

AMENDMENT FORM

Suggestion for amendment of Article : 5

By Mr Hain

Status : Member

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1. The Union recognises the rights, freedoms and principles in the Charter of Fundamental Rights. The scope, applicability and legal effect of the Charter are described in Part VII of that Charter.
 2. The Union may accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Accession to that Convention shall not extend the Union's competences as defined by this Constitution.
 3. See comment below.
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Explanation (if any) :

We cannot accept the Charter of Fundamental Rights being ‘an integral part of the Constitution’ as it stands.

In paragraph 2, I have replaced ‘affect’ by ‘extend’ for clarity. The paragraph confers a power upon the Union to accede to the ECHR but it does not address the issue of the Union procedures applicable to ECHR accession. The modalities of accession would need to be discussed in detail at a later date, at which time we would need to ensure our derogations were protected. The agreement of the Contracting Parties to the ECHR to an amendment to the ECHR to enable Union accession would also be needed.

The point in paragraph 3 is currently a principle of Community case law – and would be better remaining as such. Its formalisation here could have implications for CFSP, as it is extended from a principle of the Community to a principle of the Union.