

## AMENDMENT FORM

**Suggestion for amendment of Article : I-10**

**By Mr : Hain**

**Status :    - Member            -**

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1.    In accordance with the principle of the primacy of Union law, where any directly effective provisions of this Constitution, or any act adopted under it, is to be applied by national courts, it shall prevail over any conflicting provision of the law of the Member States. The Constitution, and law adopted by the Union's Institutions in exercising competences conferred on it, shall have primacy over the law of the Member States.
  2.    *Delete.*
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### **Explanation (if any) :**

1.    Refined amendment: This is a more accurate reflection of case law.
2.    New amendment: Deleted as repetition of Article 5.2.

2003-06-05

## **Contribution by Mr Göran Lennmarker, Member of the Convention**

### **Article I-10.1 in the draft EU Constitutional Treaty**

A reference in article I-10.1 to article I-7.3 would strengthen the fundamental rights as the result from the constitutional traditions common to the Member States. There is a delicate balance between the Member States constitutional traditions and Union law. Thus, article 10.1 should be amended as foollows:

#### **Article I-10: Union law**

1. The Constitution, and Union law as long as it is adopted in accordance with the general principles stated in Article I-7.3 by the Union's Institutions in exercising competences conferred on it, shall have primacy over the law of the Member States.

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article I-10

Déposée par MM. O'Sullivan et Ponzano

Qualité : Suppléants

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#### **Article I-10 : le droit de l'Union**

1. ~~La Constitution et le droit adopté par les Institutions de l'Union dans l'exercice des compétences qui lui sont attribuées ont~~ **Le droit de l'Union a** la primauté sur le droit des États membres.
  2. Les États membres prennent toutes mesures générales ou particulières propres à assurer l'exécution des obligations découlant de la Constitution ou résultant des actes des Institutions de l'Union.
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#### **Explication :**

##### *Place de l'article*

La Constitution gagnerait en clarté si le présent article était inséré dans l'article I-5.

D'abord, les deux paragraphes du présent article traitent des relations entre l'Union et les États membres, qui font également l'objet de l'article I-5.

En outre, le paragraphe 2 du présent article, complété par le deuxième alinéa du paragraphe 2 de l'article I-5, constitue le texte de l'actuel article 10 du traité CE. Il n'y a aucune raison de scinder ces deux dispositions et de changer ainsi la structure de cet article 10 du traité CE.

##### *Paragraphe 1*

Conformément à la jurisprudence de la Cour de justice, c'est le droit de l'Union qui a la primauté sur le droit des États membres. Or, le droit de l'Union va au-delà de la Constitution et des actes adoptés par les institutions, puisqu'il comprend également les principes généraux de droit et les accords internationaux conclus par l'Union.

La formule figurant dans le présent paragraphe est donc incomplète et, en outre, plus compliquée que celle proposée.

## AMENDMENT FORM

**Suggestion for amendment of Article : I-10**

**By Ms: Danuta Hübner**

**Status : - Member**

<b><u>Article I-10: Union law</u></b>	<b><u>Article I-10: Union law</u></b>
<p>1. The Constitution, and law adopted by the Union's Institutions in exercising competences conferred on it, shall have primacy over the law of the Member States.</p> <p>2. Member States shall take all appropriate measures, general or particular, to ensure fulfilment of the obligations flowing from the Constitution or resulting from the Union Institutions' acts.</p>	<p>1. The Constitution, and law adopted by the Union's Institutions in exercising competences conferred on it, shall have primacy <u>in application</u> over the law of the Member States.</p> <p>2. Member States shall take all appropriate measures, general or particular, to ensure fulfilment of the obligations flowing from the Constitutional <u>Treaty</u> or resulting from the Union Institutions' acts.</p>

**Explanation (if any) : This is to bring more precision to the article.**

## AMENDMENT FORM

### Suggestion for amendment of Article I-10.1:

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

**Status :**        - **Members: Hjelm-Wallén and Lekberg**  
                      - **Alternates: Petersson**

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### **Article I-10: Union law**

1. The Constitution, and law adopted by the Union's Institutions in exercising competences conferred on it **by Member States**<sup>1</sup>, shall have primacy over the law of the Member States.

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<sup>1</sup> The amendment clarifies both that the extent of the conferral of competences by the Member States is decided by the Member States and also that there are areas where the union law will not automatically have primacy over the law of the Member States.

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Amendment Form

**Suggestion for amendment of Article : I-10 point 1**

**By Ms: Linda McAvan**

**Status : - Member**

Modify as follows:

The Constitution, and law adopted by the Union's Institutions in exercising *only those* competences conferred on it, shall have primacy over the law of the Member States.

**Explanation (if any) :**

## AMENDMENT FORM

### Suggestion for amendment of Article 10, par. 3

By Mr Poul Schlüter

Status : Alternate

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#### **Article 10: Categories of competence**

3. The Member States Union shall ~~have competence to~~ coordinate the ir economic policies ~~of the Member States.~~
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#### **Explanation:**

See explanation to amendment to Article 13, par. 1.