

AMENDMENT FORM

Suggestion for amendment of Article III-61, -62, -63, 64:

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on behalf of the EPP Convention Group

Status : Members / Alternates

Suggestion

Proposal to merge Article III-61 to III-64 in one internal market article

Article III-61 (ex Article 94)

~~A Council European framework law shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.~~

Article III-62 (ex Article 95)

- ~~By way of derogation from [ex Article 94] and save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in [ex Article 14].~~ A European law or framework law shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market ***and eliminate appreciable distortions of competition***. It shall be adopted after consulting the Economic and Social Committee.
- Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons, ***except for those which directly affect the establishment or functioning of the internal market and eliminate appreciable distortions of competition***.
- The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.
- If, after the adoption of a harmonisation measure by means of European law or framework law or a Commission regulation, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in [ex Article 30], or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or a Commission regulation, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.
6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market. In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved. When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.
7. When, pursuant to [paragraph 6], a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.
8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.
9. By way of derogation from the procedure laid down in [ex Articles 226 and 227], the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.
10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to adopt, for one or more of the non-economic reasons referred to in [ex Article 30], provisional provisions subject to a Union control procedure.

~~Article III-63 (ex Article 96)~~

~~Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.~~

~~If such consultation does not achieve the desired result, a European framework law shall eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.~~

~~Article III-64 (ex Article 97)~~

- ~~1. Where there is a reason to fear that the adoption or amendment of a national provision laid down by law, regulation or administrative action may cause distortion within the meaning of [ex Arti-~~

~~ele 96], a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall address to the Member States concerned a recommendation on such measures as may be appropriate to avoid the distortion in question.~~

- ~~2. If a Member State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, in pursuance of [ex Article 96], to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, [ex Article 96] shall not apply.~~

Explanation:

It is suggested to merge, for reasons of simplification, Articles III-61 and III-62 and to eliminate Articles III-63 and III-64; the two latter never had any independent practical meaning next to the former Articles 94 and of the EC Treaty.