ex Article 171)**

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 judgment 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 judgment of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgment 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 judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 227.

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**Article 234 (ex Article 177)**

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:  
(a) the interpretation of this Treaty;

...

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of justice to give a ruling thereon. Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

...

**Provisions common to several institutions**  
***Article 249 (ex Article 189)***

In order to carry out their task and in accordance with the provisions of this Treaty, the European Parliament acting jointly with the Council, the Council and the Commission shall make regulations and issue directives, take decisions, make recommendations or deliver opinions.

**A regulation shall** have general application. It shall **be binding in its entirety and directly applicable in all Member States.**

**A directive shall be binding,** as to the result to be achieved, upon each Member State to which it is addressed, **but shall leave to the national authorities the choice of form and methods.**

A **decision** shall be **binding** in its **entirety** upon those to whom it is addressed. **Recommendations and opinions** shall have **no binding force.**

## KEY ARTICLES

Article 14 of the Treaty establishing the European Community provides, that the internal market shall comprise an area without internal frontiers in which the **free movement of goods, persons, services and capital** is ensured in accordance with the provisions of this Treaty.

Here are some more articles about the freedoms of movement of goods, persons, services and capital. Link each freedom to the correspondent article.

Article	G	P	S	C
<b>1 Article 49:</b> Within the framework of the provisions set out below, restrictions on <b>freedom to provide services</b> within the Community shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.			S	
<b>2 Article 28: Quantitative restrictions</b> on imports and all <b>measures having equivalent effect</b> shall be prohibited between Member States.				
<b>3 Article 18:</b> Every citizen of the Union shall have the <b>right to move and reside freely</b> within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.				
<b>4 Article 39: Freedom of movement for workers</b> shall be secured within the Community.				
<b>5 Article 25: Customs duties</b> on imports and exports and <b>charges having equivalent effect</b> shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.				
<b>6 Article 20:</b> Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to <b>protection</b> by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State.				
<b>7 Article 43:</b> Within the framework of the provisions set out below, restrictions on the <b>freedom of establishment</b> of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.				
<b>8 Article 56:</b> Within the framework of the provisions set out in this Chapter, all restrictions on the <b>movement of capital</b> between Member States and between Member States and third countries shall be prohibited.				

**Article 234** of the Treaty establishing the European Community enables the Court of Justice to have jurisdiction to **give preliminary rulings** concerning the interpretation of this Treaty. **Article 249** of the Treaty establishing the European Community enumerates **five instruments** for the European Parliament acting jointly with the Council, the Council and the Commission in order to carry out their task and in accordance with the provisions of this Treaty.

Here is the key text of both articles. Read the text and then link the key term to the definition.

**Article 234 (ex Article 177)**

The Court of Justice shall have jurisdiction to give preliminary rulings concerning: (a) the interpretation of this Treaty;...

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of justice to give a ruling thereon. Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice. ...

**Article 249 (ex Article 189)**

In order to carry out their task and in accordance with the provisions of this Treaty, the European Parliament acting jointly with the Council, the Council and the Commission shall make regulations and issue directives, take decisions, make recommendations or deliver opinions.

A **regulation** shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A **directive** shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A **decision** shall be binding in its entirety upon those to whom it is addressed.

**Recommendations** and **opinions** shall have no binding force.

Key term	Definition
<b>1</b> Directive	<b>a</b> ... shall be <b>binding</b> in its <b>entirety</b> upon those to whom it is addressed.
<b>2</b> Regulation	<b>b</b> ... shall be <b>binding</b> , as to the result to be achieved, upon each Member State to which it is addressed, <b>but shall leave to the national authorities the choice of form and methods.</b>
<b>3</b> Decision	<b>c</b> ... shall have <b>no binding force.</b>
<b>4</b> Recommendation	<b>d</b> Where a question of the interpretation of this Treaty is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, <b>request the Court of justice to give a ruling</b> thereon.
<b>5</b> Opinion	<b>e</b> ... shall have <b>no binding force.</b>
<b>6</b> Reference for a preliminary ruling	<b>f</b> ... shall have <b>general application.</b> It shall be <b>binding in its entirety and directly applicable in all Member States.</b>

## ANSWER KEY

<b>1</b>	Article 49	<b>services</b>
<b>2</b>	Article 28	<b>goods</b>
<b>3</b>	Article 18	<b>persons</b>
<b>4</b>	Article 39	<b>persons</b>
<b>5</b>	Article 25	<b>goods</b>
<b>6</b>	Article 20	<b>persons</b>
<b>7</b>	Article 43	<b>persons</b>
<b>8</b>	Article 56	<b>capital</b>

<b>1</b>	Directive	<b>b</b>
<b>2</b>	Regulation	<b>f</b>
<b>3</b>	Decision	<b>a</b>
<b>4</b>	Recommendation	<b>ce</b>
<b>5</b>	Opinion	<b>ce</b>
<b>6</b>	Reference for a preliminary ruling	<b>d</b>