

AMENDMENT FORM

Suggestion for amendment of Article : 9

By Mr Hain

Status : Member

1. *Delete.*
2. In exercising the Union's non-exclusive competences, the institutions shall apply the principles of subsidiarity and proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality annexed to this Constitution. The procedure set out in the Protocol shall enable national parliaments to ensure compliance with these principles.
3. *Delete. See para 2 and comment below.*
4. *Delete.*
5. *Delete.*
6. 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.*

Explanation (if any) :

Paragraph 1 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.

As a rule, we would like to see the principle of proportionality in conjunction with that of subsidiarity throughout the text. We have added it to paragraph 2 in both the first and second sentences. By doing this, paragraph 3 can be deleted as unnecessary. This paragraph could go into Article 8 as paragraph 5.

Paragraph 4 (and paragraph 5) is another iteration of the principle of loyal cooperation (see Article 8, 5). Nothing is lost through its deletion. It should be removed in the spirit of simplicity and clarity.

Paragraph 5 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.

Paragraph 6: 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.