

AMENDMENT FORM

Suggestion for amendment of Article 45

By : **TIMOTHY KIRKHOPE MEP** and **THE EARL OF STOCKTON MEP**

Status : **Mr Kirkhope , Member**
Lord Stockton, Alternate

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p><u>Article 45: Suspension of Union membership rights</u></p> <p>1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.</p> <p>The Council shall regularly verify that the grounds on which such a determination was made continue to apply.</p> <p>2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.</p> <p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in</p>	<p><u>Article 45: Suspension of <i>Community</i> membership rights</u></p> <p>1. On a reasoned proposal by one third of the Member States <u>or</u> by the European Parliament, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.</p> <p>The Council shall regularly verify that the grounds on which such a determination was made continue to apply.</p> <p>2. The European Council, acting by unanimity on a proposal by one third of the Member States and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.</p> <p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this <u>simplifying Treaty</u> to the Member State in question, including the voting rights of that Member State in</p>

<p>the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.</p> <p>The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.</p> <p>This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.</p> <p>6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.</p>	<p>the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.</p> <p>The obligations of the Member State in question under the <i>simplifying Treaty</i> shall <u>not</u> continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.</p> <p>This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.</p> <p>6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.</p> <p>Explanation: A determination of 'a serious breach of the values mentioned in Article 2' should not simply be based on disapproval of any democratically elected government in a nation state.</p> <p>As the civil service of the Community, the Commission should not have the power to propose the suspension of Community rights. This power should lie with elected politicians.</p> <p>If Member States are deprived of the right to vote, it is undemocratic for them to be subject to the obligations under the simplifying Treaty.</p>
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AMENDMENT FORM

Suggestion for amendment of Article : I-58

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

Status : - Member - ~~Alternate~~

Artikel I-58: Aussetzung der mit der Zugehörigkeit zur Union verbundenen Rechte

(1) Auf begründeten Vorschlag eines Drittels der Mitgliedstaaten, des Europäischen Parlaments oder der Kommission kann der Rat mit der Mehrheit von vier Fünfteln seiner Mitglieder nach Zustimmung des Europäischen Parlaments einen Europäischen Beschluss annehmen, mit dem festgestellt wird, dass die eindeutige Gefahr einer schwerwiegenden Verletzung der in Artikel I-2 genannten Werte durch einen Mitgliedstaat besteht. Der Rat hört, bevor er eine solche Feststellung trifft, den betroffenen Mitgliedstaat und kann nach demselben Verfahren Empfehlungen an ihn richten.

Der Rat überprüft regelmäßig, ob die Gründe, die zu dieser Feststellung geführt haben, noch zutreffen.

(2) Auf Vorschlag eines Drittels der Mitgliedstaaten, *des Europäischen Parlaments* oder der Kommission und nach Zustimmung des Europäischen Parlaments kann der Europäische Rat einstimmig einen Europäischen Beschluss annehmen, mit dem festgestellt wird, dass eine schwerwiegende und anhaltende Verletzung von in Artikel I-2 genannten Werten durch einen Mitgliedstaat vorliegt, nachdem er den betroffenen Mitgliedstaat zu einer Stellungnahme aufgefordert hat.

(3) Wurde die Feststellung nach Absatz 2 getroffen, so kann der Rat mit qualifizierter Mehrheit *nach Zustimmung des Europäischen Parlaments* einen Beschluss annehmen, mit dem bestimmte Rechte ausgesetzt werden, die sich aus der Anwendung der Verfassung auf den betroffenen Mitgliedstaat herleiten, einschließlich der Stimmrechte des Mitgliedstaats im Rat. Dabei berücksichtigt er die möglichen Auswirkungen einer solchen Aussetzung auf die Rechte und Pflichten natürlicher und juristischer Personen.

Die sich aus der Verfassung ergebenden Verpflichtungen des betroffenen Mitgliedstaats sind

für diesen auf jeden Fall weiterhin verbindlich.

(4) Der Rat kann zu einem späteren Zeitpunkt mit qualifizierter Mehrheit ***nach Zustimmung des Europäischen Parlaments*** einen Europäischen Beschluss annehmen, mit dem die nach Absatz 3 getroffenen Maßnahmen abgeändert oder aufgehoben werden, wenn in der Lage, die zur Verhängung dieser Maßnahmen geführt hat, Änderungen eingetreten sind.

(5) Für die Zwecke dieses Artikels handelt der Rat ohne Berücksichtigung des betroffenen Mitgliedstaats. Die Stimmenthaltung von anwesenden oder vertretenen Mitgliedern steht dem Zustandekommen von Beschlüssen nach Absatz 2 nicht entgegen.

Dieser Absatz gilt auch, wenn Stimmrechte nach Absatz 3 ausgesetzt werden.

(6) Für die Zwecke ~~der Absätze 1 und 2~~ ***dieses Artikels*** beschließt das Europäische Parlament mit der Mehrheit von zwei Dritteln der abgegebenen Stimmen und mit der Mehrheit seiner Mitglieder.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : I-58

By Ms: Danuta Hübner

Status : - Member

<u>Article I-58: Suspension of Union membership rights</u>	<u>Article I-58: Suspension of Union membership rights</u>
<p>1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may adopt a European decision determining that there is a clear risk of a serious breach by a Member State of the values mentioned in Article I-2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.</p> <p>The Council shall regularly verify that the grounds on which such a determination was made continue to apply.</p>	<p>1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may adopt a European decision determining that there is a clear risk of a serious breach by a Member State of the values mentioned in Article I-2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.</p> <p>The Council shall regularly verify that the grounds on which such a determination was made continue to apply.</p>
<p>2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may adopt a European decision determining the existence of a serious and persistent breach by a Member State of values mentioned in Article I-2, after inviting the Member State in question to submit its observations.</p>	<p>2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may adopt a European decision determining the existence of a serious and persistent breach by a Member State of values mentioned in Article I-2, after inviting the Member State in question to submit its observations.</p>
<p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a European decision suspending certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the</p>	<p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a European decision suspending certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the</p>

<p>possible consequences of such a suspension on the rights and obligations of natural and legal persons.</p> <p>The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may subsequently adopt a European decision varying or revoking measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.</p> <p>This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.</p> <p>6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.</p>	<p>possible consequences of such a suspension on the rights and obligations of natural and legal persons.</p> <p>The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may subsequently adopt a European decision varying or revoking measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned.</p> <p>This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.</p> <p>6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.</p>
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Explanation:

Saving the definition of the QMV from the article 7 TUE will secure the situation when omitting of any voting State could result in changing the proportions of qualified majority and the blocking minority.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 45

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 ainsi que par **Monsieur Patrick Dewael**, observateur

Qualité : - Membre - Suppléant

Modifier le paragraphe 2 comme suit :

2. Le Conseil européen¹, statuant ~~à l'unanimité~~ **à la majorité des quatre cinquièmes** sur proposition d'un tiers des États membres ou de la Commission et après avis conforme du Parlement européen, peut constater l'existence d'une violation grave et persistante par un État membre de valeurs énoncées à l'article 2, après avoir invité l'État membre à présenter toute observation en la matière.
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Explication éventuelle :

Dans une Union de 25 États membres, l'exigence d'une unanimité (sans l'Etat concerné) pour constater la violation par un Etat membre des droits fondamentaux constitue une condition à ce point difficile à réunir qu'elle mettrait en doute la crédibilité du mécanisme.

¹ En fonction des articles sur le Conseil européen dans la Partie "Institutions".

FICHE AMENDEMENT

Proposta di emendamento all'articolo 45, par. 2 e 6, parte I della Costituzione:

Déposée par Mme Maria BERGER
 Mme Anne VAN LANCKER
 M. Olivier DUHAMEL
 M. Ben FAYOT
 Mme Linda McAVAN
 M. Luis MARINHO
 Mme Pervenche BERÈS
 M. Carlos CARNERO
 Mme Elena PACIOTTI
 Mme Helle THORNING-SCHMIDT

Qualité: - Membres et Suppléants

ARTICOLO 45 – Sospensione dei diritti di appartenenza all'Unione

2. Il Consiglio europeo, deliberando *a maggioranza dei quattro quinti dei suoi membri* su proposta di un terzo degli Stati membri, *del Parlamento europeo* o della Commissione e previo parere conforme del Parlamento europeo, può constatare l'esistenza di una violazione grave e persistente da parte di uno Stato membro di uno o più valori di cui all'articolo 2, dopo aver invitato lo Stato membro in questione a presentare osservazioni.

6. Ai fini dei paragrafi 1 e 2, il Parlamento europeo delibera alla maggioranza *assoluta* dei suoi membri.

Explication éventuelle:

AMENDMENT FORM

Suggestion for amendment of Article :45

By Ms / Mr : Ernâni Lopes and Manuel Lobo Antunes

Status : - Member and Alternate

Article 45: Suspension of Union membership rights

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the ~~values~~**principles** mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may ~~address recommendations to that State.~~ **call-on independent persons to submit within a reasonable time limit a report on the situation in the Member state in question and address recommendations to that State.**

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council ¹, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.

Explanation: The opinion of independent persons represents an added-value in the process of suspension of membership rights.

¹ Depending on the articles on the European Council in the section on the Institutions.

AMENDMENT FORM

Suggestion for amendment of Article 45: Suspension of Union membership rights

By Mr Roche

Status : - Member

Article 45: Suspension of Union membership rights

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.
3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.

4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.
5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.
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Explanation (if any) :

While no amendment is proposed at this time, this Article will need to be read against the final version of Article 2. This underscores the need to make the values in Article 2 as precise and legally meaningful as possible.

AMENDMENT FORM

Suggestion for amendment of Article : 45

Suggestion for Part III

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

Status : **Members** **Alternate**

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.
3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend ~~certain of~~ completely or partially the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council

shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.

4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.
5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.

Explanation (if any) : As to paragraph 2, 'certain of the rights' might imply that not all rights can be suspended. As to paragraph 5, the drafting of the current article 7 EU should be followed.

AMENDMENT FORM

Suggestion for amendment of Article : 45

Suggestion for protocol :

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

Status : - Member ~~–Alternate~~

Artikel 45: Aussetzung der mit der Zugehörigkeit zur Union verbundenen Rechte

(1) Auf begründeten Vorschlag eines Drittels der Mitgliedstaaten, des Europäischen Parlaments oder der Kommission kann der Rat mit der Mehrheit von vier Fünfteln seiner Mitglieder nach Zustimmung des Europäischen Parlaments feststellen, dass die eindeutige Gefahr einer schwerwiegenden Verletzung der in Artikel 2 genannten Werte durch einen Mitgliedstaat besteht. Der Rat hört, bevor er eine solche Feststellung trifft, den betroffenen Mitgliedstaat ~~und kann nach demselben Verfahren geeignete Empfehlungen an ihn richten.~~

Wurde die Feststellung nach Unterabsatz 1 getroffen, so kann der Rat nach demselben Verfahren mit qualifizierter Mehrheit geeignete Empfehlungen an den betroffenen Mitgliedstaat richten.

Der Rat überprüft regelmäßig, ob die Gründe, die ~~zu dieser~~ zur Feststellung *nach Unterabsatz 1* geführt haben, noch zutreffen.

(2) Auf Vorschlag eines Drittels der Mitgliedstaaten, *des Europäischen Parlaments* oder der Kommission und nach Zustimmung des Europäischen Parlaments kann der Europäische Rat einstimmig feststellen, dass eine schwerwiegende und anhaltende Verletzung von in Artikel 2 genannten Werten durch einen Mitgliedstaat vorliegt, nachdem er den betroffenen Mitgliedstaat zu einer Stellungnahme aufgefordert hat.

(3) Wurde die Feststellung nach Absatz 2 getroffen, so kann der Rat *auf Vorschlag eines Drittels der Mitgliedstaaten, des Europäischen Parlaments oder der Kommission* mit qualifizierter Mehrheit *nach Zustimmung des Europäischen Parlaments* beschließen, bestimmte Rechte auszusetzen,

die sich aus der Anwendung der Verfassung auf den betroffenen Mitgliedstaat herleiten, einschließlich der Stimmrechte des Mitgliedstaats im Rat. Dabei berücksichtigt er die möglichen Auswirkungen einer solchen Aussetzung auf die Rechte und Pflichten natürlicher und juristischer Personen.

Die sich aus der Verfassung ergebenden Verpflichtungen des betroffenen Mitgliedstaats sind für diesen auf jeden Fall weiterhin verbindlich.

(4) Der Rat kann zu einem späteren Zeitpunkt beschließen, nach Absatz 3 getroffene Maßnahmen abzuändern oder aufzuheben, wenn in der Lage, die zur Verhängung dieser Maßnahmen geführt hat, Änderungen eingetreten sind.

(5) Für die Zwecke dieses Artikels handelt der Rat ohne Berücksichtigung des betroffenen Mitgliedstaats. Die Stimmenthaltung von anwesenden oder vertretenen Mitgliedern steht dem Zustandekommen von Beschlüssen nach Absatz 2 nicht entgegen.

Dieser Absatz gilt auch, wenn Stimmrechte nach Absatz 3 ausgesetzt werden.

(6) Für die Zwecke der ~~Absätze 1 und 2~~ **Absätze 1, 2 und 3** beschließt das Europäische Parlament mit der Mehrheit von zwei Dritteln der abgegebenen Stimmen und mit der Mehrheit seiner Mitglieder.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 45

By Ms / Mr : J. Kohout

Status : - Member

Art. 45.1 and 45.4 :

Insert the obligation for the Council to review the decision at least every 6 months.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article :45 (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X - Member - Alternate

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

Article 45: Suspension of Union membership rights

ADD NEW SECTION 7

7. Where the Union itself is likewise perceived to be in breach of the above values, Member States or the European Parliament may apply Paragraph 1 of this article to the institution in question

Explanation (if any) :

The Union must submit itself to the same tests and criteria regarding democracy as it imposes upon member states..

FICHE AMENDEMENT

Proposition d'amendement à l'Article 45 para 2 et 6, partie I de la Constitution:

Déposée par Mme Maria BERGER
 Mme Anne VAN LANCKER
 M. Olivier DUHAMEL
 M. Ben FAYOT
 Mme Linda McAVAN
 M. Luis MARINHO
 Mme Pervenche BERÈS
 M. Carlos CARNERO
 Mme Elena PACIOTTI
 Mme Helle THORNING-SCHMIDT

Qualité: - Membres et Suppléants

ARTICLE 45 – Suspension of Union membership rights

2. The European Council acting by **a majority of four fifths of its members** on a proposal by one third of the Member States, **by the European Parliament** or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.
 6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by **the absolute majority of its Members**.
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Explication éventuelle:

AMENDMENT FORM

Suggestion for amendment of Article: 45

Suggestion for Title X

By Ms: Prof. Danuta Hübner

Status: Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>	
Article 45: Suspension of Union membership rights 1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State. The Council shall regularly verify that the grounds on which such a determination was made continue to apply. 2. The European Council ¹ , acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the	Article 45: Suspension of Union membership rights 1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State. The Council shall regularly verify that the grounds on which such a determination was made continue to apply. 2. The European Council ² , acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the	

¹ Depending on the articles on the European Council in the section on the Institutions.

² Depending on the articles on the European Council in the section on the Institutions.

³ [Pending the Convention's decision on voting modalities in the Council.](#)

<p>existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.</p> <p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.</p> <p>The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.</p> <p>This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.</p> <p>6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.</p>	<p>existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.</p> <p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.</p> <p>The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2. <u>A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned.</u>³</p> <p>This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.</p> <p>6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.</p>
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Explanation:

Saving the definition of the QMV from the article 7 TUE will secure the situation when omitting of any voting State could result in changing the proportions of qualified majority and the blocking minority.

AMENDMENT FORM

Suggestion for amendment of Article : Title 10 art. 43, 44, 45, 46,

Suggestion for Part III

By Ms / Mr : Mr Bonde, Mr Heathcoat-Amory, Mr Seppänen, Mr Zahradil

Status : ☒ Member ☒ Alternate

Article 43: Criteria to be eligible for Union membership

The Union shall be open to all European States **WHO RESPECT AND APPLY TO THE EUROPEAN HUMAN RIGHTS DECLARATION** [**Delete:** whose peoples share the values referred to in Article 2, and who respect them and are committed to promoting them together. Accession to the Union implies acceptance of its Constitution.]

Article 44: Procedure for applying for Union membership

Any European State which wishes to become a member of the Union may address its application to the Council. The European Parliament and the national parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and [**Delete** after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members]. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the applicant State. That agreement shall be subject to ratification by all the contracting States, in accordance with their **OWN** respective constitutional requirements.

Article 45: Suspension of Union membership rights

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in **THE EUROPEAN HUMAN RIGHTS DECLARATION** [**Delete:** Article 2]. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council ¹, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament **REQUEST THE EUROPEAN HUMAN RIGHTS COURT TO** determine the existence of a serious and persistent breach by a Member State of values mentioned in **THE EUROPEAN HUMAN RIGHTS DECLARATION** [**Delete:** Article 2], after inviting the Member State in question to

¹ Depending on the articles on the European Council in the section on the Institutions.

submit its observations.

3. **IF THE EUROPEAN HUMAN RIGHTS COURT DECIDES THAT A MEMBER STATE PERSISTENTLY VIOLATES THE EUROPEAN HUMAN RIGHTS, THE OTHER MEMBER STATES CAN UNANIMOUSLY EXCLUDE THE COUNTRY FROM THE EU WITH 2 YEARS NOTICE.**

[**DELETE THE REST** : Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under the Constitution shall in any case continue to be binding on that State.

4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.
5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.]

Article 46: Voluntary withdrawal from the Union

1. Any Member State may decide to withdraw from the European Union in accordance with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the Council of its intention. Once that notification has been given, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be concluded on behalf of the Union by the Council, acting by **2/3 MAJORITY** [**Delete:** a qualified majority, after obtaining the assent of the European Parliament.]

The withdrawing State shall [**Delete:** not] participate in the Council's discussions or decisions concerning it, **BUT DOES NOT TAKE PART IN THE FINAL VOTE ON THE CONCRETE SETTLEMENT FOR WITHDRAWAL.**

3. This Constitution shall cease to apply to the State in question as from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph.

FICHE AMENDEMENT

Proposition d'amendement à l'Article :

Title X: L' appartenance à l' Union , Article 45: La suspension des droits d' appartenance à l' Union

Déposée par : Monsieur AVGERINOS Paraskevas, Madame GIANNAKOU Marietta, membres et Monsieur STYLIANIDIS Evripidis, suppléant

Qualité : - Membre - Suppléant

Article 45: La suspension des droits d' appartenance à l' Union

2. Le Conseil Européen, statuant à l'unanimité sur proposition **motivée** d'un tiers des Etats membres ou de la Commission et après avis conforme du Parlement Européen, peut constater l'existence d'une violation grave et persistante par un Etat membre de valeurs énoncées à l'article 2, après avoir invité l'Etat membre à présenter toute observation en la matière.

Explication éventuelle :

Aux paragraphes 1 et 2 de l'article 45, une proposition d'un tiers des Etats membres est prévue. Pourtant, tandis que cette proposition au paragraphe 1 est prévue comme "motivée", il n'y a pas de prévision pareille au paragraphe 2. Afin d'éviter des difficultés éventuelles d'interprétation et d'application de l'article, il est proposé que la dite proposition soit, dans les deux cas, motivée.

AMENDMENT FORM

Suggestion for amendment of Article : 45

By **Mr Hannes FARNLEITNER**
Mr Reinhard Eugen BÖSCH

Mr Gerhard TUSEK
Mr Eduard MAINONI

Status : - Members

- Alternate Members

Article 45: Suspension of Union membership rights

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four-fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of principles mentioned in Article 2, and address appropriate recommendations to that State. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, **may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question.**

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council ¹, [acting by unanimity] on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.

Explanation :

The article should be aligned to Art 7 TEU. The reference to the “independent persons” should remain in this article.

The passage “acting by unanimity” depends on the articles on the European Council. An express reference to the unanimity rule is only necessary if this is not the general rule for voting in the European Council, otherwise it is redundant.

¹ Depending on the articles on the European Council in the section on the Institutions.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Article 45 (Titre X)

Déposée par MM. Santer, Helminger et Fayot (Titulaires, Luxembourg) ainsi que Mme Wagener et M. Schmit (Suppléants, Luxembourg)

Article 45 : La suspension des droits d'appartenance à l'Union

1. Le Conseil, statuant à la majorité des quatre cinquièmes de ses membres, et sur proposition motivée d'un tiers des États membres, du Parlement européen ou de la Commission et après avis conforme du Parlement européen, peut constater qu'il existe un risque clair de violation grave par un État membre des [principes et](#) valeurs énoncées à l'article 2. Avant de procéder à cette constatation, le Conseil entend l'État membre en question et peut lui adresser des recommandations statuant selon la même procédure.

Le Conseil vérifie régulièrement si les motifs qui ont conduit à une telle constatation restent valables.

2. Le Conseil européen¹, statuant à l'unanimité sur proposition d'un tiers des États membres ou de la Commission et après avis conforme du Parlement européen, peut constater l'existence d'une violation grave et persistante par un État membre de [principes et](#) valeurs énoncées à l'article 2, après avoir invité l'État membre à présenter toute observation en la matière.
3. Lorsque la constatation visée au paragraphe 2 a été faite, le Conseil, statuant à la majorité qualifiée, peut décider de suspendre certains des droits découlant de l'application de la Constitution à l'État membre en question, y compris les droits de vote de l'État membre au sein du Conseil. Ce faisant, le Conseil tient compte des conséquences éventuelles d'une telle suspension sur les droits et obligations des personnes physiques et morales.

Les obligations qui incombent à l'État membre en question au titre de la Constitution restent en tout état de cause contraignantes pour cet État.

¹ En fonction des articles sur le Conseil européen dans la Partie "Institutions".

4. Le Conseil, statuant à la majorité qualifiée, peut décider par la suite de modifier les mesures qu'il a prises au titre du paragraphe 3 ou d'y mettre fin pour répondre à des changements de la situation qui l'a conduit à imposer ces mesures.
5. Aux fins du présent article, le Conseil statue sans tenir compte de l'État membre en question. Les abstentions des membres présents ou représentés ne font pas obstacle à l'adoption des décisions visées au paragraphe 2. La majorité qualifiée est définie comme la même proportion des voix pondérées des membres du Conseil concernés que celle fixée à [l'article 205, paragraphe 2, du traité instituant la Communauté européenne].

Le présent paragraphe est également applicable en cas de suspension des droits de vote conformément au paragraphe 3.

6. Aux fins des paragraphes 1 et 2, le Parlement européen statue à la majorité des deux tiers des voix exprimées, représentant une majorité de ses membres.

Explication éventuelle :

Le projet du Présidium semble avoir omis de reprendre la phrase sur le calcul de la majorité qualifiée alors que le communautaire affirme ne rien avoir changé au texte de l'article mise à part la possibilité d'avoir recours à un comité de sages.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 45

Déposée par Madame : Cristiana MUSCARDINI

Qualité : Membre

Art. 45

1. Il Consiglio, deliberando **all'unanimità** su proposta motivata di un terzo degli Stati membri, del Parlamento europeo o della Commissione e previo parere conforme del Parlamento europeo, può constatare, **sulle base di atti ufficiali**, che esiste un evidente rischio di violazione grave da parte di uno Stato membro di uno o più valori di cui all'articolo 2. Prima di procedere a tale constatazione, in Consiglio ascolta lo Stato membro in questione e può rivolgergli delle raccomandazioni deliberando secondo la stessa procedura.

Il Consiglio verifica regolarmente se i motivi che hanno condotto a tale constatazione permangono validi.

2. Il Consiglio europeo, deliberando all'unanimità su proposta di un terzo degli Stati membri o della Commissione e previo parere conforme del Parlamento europeo, può constatare, **sulla base di atti ufficiali**, l'esistenza di una violazione grave e persistente da parte di uno Stato membro di uno o più valori di cui all'articolo 2, dopo aver invitato lo Stato membro in questione a presentare osservazioni.
3. Qualora sia stata fatta la constatazione di cui al paragrafo 2, deliberando **all'unanimità**, può decidere di sospendere alcuni dei diritti derivanti allo Stato membro in questione dall'applicazione del **Trattato** (**eliminare:** " compresi i diritti di voto dello Stato membro in seno al Consiglio"). Nell'agire in tal senso, il Consiglio tiene conto delle possibili conseguenze di una siffatta sospensione sui diritti e sugli obblighi delle persone fisiche e giuridiche, **mirando, in ogni caso, a tutelare i diritti fondamentali della**

popolazione dello Stato sanzionato.

Lo Stato membro in questione continua in ogni caso ad essere vincolato dagli obblighi che gli derivano dalla Costituzione.

4. Il Consiglio, deliberando a maggioranza qualificata, può successivamente decidere di revocare **o ridurre** le misure adottate a norma del paragrafo 3, per rispondere ai cambiamenti nella situazione che ha portato alla loro imposizione.
5. Ai fini del presente articolo, il Consiglio delibera senza tener conto dello Stato membro in questione. Le astensioni dei membri presenti o rappresentanti, **messe agli atti**, non ostano all'adozione delle decisioni di cui al paragrafo 2.

Lo Stato membro oggetto della sanzione a diritto di fare ricorso, attraverso un'apposita procedura, presso il Consiglio.

(**Eliminare:** “ Il presente paragrafo si applica anche in caso di sospensione dei diritti di voto a norma del paragrafo 3”)

6. Ai fini dei paragrafi 1 e 2, il Parlamento europeo delibera alla maggioranza dei due terzi dei voti espressi, che rappresenta la maggioranza dei suoi membri.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 45

Suggestion for TITLE X

By Ms / Mr : VASTAGH

Status : - Member - Alternate

Insertion of the following line between the two paragraphs of **Article 45 (1) :**

On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Member State invoked shall have the right to refer their case to the European Court of Justice or the Court of First Instance.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

Amendment to Article 45 (3) :

Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend ***the exercise of*** certain ~~of the~~ rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council.

Explanation (if any) : -

AMENDMENT FORM

Suggestion for amendment of Article : 45

From Mr Peter SKAARUP, Member of the Convention

Delete Part I, article 45.

Explanation

When a European state has become a member of the European Union, the rights stemming from the membership has to be sacrosanct. It is up to the European Union to make sure that the new member states live up to the expectations of the Union respecting civic rights, democracy and the rule of law. Membership of the European Union should not be granted to states where one could wonder whether they were able to live up to these expectations in the long run.

History shows that the European Union has not been able to administer such an option as implied in article 45. The case of Austria, where the member states of the European Union decided on a diplomatic boycott of this member state due to the fact that the countrys at the time second largest party, The Freedom Party, was to take part in the government shows this beyond a doubt.

It is problematic to grant the European Union the ability to take away the rights of the member states as member states. The European Union has erected a surveillance center on xenophobia and discrimination in Vienna which works to reduce the influence of certain parties in the European member states.

One will have to fear that the participation of these parties in national governments will enable the other member states to use article 45 to sanction these countries. It is not in agreement with democratic ideals in fact to debar a long range of political parties from taking part in national governments. It inhibits democracy and will cause serious disruption among the electorate.

Article 45 is simply not an article worthy of a democratic organization.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 45

Déposée par Messieurs : Borrell (miembro), Carnero y López Garrido (suplentes)

Título X: De la pertenencia a la Unión

Artículo 45

2. ***El Consejo Europeo***, ...a propuesta de un tercio de los Estados miembros, ***del Parlamento Europeo*** o de la Comisión...

3. ...el Consejo podrá decidir, por mayoría cualificada ***y previo dictamen conforme del Parlamento Europeo*** ,...

4. ...posteriormente, por mayoría cualificada y ***previo dictamen conforme del Parlamento Europeo***,...

FICHE AMENDEMENT

Proposition d'amendement à l'Article : I- 58

Déposée par Madame ou Monsieur : **M. Louis Michel, 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

Article I-58 : La suspension des droits d'appartenance à l'Union

1. Le Conseil, statuant à la majorité des quatre cinquièmes de ses membres, et sur proposition motivée d'un tiers des États membres, du Parlement européen ou de la Commission et après approbation du Parlement européen, peut adopter une décision européenne constatant qu'il existe un risque clair de violation grave par un État membre des valeurs énoncées à l'article I-2.
2. Avant de procéder à cette constatation, le Conseil entend l'État membre en question et peut lui adresser des recommandations statuant selon la même procédure.

Le Conseil vérifie régulièrement si les motifs qui ont conduit à une telle constatation restent valables.

2. Le Conseil européen, statuant ~~à l'unanimité~~ **à la majorité des quatre cinquièmes de ses membres** sur proposition d'un tiers des États membres ou de la Commission et après approbation du Parlement européen, peut adopter une décision européenne constatant l'existence d'une violation grave et persistante par un État membre de valeurs énoncées à l'article I-2, après avoir invité l'État membre à présenter toute observation en la matière.
3. Lorsque la constatation visée au paragraphe 2 a été faite, le Conseil, statuant à la majorité qualifiée, peut adopter une décision européenne qui suspend certains des droits découlant de l'application de la Constitution à l'État membre en question, y compris les droits de vote de l'État membre au sein du Conseil. Ce faisant, le Conseil tient compte des conséquences éventuelles d'une telle suspension sur les droits et obligations des personnes physiques et morales.

Les obligations qui incombent à l'État membre en question au titre de la Constitution restent en tout état de cause contraignantes pour cet État.

4. Le Conseil, statuant à la majorité qualifiée, peut adopter par la suite une décision européenne modifiant les mesures qu'il a prises au titre du paragraphe 3 ou d'y mettre fin pour répondre à des changements de la situation qui l'a conduit à imposer ces mesures.
5. Aux fins du présent article, le Conseil statue sans tenir compte de l'État membre en question. Les abstentions des membres présents ou représentés ne font pas obstacle à l'adoption des décisions visées au paragraphe 2.

Le présent paragraphe est également applicable en cas de suspension des droits de vote conformément au paragraphe 3.

6. Aux fins des paragraphes 1 et 2, le Parlement européen statue à la majorité des deux tiers des voix exprimées, représentant une majorité de ses membres.

Explication éventuelle :