

AMENDMENT FORM

Suggestion for amendment of Article 39

By Timothy Kirkhope MEP

Status: Member

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p><u>Article 39: The budgetary and financial principles</u></p> <p>1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.</p> <p>2. The revenue and expenditure shown in the budget shall be in balance.</p> <p>3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (<i>Part II, ex-279: Financial Regulation</i>).</p> <p>4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (<i>Part II, ex-279: Financial Regulation</i>). This act must take the form of a European law, a European framework law, a European regulation or a European decision.</p> <p>5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own</p>	<p><u>Article 39: The budgetary and financial principles</u></p> <p>1. All items of revenue and expenditure of the <u>Community</u> shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the <u>simplifying Treaty</u>.</p> <p>2. The revenue and expenditure shown in the budget shall be in balance.</p> <p>3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (<i>Part II, ex-279: Financial Regulation</i>).</p> <p>4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for <u>Community</u> action and for the implementation of the expenditure in accordance with the law referred to in Article B (<i>Part II, ex-279: Financial Regulation</i>). This act must take the form of a European <u>Community</u> law.</p> <p>5. With a view to maintaining budgetary discipline, the <u>European Parliament</u> shall not make any proposal for a <u>Community</u> act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the <u>Community's</u></p>

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p>resources.</p> <p>6. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.</p> <p>7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (<i>Part II, ex-280 TEC</i>).</p>	<p>own resources.</p> <p>6. The <u>Community</u>'s budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the <u>Community</u> to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.</p> <p>7. The <u>Community</u> and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the <u>Community</u> in accordance with the provisions of Article Z (<i>Part II, ex-280 TEC</i>).</p>

AMENDMENT FORM

Suggestion for amendment of Article : I-52

By Mr : Hain

Status : - Member

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1. Okay.
 2. Okay.
 3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law [of the Council](#) referred to in Article [ex 279].
 4. [Except as provided in Part III](#), The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act [other than under this Title](#) providing a legal basis for Union action and for the implementation of the expenditure in accordance with the European law [of the Council](#) referred to in Article [ex 279)]. This act must take the form of a European law, a European framework law, a European regulation or a European decision.
 5. With a view to maintaining budgetary discipline, the [Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing or delegated measure](#) ~~Union shall not adopt any act~~ which is likely to have appreciable implications for the budget without providing an assurance that the proposal or measure in question is capable of being financed within the limit of the Union's own resources and [the expenditure ceilings set by](#) the multiannual financial framework referred to in Article I-54.
 6. The Union's budget shall be [adopted and](#) implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
 7. Okay.
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Explanation (if any) :

I.52.3 : Because of its relevance to budget revenues, as well as to maintaining discipline on budget expenditure, the UK believes that Article III-314 [ex Article 279] should not become subject to co-decision. To reflect that, here and subsequently, references to “the European law referred to in Article [ex 279]” should be to “the European law of the Council”.

I.52.4 : The requirement for prior adoption of a binding legal act is currently covered expressly in the Interinstitutional Agreement of 6 May 1999, and is subject to certain exceptions, e.g. for pilot schemes and preparatory actions, under para 37 of that Agreement. The legal act in question must provide a basis for EU action distinct from the act establishing the budget or Multiannual Financial Framework.

I.52.5 : The Praesidium’s text would require the Union to refrain from adopting any act unless it gives the assurance above. This is impracticable – only the Commission, which has responsibility for implementing the budget – is capable of giving such an assurance. It should be clear that it should relate to the individual expenditure ceilings of the financial framework, not the framework

as a whole.

I.52.6 : The principle of sound financial management should apply to the adoption as well as implementation of the budget, e.g. in informing decisions of the budgetary authority in the allocation of resources.

AMENDMENT FORM

Suggestion for amendment of Article : I-52

By Mr : Farnleitner

Status : - Member

6. The Union's budget shall be **adopted and** implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

Explanation :
See I-53

AMENDMENT FORM

Suggestion for amendment of Article 39:

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

on behalf of the EPP Convention Group

Status: Members and Alternates

Text of the Praesidium

Article 39: The budgetary and financial principles

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regulation or a European decision.
5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of be-

Proposed Amendments

Article 39: The budgetary and financial principles

Add new paragraph 1:

- 1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.**
- ~~1.~~ 2. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, ~~in accordance with the provisions of Part II of the Constitution.~~
- ~~2.~~ 3. The revenue and expenditure shown in the budget shall be in balance. ***Deficits in the budget of the Union shall be prohibited.***
- ~~3.~~ 4. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
- ~~4.~~ 5. The implementation of expenditure shown in the budget shall ***as a general rule*** require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regula-

ing financed within the limit of the Union's own resources.

6. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).

tion or a European decision.

- ~~5.~~ 6. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources.
- ~~6.~~ 7. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
- ~~7.~~ 8. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).

Explanation:

Para 1 new:

Cf. Article 6 (4) EU

Para 1 (now para 2):

The principle of unity of the budget should be emphasized. There should be no special financing arrangements for certain policies, eg. CFSP and cooperation in the fields of justice and home affairs. The European Development Fund should be included into the budget.

Para 2 (now para 3):

The Union should not be allowed to produce deficits in its budget. This is not only symbolic, but also a responsibility towards future generations.

Para 4 (now para 5):

The reference to the “prior adoption of a binding legal act” excludes the standing practice for pilot projects and preparatory actions fixed in an inter-institutional agreement. The possibility for this should be kept open in future. Text is based on Art 37 of the Interinstitutional Agreement of 9 May 1999 on budgetary discipline and improvement of the budgetary procedure.

AMENDMENT FORM

Suggestion for amendment of Article : 39

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member ~~Alternate~~

Artikel 39: Die Haushalts- und Finanzgrundsätze

1. Alle Einnahmen und Ausgaben der Union werden ~~gemäß den Bestimmungen von Teil II der Verfassung~~ für jedes Haushaltsjahr veranschlagt und in den Haushaltsplan eingesetzt, **der als Organakt erlassen wird.**
2. Der Haushaltsplan ist in Einnahmen und Ausgaben auszugleichen.
3. Die in den Haushaltsplan eingesetzten Ausgaben werden für ein Haushaltsjahr ~~gemäß dem Gesetz nach Artikel B~~ (Teil II, ex-Artikel 279: Haushaltsordnung) bewilligt.
4. Zur Tätigung der in den Haushaltsplan eingesetzten Ausgaben ist zuvor ein verbindlicher Rechtsakt zu erlassen, mit dem eine Maßnahme der Union und die Vornahme der entsprechenden Ausgabe ~~gemäß dem Gesetz nach Artikel B~~ eine Rechtsgrundlage erhalten (Teil II, ex-Artikel 279: die Haushaltsordnung). Dieser Rechtsakt muss in Form eines europäischen Gesetzes, eines europäischen Rahmengesetzes, einer europäischen Verordnung oder einer europäischen Entscheidung ergehen.
5. Damit die Haushaltsdisziplin gewährleistet wird, unterbreitet die Kommission keine Vorschläge für Rechtsakte der Union, ändert nicht ihre Vorschläge und erlässt keine Durchführungsmaßnahme, die erhebliche Auswirkungen auf den Haushaltsplan haben könnte, ohne die Gewähr zu bieten, dass der betreffende Vorschlag bzw. die betreffende Maßnahme im Rahmen der Eigenmittel der Union finanziert werden kann.
6. Der Haushaltsplan der Union wird entsprechend dem Grundsatz der Wirtschaftlichkeit der Haushaltsführung ausgeführt. Die Mitgliedstaaten arbeiten mit der Union zusammen, um sicherzustellen, dass die in den Haushaltsplan eingesetzten Mittel nach dem Grundsatz der

Wirtschaftlichkeit der Haushaltsführung verwendet werden.

7. Die Union und die Mitgliedstaaten bekämpfen Betrügereien und sonstige gegen die finanziellen Interessen der Union gerichtete rechtswidrige Handlungen ~~gemäß den Bestimmungen von Artikel Z~~ (Teil II, ex-Artikel 280 EGV).

Explanation (if any) :

Absatz 1:

Klarstellung der Rechtsnatur des Haushaltsplans als Innenrechtsakt, der beim Erlass von Gesetzen, Rahmengesetzen und anderen Rechtsakten zu beachten ist.

Absätze 1, 3, 4 und 7:

Der Titel dieses Artikels lautet "Dies Haushalts- und Finanzgrundsätze"; die wiederholten redaktionellen Querverweise auf die Durchführungsbestimmungen im zweiten Teil der Verfassung sind daher nicht notwendig.

AMENDMENT FORM

Suggestion for amendment of Article :39 bis

By Ms / Mr :Ernâni Lopes and Manuel Lobo Antunes

Status : - Member and - Alternate

Article 39.º bis: Multiannual financial framework

The multiannual financial framework shall constitute the reference framework for interinstitutional budgetary discipline. It is intended to ensure that, in the medium term, European Union expenditure, broken down by broad category, develops in an orderly manner and within the limits of own resources.

The Council, meeting in the composition of Heads of State or Government, on a proposal from the Commission and after consulting the European Parliament, shall adopt a law on the multiannual financial framework, acting by unanimity.

Failing this decision, the framework applicable for the preceding year shall apply for the following year, in accordance with the rules laid down in article [] / Part II, containing the general rules governing the multiannual financial framework.

Explanation : It seems appropriate to include in the first part of the Constitutional Treaty a reference to the multiannual financial framework as a key element of the Finances of the Union.

AMENDMENT FORM

Suggestion for amendment of Article : 39

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Peeter Kreitzberg, Mr Agirdas Gricius, Mr Puiu Hasotti, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; **and Alternate Members:** 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.

Article 39: The budgetary and financial principles¹

0. *The Union shall have financial autonomy through receipt of its own resources.*
1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.
- As an exception to the principle of the unity of the budget, the costs of non-shared operations in the field of common security and defence policy shall be financed by direct contributions from those Member States which choose so to contribute.*
2. The revenue and expenditure shown in the budget shall be in balance.
3. *Delete*
4. *Delete*
5. *Delete*
6. *Delete*
7. *Delete*
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¹ This article should precede the article on own resources, and will be renumbered Article 38.

Explanation:

Curiously, the most important principle of all is missing from the Praesidium's draft - namely, that the Union has financial autonomy.

We have removed in paragraph 1 the reference to Part II and its implicit and unspecified exceptions to the rule that the EU budget should be comprehensive. The Convention has to reflect in budgetary terms any enhanced competences of the Union. We and others have proposed in Article 12 that development policy becomes a shared competence, so we cannot leave the European Development Fund in its present anomalous position, adrift from the EU general budget. As a matter of form, Part II should in any case be contingent on Part I and not vice versa.

As far as the security operations of the Union are concerned (both internal and external) it is now acquis that all administrative expenditure should fall to the EU budget. It should in our view also be the case that all shared operational costs should be subsumed within the EU budget, leaving as the exception only the costs of those operations where not all member states choose to participate and, moreover, positively elect not to contribute financially to the collective effort. The Convention will have to return to this matter later, but we include a draft of a specific derogation from the general rule for illustrative purposes.

The detail of the contributory arrangements will be set out in Part Two (revised Article 28 TEU).

We cannot see that a similar derogation needs to be continued with respect to joint civilian operations of police and interior security services (Article 41 TEU). The merging of the third pillar is supposed to reflect the willingness of all Member States to practice solidarity in this field. (It is vital to avoid a repeat of the present arrangements for the financing of the EU operation in Bosnia-Herzegovina, which are a terrible muddle.)

The remaining paragraphs of the draft article are too detailed and lengthy to appear in Part One. As they deal with what are essentially procedural matters, they should thus be relegated to Part Two. The reflection circle on the budget is in any case shortly to report on these matters to the Convention.

AMENDMENT FORM

Suggestion for amendment of Article : 39

Suggestion for protocol :

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

Status : **Members**

Article 39: The budgetary and financial principles

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period, beginning on 1 January and ending on 31 December. ~~period~~ in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
4. The entry of expenditure in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a law, a framework law, a regulation or a decision.
5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's ~~own resources~~ multiannual financial perspectives.

6. The Union's budget shall be implemented in accordance with the principle of sound financial management. The Commission shall implement the budget, in accordance with the law referred to in Article B, on its own responsibility and within the limits of the appropriations. Member States shall cooperate with the Union Institutions to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
- ~~7.~~ 7. The Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).
8. The Commission shall submit annually to the Council and European Parliament the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

AMENDMENT FORM

Suggestion for amendment of Article : 39bis (NEW)

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Peeter Kreitzberg, Mr Agirdas Gričius, Mr Puiu Hasotti, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; and **Alternate Members:** 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.

Article 39bis: Medium-term Financial Framework¹

1. *A multi-annual financial plan shall establish the framework for budgetary discipline over the medium term. It will lay down annual expenditure ceilings.*
2. *The decision shall be enacted by organic law.*

Explanation :

The existing Financial Perspective is an integral part of the budgetary system, setting out on a multiannual basis the maximum expenditure envisaged within the overall cap of the own resources decision. It acts both as a guarantee for the Member States that the annual budget will be set within strict expenditure parameters and enables strategic and medium term financial planning.

By instituting it as a constitutional article we hope to incorporate both the current Financial Perspective and also the rules which govern it as established in the Inter-Institutional Agreement of 1988. The proposed new title gives a more accurate description of what is afoot.

We repeat the formula here of the organic law, taken by and binding upon both the Council and the Parliament.

¹ Article 39 bis will appear third in the chronology of the four articles in this title.

AMENDMENT FORM

Suggestion for amendment of Article 39: (Title VII Union's Finances, part II of the Treaty)

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

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

Article 39: The budgetary and financial principles

The article should be rewritten as follows:

Article 39: The budgetary and financial principles

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.

- 1 bis. **To ensure sustainable use of the resources of the Union and the respect of the principles of sound financial management, the budget shall be within the limits established in the multi-annual financial framework of the Union, in accordance with the provisions of Part II, article Y of the Constitution. The multi-annual financial framework shall lay down the annual ceilings for payments to be included in the budget within the limits of the Union's own resources.**

2. The revenue and expenditure shown in the budget shall be in balance.

- 3.. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).

4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II,*

ex-279: Financial Regulation). This act must take the form of a European law, a European framework law, a European regulation or a European decision.

5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources and multi-annual financial framework.
 6. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
 - 6 bis. **The Commission shall bear general responsibility for the implementation of the budget. After the end of each financial year the Commission shall draw up the annual accounts of the Union which shall give true and fair view of the implementation of the budget and of the financial management and financial situation of the Union. The annual accounts shall be published and communicated to the Court of Auditors for audit and to the European Parliament and the Council.**
 - 6 ter. **The Court of Auditors shall examine the accounts and financial management of the Union and report the results of its examination to the European Parliament and the Council, which shall decide on a discharge to the Commission in respect of the implementation of the budget.**
 7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).
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Explanation

The article 39 should state all the most important constitutional principles concerning the budget and implementation of the budget. It would be logical to refer to the system of multi-annual financial perspective (which we propose to rename "financial framework") and to its binding character in article 39 and the 40 could then establish the fundamental requirements concerning adoption of the framework and budget. A reference to that extent has been added as a new paragraph 1 bis.

The Commission should continue to bear the general responsibility for the implementation of Union's budget in order to prevent the creation of a dangerous "vacuum" in the EU system. Stating this responsibility in this context would be a more effective mechanism than including the same provision in Part II of the Treaty. This principle is expressed in the opening phrase of paragraph 6 bis.

The draft of the Convention secretariat does not yet contain any reference to the discharge procedure and auditing. Accounts, auditing and discharge are not only technical procedures but vital element in improving the Union's transparency and accountability towards European citizens. Therefore they deserve special attention and fundamental principles of accountability and audit should be laid down in part I of the Treaty.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 39, paragraphes 1 et 5:

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 39 – Les principes budgétaires et financiers

1. Toutes les recettes et dépenses de l'Union **sans distinction** doivent faire l'objet de prévisions pour chaque exercice budgétaire et être inscrites au budget, conformément aux dispositions de la partie II de la Constitution.
5. En vue d'assurer la discipline budgétaire,des ressources propres de l'Union **et du cadre financier pluriannuel.**

Explication éventuelle:

AMENDMENT FORM

Suggestion for amendment of Article 39.5 and 6

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

Status : - Member: Hjelm-Wallén, Lekberg and Lennmarker
 - Alternate: Petersson, Kvist and Svensson

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5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the ~~Union's own resources~~. **multiannual financial perspective referred to in Article 40.**¹
6. The Union's budget shall be **established and**² implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

¹ The multiannual financial perspective is relevant as a safeguard in expenditures. The financial perspective shall be binding for all decisions with budgetary implications and will inevitably be set at a lower level than the Union's own resources.

² In secondary legislation on budgetary issues, such as the financial regulation, a fundamental principle is that the budget should not only be implemented, but also adopted in accordance with the principles of sound financial management. This should be reflected in the Treaty.

AMENDMENT FORM

Suggestion for amendment of Article 39:

By: Edmund Wittbrodt,

Marta Fogler

Status: Member,

Alternate Member

Text of the Praesidium

Proposed Amendments

Article 39: The budgetary and financial principles

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regulation or a European decision.
5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources.
6. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooper-

Article 39: The budgetary and financial principles

Add new paragraph 1:

- 1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.**
- ~~1.~~ 2. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, ~~in accordance with the provisions of Part II of the Constitution.~~
- ~~2.~~ 3. The revenue and expenditure shown in the budget shall be in balance. **Deficits in the budget of the Union shall be prohibited.**
- ~~3.~~ 4. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
4. 5. The implementation of expenditure shown in the budget shall **as a general rule** require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regulation or a European decision.
- ~~5.~~ 6. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is

ate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).

likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources.

- ~~6.~~ 7. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
- ~~7.~~ 8. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).

Explanation:

These follow the EPP proposal

AMENDMENT FORM

Suggestion for amendment of Article : 39

By Mr : FARNLEITNER

Status : - Member

4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regulation; **a European directive** or a European decision.

Explanation:

The current form of directive with which certain provisions of the Treaty or of legislative acts are implemented should be maintained as a non-legislative act called “European directive”. See also my suggestion for amendment of Article 24 [The legal acts of the Union].

AMENDMENT FORM

Suggestion for amendment of Article :4 (part 2)

Suggestion for protocol :

By Mr David Heathcoat-Amory

Status :X - Member - Alternate

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

New paragraph 6a

Insert

‘Each budget line must be signed off by the Court of Auditors and European Parliament before non-obligatory expenditure for the forthcoming year is permitted.’

Explication eventuelle

In order to fulfil the Laeken Mandate, European institutions must be able to demonstrate accountability in their financial control.

Where an audit has identified failings in a budget line, and the Auditors have declined to sign off the books, there should be an effective block on further spending until those failures have been remedied. This amendment allows, however, for continued expenditure in the interim on essential items, such as wages and rent.

New paragraph 7a

Insert

‘The Union shall not permit expenditure of a partisan or propagandist nature’

Explication eventuelle

The Union should not itself become party to debates on its future.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 39

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

Añadir a los puntos 1 y 5:

1. Todos los ingresos y gastos de la Unión **sin distinción** deberán estar comprendidos...

5. A fin de garantizar la disciplina presupuestaria ... los recursos propios de la Unión **y el marco financiero plurianual.**

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 39:

**Déposée par : Caspar Einem
Maria Berger**

Qualité : - Membre x Suppléant x

Artikel 39: Die Haushalts- und Finanzgrundsätze

1. Alle Einnahmen und Ausgaben der Union werden gemäß den Bestimmungen von Teil II der Verfassung für jedes Haushaltsjahr veranschlagt und in den Haushaltsplan eingesetzt.

2. Der Haushaltsplan ist in Einnahmen und Ausgaben auszugleichen.

2a. Die Union stattet sich mit den Mitteln aus, die zum Erreichen ihrer Ziele und zur Durchführung ihrer Politiken erforderlich sind.

3. Die in den Haushaltsplan eingesetzten Ausgaben werden für ein Haushaltsjahr gemäß dem Gesetz nach Artikel B (*Teil II, ex-Artikel 279: Haushaltsordnung*) bewilligt.

4.

Explication éventuelle :

Entgegen der Fußnote im Präsidiumsvorschlag reicht die Formulierung des Artikel 3 Abs 5 des Verfassungsentwurfs m.E. nicht aus. Daher Einfügung des Textes von Art 6 Abs 4 EUV.

AMENDMENT FORM

T7stockton.doc

Suggestion for amendment of Article: 39

By The Earl of Stockton

Status: Alternate

Article 39: The budgetary and financial principles

4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law or a European recommendation.

5. With a view to maintaining budgetary discipline, the European Parliament shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : Article 39: The budgetary and financial principles

Suggestion for protocol :

By ~~Ms~~/ Mr : Hain

Status : - Member ~~-Alternate~~

1. OK (but see first paragraph of explanatory material below).
 2. OK.
 3. OK.
 4. As a general rule, the implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (Part II, ex-279: Financial Regulation). This act must take the form of a European law, a European framework law, a European regulation or a European decision.
 5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any delegated or implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources and the ceilings of the financial perspective established in accordance with article 40. The ceilings of the financial perspective shall be binding on all institutions throughout the annual budget process and on the Commission in the implementation of the budget.
 6. The Union's budget shall be adopted and implemented in accordance with the principle of sound financial management, which encompasses the principles of economy, efficiency and effectiveness. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
 7. OK.
-

Explanation (if any) :

The related Part II provisions will need to reflect the special financing arrangements not only for CFSP/ JHA operational expenditure but also for expenditure resulting from implementation of enhanced co-operation arrangements. The income and expenditure of the European Development Fund however falls entirely outside the Union budget and (on current arrangements) will not need to be covered in the related Part II provisions .

The requirement for prior adoption of a binding legal act is currently covered expressly in the Interinstitutional Agreement of 6 May 1999, and is subject to certain exceptions, for example for pilot schemes and preparatory actions, under paragraph 37 of that Agreement. The proposed Article B will need to provide for the current Financial Regulation to be amended to include the relevant provisions of this Interinstitutional Agreement.

Delegated as well as implementing measures need to be subject to the same budget discipline constraints.

The financial perspective proposed under article 40 will be a key mechanism, alongside the own resources ceiling, for maintaining budget discipline.

The principle of sound financial management extends to encompass the principles of economy, efficiency and effectiveness, as is clear from article 27 of the Financial Regulation. These principles should apply to the adoption as well as implementation of the budget: the principles of economy and efficiency, for example, are particularly important in determining the sound financial management in the allocation of resources, as part of the process of adopting the budget.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 39

Proposition d'amendement au protocole:

Déposée par ~~Madame ou~~ Monsieur : Dominique de VILLEPIN

Qualité : - Membre - Suppléant

Article 39 : Les principes budgétaires et financiers

1. Toutes les recettes et dépenses de l'Union doivent faire l'objet de prévisions pour chaque exercice budgétaire et être inscrites au budget, conformément aux dispositions de la partie II de la Constitution.

1bis Les crédits nécessaires à la couverture intégrale des obligations financières découlant chaque année pour l'Union des accords internationaux ou des actes législatifs adoptés par ses institutions doivent être inscrits au budget.

2. Le budget doit être équilibré en recettes et dépenses.
3. Les dépenses inscrites au budget sont autorisées pour la durée de l'exercice budgétaire annuel en conformité avec la loi visée à l'article B (*partie II, ex-279: le règlement financier*).
4. L'exécution de dépenses inscrites au budget requiert l'adoption préalable d'un acte juridiquement obligatoire qui donne un fondement juridique à l'action de l'Union et à l'exécution de la dépense en conformité avec la loi visée à l'article B (*partie II, ex-279: le règlement financier*). Cet acte doit revêtir la forme d'une loi européenne, une loi-cadre européenne, un règlement européen ou une décision européenne.
5. En vue d'assurer la discipline budgétaire, la Commission ne fait pas de proposition d'acte de l'Union, ne modifie pas ses propositions et n'adopte pas de mesures d'exécution susceptibles d'avoir des incidences notables sur le budget sans donner l'assurance que cette proposition ou cette mesure peut être financée dans la limite des ressources propres de la Union.

6. Le budget de l'Union est exécuté conformément au principe de la bonne gestion financière. Les États membres et l'Union coopèrent pour faire en sorte que les crédits inscrits au budget soient utilisés conformément aux principes de la bonne gestion financière.
7. L'Union et les États membres combattent la fraude et toute autre activité illégale portant atteinte aux intérêts financiers de l'Union en conformité avec les dispositions de l'article Z (*partie II, ex-280 TCE*).

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article 39:

By: **Danuta Hübner**

Status: **Member**

Text of the Praesidium

Proposed Amendments

Article 39: The budgetary and financial principles

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regulation or a European decision.
5. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources.
6. The Union's budget shall be implemented in accordance with the principle of sound

Article 39: The budgetary and financial principles

1. The financial year shall run from 1 January to 31 December.
- ~~4.~~ 2. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the Constitution.
- ~~2.~~ 3. The revenue and expenditure shown in the budget shall be in balance.
- ~~3.~~ 4. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).
- ~~4.~~ 5. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Union action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European law, a European framework law, a European regulation or a European decision.
- ~~5.~~ 6. With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Union act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Union's own resources.

financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).
- ~~6.~~ 7. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
- ~~7.~~ 8. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article Z (*Part II, ex-280 TEC*).

Explanation:

New para. 1:

A precise duration of financial year should be included in Part I of the Constitution Treaty.

FICHE AMENDEMENT

Proposition d'amendement à l'Article: 39

Déposée par Monsieur: Joachim Wuermeling

Qualité: Alternate

Texte du Praesidium

(4) Zur Tätigkeit der in den Haushaltsplan eingesetzten Ausgaben ist zuvor ein verbindlicher Rechtsakt zu erlassen, mit dem eine Maßnahme der Union und die Vornahme der entsprechenden Ausgabe gemäß dem Gesetz nach Artikel B eine Rechtsgrundlage erhalten. Dieser Rechtsakt muss in Form eines europäischen Gesetzes, eines europäischen Rahmengesetzes, einer europäischen Verordnung oder einer europäischen Entscheidung ergehen.

Amendement proposé

(4) Zur Tätigkeit der in den Haushaltsplan eingesetzten Ausgaben ist zuvor ein verbindlicher Rechtsakt zu erlassen, mit dem eine Maßnahme der Union und die Vornahme der entsprechenden Ausgabe gemäß dem Gesetz nach Artikel B eine Rechtsgrundlage erhalten. Dieser Rechtsakt muss in Form eines europäischen Gesetzes, eines europäischen Rahmengesetzes, einer europäischen Verordnung oder einer europäischen Entscheidung ergehen.

Er kann Ausgaben nur in den Fällen vorsehen, für die dies in dieser Europäischen Verfassung ausdrücklich vorgesehen ist.

Begründung:

Die Formen, in denen die Union ihre Ziele verfolgt, sind differenziert für die einzelnen Zuständigkeiten zu benennen. Dies gilt auch für die Ausgaben aus dem Haushalt der Union, insbesondere zur Förderung der Politiken der Mitgliedstaaten, da die Tätigkeit dieser Ausgaben die Entscheidungen der Mitgliedstaaten hinsichtlich ihrer Politiken beeinflussen können. Um

Einflussmöglichkeiten der Europäischen Union in jedem Stadium des Rechtssetzungsprozesses transparent zu machen, darf eine finanzielle Förderung durch die Europäische Union deshalb nur dort zulässig sein, wo die Verfassung dies ausdrücklich bestimmt.

AMENDMENT FORM

Suggestion for amendment of Article 52, 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-52: Budgetary and financial principles

1. All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part Three of the Constitution.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in Article [ex 279].
4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act providing a legal basis for Union action and for the implementation of the expenditure in accordance with the European law referred to in Article [ex 279)]. This act must take the form of a European law, a European framework law, a European regulation or a European decision.
5. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the proposal or measure in question is capable of being financed within the limit of the Union's own resources and the multiannual financial framework referred to in Article I-54.
6. The Union's budget shall be implemented in accordance with the principle of sound financial management **and accountability**. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management **and accountability**.

7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article [...] of Part Three.

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Explanation (if any) :

In order to strengthen the role of the principle of accountability in the Union's financial system, this should be expressly listed in the Treaty together with the principle of sound financial management.