

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr Hain

Status : Member

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1. By this Constitution, the Member States confer on the Union certain exclusive and shared competences and define areas where the Union may take supporting action. The Union may exercise its competences only to the extent laid down in this Constitution. The conferment of powers on the Union shall not in itself restrict the powers of the Member States in respect of the same subject matter except in the area of exclusive competence [expressly] conferred on the Union by this Constitution.

1.bis When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts; the Member States may do so only if empowered by the Union.
 2. In the area of shared competence, the Union and the Member States shall have the power to legislate and adopt legally binding acts in this area. When the Union has acted in respect of a certain matter, the Member States shall respect the obligations imposed on them by the relevant Union measures [and the relevant provisions of this Constitution].
 3. *Delete. The Praesidium paragraph has been deleted, as it is inappropriate here and goes beyond the current Treaties.*
 4. The Union shall have a common foreign and security policy as defined by [the Member States through] the European Council which it shall implement in accordance with the relevant provisions in Part II of the Constitution. This will include all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide.
 4. *Praesidium draft is okay.*
 5. *Praesidium draft is okay.*

Explanation (if any) :

Overall, this Article should make clear that the Member States confer competence, through this Treaty, and do not have it conferred upon them. Paragraph 1 should be substantially redrafted to reflect this, and also to explain the various ways in which competence might be partitioned. This would clarify and simplify the whole of the rest of the Article.

The statement of exclusive Union competence makes sense as Article 2 and flows from our suggested Article 1. It is similar to the Praesidium's suggested Article 1.

Paragraph 2 explains areas of shared competence, in a way that flows naturally from the explanation of exclusive competence in paragraph 1 and 1 bis, and will make subsequent Articles simpler.

I have slightly redrafted 'Competence to define and implement' as it is potentially misleading in the context of a single institutional structure.