

Questionnaire: The 46 Issues

In the following we list all 46 issues of the standardised questionnaire with options as presented to the ministerial bureaucrats in the national governments. They were asked to mark their most preferred option.

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Issue 1.1: Citizenship of the Union

- (A) Clarifying that citizenship of the Union shall not take the place of national citizenship
- (B) Status Quo: no further clarification or enriching of Art. 8
- (C) Grouping together all rights and obligations which appear in other parts of the Treaty
- (D) Adding certain rights
 - (D1) civic and political rights
 - (D2) socio-economic rights
- (E) Adding certain obligations (e.g. humanitarian service / civil protection)
- (F) Redrafting certain articles to give them direct effect (e.g. Art. 8a on the right to move and reside)

Issue 1.2: Procedure for Adding Art. 8 (Citizenship) Without Revision of the Treaty

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Replacing the requirement of unanimity within the council by a super-qualified majority
- (C) Replacing the requirement of unanimity within the council by a qualified majority
- (D) Replacing it by the co-decision procedure
- (E) Replacing it by the assent procedure

Issue 1.3: Introducing Fundamental Rights to the Treaty

- (A) Status Quo: Art. F(2) TEU
- (B) Definition of some specific principles (e.g. a general nondiscrimination clause)
- (C) Accession by the Union to the European Charter of Human Rights (ECHR)
- (D) Including a catalogue of rights or „Charter“ limited on those rights recognized by all Member States¹
- (E) Including a catalogue of rights or „Charter“ including all rights recognized by at least one Member States²

Issue 1.4: Monitoring Observance of Fundamental Rights

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Enabling individuals to act directly before the Court of Justice of the EC
- (C) Introducing control of the actions of the Unions Institutions by the ECHR referred by the Court of Justice of the EC
- (D) Introducing control of the actions of the Unions Institutions by the ECHR referred by individuals
- (E) Provision for action against Member States which do not observe fundamental rights by reprimand³
- (F) Provision for action against Member States which do not observe fundamental rights by suspension of certain rights⁴
- (G) Provision for action against Member States which do not observe fundamental rights by exclusion from membership⁵

¹ Additional suboptions ((D1) In an Annex; (D2) In the Preamble; (D3) In the body of the Treaty.) were merged into one option D.

² Additional suboptions ((E1) In an Annex; (E2) In the Preamble; (E3) In the body of the Treaty.) were merged into one option E.

³ Additional suboptions ((E1) Decision by the Council by unanimity less one and (E2) Decision by the Court of Justice.) were merged into one option E.

⁴ Additional suboptions ((F1) Decision by the Council by unanimity less one; (F2) Decision by the Court of Justice) were merged into one option F.

⁵ Additional suboptions ((G1) Decision by the Council by unanimity less one; (G2) Decision by the Court of Justice.) were merged into one option G.

Issue 1.5: Principle of Subsidiarity

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Incorporation of the present Edinburgh Declaration into an annexed Protocol
- (C) Incorporation of an adjusted form of the Edinburgh Declaration into an annexed Protocol
- (D) Inserting an explicit provision regarding the need to avoid over-regulation
- (E) Inserting a provision requiring the Commission to have regard to the principle of subsidiarity

Issue 1.6: Review of Compliance With the Principle of Subsidiarity

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) External political review by using the COSAC
- (C) External political review by setting up a special body (consultative committee)
- (D) Extended judicial review by a right of referral to the Court of Justice for national parliaments
- (E) Extended judicial review by a right of referral to the Court of Justice for the Committee of the Regions

Issue 1.7: Transparency: Opening up the Council's Proceedings

- (A) Status Quo: no integration of the principle of transparency as a general principle of the Union
- (B) Integration of the principle of transparency as a general principle of the Union
- (C) Laying down the right to access to documents in an implementing regulation to be adopted by the Council by QMV
- (D) Laying down the right to access to documents in the Council's Rules of Procedure adopted by QMV
- (E) Referring to the opening up the Council's proceedings in its Rules of Procedures adopted by QMV
- (F) Referring to the opening up the Council's proceedings in the Treaty itself
- (G) Giving the Council the possibility to decide to hold public debates
- (H) Obligation for the Council to hold public debates unless decides otherwise by QMV

Issue 1.8 Legal Personality for the European Union

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Establishing a streamlined, fast track procedure for the conclusion of international arrangement by the Member States
- (C) No legal personality, but conferring explicitly on the Union's limited international capacity
- (D) Giving the EU an explicit legal personality by inserting a new article in the TEU

Issue 2.1 CFSP: Responsibility for Planning and Preparation

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Placing forward planning and preparation facility under the responsibility of the Secretary-General of the Council
- (C) Placing forward planning and preparation facility under the responsibility of a political figure (Mr. CFSP)
- (D) Placing forward planning and preparation facility under the joint responsibility of the Presidency and the Commission

Issue 2.2: CFSP: Decision-making Procedures

- (A) Status Quo: requirement of unanimity to define matters on which decisions are to be taken by QMV
- (B) Inserting specific provisions for closer cooperation
- (C) Introduction of a „constructive abstention“
- (D) Introduction of an opt-out
- (E) Inserting a general clause for the possibility for closer cooperation between some MS by unanimous decision of the Council
- (F) Adaption of joint action with a requirement less than unanimity
 - (F1) application of QMV under a unanimous decided framework action
 - (F2) application of a super-qualified majority
 - (F3) general application of QMV (except military means)

Issue 2.3: CFSP: Responsibility for the Implementation

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) The Presidency, strengthened by an extended term of office
- (C) The Presidency, strengthened by increased power
- (D) Mr. CFSP: the Secretary-General of the Council
- (E) Mr. CFSP: an independent political figure appointed by the European Council
- (F) A Presidency / Commission tandem
- (G) A sort of „Executive Council“, (composed of the Troika, Mr. CFSP, the Commission and possibly a representative of the WEU)

Issue 2.4: Financing the CFSP

- (A) Status Quo: requirement of unanimity for operational expenditures to be charged to the EC budget
- (B) Introducing an augmented qualified majority for operational expenditures to be charged to the EC budget
- (C) Introducing a qualified majority for operational expenditures to be charged to the EC budget
- (D) Operational expenditures are in principle automatically charged to the EC budget
 - (D1) save: when the council decides otherwise by qualified majority
 - (D2) save: when the council decides otherwise by unanimity
 - (D3) save: use of military means

Issue 2.5: Art. J.4.: Common Defence Policy

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Including defence policy within the CFSP by deletion of the word „eventual“ (Art. J.4.(1))
- (C) Replacing „possibility of a common defence“ with by „objective of a common defence“ (Art. J.4.(1))
- (D) Specifying the WEU'S contribution to the framing of a common defence policy (Art. J.4.(1))
- (E) Introducing the possibility for QMV by deleting Art. J.4.(3)

Issue 2.6: The Union's Relations With the WEU

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Reinforcing the partnership between an autonomous WEU and the EU without amendment of the Treaty
 - (B1) Integrating the Petersberg tasks
 - (B2) „Back to back“ summits of the European Council and the WEU Summit
 - (B3) Introducing closer working links
 - (B4) Union participation in the financing of common costs
- (C) Towards EU/WEU institutional convergence
 - (C1) by introducing non-binding general European Council guidelines for the WEU
 - (C2) by introducing EU instructions to the WEU
 - (C3) by introducing a legally binding link between the EU and the WEU
- (D) Integration of the WEU into the Union
 - (D1) by adopting a Defence Protocol annexed to the TEU
 - (D2) by integrating European defence within the CFSP

Issue 2.7: The Armaments Question

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Amending Art. 233 (b)
- (C) Inclusion outside the Treaty (e.g. declarations or Notes of the Conference) for a more detailed rule
- (D) Including it in the intergovernmental part, namely among the general objectives of the CFSP
- (E) Including it among the security objectives of the CFSP
- (F) Including it generally into Art.4 about security

Issue 3.1: Objectives and Scope within JHA

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Fix the objectives among the general objectives of the Union in Art. B (TEU)
- (C) Fix the objectives in Art. K (TEU - JHA)
- (D) Extend the matters of common interest in Art. K.1 on
 - (D1) The approximation of crime-fighting policies
 - (D2) The approximation of rules on conflict of law and jurisdiction

Issue 3.2: Modes of Action within JHA

- (A) Status Quo: intergovernmental
- (B) Use a crossover procedure between intergovernmental and cooperation and EC sphere (Art. K.9)
- (C) Increase the cooperation on the basis of the EC method
- (D) Bringing certain subjects under the Community
 - Visa policy in general
 - Asylum policy
 - External border control
 - Immigration policy
 - Freedom of movement for third-country nationals legally resident in one MS
 - Combating drug addiction
 - Combating fraud
 - Customs cooperation
 - Judicial cooperation civil matters
 - Judicial cooperation criminal matters

Issue 3.3: Decision-making Procedures

- (A) Status Quo: unanimity
- (B) Streamline the preparation of decisions: abolition of the K.4 Committee and Steering Group
- (C) Introducing flexibility in cases where unanimity continues⁶
- (D) Introducing wider use of majority voting (qualified or augmented) for joint measures
- (E) Introducing wider use of majority voting (2/3 of the contracting parties) for conventions

Issue 3.4 JHA: Democratic Control

- (A) Status Quo: unanimity
- (B) Strengthening democratic control: areas covered by title VI (TEU)
 - (B1) by an increased role of the national parliaments
 - (B2) by an increased role of the EP (consultation)
- (C) Strengthening democratic control (areas brought under EC control) by using the codecision procedure

Issue 3.5: Judicial Control within the JHA

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Compulsory jurisdiction over all conventions drawn up on the basis of Art. K.3.(2).(c)⁷
- (C) Further Extension of the optional jurisdiction⁸
- (D) Further Extension of the compulsory jurisdiction⁹

Issue 3.6: Financing the JHA

- (A) Status Quo: requirement of unanimity for operational expenditures to be charged to the EC budget
- (B) Introducing an augmented qualified majority for operational expenditures to be charged to the EC budget
- (C) Introducing a qualified majority for operational expenditures to be charged to the EC budget
- (D) Operational expenditures are in principle automatically charged to the EC budget
 - (D1) save: when the council decides otherwise by qualified majority
 - (D2) save: when the council decides otherwise by unanimity
 - (D3) save: use of military means

⁶ Additional suboptions ((C1) by adjusting Art. K.7 to provide the possibility of a role for EU institutions; (C2) by the incorporation of the Schengen arrangements; (C3) by entry of a flexibility clause (unanimous decision with the possibility to opt out and join later.) were merged into one option C.

⁷ Additional suboptions ((B1) with no derogations allowed, (B2) with any Member State having the right to choose not to accept jurisdiction; (B3) unless the Council decides otherwise by qualified majority; (B4) unless the Council decides otherwise by unanimity.) were merged into one option B.

⁸ Additional suboptions ((C1) to interpret the provisions of and the measures implementing conventions; (C2) for joint positions and joint action; (C3) for any new type („joint measures“.) were merged into one option C.

⁹ Additional suboptions ((D1) to interpret the provisions of and the measures implementing conventions; (D2) for joint positions and joint action; (D3) for any new type („joint measures“.) were merged into one option D.

Issue 4.1: Composition of the European Parliament

- (A) Status Quo: using the current formula
- (B) Retaining the current formula, but fixing the number of MEP
 - (B1) at 700
 - (B2) at 600
 - (B3) at 500
- (C) Balancing better between the number of MEP and the population in each Member State and fixing the number of MEP
 - (C1) at 700
 - (C2) at 600
 - (C3) at 500

Issue 4.2: Uniform Electoral Procedure for the European Parliament

- (A) Status Quo: maintaining the national procedures, which are in force
- (B) Fixing a deadline in Art. 138(3) for adopting a decision introducing a uniform procedure in all Member States
- (C) Replacing unanimity in Art. 138(3) with augmented majority
- (D) Abolishing the ratification requirement in Art. 138(3)
- (E) Replacing Art 138(3) by laying down detailed rules for a uniform procedure in the Treaty

Issue 4.3: Decision-making in the Council: Unanimity and QMV

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Establishing an augmented qualified majority¹⁰
- (C) QMV on the basis of certain criteria
- (D) QMV for specific areas covered by the TEC (see issue-list)
- (E) QMV for all issues covered by the TEC except for specific areas of national interest
- (F) QMV for all issues covered by the TEC

Issue 4.4: Decision-making in the Council: QMV-Threshold

- (A) Ioannina Agreement: 74,7% (65 out of 87)
- (B) Status Quo: 71,2% (62 out of 87)
- (C) 2/3 majority

Issue 4.5: Decision-making in the Council: Weighting of Votes in the Case of Enlargement

- (A) Extrapolation of the present weighting
- (B) Status Quo in real terms: correct the number so that the relative position of the group of the more populous Member States remains unchanged
- (C) Introducing a weighting more closely related to population

Issue 4.6: Decision-making in the Council: Dual Majorities

- (A) Status Quo: no dual majorities
- (B) Introducing a qualified majority of votes and a given percentage of the Union's population
- (C) Introducing a blocking minority in terms of votes and at least three MS representing more than 100 million inhabitants

¹⁰ Additional suboptions ((B1) 90%; (B2) 80%.) were merged into one option B.

Issue 4.7: Composition of the Commission

- (A) Equal number of members and Member States
- (B) Status Quo (ante the Treaty of Amsterdam)
- (C) Creating two types of Commissioners (full Commissioners and deputy Commissioners without portfolio)
- (D) Setting a maximum number of members, irrespective of the number of MS
 - (D1) 15
 - (D2) 12
 - (D3) 10

Issue 4.8: Enhanced Cooperation: Introducing Flexibility

- (A) Status Quo: some possibilities to opt out
- (B) Introducing a flexibility clause to the TEC
- (C) Integrate a flexibility clause to the TEU (CFSP, JHA)
 - (C1) ad hoc flexibility, valid at the level of each single decision
 - (C2) by structured cooperation in specific sectors, pre-defined by the TEU
 - (C3) by a sectoral enabling clause
 - (C4) by a general enabling clause
- (D) Integrate a general flexibility clause for TEU and TEC

Issue 4.9: Enhanced Cooperation: Conditions for Flexibility

- (A) Status Quo: unanimity in the Council to authorize enhanced cooperation between certain Member States
- (B) Introducing a strengthened majority in the Council to authorize enhanced cooperation

Issue 5.1: European Parliament : Right for Drafting Proposals

- (A) Status Quo: No right
- (B) Introducing a right for drafting proposals, which can be rejected by the Commission
- (C) Introducing a genuine right of initiative

Issue 5.2: European Parliament : Procedures

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Abolishing the cooperation procedure
- (C) Simplification of the remaining procedures¹¹

¹¹ Additional suboptions ((C1) the codecision procedure; (C2) the assent procedure.) were merged into one option C.

Issue 5.3: Scope of the Legislative Procedures

Codecision

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) All acts which previously came under the cooperation procedure (if this is abolished)
- (C) Extension on a case-by-case basis
- (D) All acts governed by qualified majority in the Council with the exception of certain areas (e.g. common trade policy)
- (E) All legislative acts

Assent

- (A) Limit to certain international agreements and accession
- (B) Status Quo (ante the Treaty of Amsterdam)
- (C) Extending the scope¹²

Issue 5.4 European Parliament: Election of the President of the Commission

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Election of the President and confirmation by the governments of the Member States, by common accord
- (C) Election of the President on the basis of a list drawn up by common accord by the governments of the Member States
- (D) Approval by the EP of the President of the Commission (absolute majority of members)
- (E) Approval by the EP of the President of the Commission (absolute majority of votes)

Issue 5.5: European Parliament: Budget Power

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Giving the EP a right of inspection concerning the revenue section of the budget
- (C) Giving the EP a power of decision over a certain percentage of the non obligatory Expenditures
- (D) Giving the EP also a power of decision over obligatory Expenditures

Issue 5.6: Role of the National Parliaments

- (A) Status Quo: no role
- (B) Widening the direct role of national parliaments
- (C) Increasing the role of COSAC
- (D) Creating a Second Chamber representing national parliaments

Issue 5.7: Power of the Commission

- (A) Diminishing the power of the Commission
- (B) Status Quo
- (C) Raising the powers by vesting the Commission with
 - (C1) the right of initiative in CSFP and JHA
 - (C2) the extension of its implementing powers
 - (C3) the role of guardian of the Treaty (e.g. propose penalties)

¹² Additional suboptions ((C1) on other categories of international agreement; (C2) on own resources of the EP; (C3) on the revision of Treaties.) were merged into one option C.

Issue 5.8: Power of the Court of Justice

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Extension of the possibility of application to the Court
 - (B1) by the EP
 - (B2) by the ESC and the Committee of the Regions
 - (B3) by individuals
- (C) Recognizing explicitly the Court's power to limit the retroactive effects of its judgments
- (D) Introducing the option for the Court of limiting the liability of Member States in cases of infringement of Community law

Issue 5.9: Power of the Committee of the Regions

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Alignment on the current status of the ESC
- (C) Extension of compulsory consultation on further areas (e.g. CAP, transport, indirect taxation, social field, consumer policy, development cooperation)
- (D) Access to the Court of Justice to bring actions regarding its prerogatives and the principle of subsidiarity
- (E) Transforming the Committee into an institution

Issue 5.10: Power of the Economic and Social Committee

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Getting information on the broad guidelines of economic policies / multilateral surveillance
- (C) Cooperation with the Commission by compulsory opinions in preparation of proposals
- (D) Increasing the autonomy (e.g. determine the allowance of its members itself)
- (E) Increasing its consultative role (e.g. areas of free movement of persons, new citizens' rights, culture)
- (F) Access to the Court of Justice to bring actions regarding its rights and prerogatives
- (G) Transforming the Committee into an institution

Issue 6.1: Employment

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Including the objective of the promotion of employment
- (C) Including the objective of the achievement of full employment
- (D) Specifying the objective of employment
 - (D1) by a reference in sectoral policies as a factor to be taken in consideration
 - (D2) by a reference in the chapter on economic policy
 - (D3) by a specific article obliging the institutions to take it into account in all EC policies
- (E) Introduction of a specific chapter
 - (E1) with mere obligation to discuss and consult on employment policies within the Council
 - (E2) with the obligation to coordinate national policies
 - (E3) with the obligation to compulsory coordination to converge applicable economic policies

Issue 6.2: Employment Committee

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Introduction of a common instrument for analysis and observation
- (C) Setting up an Employment Committee

Issue 6.3 Environment

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Strengthening the objectives by integrating protection and improvement of the quality of the environment as general objectives in the Treaty
- (C) Strengthening the objectives of environmental policy by supplementing the objectives in Art. 130r TEU
- (D) Strengthening the objectives by referring explicitly to the environmental dimension in certain sectoral policies (e.g. agricultural policy, transport policy)
- (E) Extension of qualified majority voting to certain areas of environmental policies
 - (E1) Provisions primarily of a fiscal nature
 - (E2) Measures concerning town and country planning and land use
 - (E3) Measures affecting Member States' energy supply
- (F) Application of the co-decision procedure

Issue 6.4 Stricter Rules on Environmental Policy by Member States

- (A) Restricting this possibility (because of the single market)
- (B) Status Quo (ante the Treaty of Amsterdam)
- (C) Extending this possibility by extending the procedure laid down in Art. 100a(4) to acts adopted by the Commission under a committee procedure
- (D) Extending this possibility by mentioning environmental protection in Art. 36 TEC
- (E) Extending this possibility by introducing a general environmental clause

Issue 6.5: Community Policies: New Policies

- (A) Status Quo (Art 3(t) TEC)
- (B) Inserting specific legal basis in the Treaty for future new spheres
- (C) Replacing the requirement of unanimity by a qualified majority¹³
- (D) Introducing the application of the co-decision procedure¹⁴

Issue 6.6: External Economic Relations

- (A) Status Quo (ante the Treaty of Amsterdam)
- (B) Commission acts following a decision of the Council by QMV to guarantee consistency of the EU's external actions
- (C) Giving the EU exclusive competence to act in the following areas of external economic relations
 - services
 - investments
 - industrial property
 - intellectual property

¹³ Additional suboptions ((C1) Energy; (C2) Civil protection; (C3) Tourism.), were merged into one option C.

¹⁴ Additional suboptions ((D1) Energy; (D2) Civil protection; (D3) Tourism.) were merged into one option D.