

**Article 4: Legal personality (includes new draft Articles 4bis and 4ter)**

The Union shall have legal personality.

*A new Article 4bis should be added as follows:*

**Article 4bis: Primacy of Union law**

**In the field of application of this Constitution, Union law shall have primacy over the conflicting law of the Member States.**

*Commentary:*

*Title I, rather than Title III on Union competences and actions, should deal with those fundamental principles which do not relate solely to the exercise of the Union's competence, but which concern the application of Union law in general. Such principles include in particular the principle of primacy of Union law and the obligation of loyal cooperation.*

*The provision on the principle of primacy should make it crystal-clear that Union law does not replace the laws of the Member States in the abstract but only prevails over them in specific situations when there is a conflict, in the sense of the established case-law.*

*A new Article 4ter should be added as follows:*

**Article 4ter: Loyal cooperation**

- 1. In accordance with the principle of loyal cooperation, the Union and the Member States shall, in full mutual respect, assist each other to carry out tasks which flow from the Constitution.**
- 2. Member States shall take all appropriate measures, general or particular, to ensure fulfilment of the obligations flowing from the Constitution or resulting from actions taken by the Union Institutions.**
- 3. In accordance with the principle of loyal cooperation, Member States shall facilitate the**

**achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the objectives set out in the Constitution. The Union shall act loyally towards the Member States.**

*Commentary:*

*See the commentary on Article 4bis.*