

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 9

Déposée par Madame ou Monsieur : Rt Hon David Heathcoat-Amory, MP

Qualité : - Membre *X* - Suppléant

9.1 Insert at close « except in so far that laws passed 'notwithstanding the act of accession' hold primacy »

Explication éventuelle

National parliaments hereby retain final sanction to overturn Union law. If used, this reserve power would obviously necessitate a Council meeting to resolve the differences. However, this amendment is needed (1) as a mechanism for withdrawal from the treaties (2) because otherwise national parliaments surrender their sovereign powers to a higher federal authority (3) because the resulting sense of powerlessness in a national crisis has no safety valve other than outright withdrawal, and (4) on a practical note, because (as Thomas Paine observed) Parliament is sovereign in all things, except to circumscribe its own power. Nevertheless, just because national parliaments retain supremacy, does not mean to say that they will exercise it except in rare cases of major national importance. This amendment therefore maintains the Luxembourg compromise in the form of a vote by a parliament.

9.1 Delete.

Explication éventuelle

This is an attempt to codify the existing case law and illustrates that to do so may result in over-simplification. So best left for case law. All the caveats that would be required to make this accurate would also make it far too complex for a constitution.

9.2 Delete. Insert « The principle of subsidiarity shall be enforced by conferring First Reading on national parliaments ; Second Reading and the Committee Stages to the European Parliament ; and Third Reading on national parliaments. »

Explication éventuelle

The only way to ensure that subsidiarity is more than just an ignored and vague item in a dictionary is to put national parliaments properly in the legislative programme, at the outset and at the close.

9.5 After Constitution, insert « except in so far as such measures fall from objections made by the member state at the time of the framing of the common policy »

Explication éventuelle

Otherwise, national governments are constrained into enforced neutrality on an issue in which its vital national interests are at variance with a policy determined by QMV.

9.5 Delete « The union shall act loyally towards the Member States ». Insert « The member states of

the Union shall strive to maintain the greatest degree of cooperation and mutual benefit, in which task they will be faithfully served by their civil service, the European Commission

Explication éventuelle

The original text reads as if it sets up a feudal structure between the member states on the one hand, and the EU, personified by the Commission, on the other.

9.5 Delete.

Explication éventuelle

This paragraph extends the strict definition of the principle of loyal cooperation found in the TEC to the Union as a whole. This could have implications for CFSP. As the principle of loyal cooperation is clearly stated already in Article 8, paragraph 5, this can be deleted.

9.6 At close, add « This clause takes precedence over harmonisation »

Explication éventuelle

Otherwise, the original clause is too imprecise and subjective to prevent any number of harmonising measures.

9.6 Delete replace with « The Union shall respect the national identities of its Member States, inherent in their sovereignty, their fundamental structures and essential State functions, especially their political and constitutional structure, including the organisation of public administration at national, regional and local level, and their responsibilities for the maintenance of law and order and for national security. »

Explication éventuelle

An inherent responsibility of any State is the maintenance of law and order and the protection of national security. This is sufficiently important to justify a specific reference in this article which deals with fundamental principles. Including a reference to the sovereignty of states helps to explain what the Union must respect.

9.7 New section. Insert « In cases where one quarter of national parliaments object to a proposal, that motion shall be reconsidered by the Council. In cases where one half of national parliaments object, the Union is prevented from pursuing that proposal. »

Explication éventuelle

This establishes the « yellow card/red card principle » (version one)

9.7 New section. Insert « In cases where one third of national parliaments object to a proposal, that motion shall be reconsidered by the Council. In cases where two thirds of national parliaments object, the Union is prevented from pursuing that proposal. »

Explication éventuelle

This establishes the « yellow card/red card principle » (version two)

9.7 New section. Insert « In cases where one national parliament objects to a proposal, that motion shall be reconsidered by the Council. In cases where more than one national parliament objects, the Union is prevented from pursuing that proposal. »

Explication éventuelle

This establishes the « yellow card/red card principle » (version three)