I. Introductory Remarks

The Treaty of Nice, 1 adopted on 12 December 2000 as the result of an Intergovernmental Conference (IGC) 2 which had worked almost non-stop for nine months, and finally signed on 26 February 2001 will – once ratified and entered into force 3 – bring about a number of changes to the Treaty on European Union 4 and the


2 The IGC was prepared by the Conclusions of the European Councils of Vienna in December 1998 and of Cologne in June 1999, and convened by the European Council of Helsinki in December 1999 which also provided a detailed mandate.

3 TN art. 12.

Treaty establishing the European Community.\(^5\) The most prominent ones are probably those which relate to the so-called institutional reform\(^6\) necessitated by the envisaged admission of a considerable number of applicant countries,\(^7\) the majority of which being so-called reform States in transition from the political and economic conditions of former Eastern bloc countries to Western democracies.\(^8\)

The almost exclusive focus on institutional reform and enlargement has prevented most observers from devoting their interest to other changes made to the TEU and the TEC. Admittedly, these changes differ considerably in their respective importance. Some of them, though, will have an important impact on the development of the EU/EC as a legal system.

This paper deals with two of these changes which, although concerning different treaty provisions, are mutually related: the amendments to TEU arts. 7 and 46.


\(^6\) Protocol on the enlargement of the European Union, 26 February 2001, OJ (C 80) 49 (2001), containing provisions on the reform of the main EU/EC institutions; Declaration on the enlargement of the European Union, 26 February 2001, OJ (C 80) 80 (2001), containing the common position to be adopted by the Member States at the accession conferences.

\(^7\) Namely Cyprus, the Czech Republic, Estonia, Hungary, Poland, Slovenia and possibly Malta as a first group and Bulgaria, Latvia, Lithuania, Romania, Slovakia and possibly Turkey as a second group.

\(^8\) For the period of transition, these States exercise their new system within the Council of Europe where they practice social and political pluralism, liberal democracy, and the rule of law with particular emphasis on the respect for, and the protection of, human rights. The respectability derived from membership in the Council of Europe is an inducement to take upon themselves the related obligations, especially under the European Convention on Human Rights; Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, ETS No. 5 [hereinafter ECHR].