



## THE MAASTRICHT AND AMSTERDAM TREATIES

The Maastricht Treaty altered the former European treaties and created a European Union based on three pillars: the European Communities, the common foreign and security policy (CFSP) and cooperation in the field of justice and home affairs (JHI). With a view to the enlargement of the Union, the Amsterdam Treaty made the adjustments needed to enable the Union to function more efficiently and democratically.

### I. THE MAASTRICHT TREATY

The Treaty on European Union<sup>[1]</sup>, signed in Maastricht on 7 February 1992, entered into force on 1 November 1993.

#### A. The Union's structures

By instituting a European Union, the Maastricht Treaty marked a new step in the process of creating an 'ever-closer union among the peoples of Europe'. The Union was based on the European Communities and supported by policies and forms of cooperation provided for in the Treaty on European Union. It had a single institutional structure, consisting of the Council, the European Parliament, the European Commission, the Court of Justice and the Court of Auditors which (being at the time strictly speaking the only EU institutions) exercised their powers in accordance with the Treaties. The Treaty established an Economic and Social Committee and a Committee of the Regions, which both had advisory powers. A European System of Central Banks and a European Central Bank were set up under the provisions of the Treaty in addition to the existing financial institutions in the EIB group, namely the European Investment Bank and the European Investment Fund.

#### B. The Union's powers

The Union created by the Maastricht Treaty was given certain powers by the Treaty, which were classified into three groups and were commonly referred to as 'pillars': the first pillar consisted of the European Communities and provided a framework enabling powers for which Member States had transferred sovereignty in areas governed by the Treaty to be exercised by the Community institutions. The second pillar was the common foreign and security policy laid down in Title V of the Treaty. The third pillar was cooperation in the fields of justice and home affairs laid down in Title VI of the Treaty. Titles V and VI provided for intergovernmental cooperation using the common

[1]OJ C 191, 29.7.1992, p. 1–112.



institutions, with certain supranational features such as involving the Commission and consulting Parliament.

### 1. The European Community (first pillar)

The Community's task was to make the single market work and to promote, among other things, a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection and equality between men and women. The Community pursued these objectives, acting within the limits of its powers, by establishing a common market and related measures set out in Article 3 of the EC Treaty and by initiating the economic and single monetary policy referred to in Article 4. Community activities had to respect the principle of proportionality and, in areas that did not fall within its exclusive competence, the principle of subsidiarity (Article 5 of the EC Treaty).

### 2. The common foreign and security policy (CFSP) (second pillar)

The Union had the task of defining and implementing, by intergovernmental methods, a common foreign and security policy. The Member States were to support this policy actively and unreservedly in a spirit of loyalty and mutual solidarity. Its objectives were: to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter; to strengthen the security of the Union in all ways; to promote international cooperation; to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

### 3. Cooperation in the fields of justice and home affairs (third pillar)

The Union's objective was to develop common action in these areas by intergovernmental methods to provide citizens with a high level of safety within an area of freedom, security and justice. It covered the following areas:

- Rules and the exercise of controls on crossing the Community's external borders;
- Combating terrorism, serious crime, drug trafficking and international fraud;
- Judicial cooperation in criminal and civil matters;
- Creation of a European Police Office (Europol) with a system for exchanging information between national police forces;
- Controlling illegal immigration;
- Common asylum policy.

## II. THE AMSTERDAM TREATY

The Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts<sup>[2]</sup>, signed in Amsterdam on 2 October 1997, entered into force on 1 May 1999.

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[2]OJ C 340, 10.11.1997, p. 115.



## **A. Increased powers for the Union**

### **1. European Community**

With regard to objectives, special prominence was given to balanced and sustainable development and a high level of employment. A mechanism was set up to coordinate Member States' policies on employment, and there was a possibility of some Community measures in this area. The Agreement on Social Policy was incorporated into the EC Treaty with some improvements (removal of the opt-out). The Community method now applied to some major areas which had hitherto come under the third pillar, such as asylum, immigration, crossing external borders, combating fraud, customs cooperation and judicial cooperation in civil matters, in addition to some of the cooperation under the Schengen Agreement, which the EU and Communities endorsed in full.

### **2. European Union**

Intergovernmental cooperation in the areas of police and judicial cooperation was strengthened by defining objectives and precise tasks and creating a new legal instrument similar to a directive. The instruments of the common foreign and security policy were developed later, in particular by creating a new instrument, the common strategy, a new office, the 'Secretary-General of the Council responsible for the CFSP', and a new structure, the 'Policy Planning and Early Warning Unit'.

## **B. A stronger position for Parliament**

### **1. Legislative power**

Under the codecision procedure, which was extended to the existing 15 legal bases under the EC Treaty, Parliament and the Council became co-legislators on a practically equal footing. With the exception of agriculture and competition policy, the codecision procedure applied to all the areas where the Council was permitted to take decisions by qualified majority. In four cases (Articles 18, 42 and 47 and Article 151 on cultural policy, which remained unchanged) the codecision procedure was combined with a requirement for a unanimous decision in the Council. The other legislative areas where unanimity was required were not subject to codecision.

### **2. Power of control**

As well as voting to approve the Commission as a body, Parliament also had a vote to approve in advance the person nominated as President of the future Commission (Article 214).

### **3. Election and statute of Members**

With regard to the procedure for elections to Parliament by direct universal suffrage (Article 190 of the EC Treaty), the Community's power to adopt common principles was added to the existing power to adopt a uniform procedure. A legal basis making it possible to adopt a single statute for MEPs was included in the same article. However, there was still no provision allowing measures to develop political parties at European level (cf. Article 191).



### **C. Closer cooperation**

For the first time, the Treaties contained general provisions allowing some Member States under certain conditions to take advantage of common institutions to organise closer cooperation between themselves. This option was in addition to the closer cooperation covered by specific provisions, such as economic and monetary union, creation of the area of freedom, security and justice and incorporating the Schengen provisions. The areas where closer cooperation was possible were the third pillar and, under particularly restrictive conditions, matters subject to non-exclusive Community competence. The conditions which any closer cooperation had to fulfil and the planned decision-making procedures had been drawn up in such a way as to ensure that this new factor in the process of integration would remain exceptional and, at all events, could only be used to move further towards integration and not to take retrograde steps.

### **D. Simplification**

The Amsterdam Treaty removed from the European Treaties all provisions that the passage of time had rendered void or obsolete, while ensuring that this did not affect the legal effects derived from them in the past. It also renumbered the Treaty articles. For legal and political reasons the Treaty was signed and submitted for ratification in the form of amendments to the existing Treaties.

### **E. Institutional reforms with a view to enlargement**

**a.** The Amsterdam Treaty set the maximum number of Members of the European Parliament, in line with Parliament's request, at 700 (Article 189).

**b.** The composition of the Commission and the question of weighted votes were covered by a 'Protocol on the Institutions' attached to the Treaty. This provided that, in a Union of up to 20 Member States, the Commission would comprise one national of each Member State, provided that by that date, weighting of the votes in the Council had been modified. At all events, at least a year before the 21st Member State joined, a new intergovernmental conference would have to comprehensively review the Treaties' provisions on the institutions.

**c.** There was provision for the Council to use qualified majority voting in a number of the legal bases newly established by the Amsterdam Treaty. However, of the existing Community policies, only research policy had new provisions on qualified majority voting, with other policies still requiring unanimity.

### **F. Other matters**

A protocol covered Community procedures for implementing the principle of subsidiarity. New provisions on access to documents (Article 255) and greater openness in the Council's legislative work (Article 207(3)) improved transparency.

## **ROLE OF THE EUROPEAN PARLIAMENT**

The European Parliament was consulted before an intergovernmental conference was called. Parliament was also involved in the intergovernmental conferences according to ad hoc formulas; during the last three it was represented, depending on the case, by its President or by two of its members.



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