

AMENDMENT FORM

Suggestion for amendment of Article 31

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<u>Article 31: [Police and criminal justice policy]</u>	<i>DELETE</i>

FICHE AMENDEMENT

Proposition d'amendement à l'Article I-41

Déposée par Monsieur de Villepin

Qualité : - Membre

Article I-41: Dispositions particulières à la mise en œuvre de l'espace de liberté, de sécurité et de justice

1. L'Union constitue un espace de liberté, de sécurité et de justice :
 - par l'adoption de lois européennes et de lois-cadres européennes visant, si nécessaire, à rapprocher les législations nationales dans les domaines énumérés dans la Partie III de la Constitution ;
 - en favorisant la confiance mutuelle entre les autorités compétentes des États membres, en particulier sur la base de la reconnaissance mutuelle des décisions judiciaires et extrajudiciaires ;
 - par une coopération opérationnelle des autorités compétentes des États membres, y compris les services de police, les services de douanes et autres services spécialisés dans le domaine de la prévention et de la détection des infractions pénales.
 2. Dans le cadre de l'espace de liberté, de sécurité et de justice, les parlements nationaux peuvent participer aux mécanismes d'évaluation prévus à l'article [...] de la Partie III de la Constitution, et sont associés au contrôle politique **d'Europol et à l'évaluation** des activités d'Eurojust ~~et d'Europol~~, conformément aux articles [...] et [...] de la Partie III de la Constitution.
1. **Toute proposition d'acte, adoptée en vertu de la présente Constitution, ayant des implications sur la réalisation de l'espace de liberté, de sécurité et de justice, doit être examinée par les enceintes du Conseil compétentes pour la mise en œuvre du présent article.**
 2. Dans le domaine de la coopération policière et judiciaire en matière pénale, les États membres disposent d'un droit d'initiative conformément à l'article [...] de la Partie III de la

Constitution.

Explication éventuelle :

Paragraphe 2 : Le Præsidium a récemment ajouté la disposition relative à Eurojust. A l'origine, le terme de « contrôle politique » ne s'appliquait qu'à Europol.

Nouveau paragraphe 3 : Les autorités françaises souhaitent insister sur la nécessité de cet amendement qui vise à préserver la spécificité du Conseil JAI : celui-ci doit être en mesure, notamment, d'examiner toute proposition d'acte contenant des dispositions de droit pénal.

AMENDMENT FORM

PART I, TITLE V: EXERCISE OF UNION COMPETENCE – CHAPTER II: SPECIFIC PROVISIONS - REVISED TEXT

Suggestion for amendment of Article: Art. I-41 §1 – §2: Specific provisions for implementing the area of freedom, security and justice

**By : M. J. CHABERT
M. M. DAMMEYER
Ms. C. du GRANRUT
M. C. MARTINI
M. R. VALCARCEL SISO**

Status : ~~-Member~~ ~~-Alternate~~ - Observer

1. The Union shall ensure an area of freedom, security and justice:
 - by adopting laws and framework laws intended in particular to approximate national and regional laws in the areas listed in Part Three of the Constitution;

2. Within the area of freedom, security and justice, national parliaments and, where they have competence, regional parliaments may participate in the evaluation mechanisms foreseen in Article ...

AMENDMENT FORM

Suggestion for amendment of Article 41 Part I of the Constitution

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle

**Status : Tiilikainen, Kiljunen, Vilén- Members
 Peltomäki, Takkula and Helle - Alternates**

Article I-41: Specific provisions for implementing the area of freedom, security and justice

1. The Union shall constitute an area of freedom, security and justice:
 - by adopting European laws and European framework laws intended,~~where necessary,~~
to approximate national laws in the areas listed in Part Three of the Constitution **to assure free movement of persons in conditions of security and justice accessible to all;**
 - by promoting mutual confidence between the competent authorities of the Member States,~~in particular on the basis of mutual recognition of judicial and extrajudicial decisions;~~
 - by operational cooperation between the competent authorities of the Member States,~~including the police, customs and other services specialising in the prevention and detection of criminal offences~~ **in the areas covered by Chapter IV of Part Three of the Constitution.**
2. Within the area of freedom, security and justice, national Parliaments may participate in the evaluation mechanisms foreseen in Article [...], Part Three, of the Constitution, and shall be involved in the political monitoring of Eurojust's and Europol's activities in accordance with Articles [...] and [...], Part Three, of the Constitution.
3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative in accordance with Article [...], Part Three, of the Constitution.

Explanation (if any) :

Free movement of persons, supported by a high level of safety and justice accessible to all, is the basis for the area of freedom, security and justice. The three dimensions of this area are not in balance in paragraph 1 of Article I-41 while the ex-III pillar issues are emphasised. In this way, Article I-41 is not in coherence with Article III-153 where the three dimensions are mentioned as equal components of this area.

Special references to approximation of national laws (first indent) and mutual recognition of judicial and extrajudicial decisions (second indent) should thus be removed. Further, promotion of mutual confidence between the competent authorities of the Member States is a horizontal issue in realising the area of freedom, security and justice. No specific authorities should be mentioned in the third indent as such list may be too restrictive. It is up to national legislation to define which authorities are responsible for implementing the relevant provisions in Part III of the Constitution.

The proposed amendments aim at restoring the balance between the three dimensions of the area of freedom, security and justice and at ensuring the coherence between parts I and III of the Constitution.

AMENDMENT FORM

Suggestion for amendment of Article : 41

By Ms / Mr : J. Kohout

Status : - Member

41.2 Delete the reference to the role of the NP

Explanation (if any) :

- 1) Monitoring of the subsidiarity is given in the two relevant Protocols.
- 2) The way of involving of the NPs in the monitoring of Eurojust and Europol is unclear.

AMENDMENT FORM

Suggestion for amendment of Article : 31

Suggestion for protocol :

By Mr : Farnleitner

Status : - Member

Part I of the Constitution

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:
 - by adopting **European** laws and **European** framework laws intended in particular to approximate national laws in the areas ~~listed~~ **mentioned** in Part Two of the Constitution;
 - by ~~promoting mutual confidence~~ **adopting European laws and European framework laws intended to promote cooperation** between the competent authorities of the Member States **in accordance with the provisions of Part Two of the Constitution**, in particular ~~on the basis of~~ **in view of facilitating** mutual recognition of judicial and extrajudicial decisions.
 - by operational cooperation between all competent authorities of the Member States for internal security, **in accordance with the provisions of chapters 1 and 4 of title 1 of Part II of the Constitution.**
2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of **Eurojust's and** Europol's activities in accordance with Article [Article **19 and 22**, Part Two) of the Constitution.
- (3) In the field of **policies on border checks, asylum and immigration, as well as** police and judicial cooperation in criminal matters, Member States shall have a right of initiative under

the arrangements set out in Article [8, Part Two] of the Constitution.

Explanation (if any) :

To avoid any misunderstandings the names of the legal acts should be used as defined in Art. 24 of the Constitution.

It is proposed to refer in all three indents to the provisions in Part II in order to facilitate the understanding of this general article (the same technique is used in Art. 29 TEU).

Not only Europol, but also Eurojust needs political control (especially if Eurojust would gain more competences, e.g. the competence to initiate national proceedings).

This is a consequence of amendment to Article 8.

AMENDMENT FORM

Suggestion for amendment of

Article 31: Implementation of the area of freedom, security and justice

By Mr Dick Roche

Status : Member

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ~~ensure~~ **pursue** an area of freedom, security and justice, **in keeping with the Provisions of Part II of the Constitution by:**
 - ~~by adopting laws and framework laws intended in particular to approximate, where necessary, national laws and other measures in the areas listed in Part Two of the Constitution;~~
 - ~~by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions in criminal matters;~~
 - ~~by operational facilitating cooperation between all competent police and judicial authorities of the Member States for internal security; and~~
 - **promoting judicial cooperation in civil matters.**
2. Within the area of freedom, security and justice, national parliaments **shall, in particular, have the role set out in** ~~may participate in the evaluation mechanisms foreseen in Article [4, Part Two] [22, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.~~
3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.
4. **The prosecution, trial and punishment of offenders is a matter within the exclusive competence of the Member States.**

Explanation (if any) :

The link between the Union's scope of activity in this area and the legal bases provided in Part Two should be made explicit.

There is no need to repeat the role of National Parliaments in detail since it is to be set out in Part Two.

Further clarification of what is meant by 'extrajudicial' decisions would be welcome.

New paragraph 4 is intended to reflect the fact that these fundamental aspects of criminal justice remain the responsibility of the Member States.

AMENDMENT FORM

Suggestion for amendment of Article 31:

By: BROK; SANTER; STYLIANIDIS; SZAJER; TUSEK; VAN DER LINDEN; ALMEIDA GARRETT; ALTMAIER; AZEVEDO; BREJC; CUSHNAHAN; DEMETRIOU; FOGLER; FRENDON; KAUPPI; KELAM; KELEMEN; KORHONEN; KRASTS; KROUPA; KUTZKOVA; MAIJ-WEGGEN; MLADENOV; NAZARE-PEREIRA; PIKS; RACK; VAN DIJK; WITTBRODT; WÜRMELING; ZIELENIEC; ZILE

on behalf of the EPP Convention Group

Status: Members and Alternates

Text of the Praesidium

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:

- by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;
- by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.
- by operational cooperation between all competent authorities of the Member States for internal security.

2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.

3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.

Proposed Amendments

Article 31: Implementation of the area of freedom, security and justice

~~1. The Union shall ensure an area of freedom, security and justice:~~

- ~~— by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;~~
- ~~— by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.~~
- ~~— by operational cooperation between all competent authorities of the Member States for internal security.~~

~~2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.~~

~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.~~

Explanation:

The Community method must be applied to all fields of Union action. Therefore, there is no need for keeping separate procedures for the current third pillar in Part One of the Constitution. If the Convention plenary so decides, exceptions to the general rule in Article 25 para 1 could be laid down in Part Two of the Constitution and be subject to an evolutionary clause. Content of Article 31 is already integrated in other parts of the Constitution, e.g. Role of National Parliaments in Art. 22, part 2. See EPP Group amendment to Articles 24-33.

AMENDMENT FORM

Suggestion for amendment of Article : 31

Suggestion for protocol :

By ~~Ms~~/ Mr : Hain with the support of Lord Tomlinson

Status : - Member - ~~Alternate~~

1. The Union shall ensure an area of freedom, security and justice:
 - By adopting laws and framework laws ~~intended in particular~~ where appropriate to approximate national laws in the areas listed in Part Two of the Constitution;
 - by promoting mutual confidence between the competent authorities of the Member States, ~~in particular on the basis of mutual recognition of judicial and extrajudicial decisions.~~
 - By ensuring that Member States place full faith in each others' judicial decisions and apply the principle of mutual recognition on the widest possible basis
 - By promoting operational co-operation between all competent authorities of the Member States responsible for ~~internal security law enforcement.~~
 2. *Okay.*
 3. *Okay.*
-

Explanation (if any) :

The draft article gives undue weight to approximation, and as an end in itself rather than as a means. There must be a sense that approximation only takes place where appropriate. In addition, laws setting up law enforcement bodies will not necessarily be concerned with approximating national legislation.

The Constitution should express the principle of mutual recognition in clear and unambiguous terms.

Our amendments (a) clarify that the Union's role is to promote operational co-operation and (b) use more precise terminology. In the draft articles, the term "internal security" is used throughout the articles, both in contexts where it is intended to describe tasks which do fall to the Union and in contexts where it describes something which is specifically reserved to the Member States. This is potentially confusing. The term "law enforcement" is used in the current Article 30(1)(a) TEU and is more appropriate here.

As we make clear in our comments on Article 10, the UK intends to retain its special position on

frontiers. This position has had implications for the UK's participation in certain related areas of co-operation, including legal migration measures, visas and external borders. The JHA articles in the new Treaty will in due course need to be qualified by a reference to the UK's special position and the arrangements which govern it.

Working Group X's report drew attention to the concern that Member States should be able to conclude bilateral or multilateral agreements in the area of judicial co-operation even if the Union had adopted internal rules on a particular matter. This is an extremely important issue in the light of the proposal to merge the pillars and Treaties. Although the working group suggested that the question might be considered in the context of external action, this has not yet been followed up. The UK would welcome further work in the Convention on this question with a view to drawing up arrangements specific to judicial co-operation.

Working Group X concluded that adequate data protection rules were in place for existing third pillar bodies, but that the various supervisory bodies could be merged. The commentary on Article 21, by contrast, envisages applying general Community law on data protection to the current Third Pillar, and states that a new general article on data protection will be proposed in the Title on the Democratic life of the Union. In the UK's view, this article should either envisage data protection rules specific to the former Third Pillar which would be adopted by unanimity, or should incorporate on the face of the Treaty some of the important special provisions already found in the current data protection directive (95/46/EC), relating in particular to judicial matters and to national security.

It will be necessary to have a provision or provisions in the JHA chapter to preserve the unanimity procedure for all legislation in the Title which affects tax.

AMENDMENT FORM

Suggestion for amendment of Article : 31 (part I of the Constitution)

Suggestion for protocol :

By Ms / Mr : G.M de Vries
T.J.A.M. de Bruijn

Status : Members

Article 31: ~~Implementation of Maintenance and -development of~~ the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:

- by ~~adopting laws and framework laws intended in particular to~~ approximate national laws in the areas listed in Part Two of the Constitution;
- by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of ~~judicial and extrajudicial~~ decisions by judicial authorities.
- by operational cooperation between all competent authorities of the Member States responsible for law enforcement and the maintenance of law and order.

~~2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.~~

~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.~~

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31, partie I

Déposée par M. Olivier DUHAMEL
M. Caspar EINEM
M. Ben FAYOT
Mme Linda McAVAN
M. Luis MARINHO
Mme Anne VAN LANCKER

Qualité: - Membres

Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI
Mme Helle THORNING-SCHMIDT

Qualité: - Suppléants

Art. 31 Realizzazione dello Spazio di libertà, sicurezza e giustizia.

Soppresso

Explication éventuelle :

Non vi è ragione di dedicare un articolo allo spazio di libertà sicurezza e giustizia nel Titolo della Costituzione che riguarda gli strumenti giuridici.

In realtà il tenore dell'articolo riguarda gli obiettivi e le competenze dell'Unione in questo settore. Le competenze sono già indicate nell'articolo 12. Nell'articolo 3 sarebbe opportuno precisare gli obiettivi come segue:

Art. 3.3

L'Unione costituisce uno spazio di libertà, sicurezza e giustizia, all'interno del quale è garantita la libera circolazione delle persone. Assicura il diritto di asilo, adotta misure appropriate in materia di immigrazione e di controllo delle frontiere esterne.

L'Unione promuove il diritto di accesso alla giustizia, la lotta contro il razzismo e la xenofobia e il mutuo riconoscimento delle misure adottate dagli Stati membri in materia civile e in materia di prevenzione e repressione della criminalità.

AMENDMENT FORM

Suggestion for amendment of Article: 31

By Mr. Alberto Costa / Guilherme d'Oliveira Martins

Status: Member / Alternate

Article 31

1) ...

2) Within the area of freedom, security and justice, National Parliaments **perform monitoring and evaluation functions, namely as regards Europol's activities.**

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31

Déposée par Madame: Maria Eduarda de Azevedo / António Nazaré Pereira

Qualité : - Membre / Suppléant

Article 31

- 1) L'Union **constitue** un espace de liberté, de sécurité et de justice
- 2) Dans le cadre de l'espace de liberté, de sécurité et de justice, les parlements nationaux **participent** aux mécanismes (...)
- 3) Dans le domaine de la coopération policière et judiciaire en matière pénal, les Etats membres disposent **du** droit d'initiative (...)

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article: 31

Déposée par Monsieur: Erwin Teufel

Qualité: Membre

Texte du Praesidium

- (1) Die Union gewährleistet einen Raum der Freiheit, der Sicherheit und des Rechts
- durch die Annahme von Gesetzen und Rahmengesetzen, mit denen insbesondere die einzelstaatlichen Rechtsvorschriften in den im zweiten Teil der Verfassung aufgeführten Bereichen einander angenähert werden sollen;
 - durch eine Förderung des gegenseitigen Vertrauens zwischen den zuständigen Behörden der Mitgliedstaaten, insbesondere auf der Grundlage der gegenseitigen Anerkennung der gerichtlichen und außergerichtlichen Entscheidungen;
 - durch eine operative Zusammenarbeit aller für die innere Sicherheit zuständigen Behörden der Mitgliedstaaten.
- (2) Im Rahmen des Raums der Freiheit, der Sicherheit und des Rechts können sich die einzelstaatlichen Parlamente an den Bewertungsmechanismen nach Artikel [4 des Teils II] der Verfassung beteiligen und werden in die politische Kontrolle der Tätigkeiten von Europol entsprechend Artikel [22 des Teils II] der Verfassung einbezogen.

Amendement proposé

- (1) Die Union gewährleistet einen Raum der Freiheit, der Sicherheit und des Rechts
- durch die Annahme von Gesetzen und Rahmengesetzen, mit denen ~~insbesondere~~ die einzelstaatlichen Rechtsvorschriften in den im zweiten Teil der Verfassung aufgeführten Bereichen einander angenähert werden sollen;
 - durch eine Förderung des gegenseitigen Vertrauens zwischen den zuständigen Behörden der Mitgliedstaaten, insbesondere auf der Grundlage der gegenseitigen Anerkennung der gerichtlichen und außergerichtlichen Entscheidungen;
 - durch eine operative Zusammenarbeit aller für die innere Sicherheit zuständigen Behörden der Mitgliedstaaten.
- Die diesbezüglichen Befugnisse der Union ergeben sich ausschließlich aus Teil II Titel [...] der Verfassung.**
- (2) Im Rahmen des Raums der Freiheit, der Sicherheit und des Rechts ~~können sich die einzelstaatlichen Parlamente an den Bewertungsmechanismen nach Artikel [4 des Teils II] der Verfassung beteiligen und~~ werden die einzelstaatlichen Parlamente in die politische Kontrolle der Tätigkeiten von Europol, **Eurojust und der Europäischen Staatsanwaltschaft** entsprechend Artikel [19, 20 und 22 des Teils II] der Verfassung einbezogen.

Begründung:**Abs. 1**

Die Streichung des Wortes „insbesondere“ sowie der eingefügte Unterabsatz 2 stellen klar, dass sich die Handlungsermächtigungen der Union – wie bei den „regulären“ Kompetenzkategorien auch – ausschließlich aus Teil II der Verfassung ergeben.

Abs. 2

Bedarf für einen Bewertungsmechanismus ist nicht erkennbar. Bisher unter Umständen bestehende Umsetzungsschwierigkeiten im Rahmen der dritten Säule, die darin bestehen, dass Rahmenbeschlüsse und Übereinkommen von den Mitgliedstaaten nicht rechtzeitig ratifiziert und umgesetzt worden sind, dürften mit der Vergemeinschaftung des Bereichs in dieser Form nicht mehr auftreten. Der Kommission und den Mitgliedstaaten stehen mit den Maßnahmen nach Art. 226 ff EG-Vertrag in der derzeitigen Fassung ausreichende Kontrollmöglichkeiten zur Verfügung. (vgl. auch Änderungsvorschlag zu Artikel 4 des Teils II).

Der bisherige Entwurf bezieht ausschließlich Europol, nicht aber sonstige, im Teil II des Verfassungsvertrages benannte europäische Behörden ein. Es ist nicht ersichtlich, warum Europol der Kontrolle der nationalen Parlamente unterliegen soll, die anderen Behörden aber nicht.

AMENDMENT FORM

Suggestion for amendment of Article: 31 (Part One)

By Mr: Erwin Teufel

Status: Member

Text of the Praesidium

Proposed Amendment

- | | |
|--|---|
| <p>(1) The Union shall ensure an area of freedom, security and justice:</p> <ul style="list-style-type: none">– by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;– by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;– by operational cooperation between all competent authorities of the Member States for internal security. | <p>(1) The Union shall ensure an area of freedom, security and justice:</p> <ul style="list-style-type: none">– by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;– by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;– by operational cooperation between all competent authorities of the Member States for internal security. <p>Corresponding competences of the Union are listed exclusively in Title [...], Part Two, of the Constitution.</p> |
| <p>(2) Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [22, Part Two] of the Constitution.</p> | <p>(2) Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol, Eurojust and the European Public Prosecutor's Office in accordance with Articles [19, 20 and 22, Part Two] of the Constitution.</p> |

Explanation:

Paragraph 1

The deletion of the wording „in particular“ and the inclusion of subparagraph 2 are meant to clarify that the respective competences of the Union (as any “regular” competences) stem from Part Two of the Constitution only.

Paragraph 2

There is no need for a review mechanism. Implementation difficulties which might currently exist within the third pillar are due to belated ratification and implementation of framework decisions and agreements by the Member States. Consequently they shouldn't persist when this field is communitarized. The Commission and the Member States dispose of sufficient means of control under Art. 226 pp. TEC (current version). Cf. suggestion for amendment of Art. 4, Part Two.

The current draft includes only Europol and none of the other European bodies mentioned in Part Two of the Constitutional Treaty. However, there is no plausible reason to subject only Europol to national parliamentary supervision and exclude the other bodies.

AMENDMENT FORM

Suggestion for amendment of Article : 31 (3)

By Mr : **R. van der Linden** (member)
 F. Timmermans (member)
 M. Giannakou (member)

Status : - Member - Alternate

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:
 - by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;
 - by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.
 - by operational cooperation between all competent authorities of the Member States for internal security.
2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.
- ~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.~~

Explanation (if any) :

Giving the member states a right of initiative will undermine the exclusive right of initiative of the European Commission. To avoid this from happening subsection 3 has to be deleted. Logically resulting from this is the deleting of “on the initiative of a quarter of the Member States” in article 7 and 8 of the Title Area of freedom, security and justice, Part II of the Treaty).

AMENDMENT FORM

Suggestion for amendment of Article : 31, Teil I

By Ms. Dr. Sylvia-Yvonne Kaufmann:

Status : - Member

~~Artikel 31: Die Verwirklichung des Raums der Freiheit, der Sicherheit und des Rechts~~

~~(1) Die Union gewährleistet einen Raum der Freiheit, der Sicherheit und des Rechts~~

~~— durch die Annahme von Gesetzen und Rahmengesetzen, mit denen insbesondere die einzelstaatlichen Rechtsvorschriften in den im zweiten Teil der Verfassung aufgeführten Bereichen einander angenähert werden sollen;~~

~~— durch eine Förderung des gegenseitigen Vertrauens zwischen den zuständigen Behörden der Mitgliedstaaten, insbesondere auf der Grundlage der gegenseitigen Anerkennung der gerichtlichen und außergerichtlichen Entscheidungen;~~

~~— durch eine operative Zusammenarbeit aller für die innere Sicherheit zuständigen Behörden der Mitgliedstaaten.~~

~~(2) Im Rahmen des Raums der Freiheit, der Sicherheit und des Rechts können sich die einzelstaatlichen Parlamente an den Bewertungsmechanismen nach Artikel [4 des Teils II] der Verfassung beteiligen und werden in die politische Kontrolle der Tätigkeiten von Europol entsprechend Artikel [22 des Teils II] der Verfassung einbezogen.~~

~~(3) Im Bereich der polizeilichen und justiziellen Zusammenarbeit in Strafsachen verfügen die Mitgliedstaaten über ein Initiativrecht nach Maßgabe des Artikels [8 des Teils II] der Verfassung.~~

Explanation (if any) :

Absatz 1: Diese Bestimmung ist nicht notwendig. Dass die Union für die Gewährleistung eines Raums der Freiheit, der Sicherheit und des Rechts zuständig ist, ist bereits in Art. 12 klargestellt. Die Details der Inhalte dieser Politik ergeben sich dagegen aus dem Teil II der Verfassung. Insoweit ist diese Bestimmung also redundant. Zudem ist diese Bestimmung im Hinblick auf den Regelungskontext verwirrend. Die Art. 24 bis 33 beschreiben nicht die Politikinhalte, sondern allgemeine Grundsätze der Kompetenzausübung der Union. Dazu aber sagt diese Bestimmung gerade nichts aus.

Absatz 2: Diese Bestimmung ist im Kern eine Leerformel, da sie ausschließlich Verweise auf die Regelung in Artikel 4 bzw. auf die Regelung in Artikel 22 enthält, ohne selbst irgendeine darüber hinaus gehende Regelung zu treffen.

Absatz 3: Diese Bestimmung ist im Kern eine Leerformel, da sie ausschließlich auf die Regelung in Artikel 8 verweist, ohne selbst irgendeine darüber hinaus gehende Regelung zu treffen.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 31.º, n.º 3

Proposition d'amendement au protocole:

Déposée par Monsieur : Luís Queiró

Qualité : Suppléant

3. No domínio da cooperação policial e judiciária em matéria penal, os Estados-Membros dispõem de (1 palavra suprimida) direito de iniciativa (13 palavras suprimidas).

Explication éventuelle :

Estamos perante um domínio de competência partilhada entre União e Estados, no Tratado Constitucional (artigo 12.º do Tratado Constitucional):

– o direito de iniciativa dos Estados membros deve ser pleno. A exigência de um quarto dos Parlamentos em 25 Estados tornaria virtualmente impossível o exercício deste direito de iniciativa.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 31.º, n.º 2

Proposition d'amendement au protocole:

Déposée par Monsieur : Luís Queiró

Qualité : Suppléant

2. No âmbito do espaço de liberdade, de segurança e de justiça, os Parlamentos nacionais (1 palavra suprimida) **participam** nos mecanismos de avaliação previstos no artigo [4.º, Parte II] **do Tratado** e (3 palavras suprimidas) **no** controlo político das actividades da Europol (10 palavras suprimidas).

Explication éventuelle :

Estamos perante um domínio de competência partilhada entre União e Estados, no Tratado Constitucional (artigo 12.º da Constituição):

– o controlo democrático pelos Parlamentos Nacionais deve ser pleno e não pode sofrer qualquer limitação imposta de cima, pelo “tratado constitucional”.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 31.º, n.º1

Proposition d'amendement au protocole:

Déposée par Monsieur : Luís Queiró

Qualité : Suppléant

1. A União assegura um espaço de liberdade, de segurança e de justiça:

- **aprovando** (6 palavras suprimidas) leis-quadro destinadas, nomeadamente, a aproximar as legislações nacionais nos domínios enumerados na segunda parte **do Tratado Constitucional**;
- promovendo a confiança mútua entre as autoridades competentes dos Estados-Membros, em especial com base no reconhecimento mútuo das decisões judiciais e extrajudiciais;
- **estimulando** (duas palavras suprimidas) a cooperação operacional entre (2 palavras suprimidas) as autoridades competentes dos Estados membros, (3 palavras suprimidas) **nos domínios ligados à segurança interna, no respeito pelo disposto no artigo X.**

Explication éventuelle :

Estamos perante um domínio de competência partilhada entre União e Estados, no Tratado Constitucional (artigo 12.º do Tratado Constitucional):

- Se o objectivo é a aproximação de legislações, o instrumento normativo adequado é a lei-quadro (actual directiva), que permite aos Estados membros algum grau de densificação, no respeito pelas características próprias do seu sistema jurídico-administrativo;

– A União não deve ter uma política de segurança interna, a qual é garantida a nível estadual. Além de serem domínios clássicos da soberania dos Estados, o que importa é garantir a cooperação operacional, como afirma o Grupo X, nestes domínios.

AMENDMENT FORM

Suggestion for amendment of Article : 31

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Dimitrij Rupel, Mr Karel De Gucht, Mr Peeter Kreitzberg, Mr Agirdas Gričius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; **and Alternate Members:** Ms Lone Dybkjaer, Mr Willem van Eekelen, Lord Robert MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Part I of the Constitution

Article 31: Implementation of the area of freedom, security and justice

Delete

Explanation:

While the Convention has agreed that there should be separate procedures for police and judicial cooperation, it has not agreed that there should be a separate class of instruments. Indeed, there seems to be a large consensus - reflected elsewhere by the Praesidium in CONV 614/03 - that the third pillar should be merged with the first.

The objectives of the Union concerning freedom, security and justice are covered in Article 3 and its legislative competences in this field in Article 12.4.

The Praesidium's draft Article 31 (in any case, titled misleadingly) is therefore superfluous and should be deleted.

If it were thought necessary to have a separate clause on the executive competences of the Union in the field of police and judicial cooperation, this could appear as a new Article 14 bis, as follows:

Article 14 bis: Police, Security and Judicial Cooperation

1. The Union shall promote collaboration between the competent authorities of the Member States, in particular on the basis of the mutual recognition of judicial and extra-judicial decisions. It shall ensure operational cooperation in the field of internal security.

2. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article 8, Part Two of the Constitution.

General comment

In general, the drafting of this Article and Articles 1 - 23 of Part Two displays a lack of self-confidence on behalf of the Praesidium in following the logic of the in principle decision to merge the Third Pillar with the First.

The repetition in the Constitution of descriptions of the residuary powers and traditions of the Member States does not make those powers in themselves any more entrenched. Instead, it induces a certain nervousity in the reader.

The fact that many of the policy choices in this field are politically sensitive is not a surprise. Nor is it unique. There is no equation that says that the Union has to apply democracy in inverse proportion to controversy.

What matters is the quality and quantity of EU policy in justice and home affairs. Clinging to unanimity in the Council because European integration is less mature in this field does not guarantee perfection. On the contrary, it threatens sclerosis. The Praesidium should be more willing to use enhanced QMV to replace unanimity.

The constitutional necessity to separate out the way the Union exercises legislative power over the essential elements of the free movement of persons from its exercise of executive power in the operational fields of internal security should be made still more rigorously than the Praesidium has managed. Blurring the distinction between the two assists neither comprehension nor legal certainty.

AMENDMENT FORM

Suggestion for amendment of Article 31:

By Mr Joschka Fischer

Status : - Member

Teil I der Verfassung

Artikel 31: Die Verwirklichung des Raums der Freiheit, der Sicherheit und des Rechts

(1) ~~Die Union gewährleistet einen Raum der Freiheit, der Sicherheit und des Rechts~~

~~durch die Annahme von Gesetzen und Rahmengesetzen, mit denen insbesondere die einzelstaatlichen Rechtsvorschriften in den im zweiten Teil der Verfassung aufgeführten Bereichen einander angenähert werden sollen;~~

~~durch eine Förderung des gegenseitigen Vertrauens zwischen den zuständigen Behörden der Mitgliedstaaten, insbesondere auf der Grundlage der gegenseitigen Anerkennung der gerichtlichen und außergerichtlichen Entscheidungen;~~

~~durch eine operative Zusammenarbeit aller für die innere Sicherheit zuständigen Behörden der Mitgliedstaaten.~~

(2) ~~Im Rahmen des Raums der Freiheit, der Sicherheit und des Rechts können sich die einzelstaatlichen Parlamente an den Bewertungsmechanismen nach Artikel [4 des Teils II] der Verfassung beteiligen und werden in die politische Kontrolle der Tätigkeiten von Europol entsprechend Artikel [22 des Teils II] der Verfassung einbezogen.~~

(3) ~~Im Bereich der polizeilichen und justiziellen Zusammenarbeit in Strafsachen verfügen die Mitgliedstaaten über ein Initiativrecht nach Maßgabe des Artikels [8 des Teils II] der Verfassung.~~

Explanation:

Artikel 31 ist aufgrund der Auflösung der Säulenstruktur entbehrlich. Es genügt, die Justizfragen im Teil II der Verfassung zu regeln. Sollte sich eine deutliche Mehrheit für Beibehaltung des Artikels aussprechen, sollte auf die Erwähnung der speziellen Rolle der nationalen Parlamente (Absatz 2) verzichtet werde. Auch im Bereich Justiz und Inneres werden diese ihre Aufgaben auf der Grundlage der Protokolle über Subsidiarität und Rolle der nationalen Parlamente wahrnehmen. Bei Beibehaltung des Artikels müsste zudem in Absatz 1 dritter Anstrich aus Gründen der Genauigkeit die Formulierung "aller für die innere Sicherheit zuständigen Behörden" ersetzt werden durch "der zuständigen Behörden der Mitgliedstaaten, wie sie in Teil II der Verfassung vorgesehen ist".

AMENDMENT FORM

Suggestion for amendment of Article 31 (Title V, Part I)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen, Esko Helle

**Status : Tiilikainen, Kiljunen, Vanhanen - Members
 Peltomäki, Korhonen, Helle - Alternates**

Part I of the Constitution

Article 31: Implementation of the area of freedom, security and justice [deleted]

1. **[removed to Article 1, Part Two]**

~~2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.~~

~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.~~

Explanation:

The proposed draft Article 31 appears redundant. Paragraph 1 is not related to instruments at all and should rather be placed in Article 1 of Part Two. Paragraph 2 should be deleted as we do not support either the evaluation mechanisms proposed under draft Article 4 or the political monitoring of Europol's activities envisaged in draft Article 22, paragraph 2, second subparagraph. Paragraph 3 is covered by Article 25, first paragraph, second subparagraph, of Title V of Part One.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 31, partie 1:

Déposée par M. Olivier DUHAMEL
M. Caspar EINEM
M. Ben FAYOT
Mme Linda McAVAN
M. Luis MARINHO
Mme Anne VAN LANCKER

Qualité: - Membres

Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI
Mme Helle THORNING-SCHMIDT

Qualité: - Suppléants

ARTICLE 31 – La mise en oeuvre de l'espace de liberté, de sécurité et de justice

Supprimer cet article.

Explication éventuelle:

Il n'est pas nécessaire d'avoir un article sur l'Espace de liberté, sécurité et justice dans le Titre de la Constitution concernant les instruments juridiques.

En faites, le contenu de cet article concerne les objectifs et les compétences de l'Union. Les compétences sont déjà contenues dans l'article 12. Dans l'article 3 il serait préférable de préciser les objectifs dans le paragraphe 3, de la façon suivante:

Art. 3.3

L'Union forme un espace de liberté, sécurité et justice à l'intérieur duquel est garantie la libre circulation des personnes. Elle assure le droit d'asile, adopte des mesures appropriées en matière d'immigration et de contrôle des frontières externes.

L'Union promeut l'accès à la justice, la lutte contre le racisme et la xénophobie, la reconnaissance mutuelle des mesures adoptées par les Etats membres en matière civile et en matière de prévention et répression de la criminalité ainsi que le rapprochement des législations nationales.

AMENDMENT FORM

Suggestion for amendment of Article 31

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg national parliament representative.

Status :
- **Member: Hjelm-Wallén and Lekberg**
- **Alternate: Petersson**

Article 31: Implementation of the area of freedom, security and justice¹

1. The Union shall ensure an area of freedom, security and justice:
 - by adopting laws and framework laws ~~intended in particular to approximate national laws~~² in the areas listed in Part Two of the Constitution;
 - by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.
 - by operational cooperation between all competent authorities of the Member States for internal security.
2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution³ ~~and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.~~⁴

¹ Competence in the fields of police and judicial cooperation in criminal matters should primarily belong to the Member States.

² Framework laws, but not laws, are intended to approximate national laws.

³ The solutions in this article should be considered in the light of the respective Constitutional rules in the Member States relating to the internal division of competences between the governments and legislative bodies.

⁴ See comments to Article 22, Part Two.

3. In the field of police and judicial cooperation in criminal matters **and customs cooperation**⁵, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.

⁵ The Member States must have the same right of initiative in the area of customs cooperation.

AMENDMENT FORM

Suggestion for amendment of Article 31:

By: Edmund Wittbrodt, Marta Fogler

Status: Member, Alternate Member

Text of the Praesidium

Proposed Amendments

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:

- by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;
- by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.
- by operational cooperation between all competent authorities of the Member States for internal security.

2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.

3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.

~~Article 31: Implementation of the area of freedom, security and justice~~

~~1. The Union shall ensure an area of freedom, security and justice:~~

- ~~— by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;~~
- ~~— by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.~~
- ~~— by operational cooperation between all competent authorities of the Member States for internal security.~~

~~2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.~~

~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.~~

Explanation:

There is no need to keep the current third pillar with different legislative procedure. It should be unified with the procedures binding under the Community regime.

AMENDMENT FORM

Suggestion for amendment of Article :31

Suggestion for protocol :

By Mr David Heathcoat-Amory

Status :X - Member - Alternate

N.B. ‘()’ denote text deleted ‘_____’ denotes text added

Article 31.1 The Union shall participate in an area of freedom, security and justice :

- by adopting framework laws intended in particular to approximate national laws in areas listed below :

Article 31.2 Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall ensure the political monitoring of Europol’s activities in accordance with Article [Article 22, Part Two] of the Constitution.

Explanation (if any) :

The Union should not be responsible for the area, but should be a facilitator of governments in establishing it.

National Parliaments must play the key role in holding Europol politically accountable.

The reference to a list (which itself is not listed here) is intended to provide for areas of competence to be set out in part one of the treaty, so that they can not be amended lightly.

AMENDMENT FORM

Part I "Area of freedom, security and justice"

Suggestion for amendment of Article : Art. 31 Implementation of the area of freedom, security and justice - §1 - §2

**By : M. J. CHABERT
M. M. DAMMEYER
Ms. C. du GRANRUT
M. C. MARTINI
M. R. VALCARCEL SISO**

Status : ~~-Member~~ ~~-Alternate~~ - Observer

1. The Union shall ensure an area of freedom, security and justice:
 - by adopting laws and framework laws intended in particular to approximate national and regional*laws in the areas listed in Part Two of the Constitution;

2. Within the area of freedom, security and justice, national parliaments and, where they have competence, regional parliaments* may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two) of the Constitution.

Explanation :

**As a general principle, the Committee of the Regions proposes that where national parliaments are to have a role in the implementation of the area of freedom, security and justice, then regional parliaments, where they have competence, should also be involved at an equal level.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31

Proposition d'amendement au protocole:

Déposée par Madame ou Monsieur : **Gianfranco FINI**

Qualité : - Membre

- 1) **Nel rispetto degli ordinamenti costituzionali degli Stati membri**, l'Unione assicura uno spazio di libertà, sicurezza e giustizia:

 - attraverso l'adozione di leggi e leggi quadro volte segnatamente a ravvicinare le legislazioni nazionali nei settori elencati nella parte seconda della Costituzione;
 - favorendo la reciproca fiducia tra le autorità competenti degli Stati membri, in particolare sulla base del reciproco riconoscimento delle decisioni giudiziarie ed extragiudiziali;
 - attraverso una cooperazione operativa di tutte le autorità degli Stati membri competenti per la sicurezza interna.
- 2) Nel quadro dello spazio di libertà, sicurezza e giustizia, i parlamenti nazionali ~~possono~~ partecip**ano** ai meccanismi di valutazione previsti all'articolo [4, parte II] della Costituzione e sono associati al controllo ~~politico~~ delle attività ~~di europol~~ **ed Eurojust**, conformemente agli ~~H~~articoli [19 e 22, parte II] della Costituzione.
- 3) Nel settore della cooperazione di polizia e giudiziaria in materia penale, gli Stati membri dispongono di un diritto d'iniziativa secondo le modalità previste all'articolo [8, parte II] della Costituzione.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31 (Título V, primera parte del Tratado)

Déposée par Madame ou Monsieur : Borrell (miembro), Carnero y López Garrido (suplentes)

Añadir al primer párrafo del punto 1:

1) La Unión garantizará un espacio de libertad, seguridad y justicia:

- **adoptándose por el Parlamento Europeo y el Consejo, de acuerdo con el procedimiento legislativo, leyes y leyes de bases tendentes a aproximar...**

SUPRIMIR punto 2 y 3

Explication éventuelle :

AMENDMENT FORM

PART ONE

Suggestion for amendment of Article : 31 : para 1

Suggestion for protocol :

By Mr : Emilio GABAGLIO

Status : Observer

Article 31 : para 1 :

...after...‘area of freedom, security and justice’...

Add the words:“respecting and guaranteeing fundamental rights and freedoms”

Explanation (if any) :

The fundamental rights and freedoms should be the main element and, consequently, be mentioned. This reference is all the more important given the relation to the respect of trade union rights (see for example question to Part Two, Title Area Freedom, Security and Justice Article 5).

Until now there are only references in Part Two (Title Area of freedom, security and justice) in respect of fundamental rights in Article 1 and fundamental freedoms are mentioned only in the comments to Article 2.

AMENDMENT FORM

Suggestion for amendment of Article : 31 (Title V, Part I)

By Ms / Mr : Jan Kohout

Status : ☒ - Member - Alternate

- 1) Art. 31 in general : consider a more simpel wording, just defining the basic objective and reffering to provisions in Part II. (the same would apply to Art. 29 and 30) :

« The Union will exercise its competences in the Area of freedom, security and justice in accordance with Articles (in current draft 1 – 24) of Part Two of the Constitution. »

- 2) Art. 31(2) : remove

Explanation (if any) :

- 1) The articles in Part I. of the Constitution should remain of a more general character. Particular rules and procedures should be laid down in Part II.
- 2) Involvement of national parliaments in the monitoring of Europol would be difficult to facilitate and it could hamper the operational activities of Europol.

FICHA DE EMENDAS

Proposta de emenda ao Artigo: 31

Apresentado pelos Senhores: Alberto Costa / Guilherme d'Oliveira Martins

Qualidade: Membro / Suplente

Artigo 31

1) ...

2) No âmbito do espaço de liberdade, segurança e justiça, os Parlamentos Nacionais **desempenharão funções de controlo e avaliação, nomeadamente em relação às actividades da Europol.**

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31

Déposée par: Alberto Costa / Guilherme d'Oliveira Martins

Qualité : - Membre / Suppléant

Article 31

1) ...

2) Dans le cadre de l'espace de liberté, de sécurité et de justice, les Parlements nationaux **exercent des fonctions de contrôle et d'évaluation, notamment relatives aux activités de l'Europol.**

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 31

By Ms Maria Eduarda Azevedo /António Nazaré Pereira

Status : - Member / Alternate

Article 31

- 1) The Union **shall constitute** an area of freedom, security and justice
- 2) Within the area of freedom, security and justice, national parliaments **shall participate** in the evaluation mechanisms (...)
- 3) In the field of police and judicial cooperation in criminal matters, Member States shall have **the** right of initiative (...)

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 31

By Mr. Svensson

Status : Alternate

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:

– by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;

– by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.

– by operational cooperation between all competent authorities of the Member States for internal security.

2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two) of the Constitution.

~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.¹~~

¹ The right of initiative of Member States should be abolished altogether

AMENDMENT FORM

Art31stockton.doc

Suggestion for amendment of Article: 31

By The Earl of Stockton

Status: Alternate

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:
 - by adopting laws and *recommendations* intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;
 - by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;
 - by operational cooperation between all competent authorities of the Member States for internal security.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 31

By Mr Lennmarker

Status : Member

Article 31: Implementation of the area of freedom, security and justice

1. The Union shall ensure an area of freedom, security and justice:

- by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;
- by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.
- by operational cooperation between all competent authorities of the Member States for internal security.

2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two) of the Constitution.

~~3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.¹~~

3. The provisions of [Title X/Part II] shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of their internal security.²

¹ The right of initiative of Member States should be abolished altogether

² This provision, currently in Article 6/Part II, is of a constitutional nature as its effect the interpretation of the scope of competences. Its natural place, therefore, is in Part I of the Constitutional Treaty.

AMENDMENT FORM

Suggestion for amendment of Article 31

By Mr. Kvist

Status : Alternate

Article 31: Implementation of the area of freedom, security and justice

*1. The provisions of [Title X/Part II] shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of their internal security, **and the organisation of competent national authorities**.¹*

2. The Union shall ensure an area of freedom, security and justice:

– by adopting laws and framework laws ~~intended in particular to approximate national laws~~ in the areas listed in Part Two of the Constitution;

– by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.

– by operational cooperation between all competent authorities of the Member States for internal security.

3. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two] of the Constitution.

3. In the field of police and judicial cooperation in criminal matters and customs cooperation², Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.

¹ This provision, currently in Article 6/Part II, is of a constitutional nature as its effect the interpretation of the scope of competences. Its natural place, therefore, is in Part I of the Constitutional Treaty. It is amended slightly here.

² The Member States should have a shared right of initiative on customs cooperation matters as well.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31

Proposition d'amendement au protocole:

Déposée par Madame ou Monsieur : M. Louis Michel, M. Karel de Gucht, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention

Qualité : - Membre - Suppléant

Supprimer l'article 31

Explication éventuelle :

Il n'y a pas lieu de distinguer de manière générale la coopération policière et de la coopération judiciaire pénale des autres domaines.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31 (Partie I)

Déposée par Messieurs Santer et Fayot (titulaires, Luxembourg) et M. Schmit (suppléant, Luxembourg)

Article 31 : La mise en œuvre de l'espace de liberté, de sécurité et de justice.

1) L'Union ~~constitue~~ ~~assure~~ un espace de liberté, de sécurité et de justice dans le respect des droits fondamentaux et en tenant compte des différentes traditions et systèmes juridiques de ses Etats membres. Elle assure la libre circulation des personnes tout en garantissant un niveau élevé de sécurité, notamment par des mécanismes de coopération entre autorités policières et entre autorités judiciaires. L'Union réalise ces objectifs:

- par l'adoption de lois et de lois- cadre visant notamment à rapprocher les législations nationales dans les domaines énumérés dans la deuxième partie de la Constitution ;
- en favorisant la confiance mutuelle entre les autorités compétentes des Etats membres, en particulier sur la base de la reconnaissance mutuelle des décisions judiciaires et extrajudiciaires ;
- par une coopération opérationnelle de l'ensemble des autorités compétentes des Etats membres pour la sécurité intérieure, l'immigration clandestine et la gestion des frontières extérieures.

2) Dans le cadre de l'espace de liberté, de sécurité et de justice, les parlements nationaux peuvent participer aux mécanismes d'évaluation prévus à l'article [4, partie II] de la Constitution et sont associés au contrôle politique des activités d'Europol, conformément à l'article [22, partie II] de la Constitution.

3) Dans le domaine de la coopération policière et judiciaire en matière pénale, les Etats membres disposent d'un droit d'initiative selon les modalités prévues à l'article [8, partie II] de la Constitution.

Explication éventuelle :

ad 1): Le premier paragraphe de cet article doit contenir une description complète de la nature de l'espace ainsi constitué, se basant sur des éléments constitutifs clairement énoncés.

L'ajout au troisième tiret du premier paragraphe vise à décrire l'ensemble des domaines dans lesquels la coopération opérationnelle est visée. Ce tiret doit dès lors comporter des références explicites à l'immigration clandestine et au contrôle des frontières extérieures, qui font partie intégrante de l'espace de liberté, de sécurité et de justice décrit dès l'ingrès.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 31, Partie I de la Constitution

Déposée par MM. Hubert HAENEL, Alexandru ATHANASIU, membres titulaires, et M. Robert BADINTER, membre suppléant.

Article 31 : La mise en œuvre de l'espace de liberté, de sécurité et de justice

1) L'Union assure un espace de liberté, de sécurité et de justice :

- par l'adoption de lois et de lois-cadre visant notamment à rapprocher les législations nationales dans les domaines énumérés dans la deuxième partie de la Constitution ;
- en favorisant la confiance mutuelle entre les autorités compétentes des États membres, en particulier sur la base de la reconnaissance mutuelle des décisions judiciaires et extrajudiciaires ;
- par une coopération opérationnelle de l'ensemble des autorités compétentes des États membres pour la sécurité intérieure.

2) Les parlements nationaux sont associés étroitement à la mise en œuvre de l'espace de liberté, de sécurité et de justice. Ils participent notamment ~~Dans le cadre de l'espace de liberté, de sécurité et de justice, les parlements nationaux peuvent participer~~ aux mécanismes d'évaluation prévus à l'article [4, partie II] de la Constitution et sont associés au contrôle politique des activités d'Europol, conformément à l'article [22, partie II] de la Constitution.

3) Dans le domaine de la coopération policière et judiciaire en matière pénale, les États membres disposent d'un droit d'initiative selon les modalités prévues à l'article [8, partie II] de la Constitution.

Explication éventuelle : Un large consensus s'est dessiné, tant au sein du groupe de travail qu'en séance plénière, pour reconnaître le rôle particulier des parlements nationaux pour la mise en place de l'espace de liberté, de sécurité et de justice. Il convient de mentionner ici le principe de l'association étroite des parlements nationaux en cette matière.

FICHE AMENDEMENT

Proposition d'amendement à l'article 31 , partie I de la Constitution

Déposée par Monsieur Dominique de Villepin

Qualité : - Membre

Article 31 : La mise en œuvre de l'espace de liberté, de sécurité et de justice.

1) **Sans préjudice des responsabilités qui incombent aux Etats membres pour le maintien de l'ordre public et la sauvegarde de leur sécurité publique**, l'Union assure un espace de liberté, de sécurité et de justice:

- par l'adoption de lois et de lois- cadre visant notamment à rapprocher les législations nationales dans les domaines énumérés dans la deuxième partie de la Constitution ;
- en favorisant la confiance mutuelle entre les autorités compétentes des Etats membres, en particulier sur la base de la reconnaissance mutuelle des décisions judiciaires et extrajudiciaires ;
- par une coopération opérationnelle de l'ensemble des autorités compétentes des Etats membres pour la sécurité intérieure.

2) Dans le cadre de l'espace de liberté, de sécurité et de justice, les parlements nationaux peuvent participer aux mécanismes d'évaluation prévus à l'article [4, partie II] de la Constitution et sont associés au contrôle politique des activités d'Europol, conformément à l'article [22, partie II] de la Constitution.

3) **Toute proposition d'acte, adoptée en vertu de la présente constitution, ayant des implications sur la réalisation de l'espace de liberté, de sécurité et de justice, doit être examinée par les enceintes du Conseil compétentes pour la mise en œuvre du présent article.**

4) Dans le domaine de la coopération policière **et douanière et pour réaliser un espace judiciaire en matière pénale**, les Etats membres disposent d'un droit d'initiative selon les modalités prévues à l'article [8, partie II] de la Constitution.

Explication éventuelle : Le premier amendement vise à reprendre dans la première partie du traité le contenu de l'actuel article 33 du TUE.

Le second vise à préserver la spécificité du Conseil JAI qui doit être notamment en mesure d'examiner toute proposition d'acte contenant des dispositions de droit pénal.

l'étape de la « coopération judiciaire en matière pénale » est désormais dépassée en raison des progrès accomplis pour rapprocher les législations. Les objectifs fixés par la Constitution vont d'ailleurs bien au delà de la coopération.

AMENDMENT FORM

Suggestion for amendment of Article 31

By: Ms. Danuta Hübner

Status: Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
<u>Article 31: Implementation of the area of freedom, security and justice</u>	<u>Article 31: Implementation of the area of freedom, security and justice</u>
<p>1. The Union shall ensure an area of freedom, security and justice:</p> <ul style="list-style-type: none">– by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;– by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.– by operational cooperation between all competent authorities of the Member States for internal security. <p>2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two) of the Constitution.</p> <p>3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the</p>	<p>1. The Union shall ensure an area of freedom, security and justice:</p> <ul style="list-style-type: none">– by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;– by promoting <u>aiming to achieve mutual confidence between the competent authorities of the Member States, in particular on the basis of</u> mutual recognition of judicial and extrajudicial decisions <u>based on mutual confidence between the competent authorities of the Member States.</u>– by operational cooperation between all competent authorities of the Member States for internal security. <p>2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two) of the Constitution.</p> <p>3.2. In the field of police and judicial</p>

Constitution.	cooperation in criminal matters, Members States shall have a right of initiative under the arrangement set out in Article [8, Part Two] of the Constitution.
Explanation: <u>Article 31 is aimed at emphasising the specificity of the area of freedom, security and justice. Therefore i would suggest that it only refers to the most imoportant distinguishing features of this area such as the specific instruments of implementation and the right of initiative of Member States. The reference to national parliaments should be made in Part II of the Treaty. Paragraph 1 should aim at listing the instruments of implementation such as laws and framework laws, mutual recognition of decisions and operational cooperation.</u>	

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31 par. 1 (Politica in materia di polizia e giustizia nel settore penale)

Déposée par Madame : MUSCARDINI

Qualité : Membre

Art 31 par. 1

Il paragrafo viene così riscritto.

" - attraverso l'adozione di leggi e leggi quadro volte segnatamente a ravvicinare - **nel rispetto delle prerogative costituzionali e giuridiche** - le legislazioni nazionali nei settori elencati nella parte seconda della Costituzione."

" - favorendo la **collaborazione** tra le autorità competenti degli Stati membri, in particolare sulla base del riconoscimento delle decisioni giudiziarie ed extragiudiziali, **sancito da accordi bilaterali o multilaterali fra gli Stati membri.**"

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : Part I, 31

Suggestion for protocol :

By Mr : Joachim Wuermeling

Status : - Alternate

Artikel 31: Die Verwirklichung des Raums der Freiheit, der Sicherheit und des Rechts

- (1) Die Union gewährleistet einen Raum der Freiheit, der Sicherheit und des Rechts
- durch die Annahme von Gesetzen und Rahmengesetzen, mit denen ~~insbesondere~~ die einzelstaatlichen Rechtsvorschriften in den im zweiten Teil der Verfassung aufgeführten Bereichen einander angenähert werden sollen;
 - durch eine Förderung des gegenseitigen Vertrauens zwischen den zuständigen Behörden der Mitgliedstaaten, insbesondere auf der Grundlage der gegenseitigen Anerkennung der gerichtlichen und außergerichtlichen Entscheidungen;
 - durch eine operative Zusammenarbeit aller für die innere Sicherheit zuständigen Behörden der Mitgliedstaaten.
- (2) Im Rahmen des Raums der Freiheit, der Sicherheit und des Rechts können sich die einzelstaatlichen Parlamente an den Bewertungsmechanismen nach Artikel [4 des Teils II] der Verfassung beteiligen und werden in die politische Kontrolle der Tätigkeiten von Europol entsprechend Artikel [22 des Teils II] der Verfassung einbezogen.
- (3) Im Bereich der polizeilichen und justiziellen Zusammenarbeit in Strafsachen verfügen die Mitgliedstaaten über ein Initiativrecht nach Maßgabe des Artikels [8 des Teils II] der Verfassung.

Explanation (if any) :

Die im 1. Spiegelstrich vorgesehene Formulierung „insbesondere“ könnte als Generalkompetenz fehlgedeutet werden, auf die die Europäische Union sich stützen könnte, wenn sie zur Gewährleistung des Raums der Freiheit, der Sicherheit und des Rechts tätig wird, ihr für die konkrete Maßnahme aber in Teil II der Verfassung keine Kompetenz eingeräumt wird. Diese –nicht gewollte – Deutung sollte vermieden werden:

Auch in anderen Bereichen der geteilten Zuständigkeit soll sich der Umfang der Zuständigkeiten allein aus Teil II der Verfassung ergeben (vgl. Entwurf des Artikels 12 Abs. 2 des Teils I der Verfassung).

AMENDMENT FORM

Suggestion for amendment of Article 31, Title V

By : Mr.V.P.Andriukaitis (LT Parl., Status-Member), Mr.A.Gricius (LT Parl., Status-Member), Mr. R.Martikonis (LT Gov., Status-Member), Mr. O.Jusys (LT Gov., Status-Alternate), Mr. G.Šivickas (LT Parl., Status-Alternate), Mr. E.Maldeikis (LT Parl., Status-Alternate).

Delete article 31.

Explanation (if any) :

There is no need for different procedures for the area of freedom, security and justice.

AMENDMENT FORM

Suggestion for amendment of Article : 31

By Timothy Kirkhope MEP

Status: Member

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p><u>Article 31: Implementation of the area of freedom, security and justice</u></p> <p>1. The Union shall ensure an area of freedom, security and justice:</p> <ul style="list-style-type: none">– by adopting laws and framework laws intended in particular to approximate national laws in the areas listed in Part Two of the Constitution;– by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions.– by operational cooperation between all competent authorities of the Member States for internal security. <p>2. Within the area of freedom, security and justice, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution, and shall be involved in the political monitoring of Europol's activities in accordance with Article [Article 22, Part Two) of the Constitution.</p> <p>3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative under the arrangements set out in Article [8, Part Two] of the Constitution.</p>	<p><u>Article 31: Cooperation in home affairs at a Community level</u></p> <p>1. <u>The Community shall retain a pillar covering cooperation in home affairs within the Community.</u></p> <ul style="list-style-type: none">– <u>through European Community laws and opinions where absolutely necessary but through bilateral and multilateral agreements when possible;</u>– by promoting mutual confidence between the competent authorities of the Member States <u>and other relevant international organisations;</u>– by operational cooperation between <u>national authorities</u> for internal security <u>when required.</u> <p>2. <u>In this field</u>, national parliaments may participate in the evaluation mechanisms foreseen in Article [4, Part Two] of the Constitution.</p> <p><i>DELETE</i></p>

FICHA DE ALTERAÇÃO

Proposta de Alteração ao Artigo 31.º

Apresentada pelos Deputados Alberto Costa e Guilherme d'Oliveira Martins

Na qualidade de Membro Efectivo e Membro Suplente

Artigo 31.º

Alteração: **eliminação deste artigo**

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31

Déposée par Monsieur : Alberto Costa / Guilherme d'Oliveira Martins

Qualité : Membre Effective / Suppléant

Article 31

Amendement : **supprimer cette disposition**

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 31

Déposée par: M. Louis **Michel**, M. Karel **de Gucht**, M. Elio **di Rupo**, Mme Anne **Van Lancker**, membres de la Convention et M. Pierre **Chevalier** et Mme Marie **Nagy**, membres suppléants de la Convention

Supprimer l'article 31.

Explication éventuelle :

Il n'y a pas lieu de distinguer de manière générale les instruments applicables dans le cadre de la politique en matière de police et de coopération judiciaire pénale des instruments applicables dans les autres domaines.

AMENDMENT FORM

Suggestion for amendment of Article 31

By: Edmund Wittbrodt,

Marta Fogler

Status: Member,

Alternate Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
Police and criminal justice policy	Police and criminal justice policy
Explanation: The legislative tools of the current third pillar should be unified with the other in order to simplify the pillar structure.	

AMENDMENT FORM

Suggestion for amendment of Article 31

By Mr Göran Lennmarker

Status : Member

Article 31: [Police and criminal justice policy] ¹

Explanation: Competence in these fields should, and will always, primarily belong to the Member States since most crime is local. However, once the Union has competence within this area, which could be the case for cross-border crimes, the normal EU legislative procedure should apply. No EU law should be adopted in any area without parliamentary influence.

AMENDMENT FORM

Suggestion for amendment of Article: 31 Police and criminal justice policy

By The Earl of Stockton MEP

Status : Alternate

DELETE

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 31:

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg and Mr Kenneth Kvist, national parliament representatives.

**Status : - Member: Hjelm-Wallén and Lekberg
- Alternate: Petersson and Kvist**

Article 31: Police and criminal justice policy¹

¹ Competence in these fields should primarily belong to the Member States and co-operation within the Union should therefore in general be intergovernmental. Specific provisions need to be inserted in Article 31 dealing with legal acts and their effects, the adoption of common rules and the delegation of normative powers.

AMENDMENT FORM

Suggestion for amendment of Article : 31

By Mr Andrew Duff, Lamberto Dini, Paul Helminger, Peeter Kreitzberg, Algirdas Gričius, Puiu Hasotti, Jelko Kacin, Zekeriya Akçam, Members of the Convention

Lone Dybkjaer, Willem Van Eekelen, Lord Robert MacLennan of Rogart, Nesrin Uzun, Marios Matsakis, Androula Vassiliou, Istvan Szent-Ivanyi, Peter Eckstein-Kovacs, Ibrahim Ozal, alternate Members of the Convention.

Delete

Explanation:

It is unnecessary to have special provision for instruments in police and criminal justice policy.

The special procedures are foreseen in Article 25.1.

AMENDMENT FORM

Suggestion for amendment of Article 31

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen and Esko Helle

Status : **Tiilikainen, Kiljunen, Vanhanen - Members**
 Peltomäki, Korhonen, Helle - Alternates

[Article 31: [Police and criminal justice policy]]

Explanation (if any) :

Whether there should be a specific provision on “Police and criminal justice policy”, or whether the proposed draft article 25, first paragraph, second subparagraph, sufficiently takes account of the special characteristics of the policy area concerned, is a question that can only be addressed once the substantive proposals relating to the area in question have been received.

AMENDMENT FORM

Suggestion for amendment of Article : 31

Suggestion for protocol :

By Ms / Mr : Johannes Voggenhuber, Neil MacCormick, Renée Wagener, Marie Nagy, Eva Lichtenberger

Status : - Member - Alternate

~~Article 31: [Police and criminal justice policy]~~

Explanation (if any) :

*It is unnecessary to have special provision for instruments in police and criminal justice policy.
In case special procedures are needed to mention (If yes it can only regard the right of initiative)
there is a place foreseen in Article 25.1.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article 31:

Déposée par M. Olivier DUHAMEL
M. Caspar EINEM
Mme Linda McAVAN
M. Luis MARINHO
Mme Anne VAN LANCKER

Qualité: - Membres

Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI
Mme Helle THORNING-SCHMIDT

Qualité: - Suppléants

ARTICLE 31 – [Politique en matière de police et de justice dans le domaine pénal]

Supprimer cet article.

AMENDMENT FORM

Suggestion for amendment of Article : I-41

Suggestion for protocol :

By / Mr : Hain

Status : - Member -

1. The Union shall constitute an area of freedom, security and justice:
 - by adopting European laws and European framework laws where appropriate to approximate national laws in the areas listed in Chapter IV of Part III of this Constitution~~Part Three of the Constitution~~;
 - by promoting mutual recognition of judicial and extrajudicial decisions and where necessary promoting mutual confidence between the competent authorities of the Member States;
 - ~~by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;~~
 - by promoting operational co-operation between competent authorities of the Member States for the purposes falling within Chapter IV of Part III of this Constitution, including the police, customs and other services specialising in the prevention and detection of criminal offences.
 2. Within the area of freedom, security and justice, national Parliaments may participate in the evaluation mechanisms foreseen in Article [...], Part Three, of the Constitution, and shall be involved in the political monitoring oversight of Eurojust's and Europol's activities in accordance with Articles [...] and [...], Part Three, of the Constitution.
 3. Okay
-

Explanation (if any) :

Our amendment makes clear that mutual recognition is the cornerstone of judicial cooperation and that it may be necessary to promote mutual confidence for that purpose.

*Our amendment is intended to make it clear that the Union's role is to promote cooperation. **It is unnecessary to list all the bodies involved in law enforcement.** This would in any case need to include cooperation between competent authorities for the investigation of crimes as well as prevention and detection. Therefore we suggest that it cover the competent authorities required for the purposes of the JHA Chapter of Part III and reflects the amendment to the first tiret.*

The phrase "political monitoring" in the context of Eurojust (or Europol) could be seen to suggest political interference in the activities and decisions taken within these organisations. This would be incompatible with the functions of the national members who may be responsible for judicial or operational decisions: it should therefore read "oversight".