CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

THE CONSTITUTION FOR EUROPE

There is much confusion over the 'Constitution', and this book provides an in-depth legal analysis of the key aspects of the Constitutional Treaty which, if ratified by the 25 EU Member States, would govern the European Union. Piris argues that, despite its ratification being rejected by the French and the Netherlands referenda in 2005, the Treaty should not be discarded, as it will inevitably be the point of departure for the future of European integration. He places this analysis in an historical and political context and explains the origin, meanings and legal and political effects of all proposed changes to the present treaties.

JEAN-CLAUDE PIRIS is Director-General of the Legal Service of the Council of the European Union. He is a Member of the French Conseil d'Etat, Paris, a former French diplomat to the United Nations in New York, and former Director of the Legal Service of the OECD, Paris. He was the Legal Adviser and Head of Secretariat of the Intergovernmental Conference (IGC) which adopted the Constitution, as well as the Legal Adviser of the preceding IGCs which negotiated and adopted successively the treaties of Maastricht, Amsterdam and Nice.

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

CAMBRIDGE STUDIES IN EUROPEAN LAW AND POLICY

This series aims to produce original works which contain a critical analysis of the state of the law in particular areas of European Law and set out different perspectives and suggestions for its future development. It also aims to encourage a range of work on law, legal institutions and legal phenomena in Europe, including 'law in context' approaches. The titles in the series will be of interest to academics; policymakers; policy formers who are interested in European legal, commercial, and political affairs; practising lawyers including the judiciary; and advanced law students and researchers.

Joint Editors

Professor Dr Laurence Gormley
Rijksuniversiteit Groningen, The Netherlands

Professor Jo Shaw
University of Edinburgh

Editorial advisory board

Professor Richard Bellamy, University of Reading; Ms Catherine Barnard, University of Cambridge; Professor Marise Cremona, Queen Mary College, University of London; Professor Alan Dashwood, University of Cambridge; Professor Dr Jacqueline Dutheil de la Rochère, Université de Paris II, Director of the Centre de Droit Européen, France; Dr Andrew Drzemczewski, Council of Europe, Strasbourg, France; Sir David Edward KCMG, QC, former Judge, Court of Justice of the European Communities, Luxembourg; Professor Dr Walter Baron van Gerven, Emeritus Professor, Leuven & Maastricht and former Advocate General, Court of Justice of the European Communities; Professor Daniel Halberstam, University of Michigan, USA; Professor Dr Ingolf Pernice, Director of the Walter Hallstein Institut, Humboldt Universität, Berlin; Michel Petite, Director General of the Legal Service, Commission of the European Communities, Bruxelles; Professor Dr Sinisa Rodin, University of Zagreb; Professor Neil Walker, University of Aberdeen and EUI, Fiesole.

Books in the series

EU Enlargement and the Constitutions of Central and Eastern Europe
by Anneli Albi
Social Rights and Market Freedom in the European Economic Constitution: A Labour Law Perspective
by Stefano Giubboni
The Constitution for Europe: A Legal Analysis
by Jean-Claude Piris

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

THE CONSTITUTION FOR EUROPE

A Legal Analysis

JEAN-CLAUDE PIRIS

CAMBRIDGE
UNIVERSITY PRESS

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India

103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9780521682183

© Jean-Claude Piris 2006

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2006

A catalogue record for this publication is available from the British Library

ISBN 978-0-521-86353-7 Hardback
ISBN 978-0-521-68218-3 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication, and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

TABLE OF CONTENTS

List of figures *page* xiv
List of tables xv
List of boxes xvi
Series editors' preface xvii
Acknowledgments xix
Table of cases xx
List of annexes xxiii

Introduction 1

1 Is The constitution for Europe 'dead and buried'? 5
The ratification process of the Constitution 7
Analysis of the negative referenda in France and in the Netherlands 9
The experience of the two previous instances of negative referenda in Denmark and in Ireland 24
The continuation of the ratification process 28

2 The process that led to the Constitution 38
A short history of the idea of establishing a European Union 38
The political background which led to the Constitution 40
The European Convention which proposed the draft Constitution 45
The Intergovernmental Conference which approved the Constitution 49

3 Changes in structures and procedures 56
Simplifying the structures of the Union 57
Streamlining the instruments and the procedures of the Union 70
Codifying existing rules and principles of EU law 78

4 Changes in the institutions 87
Adapting the institutions to an enlarged EU 87

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

More democracy: conferring increased rights on actors other than the EU institutions 115

Establishing 'facilitating' mechanisms for a more flexible functioning of the EU 121

5 Changes in substance 131

Better protection for human rights and fundamental freedoms 134

Strengthening existing EU competences 145

6 General Assessment 179

Does the Constitution fulfil the Nice and Laeken mandates? 179

Legal, economic and social assessments 186

An important symbolic step from a political point of view 190

Conclusion what will the final form of the union be? 192

List of annexes 198

Laeken Declaration on the Future of the European Union 198

Existing legal bases switched to ordinary legislative procedure (codecision) 207

Existing legal bases switched to qualified majority voting in the Council 211

New legal bases 215

Existing legal bases where unanimity, common accord or consensus will continue to apply 222

Table of equivalences between the provisions of the Treaty establishing a Constitution for Europe and the provisions of the EU and EC Treaties 232

List of 'passerelles' and provisions on a simplified revision procedure 249

Table of references 251

Index 257

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

TABLE OF CONTENTS

List of figures *page* xiv
List of tables xv
List of boxes xvi
Series editors' preface xvii
Acknowledgments xix
Table of cases xx
List of annexes xxiii

Introduction 1

1 Is The constitution for Europe 'dead and buried'? 5

The ratification process of the Constitution 7

Analysis of the negative referenda in France and in the Netherlands 9

Factors which determined the results of the referenda and motivations of the voters 19
The Netherlands 19
France 20

Conclusion of the analysis 23

The experience of the two previous instances of negative referenda in Denmark and in Ireland 24

The case of Denmark 24
The case of Ireland 26
Comparison with the referenda in France and in the Netherlands 27

The continuation of the ratification process 28

The June 2005 Declaration on the ratification of the Constitution 28
What next? 30
The unavoidable questions on the shape of the 'European project' 32

2 The process that led to the Constitution 38

A short history of the idea of establishing a European Union 38

The political background which led to the Constitution 40

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

The European Convention which proposed the draft Constitution 45

The Intergovernmental Conference which approved the Constitution 49

The Working Party of Legal Experts of the IGC 50

3 Changes in structures and procedures 56

Simplifying the structures of the Union 57

One Treaty 57
One legal personality 60
One pillar 62
The existing 'pillar structure' of the Treaties 63
The effects of the removal of the 'pillar structure' by the Constitution 66
The jurisdiction of the Court of Justice 67
The application of the basic principles of EU law 67
The so-called 'flexibility clause' 68
The protection of personal data 69
The powers of the European Ombudsman 69
by the European Parliament 69
The territorial scope of the Constitution 69
Privileges and immunities 70

Streamlining the instruments and the procedures of the Union 70

Streamlining the legal instruments adopted by the EU institutions 70
The 15 existing types of legal instruments 71
The six types of legal instruments in the Constitution 71

Streamlining the procedures followed by the institutions of the Union 73
The present rules on implementing powers ('comitology') 73
The new system of delegated and implementing powers in the Constitution 76
New rules by default in legislative matters and other streamlining of procedures 76

Codifying existing rules and principles of EU law 78

Classifying EU competences into three categories 78
The debate on the issue of division of competences and the solutions found 79

Codifying long-standing principles of EU law 82
The principle of primacy of EU law 82
The principle of conferral of competences 84
The principle of subsidiarity 85

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

The principle of proportionality 85
The principle of sincere cooperation 85
The principle of indirect administration 86
The principle of equality of Member States before the Constitution 86

4 Changes in the institutions 87

Adapting the institutions to an enlarged EU 87

Two more institutions: the European Council and the European Central Bank 87
Legal consequences of the European Council becoming an institution 88
Legal consequences of the European Central Bank becoming an institution 89

The institutions' powers and functioning 89
The European Parliament: more powers 90
Extension in the scope of codecision 90
Other cases of increase in the European Parliament's powers 90
The composition of the European Parliament 91
The European Council: a strengthened role 92
The new office of President of the European Council 92
The Council: a more legitimate decision-making and a Minister for Foreign Affairs 94
Extension in the coverage of Qualified Majority Voting (QMV) 94
A new QMV method 95
A short history of qualified majority voting in the Council 96
The debate on QMV in the Convention and in the IGC 102
Changes to the six-monthly rotating Presidency of the Council 105
The new office of Union Minister for Foreign Affairs 108
The Convention's failed attempt to create a 'legislative Council' 109
The Commission: streamlined and more efficient 110
The debate on the size and composition of the Commission in the Convention and in the IGC 112
Additional powers of the President of the Commission 113
The Court of Justice: an extended jurisdiction 113

More democracy: conferring increased rights on actors other than the EU institutions 115

The national Parliaments 116
A right of direct information from the EU institutions and a direct role in controlling respect for the principle of subsidiarity 116

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

Evaluation and scrutiny of certain activities in the field of Justice and Home Affairs 118
Active role in the simplified revision procedure of the Constitution 118
The Committee of the Regions 118
The EU's citizens 119
Establishing 'facilitating' mechanisms for a more flexible functioning of the EU 121
A modified 'enhanced cooperation' procedure 122
Cases of 'inbuilt closer cooperation' 123
The existing cases 123
The new case added by the Constitution: the 'permanent structured cooperation' in the field of defence 124
General and sectoral 'passerelles' to amend the Constitution 125
The existing 'passerelles' in the EU and EC Treaties 125
The new general 'passerelle' in the Constitution 125
The sectoral 'passerelles' in the Constitution 125
A general simplified revision procedure to amend Title III of Part III of the Constitution (on internal policies and competences) 127
Specific simplified revision procedure to amend certain provisions of the Constitution 127
Voluntary withdrawal from the EU 129

5 Changes in substance 131
Better protection for human rights and fundamental freedoms 134
Incorporation of the Charter of Fundamental Rights of the EU 134
A short history of fundamental rights in the EU 139
The way the Charter of Fundamental Rights is incorporated into the Constitution 141
Accession of the EU to the European Convention on Human Rights 143
Strengthening existing EU competences 145
Foreign policy(CFSP): new tools for a real foreign policy 145
A short history of CFSP in the EU 145
The innovations brought about by the Constitution 146
The merger into a single Title of all provisions on external action 147
The creation of the office of Union Minister for Foreign Affairs 147
The creation of the office of full-time President of the European Council 150

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

A timid opening towards more QMV in CFSP matters 150
The creation of an External Action Service 151
The Commission's general role in ensuring the Union's external representation, except for CFSP 153
Assessment of the new provisions 153
Defence (ESDP): further steps towards a more efficient policy 155
A short history of Defence in the EU 155
The innovations brought about by the Constitution 160
The clarification of the scope of EU crisis management tasks 161
The 'solidarity clauses' 161
The possibility of entrusting a group of Member States with an ESDP mission 162
The 'permanent structured cooperation' 162
The creation of a Defence Agency 164
The possibility of establishing a start-up fund for ESDP operations 164
Justice and Home Affairs (JHA): better decision-making, more competences and full judicial control 164
A short history of Justice and Home Affairs in the EU 165
The innovations brought about by the Constitution 168
QMV and codecision for asylum, immigration and external border controls 168
QMV and codecision for most provisions on criminal matters 168
A European Public Prosecutor's Office to protect the EU's financial interests 170
Specific procedures for improving the functioning and democratic control of JHA 170
Full judicial control 170
Keeping unanimity in a few very sensitive cases 171
Keeping the right of initiative of Member States 171
Assessment of the new provisions 171
Economic and monetary policy and the 'euro zone': improved decision-making 173
A short history of economic and monetary issues in the EU 173
The innovations brought about by the Constitution 174
Improved decision-making and representation for the euro zone 174
Improved decision-making in the area of economic and monetary policy 175
Public health: higher standards and better monitoring of threats 175
Social policy: a horizontal clause 175
Public services: a new legal basis 178

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

6 General Assessment 179

Does the Constitution fulfil the Nice and Laeken mandates? 179

The Nice mandate 179
The delimitation of powers between the EU and the Member States 179
The status of the Charter of Fundamental Rights 180
The simplification of the Treaties 180
The role of national Parliaments in the EU architecture 181

The Laeken mandate 181
A more democratic and transparent Union 181
A more efficient Union 183
The adoption of a 'constitutional text' 185

Legal, economic and social assessments 186

Legally, the Constitution is far from being a revolution 186
The Constitution will not bring about major changes in the economic and social fields 188

An important symbolic step from a political point of view 190

Conclusion what will the final form of the union be? 192

List of annexes 198

Laeken Declaration on the Future of the European Union 198

Existing legal bases switched to ordinary legislative procedure (codecision) 207

Existing legal bases switched to qualified majority voting in the Council 211

New legal bases 215

New legal bases where QMV in the Council will apply 215
New legal bases where unanimity in the Council will apply 217
New legal bases where QMV in the European Council will apply 219
New legal bases where unanimity in the European Council will apply 219
New legal bases where consensus in the European Council will apply 221

Existing legal bases where unanimity, common accord or consensus will continue to apply 222

Existing legal bases where unanimity in the Council will continue to apply 222

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

Existing legal bases switched from QMV to unanimity in the Council 229
Existing 'passerelles' where unanimity in the Council will continue to apply 229
Existing legal bases where unanimity in the Council will continue to apply, followed by approval or adoption by Member States, in accordance with their constitutional requirements 229
Existing legal bases where unanimity in the European Council will continue to apply 231
Existing legal bases where common accord of the Member States will continue to apply 231

Table of equivalences between the provisions of the Treaty establishing a Constitution for Europe and the provisions of the EU and EC Treaties 232
List of 'passerelles' and provisions on a simplified revision procedure 249
Table of references 251
Index 257

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

FIGURES

0.1 The founding Member States and the successive enlargements *page* 3
1.1 Evolution of the turnout for the elections to the European Parliament for the whole European Union 12
1.2 Evolution of the turnout for the elections to the European Parliament for France and the Netherlands 12
1.3 Percentage of the Dutch people supporting the membership of their country in the European Union 21
1.4 Percentage of the French people supporting the membership of their country in the European Union 23

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

TABLES

3.1 The division of competences between the European Union and its Member States *page* 80
4.1 Weight of Council members' votes since 1957 100

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

BOXES

0.1 The main amending Treaties *page* 4
1.1 Article I-8 of the Constitution 6
1.2 Declaration on the ratification of the Treaty establishing a Constitution for Europe (European Council, 15 and 16 June 2005) 28
2.1 Protocol on the institutions with the prospect of enlargement of the European Union (1997) 41
2.2 The four questions put by the 2000 Nice Declaration on the Future of the Union 43
2.3 Composition of the European Convention 46
3.1 The present 'Comitology' system (1999) 75
4.1 Article I-25 of the Constitution 96
4.2 The 'Ioannina Decision' of 1994 104
4.3 The rotation of Council Presidencies from 2005 to 2020 107
5.1 The Union's values (Article I-2 Cst) 133
5.2 ESDP operations and missions of the EU (2003–2005) 158
5.3 Variable geometry in JHA 167
5.4 The 'brake-accelerator' system in the area of judicial cooperation in criminal matters 169

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

SERIES EDITORS' PREFACE

The adoption of the Constitution for Europe, on 29 October 2004 in Rome, in a return to the venue where the old EEC Treaty was signed, was hoped to be a great leap forward for European integration. Its ratification, however, proved to be a bridge too far for the populations of France and the Netherlands. Significantly, given that many voters simply used the referenda in those countries to express a general dissatisfaction with the political class, Jean-Claude Piris begins this major study of the central and most characteristic aspects of the Constitution for Europe with the question whether the Constitution is now dead and buried. While he rightly concludes that it is too early for the requiem, he gives a careful analysis of the scenarios resulting from these referenda results.

This work makes a seminal contribution to the understanding of the core aspects of the Constitution, with the advantage of the author's unique insights into the processes by which it came about. Whatever the result of the further political deliberations, the Constitution stands as a reference point for the future development of integration, and it may be anticipated that this work will become the focus of much attention by scholars, politicians and others interested in the development of the European Union. Piris points out the innovations and improvements which the Constitution would introduce, building on the unfinished work of Maastricht, Amsterdam, and Nice. He highlights the improvements which it would make in the democratic structure of the Union and in streamlining decision-making, with notable improvements in the protection of fundamental rights within the ambit of the Union's activities and clarification of the Union's competences. In the mists of the political half-truths, deliberate misrepresentation and intentional inaccuracies which have characterised much of the discussion about the Constitution, this work forms a beacon of light to show the way forward. It is elegantly yet accessibly written and is a singularly well-informed and articulate contribution to writings in the field.

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

Accordingly, it is with great pleasure that we welcome this, the third book in the series Cambridge Studies in European Law and Policy, as a combination of law and policy analysis which will be essential reading in the disciplines which it covers.

Laurence Gormley
Jo Shaw
10 October 2005

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

ACKNOWLEDGMENTS

The author thanks Ms Thérèse Blanchet, adviser in the Legal Service of the EU Council, for her invaluable assistance in the writing of this book.

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

TABLE OF CASES

Court of Justice of the European Communities

Judgment of 5 February 1963, Case 26/62, *van Gend & Loos*, [1963] ECR p. 1 64n18
Judgment of 15 July 1964, Case 6/64 *Costa v. ENEL* [1964] ECR p. 585 64n17, 68n24, 82n44 and 187n7
Judgment of 13 November 1964, Cases 90/63 and 91/63, *Commission v. Luxembourg and Belgium,* [1964] ECR p. 625 187n7
Judgment of 12 November 1969, Case 29/69, *Stauder*, [1969] ECR p. 425 64n16, 139n27 and 180n1
Judgment of 17 December 1970, Case 11/70, *International Handelsgesellschaft*, [1970] ECR p. 1125 82n44
Judgment of 7 February 1973, Case 39/72, *Commission v. Italy* (premiums for slaughtering cows) [1973] ECR 101 86n52
Judgment of 4 December 1974, Case 41/74, *van Duyn*, [1974] ECR p. 1337 64n18
Judgment of 9 March 1978, Case 106/77, *Simmenthal*, [1978] ECR p. 629 64n17, 68n24 and 82n44
Judgment of 29 March 1979, Case 231/78, *Commission v. UK* (potatoes), [1979] ECR p. 1447 86n52
Judgment of 7 February 1979, Case 128/78, *Commission v. UK* (tachographs), [1979] ECR p. 419 86n52
Judgment of 23 April 1986, Case 294/83, *Les Verts v. Parliament*, [1986] ECR p. 1365 64n15, 134n15 and 187n8
Judgment of 4 October 1991, Case C-159/90, *SPUC v. Grogan*, [1991] ECR p. I-4685 138n24
Opinion 1/91 of 14 December 1991, *EEA Agreement*, [1991] ECR p. 6102 187n8
Opinion 2/91 of 19 March 1993, *ILO*, ECR p. I-1061 78n42
Judgment of 24 March 1994, Case C-2/92, *Bostock*, [1994] ECR p. I-976 142n38

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

Judgment of 30 March 1995, Case 65/93, *European Parliament v. Council*, [1995] ECR p. I-643 85n50
Opinion 2/94 of 28 March 1996, *Accession of the EC to the European Convention on Human Rights*, [1996] ECR p. I-1759 64n16, 68n26, 139n28, 143n39 and 180n2
Judgement of 12 May 1998, Case C-170/96, *Commission v. Council* (airport transit visas), [1998] ECR p. I-2763 65n19
Judgment of 18 March 2000, Case C-107/97, *Rombi and Arkopharma*, [2000] ECR p. I-3392 142n38
Judgment of 25 July 2002, Case 50/00 P, *Union de Pequeños agricultores*, [2002] ECR p. I-6719 114n26
Judgment of 21 January 2003, Case C-378/00, *Commission v. Council* (LIFE), [2003] ECR p. I-937 75n36
Judgment of 10 July 2003, Case C-11/00, *Commission v. ECB* (OLAF Regulation), [2003] ECR p. I-7147 89n3
Case C-77/05, *UK v. Council* (pending case) 168n1(box 5.3)

Other Courts

European Court of Human Rights (ECHR) and European Human Rights Commission

Decision of the European Human Rights Commission Case *X v. UK*, no. 8416/79, DR 19, p. 244 137n22
Judgment of 7 July 1989 of the ECHR, Case 1/1989/161/217, *Soering v. United Kingdom* 136n20
Judgment of 17 December 1996 of the ECHR, Rights, Case 71/1995/577/663, *Ahmed v. Austria* 136n20
Judgment of 29 June 2004 of the ECHR, Case 44774/98, *Leyla Sahin v Turkey* 138n26
Judgment of 30 June 2005 of the ECHR, Case 45036/98, *Bosphorus Hava Yollari Turizm v. Ireland* 139n28 and 140n33

National Constitutional and Other Courts

Advisory Opinion of 11 April 1949 of the International Court of Justice, Case *Reparation of injuries suffered in the service of the United Nations* 61n9
Judgment of 27 December 1973 of the Italian Constitutional Court, Case *Frontini* no. 183/73, I, 1974, 314 140n32
Judgment of 29 May 1974 of the German Constitutional Court, *Solange I*, BVerfGE 37, 271 140n29

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

Judgment of 22 October 1986 of the German Constitutional Court, *Solange II*, BVerfGE 73, 339 140n30
Judgment of 21 April 1989 of the Italian Constitutional Court, Case *Fragd* no. 232/89, I, 1990, 1855 140n32
Judgment of German Constitutional Court of 12 October 1993, Case *Brunner et al. v. The European Union Treaty*, BVerfGE 89, 155 131n1
Judgment of the Supreme Court of Denmark of 6 April 1998, Case *Carlsen v. Prime Minister* (on the Maastricht Treaty), I 361/1997 UfR 1998, 800 69n26
Judgment of German Constitutional Court of 7 June 2000, *Bananamarkt-ordnung*, BVerfGE 102, 147 140n31
Decision of 19 November 2004 of the French *Conseil constitutionnel* (on the Constitution for Europe) no. 2004–505 DC 84n46
Decision of 13 December 2004 of the Spanish *Tribunal Constitucional* (on the Constitution for Europe) no. DTC 1/2004 84n47

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-0-521-68218-3 — The Constitution for Europe
Jean-Claude Piris
Frontmatter
More Information

ANNEXES

1 Laeken Declaration on the Future of the European Union 198

2 Existing legal bases switched to ordinary legislative procedure (codecision) 207

3 Existing legal bases switched to qualified majority voting in the Council 211

4 New legal bases 215
New legal bases where QMV in the Council will apply 215
New legal bases where unanimity in the Council will apply 217
New legal basis where QMV in the European Council will apply 219
New legal bases where unanimity in the European Council will apply 219
New legal bases where consensus in the European Council will apply 221

5 Existing legal bases where unanimity, common accord or consensus will continue to apply 222
Existing legal bases where unanimity in the Council will continue to apply 222
Existing legal bases switched from QMV to unanimity in the Council 229
Existing 'passerelles' where unanimity in the Council will continue to apply 229
Existing legal bases where unanimity in the Council will continue to apply, followed by approval or adoption by Member States, in accordance with their constitutional requirements 229
Existing legal bases where unanimity in the European Council will continue to apply 231
Existing legal bases where common accord of the Member States will continue to apply 231

6 Table of equivalences between the provisions of the Treaty establishing a Constitution for Europe and the provisions of the EU and EC Treaties 232

7 List of 'passerelles' and provisions on a simplified revision procedure 249

© in this web service Cambridge University Press www.cambridge.org