

AMENDMENT FORM

Suggestion for amendment of Article III-76, para 5:

By BROK, AZEVEDO, AKCAM, ALMEIDA GARRETT, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOGLER, FRENDON, GIANNAKOU, KAUPPI, KELAM, LENNMARKER, LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, SZAJER, TEUFEL, VAN DER LINDEN, VILEN, KAUPPI, VAN DIJK, WITTBRODT

on behalf of the EPP Convention Group

Status :

Proposed Amendment

Article III-76 (ex Article 107)

5. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the European System of Central Banks may be amended by a European law *of the Council. The Council shall act*
- (a) either *unanimously* on a proposal from the Commission after *consent by the European Parliament and* consultation of the European Central Bank;
- (b) or on a recommendation from the European Central Bank *after consent by the European Parliament and* consultation of the Commission.
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Explanation:

- *Here, the decision-making procedure has been changed by the Praesidium. The current Article 107(5) provides for two possibilities to amend certain specified Articles of the ESCB Statute (which is a Protocol annexed to the Treaties and therefore primary EC law, in future Constitutional Law of the Union):*

*Modus 1: If ECB recommends changes (with **unanimity** in the Governing Council of the ECB, cf. Article 41.2): the Council may change the Articles of the ESCB Statute mentioned in Article 107(5) by qualified majority after consultation of the Commission and with the **assent of the European Parliament**.*

*Modus 2: If Commission recommends changes: the Council may change the Articles of the ESCB Statute mentioned in Article 107(5) acting **unanimously** after consultation of the ECB and with the **assent of the European Parliament**.*

*We reject the proposal of the Praesidium to change the first modus into normal codecision. **The change of the ESCB Statute is of a constitutional nature, and not legislation.** A change of the Constitution must continue to require the approval of all Member States or of all their representatives/nationals, even under a simplified amendment procedure without ratification. This is not the case with the text proposed by the Praesidium which would facilitate future changes to the ESCB Statute. We therefore ask the Praesidium to maintain the present decision-making process in this respect, also because no discussion has taken place in the plenary of the Convention about such an important change .*

- *See also EPP Essentials on Economic Governance of 18 May 2003 – CONV 761/03 –, point 5, third bullet point: “The Constitution shall only allow for **amendments to the constitutional provisions on the ECB** through a constitutional amendment procedure which requires ratification by all Member States. Prior to such amendments, the ECB must always be consulted (see the present Article 48(2) EU Treaty). Amendments which are exceptionally possible under a simplified amendment procedure (see the present Articles 105(6) and 107(5) of the EC Treaty) must continue to require the assent of the European Parliament and unanimity in the Council; they are of a constitutional nature and – in the case of Article 105(6) – even allow for a transfer of competences to the Union level.”*