

## AMENDMENT FORM

### Suggestion for amendment of Article I-17 :

By Mr FARNLEITNER :

Status : - Member

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#### Article I-17:Flexibility clause

1. If action by the Union should prove necessary ~~within the framework of the policies defined in Part Three~~ to attain one of the objectives set by this Constitution, and the Constitution has not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission **after consulting the Committee of the Regions and the Economic and Social Committee** and after obtaining the consent of the European Parliament, shall take the appropriate measures.

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#### **Explanation :**

It seems obvious that a flexibility clause is needed for exactly those cases where neither Part One of the Constitution nor the framework of the policies defined in Part Three provide the necessary powers. The areas where the Union has exclusive competence as well as the areas for supporting measures are exhaustively listed in Art. I-12 and Art. I-16. Art. I-13 on shared competences contains only an exemplary list. However, par.1 of Art. I-13 says that any competence conferred on Union which is not related to the areas referred to in Articles I-12 and I-16 is automatically a shared competence. This would also apply to the entire framework of policies defined (only) in Part Three. Consequently, a flexibility clause exclusively aiming at those cases seems poor or even redundant. What we need is a flexibility clause which allows the Union to act in cases not foreseen within the framework of the policies defined in Part Three. Therefore the flexibility clause should only refer to the objectives set out in the Constitution. Par. 3 of Art. I-17 – prohibiting harmonisation where the Constitution excludes harmonisation - provides for sufficient limits concerning possible areas of application.

As Union action based on the flexibility clause can have considerable repercussions at the regional/local level and on social partners the adoption procedure should provide for consultation of the Committee of the Regions and the Economic and Social Committee too.