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# The primary legislation of the European Union :the environmental policy and the Treaty revision procedures

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# Primary legislation

- The primary rules of the European Union's legal system are, first and foremost, the conventional rules contained in the original treaties establishing the European Communities and in those international agreements that were subsequently concluded to amend and supplement the former.

# Primary legislation

- **Currently, the following are considered primary legislation:**
- the Treaty on European Union;
- the Treaty on the Functioning of the European Union;
- the Charter of Fundamental Rights, which only thanks to the Treaty of Lisbon has been given the same legal value as the treaties.

# Primary legislation

These rules primarily regulate relations within the European Union, creating subjective legal situations for Member States, European institutions and individuals.



# Primary legislation

It is, then, the primary norms themselves that attribute normative force and scope to the acts of the institutions of the Union, which, for this very reason, by placing themselves at the second level of the system, form European secondary law.

# Primary legislation

- The introduction of a competence in environmental protection dates back to the Single European Act, which entered into force in 1987, crystallizing a competence acquired in praxis with the endorsement of the Court of Justice.
- The revision of the Treaties, which will shortly be discussed, has made it possible to broaden the scope of environmental objectives and integration, marking the transition from “action” to the Union's environmental **policy**.

# Primary legislation

- Article 191 TFEU provides that:
- Union policy on the environment shall contribute to pursuit of the following objectives:
- **preserving, protecting** and improving the quality of the environment,
- **protecting human health,**
- **prudent** and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular **combating climate change.**

According to Art. 192 TFEU «The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the Union in order to achieve the objectives referred to in Article 191.



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# Primary legislation

## Treaty revisions

The revision of the founding treaties allows European legislation and policies to be adapted to the new challenges facing the EU. Before the Treaty of Lisbon came into force, there was only one procedure for revising the treaties, which required the mandatory convening of an Intergovernmental Conference. The Treaty of Lisbon introduced a second procedure for revising the treaties, which allows for the revision of the Treaties without the need for an Intergovernmental Conference.



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# Primary legislation

## Treaty revisions

The Treaty of Lisbon simplifies the revision procedure and strengthens its democratic character. It slightly modifies the ordinary revision procedure by strengthening the participation of the European Parliament and national parliaments.

# Primary legislation

**The Treaty of Lisbon provides for two types of simplified procedure to facilitate their vision of certain provisions of the Treaties.**

# Primary legislation

- **Treaty revisions**
- However, the facilitation of treaty revisions must be put into perspective by maintaining the unanimity rule for voting. It follows that, regardless of the procedure initiated, Member States must adopt the revision of the provisions concerned unanimously.

# Primary legislation

**The revision of the Union treaties is governed by Article 48 TEU, which provides for an ordinary revision procedure and two simplified revision procedures. The ordinary revision procedure**

# Primary legislation

- The ordinary revision procedure may be initiated by a Member State, the Parliament or the Commission, all of which are entitled to submit to the Council draft amendments to the Treaties.

# Primary legislation

- Article 48 TEU expressly states that such projects may be aimed at ‘increasing or reducing the powers conferred on the Union in the Treaties’.

# Primary legislation

- Both simplified procedures, however, assign a prominent role to the European Council and exclude the convening of both the convention and the conference of representatives of the governments of the Member States.

# Primary legislation

## **THE GENERAL PASSERELLE CLAUSE**

The passerelle clause introduced by the Treaty of Lisbon constitutes a second simplified revision procedure. This clause allows an act to be adopted in accordance with procedures other than those laid down in the founding treaties, without, however, entailing a formal amendment of the treaties.

# Primary legislation

- The general passerelle clause covers two scenarios: when the Treaties stipulate that an act must be adopted by the Council unanimously, the European Council may adopt a decision authorising the Council to act by qualified majority;

# Primary legislation

- where the Treaties provide for certain acts to be adopted in accordance with a special legislative procedure, the European Council may adopt a decision authorising the adoption of such acts in accordance with the ordinary legislative procedure.

# Primary legislation

In both cases, the European Council decides unanimously and must obtain the approval of the European Parliament. Each national parliament also has a right of objection and can prevent the activation of the general passerelle clause.

# Primary legislation

The European Council may vote to suspend membership rights. Official identification of a violation requires unanimity (excluding the state concerned), but sanctions require only a qualified majority. The Council of Europe may vote to suspend membership rights. Official identification of a violation requires unanimity (excluding the state concerned), but sanctions require only a qualified majority.