Passerelle clauses

New ‘passerelle’ clauses allow, at a later date,

- for decision-making in the Council to be altered from unanimity to qualified majority, or
- for the legislative procedure to be altered from a special one to the ordinary one with qualified majority voting and co-decision, or
- for the submission of additional policy “areas” to QMV voting or to the ordinary legislative procedure

<table>
<thead>
<tr>
<th>New basis in the Constitution</th>
<th>Subject</th>
<th>Remarks</th>
<th>Decision by European Council or Council</th>
<th>Changes or insertions of articles, chapters, titles in the new amended treaties</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Article I-40(7), III-300(3)</td>
<td>CFSP</td>
<td>Decision of the European Council authorising the Council to act by a qualified majority in the area of CFSP. Note: This does not apply to decisions having defence or defence implications.</td>
<td>Unanimity in the European Council</td>
</tr>
<tr>
<td>2</td>
<td>Article I-55(4)</td>
<td>Multiannual financial framework</td>
<td>Legislative act shall lay down the multiannual financial framework. European Council may authorise the Council to act by qualified majority.</td>
<td>Unanimity in the European Council</td>
</tr>
<tr>
<td>2a</td>
<td>Article III-269(3)</td>
<td>Judicial cooperation in civil matters relating to family law</td>
<td>Council acts unanimously to establish measures concerning family law with cross-border implications. But it may decide to submit certain aspects of family law with cross-border implications to the ordinary legislative procedure. NEW in the 2007 Treaty: Use of this passerelle can be vetoed by a national parliament.</td>
<td>Unanimity in the European Council</td>
</tr>
</tbody>
</table>

---

1 The passerelle III-269(3) (number 2a) is not new – v. current Treaty Articles 65, 67 TEC  
2 The protocols on the position of the United Kingdom and Ireland and on the position of Denmark are amended but remain in force
|   | Article III-270(2d) | Judicial co-operation in criminal matters | Harmonisation of procedural criminal law  
Council can add further aspects of criminal procedural laws to the list of those laws which can/should be harmonised | Unanimity in the Council | To be inserted into Article 69E(2d) TFU (TEC) * |
|---|---------------------|-------------------------------------------|---------------------------------------------------------------------------------|--------------------------|-----------------------------------------------|
|   | Article III-271(1.3) | Judicial co-operation in criminal matters | Harmonisation of substantive criminal laws (definition of crimes and sanctions)  
Council may identify other areas of serious crimes with cross-border dimension which should be harmonised | Unanimity in the Council | To be inserted into Article 69F(1, last subpar.) TFU (TEC) * |
|   | Article III-271(2) | Judicial co-operation in criminal matters | Harmonisation of substantive criminal laws (definition of crimes and sanctions)  
To ensure the effective implementation of other Union policies, legislative acts may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned  
Note: This can also be considered as a general “flexibility” clause (see note at B.I.18)  
Note: This paragraph also reflects the new jurisdiction of the ECJ regarding Community competence in criminal matters | QMV or unanimity in the Council | To be inserted into Article 69F(2) TFU (TEC) * |
|   | Article III-274(4) | Judicial co-operation in criminal matters | Competences of the European Public Prosecutor  
The European Council may decide to extend the powers of the European Public Prosecutor's Office | Unanimity in the European Council | To be inserted into Article 69I(4) TFU (TEC) * |
|   | Article III-422(1) | Enhanced cooperation | The Council can decide to act by QMV instead of unanimity in the frame | Unanimity in the Council | To be inserted into Article |
| 8 | Article IV-444 (1-2) | Simplified Treaty Revision - General passerelle | - The European Council can authorise the Council to decide by QMV instead of unanimity  
  
Note: This applies also to CFSP (see also I-40(7)), but not to CSDP  
  
- The European Council may decide that the ordinary legislative procedure applies (instead of a special procedure)  
  
Note: This does not apply to CFSP and CSDP, because legislative acts cannot be adopted in these areas (I-40(6)) | Unanimity in the European Council  
Note: veto right of national parliaments | To be inserted into Article 33(3) TEU |

* The protocols on the position of the United Kingdom and Ireland and on the position of Denmark are amended but remain in force*