

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : III-74 (partie III)

Déposée par Mme Pervenche Berès, Olivier Duhamel, Ben Fayot, Caspar Einem, Elena Paciotti

Qualité : - Membres et Suppléants

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#### Article III-74 (ex-article 105)

1. Les objectifs principaux du Système européen de banques centrales sont de maintenir la stabilité des prix, de contribuer à la croissance économique et au développement de l'emploi. Sans préjudice de ces objectifs, le Système européen de banques centrales apporte son soutien aux politiques économiques générales dans l'Union, pour contribuer à la réalisation des objectifs de celle-ci, tels que définis à l'article I-3. Le Système européen de banques centrales agit conformément au principe d'une économie sociale de marché (**1 mot supprimé**) où la concurrence est libre, en favorisant une allocation efficace des ressources et en respectant les principes fixés à [l'article III-66].

## AMENDMENT FORM

**Suggestion for amendment of Article : III - 81**

**Suggestion for protocol :**

**By Mr : Dick Roche**

**Status : - Member**

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### Article III-81 (ex Article 111)

1. In order to secure the euro's place in the international monetary system, Member States ~~whose currency is the euro~~ **shall endeavour** to coordinate their action among themselves and with the Commission with a view to adopting common positions on monetary matters within the competent international financial institutions and conferences. They shall defend and promote those common positions.

For monetary policy or directly related matters, the European Central Bank, without prejudice to its independence, shall be fully associated with that coordination.

2. On the basis of that coordination, the Council, **acting unanimously** on a proposal from the Commission, may adopt appropriate European decisions to ensure unified representation within the international financial institutions and conferences.

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### Explanation (if any) :

**I want to reiterate concerns, also made in relation to I-12, I-18 and I-29, where existing carefully crafted assignments of competence that work well are being substituted with less satisfactory ones, in this case for establishing common positions on monetary matters within international financial institutions.**

**With regard to Article 81.2 my view would be that any decision on unified representation within international financial institutions should be taken by unanimity.**

## **FICHE AMENDEMENT**

### **Proposition d'amendement à l'Article : III- 81**

**Déposée par Madame ou Monsieur : M. Louis Michel, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention**

**Qualité : - Membre            - Suppléant**

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#### **Article III-81 (nouveau)**

1. Afin d'assurer la place de l'euro dans le système monétaire international, les États membres dont la monnaie est l'euro coordonnent leur action entre eux et avec la Commission, en vue d'arrêter des positions communes sur les questions monétaires au sein des institutions et des conférences financières internationales compétentes. Ils défendent et promeuvent ces positions communes.

Pour la politique monétaire ou les questions qui s'y rattachent directement, la Banque centrale européenne est pleinement associée à cette coordination, sans préjudice de son indépendance.

2. En se fondant sur cette coordination, le Conseil, sur proposition de la Commission, peut arrêter les mesures appropriées pour assurer une représentation unifiée au sein des institutions et conférences financières internationales.

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#### **Explication éventuelle :**

**Si nous n'introduisons pas à ce stade d'amendement spécifique sur cette disposition, nous nous réservons le droit d'y revenir à la lumière de l'ensemble des règles qui régiront la représentation externe de l'Union.**

## FICHE AMENDEMENT

**Proposition d'amendement à l'Article : III-81 (nuovo)**

**Déposée par Madame ou Monsieur : Gianfranco Fini / Francesco Speroni**

**Qualité : - Membre      - Suppléant**

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### Articolo III-81 (nuovo)

1. Per garantire la posizione dell'euro nel sistema monetario internazionale, gli Stati membri la cui moneta è l'euro coordinano la propria azione tra loro e con la Commissione, allo scopo di adottare posizioni comuni sulle questioni monetarie nell'ambito delle competenti istituzioni e conferenze finanziarie internazionali. Essi difendono e promuovono tali posizioni comuni.

Per la politica monetaria o per le questioni ad essa direttamente collegate, la Banca centrale europea è pienamente associata al suddetto coordinamento, ferma restando la sua indipendenza.

2. Basandosi su tale coordinamento, il Consiglio, ~~su proposta~~ **sulla base di una raccomandazione** della Commissione **o su iniziativa di uno Stato membro**, può adottare le decisioni europee opportune per garantire una rappresentanza unificata nell'ambito delle istituzioni e conferenze finanziarie internazionali.

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**Explication éventuelle :**

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article III-81

Déposée par Monsieur de Villepin

Qualité : - Membre

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1. Afin d'assurer la place de l'euro Union européenne dans le système monétaire financier international, les États membres ~~dont la monnaie est l'euro~~ coordonnent leur action entre eux et avec la Commission, en vue d'arrêter des positions communes sur les questions économiques, monétaires et financières au sein des institutions et des conférences financières internationales compétentes. Ils défendent et promeuvent ces positions communes.

Pour la politique monétaire ~~ou les questions qui s'y rattachent directement~~, la Banque centrale européenne est pleinement associée à cette coordination, sans préjudice de son indépendance.

2. En se fondant sur cette coordination, le Conseil, sur proposition de la Commission, peut adopter les décisions européennes appropriées pour assurer une représentation unifiée au sein des institutions et conférences financières internationales.

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Explication éventuelle :

## AMENDMENT FORM

### Suggestion for amendment of Article III-81:

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

on behalf of the EPP Convention Group

Status :

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### Suggestion

#### Article III-81 (ex Article 111)

1. In order to secure the euro's place in the international monetary system, Member States whose currency is the euro shall coordinate their action among themselves and with the Commission with a view to adopting common positions on monetary matters within the competent international financial institutions and conferences. ~~They~~ **The Commission** shall defend and promote those common positions *on behalf of these Member States*. For monetary policy or directly related matters, the European Central Bank, without prejudice to its independence **and Article 6 of the ESCB Statute**, shall be fully associated with that coordination.
  2. On the basis of that coordination, the Council, on a proposal from the Commission **and after consultation of the European Central Bank**, may adopt appropriate European decisions to ensure unified representation within the international financial institutions and conferences.
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#### Explanation:

- *The euro represents the highest degree of integration achieved so far within the Union. **The euro's place in the international monetary system must therefore be secured and defended by supranational institutions and bodies: by the Commission and – in purely monetary matters – by the ECB.** It would almost amount to an absurdity if the new Constitution achieves a “double hat”-Foreign Minister for CFSP matters, but leaves the external representation of EMU matters only in an intergovernmental method of coordination.*
- *The independent right of the ECB to be present itself in international monetary organisations (such as the IMF, where the ECB has an observer status and speaks on behalf of the euro are Member States in monetary policy matters) results from **Article 6 ESCB Statute**, which, in its relevant parts, reads as follows:*

**Extract from Article 6 ESCB Statute (= Protocol annexed to the EC Treaty)**

6.1 In the field of international monetary cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be presented.

6.2 The ECB and, subject to its approval, the national central banks may participate in international monetary organisations.

[...]

- *See also EPP Essentials on Economic Governance of 18 May 2003 – CONV 761/03 –, point 7: "The Constitution must allow for **a more efficient representation of the Euro area in international economic and monetary organisations and fora** (such as IMF or G-8). For this purpose, the present Article 111(4) EC Treaty (E which has never worked in practice - needs to be amended, as also recommended by the Convention Working Group „Economic Governance“. The EPP therefore calls for entrusting, directly by the Constitution, external representation in economic matters to the Commission – acting under a mandate conferred to it by the Council/the Eurogroup – and in monetary matters to the ECB. Both shall keep the Parliament and the Council regularly informed about these matters."*

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : III-81 (partie III)

Déposée par Mme Pervenche Berès, Olivier Duhamel, Ben Fayot

Qualité : - Membres et Suppléants

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#### Article III-81 (nouveau)

1. Afin d'assurer la place de l'euro dans le système monétaire international, les États membres dont la monnaie est l'euro coordonnent leur action entre eux et avec la Commission, en vue d'arrêter des positions communes sur les questions monétaires au sein des institutions et des conférences financières internationales compétentes. Ils défendent et promeuvent ces positions communes.

Pour la politique monétaire ou les questions qui s'y rattachent directement, la Banque centrale européenne est pleinement associée à cette coordination, sans préjudice de son indépendance.

2. En se fondant sur cette coordination, le Conseil, sur proposition de la Commission, peut adopter les décisions européennes appropriées pour **confier au Vice-Président de la Commission chargé des affaires économiques le soin d'assurer la** représentation unifiée au sein des institutions et conférences financières internationales.



## AMENDMENT FORM

### Suggestion for amendment of Article III-76 (ex Article 107)

**By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, national parliament representative.**

**Status :**        - **Members:** Hjelm-Wallén and Lekberg  
                     - **Alternates:** Petersson

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### 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 the Council, acting either by a qualified majority on a recommendation from the ECB and after consulting the Commission  
or unanimously on a proposal from the Commission and after consulting the ECB.  
In either case, the assent of the European Parliament is required.

~~(a) either by a European law adopted after consultation of the European Central Bank;~~

~~(b) or by a European law of the Council adopted on a recommendation from the European Central Bank, after consent by the European Parliament and consultation of the Commission.~~<sup>1</sup>

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<sup>1</sup> The ECB should remain independent. Therefore, the European Parliament should not have the possibility to put forward proposals on monetary policy matters and instruments.

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article III-76

Déposée par Monsieur de Villepin

Qualité : - Membre

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1. Le Système européen de banques centrales est composé de la Banque centrale européenne et des banques centrales nationales.
2. La Banque centrale européenne est dotée de la personnalité juridique.
3. Le Système européen de banques centrales est dirigé par les organes de décision de la Banque centrale européenne, qui sont le conseil des gouverneurs et le directoire.
4. Les statuts du Système européen de banques centrales sont définis dans le protocole sur les statuts du Système européen de banques centrales et de la Banque centrale européenne.
5. Les 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) et 36 des statuts du Système européen de banques centrales peuvent être modifiés par le Conseil statuant:
  - a) soit ~~par la loi européenne, adoptée~~ à l'unanimité sur proposition de la Commission et après consultation de la Banque centrale européenne;
  - b) soit ~~par une loi européenne du Conseil, adoptée~~ à la majorité qualifiée sur recommandation de la Banque centrale européenne, ~~après approbation du Parlement européen et~~ après consultation de la Commission.

#### **Dans les deux cas le Conseil statue après approbation du Parlement européen.**

6. Le Conseil adopte les mesures visées aux articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 et 34.3 des statuts du Système européen de banques centrales. Il statue après consultation du Parlement européen:
  - a) soit sur proposition de la Commission et après consultation de la Banque centrale européenne;

- b) soit sur recommandation de la Banque centrale européenne et après consultation de la Commission.

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**Explication éventuelle :**

## AMENDMENT FORM

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

By **BROK, AZEVEDO, AKCAM, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOLLER, FREND, 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 :

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#### *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:
- (a) either by a European law ~~adopted~~ ***of the Council. The Council shall act unanimously*** after ***consent by the European Parliament and*** consultation of the European Central Bank;
  - (b) or by a European law of the Council adopted 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.”*

## AMENDMENT FORM

### Suggestion for amendment of Article III-74 (ex Article 105)

**By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, national parliament representative.**

**Status :**        - **Members:** Hjelm-Wallén and Lekberg  
                     - **Alternates:** Petersson

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### Article III-74 (ex Article 105)

6.    **The Council may, acting unanimously on a proposal from the Commission and after consulting the ECB and after receiving the assent of the European Parliament** confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted after consulting the European Central Bank<sup>1</sup>~~

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<sup>1</sup> It is important that the Member States remain in control of the regulatory framework for supervision of credit institutions and other financial institutions. Therefore, the Council should act unanimously.



## **AMENDMENT FORM**

**Suggestion for amendment of Article : III - 74**

**Suggestion for protocol :**

**By Mr : Dick Roche**

**Status : - Member**

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### Article III-74 (ex Article 105)

1. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to this objective, the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article 3 of Part One. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in [ex Article 4].
  2. The basic tasks to be carried out through the European System of Central Banks shall be:
    - (a) to define and implement the Union's monetary policy;
    - (b) to conduct foreign exchange operations consistent with the provisions of [Article 111];
    - (c) to hold and manage the official foreign reserves of the Member States;
    - (d) to promote the smooth operation of payment systems.
  3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
  4. The European Central Bank shall be consulted:
    - (a) on any proposed Union act in its fields of competence;
    - (b) by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in [ex Article 107(6)].
- The European Central Bank may submit opinions to the Union Institutions or bodies or to national authorities on matters in its fields of competence.
5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.
  6. A European law or framework law may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial



institutions with the exception of insurance undertakings. Such law or framework law shall be adopted **unanimously** after consulting the European Central Bank **and after receiving the assent of the European Parliament.**

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**Explanation (if any) : I am opposed to the proposal to move to the ordinary legislative procedure in 74.6 because of the potential implications of a move away from unanimity on the domestic regulatory environment.**

## AMENDMENT FORM

### Suggestion for amendment of Article III-74, para 6:

By **Mrs Piia-Noora Kauppi**  
Status : **Alternate**

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### Suggestion

#### Article III-74 (ex Article 105)

6. A European law ~~or framework law~~ **of the Council** may confer upon the European Central Bank ~~or an other European Regulatory and Supervisory System~~ specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ **The Council shall act unanimously** after consulting the European Central Bank **and after receiving the consent of the European Parliament.**

#### Explanation:

- *It should be possible to give specific tasks not only to ECB, but possibly, if Council so wishes, to another European regulatory and Supervisory System created with the European law.*
- *Here, the decision-making procedure has been changed by the Praesidium. The current Article 105(6) requires the Council to act **unanimously** after consulting the ECB and after receiving **the assent of the European Parliament**. We ask for keeping his procedure. **To confer new tasks on the ECB is not legislation, but a decision of a constitutional nature which implies a tranfer of competences to the supranational level. Such a decision should continue to require unanimity in the Council and the assent of the European Parliament.** It should also be noted that no discussion about this important issue has been taken place in the plenary of the Convention.*
- *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.”*

## FICHE AMENDEMENT

### Proposition d'amendement à l'article III. 74 (ex-article 105 TCE)

Déposée par Sylvia - Yvonne Kaufmann, Anne Van Lancker, Emilio Gabaglio, Roger Briesch, Olivier Duhamel, Helle Thorning- Schmidt, Carlos Carnero - Gonzalez, Ben Fayot, Ornella Paciotti, Pervenche Beres, Linda Mc Avan, Maria Berger, Caspar Einem, Elio Di Rupo

Qualité : - Membre

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Article III. 74 (ex-article 105) paragraphe 1

1. L'objectif principal du Système européen de banques centrales est de maintenir la stabilité des prix. Sans préjudice de cet objectif, le Système européen de banques centrales apporte son soutien aux politiques économiques générales dans l'Union, pour contribuer à la réalisation des objectifs de celle-ci, tels que définis à l'article 3 de la première partie. Le Système européen de banques centrales agit conformément au principe d'une économie **sociale** de marché ~~ouverte où la concurrence est libre~~, en favorisant une allocation efficace des ressources et en respectant les principes fixés à [l'ex-article 4].

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#### Explication éventuelle :

En introduisant le concept de 'économie sociale de marché' remplaçant le concept de "économie de marché ouverte" dans la première partie de la Constitution, il convient par souci de cohérence de reprendre ce même concept tout au long de la Constitution.

**AMENDMENT FORM**

**Suggestion for : Part III**

**Suggestion for amendment of Article : III-74**

**By Mr : Emilio GABAGLIO**

**Status : Observer**

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**Amendment : Art. III-74 para. 1**

**Replace:**

“the principle of an open market economy with free competition” with “the principle of a social market economy”

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**Explanation (if any) :**

This amendment is a consequence of the social market objective of the Union (Article I-3 para. 3).

## **FICHE AMENDEMENT**

### **Proposition d'amendement à l'Article III-74**

**Déposée par Monsieur de Villepin**

**Qualité : - Membre**

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1. L'objectif principal du Système européen de banques centrales est de maintenir la stabilité des prix. Sans préjudice de cet objectif, le Système européen de banques centrales apporte son soutien aux politiques économiques générales dans l'Union, pour contribuer à la réalisation des objectifs de celle-ci, tels que définis à l'article 3 de la première partie. Le Système européen de banques centrales agit conformément au principe d'une économie de marché ouverte où la concurrence est libre, en favorisant une allocation efficace des ressources et en respectant les principes fixés à [l'ex-article 4].
  2. Les missions fondamentales relevant du Système européen de banques centrales consistent à:
    - a) définir et mettre en œuvre la politique monétaire de l'Union;
    - b) conduire les opérations de change conformément à [l'article 111];
    - c) détenir et gérer les réserves officielles de change des États membres;
    - d) promouvoir le bon fonctionnement des systèmes de paiement.
  3. Le paragraphe 2, point c), s'applique sans préjudice de la détention et de la gestion, par les gouvernements des États membres, de fonds de roulement en devises.
  4. La Banque centrale européenne est consultée:
    - a) sur tout acte de l'Union proposé dans les domaines relevant de sa compétence;
    - b) par les autorités nationales, sur tout projet de réglementation dans les domaines relevant de sa compétence, mais dans les limites et selon les conditions fixées par le Conseil conformément à la procédure prévue à [l'ex-article 107, paragraphe 6].
- La Banque centrale européenne peut, dans les domaines relevant de sa compétence, soumettre des avis aux institutions ou organes de l'Union ou aux autorités nationales.
5. Le Système européen de banques centrales contribue à la bonne conduite des politiques menées par les autorités compétentes en ce qui concerne le contrôle prudentiel des

établissements de crédit et la stabilité du système financier.

6. ~~La loi ou la loi-cadre européenne~~ **Le Conseil, statuant à l'unanimité sur proposition de la Commission, après consultation de la Banque centrale européenne et après approbation du Parlement européen,** peut confier à la Banque centrale européenne des missions spécifiques ayant trait aux politiques en matière de contrôle prudentiel des établissements de crédit et autres établissements financiers, à l'exception des entreprises d'assurances. ~~Elle est adoptée après consultation de la Banque centrale européenne.~~

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**Explication éventuelle :**

## AMENDMENT FORM

### Suggestion for amendment of Article III-74, para 6:

By BROK, AZEVEDO, AKCAM, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOLLER, FREND, GIANNAKOU, KAUPPI, KELAM, LENNMARKER, LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, STOCKTON, SZAJER, TEUFEL, VAN DER LINDEN, VILEN, KAUPPI, VAN DIJK, WITTBRODT, WUERMELING

on behalf of the EPP Convention Group

Status :

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### Suggestion

#### Article III-74 (ex Article 105)

6. A European law ~~or framework law~~ **of the Council** may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ **The Council shall act unanimously** after consulting the European Central Bank **and after receiving the consent of the European Parliament.**

#### **Explanation:**

- Here, the decision-making procedure has been changed by the Praesidium. The current Article 105(6) requires the Council to act **unanimously** after consulting the ECB and after receiving **the assent of the European Parliament**. We ask for keeping his procedure. **To confer new tasks on the ECB is not legislation, but a decision of a constitutional nature which implies a transfer of competences to the supranational level. Such a decision should continue to require unanimity in the Council and the assent of the European Parliament.** It should also be noted that no discussion about this important issue has been taken place in the plenary of the Convention.
- 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.”

## Fiche Amendement

PROPOSITION D'AMENDEMENT À L'ARTICLE : III-81 BIS (NOUVEAU)

DÉPOSÉE PAR MME PERVENCHE BERÈS, OLIVIER DUHAMEL, BEN FAYOT, VYTENIS ANDRIUKAITIS, ELENA PACIOTTI, JACQUES FLOCH, FRANC HORVAT

QUALITÉ : - MEMBRES ET SUPPLÉANTS

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### SECTION 3

#### DISPOSITIONS INSTITUTIONNELLES

##### Article III – 81 bis (Nouveau)

1. Les ministres des États de la zone euro se réunissent entre eux en Eurogroupe. Ces réunions ont lieu, en tant que de besoin, pour discuter de questions liées aux responsabilités spécifiques qu'ils partagent en matière de monnaie unique dans l'objectif de favoriser les conditions d'une croissance économique plus forte en Europe et à cette fin, de développer une coordination sans cesse plus étroite des politiques économiques dans la zone euro. La Commission et la BCE sont invitées à prendre part à ces réunions, qui sont préparées par les représentants des ministres chargés des Finances participant à la zone euro.

1. Les ministres des États de la zone euro élisent un président pour deux ans et demi, à la majorité des États membres de la zone euro.

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*EXPLICATION : cet amendement vise à améliorer les dispositions de l'actuel protocole de l'eurogroupe et à intégrer ledit protocole dans la partie III.*

*Les ajouts dans l'alinéa 1 reprennent les termes l'introduction de ce protocole.*



**AMENDMENT FORM**

**Suggestion for amendment of Article 80**

**Suggestion for Part: III**

**By Ms / Mr :**                **G.M. de Vries**  
                                      **T.J.A.M. de Bruijn**

**Status :**            **Member**                    **Alternate**

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~~Without prejudice to the powers of the European Central Bank, a European law or framework law shall lay down the measures necessary for use of the euro as the single currency of the Member States. Such law or framework law shall be adopted after consulting the European Central Bank.~~

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**Explanation (if any):**

It is not clear what ‘measures necessary for the use of the euro’ implies (ex-article 123 (4) referred to ‘measures necessary for the rapid introduction of the euro’). Therefore, the Netherlands is of the opinion that the text should either be clarified or deleted. If the current wording is to be maintained; co-decision is not considered desirable.

## **AMENDMENT FORM**

**Suggestion for amendment of Article : 80 (ex Article 34), part III of the Constitution**

**By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle**

**Status :      Tiilikainen, Kiljunen, Vilén - Members  
                 Peltomäki, Takkula and Helle - Alternates**

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### **Article III-80a (ex Article 34)**

**1.                By way of derogation from [Article III-222 (ex 33)], the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission and after consulting the European Central Bank in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.**

**2.                In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting either on a recommendation from the Commission and after consulting the European Central Bank or on a recommendation from the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.**

**3.                By way of derogation from [Article III-222 (ex 33)], where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.**

**4.                Without prejudice to Union competence and agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.**

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**Explanation (if any) :**

*Transferred from Article III-223 (unamended).*

*Matters concerning exchange rate mechanisms form an inseparable part of the monetary policy. Therefore, the present text of Article III-223 should be moved to the EMU chapter, as a new Article III-80 a. A reference to it should be made in Chapter VI of Title V.*

## **FICHE AMENDEMENT**

### **Proposition d'amendement à l'Article : III-80**

**Déposée par Monsieur Pierre Lequiller, Président de la Délégation pour l'Union européenne de l'Assemblée nationale française.**

**Qualité : - Membre titulaire**

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Après l'article III- 80,  
Insérer l'article suivant

Article III-80 bis (nouveau)

**"L'Eurogroupe réunit au niveau ministériel les représentations des États membres ayant adopté la monnaie unique. La présidence est attribuée pour une période de deux ans par un accord à la majorité qualifiée des membres".**

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### **Explication éventuelle :**

Ce nouvel article vise à constitutionnaliser l'existence de l'Eurogroupe dont il n'est actuellement fait mention que dans un protocole distinct. Cet article reprend, dans le corps de la Constitution, la disposition permettant d'assurer la stabilité de la présidence de l'Eurogroupe, fixée à deux ans.

## AMENDMENT FORM

**Suggestion for amendment of Article: 80 (ex 110a)**

**By Mr Hain**

**Status :        - Member**

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Without prejudice to the powers of the European Central Bank, the Council, acting on a proposal from the Commission, shall adopt a European law or framework law ~~shall~~ laying down the measures necessary for use of the euro as the single currency of the Member States. Such law or framework law shall be adopted after consultation of the European Central Bank and the European Parliament.

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**Explanation (if any) :**

*Legislation under this article will be technical, and will not be suitable for codecision with the European Parliament.*

## AMENDMENT FORM

Suggestion for amendment of Article : III-79

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status :    - Member            - ~~Alternate~~

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### Artikel III-79 (ex-Artikel 110)

(1) ...

(2) Die Europäische Zentralbank kann *unbeschadet des Artikel I-38 Absatz 2* die Veröffentlichung ihrer Europäischen Beschlüsse, ihrer Empfehlungen und Stellungnahmen beschließen.

(3) ~~Der Rat erlässt nach dem Verfahren des [Artikels III-76 (ex Artikels 107) Absatz 6] die Europäischen Verordnungen, in denen festgelegt wird~~ *Durch Europäische Gesetze wird festgelegt*, innerhalb welcher Grenzen und unter welchen Bedingungen die Europäische Zentralbank befugt ist, Unternehmen bei Nichteinhaltung der Verpflichtungen, die sich aus ihren Europäischen Verordnungen und Beschlüssen ergeben, mit Geldbußen oder in regelmäßigen Abständen zu zahlenden Zwangsgeldern zu belegen.

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### Explanation (if any) :

#### *Absatz 2:*

Die Veröffentlichung von Beschlüssen, die an keinen bestimmten Adressaten oder an alle Mitgliedstaaten gerichtet sind, ist gemäß Artikel I-38 Absatz 2 zwingend und steht somit nicht zur der EZB.

#### *Absatz 3:*

Aufgrund der Grundrechtsrelevanz sollte das ordentliche Gesetzgebungsverfahren Anwendung finden.

## AMENDMENT FORM

### Suggestion for amendment of Article : 76 (ex Article 107), part III of the Constitution

By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle

Status :      **Tiilikainen, Kiljunen, Vilén - Members**  
                 **Peltomäki, Takkula and Helle - Alternates**

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#### Article III-76 (ex Article 107)

1. The European System of Central Banks shall be composed of the European Central Bank and of the national central banks.
2. The European Central Bank shall have legal personality.
3. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.
4. The Statute of the European System of Central Banks is laid down in the Protocol on the Statutes of the European System of Central Banks and the European Central Bank.
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~~:
  - (a) either **by a European law of the Council, acting unanimously** on a proposal from the Commission after **obtaining the consent of the European Parliament and** consultation of the European Central Bank;
  - (b) or **by a European law** on a recommendation from the European Central Bank after consultation of the Commission.
6. The Council shall adopt the European regulations and decisions laying down the measures referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the System of European Central Banks. It shall act after consulting the European Parliament:
  - (a) either on a proposal from the Commission after consulting the European Central Bank;
  - (b) or on a recommendation from the European Central Bank after consulting the Commission.

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**Explanation (if any) :**

*The use of legislative procedure for the purposes of Article 76, paragraph 5, subparagraph (a) cannot be accepted, since it would weaken the position of the ECB. The position of the European Parliament is already sufficiently strong, given that its consent is required.*



## AMENDMENT FORM

### Suggestion for amendment of: Article III-76 (5)

By: Mr. Rein Lang, Mr. Tunne Kelam - members

Mr. Henrik Hololei, Mrs. Liina Tõnisson, Mr. Urmas Reinsalu - alternates

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#### **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:**

The procedures provided for in the current Article 107(5) TEC should be kept as they are. This means that, if the Commission recommends amendments, the Council should be able to change the Articles of the ESCB Statute mentioned in Article 107(5) only acting unanimously. Also, in either case, the assent of the European Parliament should continue to be required.

To change the statutes of the ESCB is a decision of a constitutional nature. Therefore, the relevant decision should be unanimously accepted by all member states, even under a simplified amendment procedure without ratification.

In case the ECB recommends changes, this already implies unanimity in its Governing Council, and thus the consent of all the member states. This, however, is not the case, if the Commission recommends amendments. Therefore, it is inevitable that in the latter case the Council would have make its decision acting unanimously.

## AMENDMENT FORM

### Suggestion for amendment of Article: 76 (ex 107)

By Mr Hain

Status : - Member

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1. *OK*

2. *OK*

3. *OK.*

4. *OK.*

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:

- (a) either on a proposal from the Commission after consultation of the European Central Bank;
- (b) or on a recommendation from the European Central Bank after consultation of the Commission.

In either case, the Council shall act after obtaining the assent of the European Parliament.

6: *OK*

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### Explanation (if any) :

#### 76.5

*These articles are quasi-constitutional, and codecision with the European Parliament is inappropriate for such articles.*

## AMENDMENT FORM

### Suggestion for amendment of Article III-76:

By Mr Joschka Fischer

Status : - Member

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#### Artikel III-76 (ex-Artikel 107)

(1) Das Europäische System der Zentralbanken besteht aus der Europäischen Zentralbank und den nationalen Zentralbanken.

(2) Die Europäische Zentralbank besitzt Rechtspersönlichkeit.

(3) Das Europäische System der Zentralbanken wird von den Beschlussorganen der Europäischen Zentralbank, nämlich dem Rat und dem Direktorium der Europäischen Zentralbank, geleitet.

(4) Die Satzung des Europäischen Systems der Zentralbanken ist in dem Protokoll über die Satzung des Europäischen Systems der Zentralbanken und der Europäischen Zentralbank festgelegt.

(5) Die Artikel 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 und 36 der Satzung des Europäischen Systems der Zentralbanken können

- a) entweder durch Europäische Gesetze, die nach Anhörung der Europäischen Zentralbank erlassen werden,
- oder durch Europäische Gesetze des Rates, die auf Empfehlung der Europäischen Zentralbank nach Zustimmung des Europäischen Parlaments und nach Anhörung der Kommission erlassen werden,

geändert werden. \*

(6) Der Rat erlässt die in den Artikeln 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 und 34.3 der Satzung des Europäischen Systems der Zentralbanken genannten Maßnahmen. Er beschließt nach Anhörung des Europäischen Parlaments

- a) entweder auf Vorschlag der Kommission und nach Anhörung der Europäischen Zentralbank
- b) oder auf Empfehlung der Europäischen Zentralbank und nach Anhörung der Kommission.

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**Explanation:**

**\* Bei Absatz 5 sollte der Aquis bzgl. der Verfahren zur Satzungsänderung beibehalten werden.**

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article III-76

Déposée par Monsieur de Villepin

Qualité : - Membre

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1. Le Système européen de banques centrales est composé de la Banque centrale européenne et des banques centrales nationales.
2. La Banque centrale européenne est dotée de la personnalité juridique.
3. Le Système européen de banques centrales est dirigé par les organes de décision de la Banque centrale européenne, qui sont le conseil des gouverneurs et le directoire.
4. Les statuts du Système européen de banques centrales sont définis dans le protocole sur les statuts du Système européen de banques centrales et de la Banque centrale européenne.
5. Les 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) et 36 des statuts du Système européen de banques centrales peuvent être modifiés **par le Conseil statuant**:
  - a) soit ~~par la loi européenne, adoptée à l'unanimité sur proposition de la Commission et~~ après consultation de la Banque centrale européenne;
  - b) soit ~~par une loi européenne du Conseil, adoptée à la majorité qualifiée sur~~ recommandation de la Banque centrale européenne, ~~après approbation du Parlement européen et~~ **après** consultation de la Commission.

**Dans les deux cas le Conseil statue après approbation du Parlement européen.**

6. Le Conseil adopte les mesures visées aux articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 et 34.3 des statuts du Système européen de banques centrales. Il statue après consultation du Parlement européen:
  - a) soit sur proposition de la Commission et après consultation de la Banque centrale européenne;

- b) soit sur recommandation de la Banque centrale européenne et après consultation de la Commission.

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**Explication éventuelle :**

## 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 :

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#### *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.
- 

### 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.”*



## AMENDMENT FORM

**Suggestion for amendment of Article : 75 (ex Article 106), part III of the Constitution**

**By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle**

**Status :      Tiilikainen, Kiljunen, Vilén - Members  
                 Peltomäki, Takkula and Helle - Alternates**

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### **Article III-75 (ex Article 106)**

1.            The European Central Bank shall have the exclusive right to authorise the issue of euro bank notes in the Union. The European Central Bank and the national central banks may issue such notes. Only the bank notes issued by the European Central Bank and the national central banks shall have the status of legal tender within the Union.

2.            Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue. The Council may adopt regulations laying down measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Union. Such law or framework law shall be adopted after consultation of the European Parliament and the European Central Bank.

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### **Explanation (if any) :**

*Article III-75 would seem to be in contradiction with the Article I-29, which in its present form gives to the ECB the exclusive right to authorise both euro notes and euro coins. It is necessary to clarify this point.*

## AMENDMENT FORM

### Suggestion for amendment of Article : III-75

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status :    - Member            - ~~Alternate~~

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#### Artikel III-75 (ex-Artikel 106)

(1) Die Europäische Zentralbank hat das ausschließliche Recht, die Ausgabe von Euro-Banknoten innerhalb der Union zu genehmigen. Die Europäische Zentralbank und die nationalen Zentralbanken sind zur Ausgabe von Euro-Banknoten berechtigt. Die von der Europäischen Zentralbank und den nationalen Zentralbanken ausgegebenen Banknoten sind die einzigen Banknoten, die in der Union als gesetzliches Zahlungsmittel gelten.

(2) Die Mitgliedstaaten haben das Recht zur Ausgabe von Euro-Münzen, wobei der Umfang dieser Ausgabe der Genehmigung durch die Europäische Zentralbank bedarf. ~~Der Rat kann Verordnungen zur~~ **Zur** Festlegung von Maßnahmen ~~erlassen~~ mit dem Ziel, die Stückelung und die technischen Merkmale aller für den Umlauf bestimmten Münzen so weit zu harmonisieren, wie dies für deren reibungslosen Umlauf innerhalb der Union erforderlich ist, **können Europäische Gesetze oder Rahmengesetze erlassen werden.** ~~Das betreffende Gesetz oder Rahmengesetz wird nach Anhörung der Europäischen Zentralbank erlassen.~~

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#### Explanation (if any) :

##### **Absatz 2:**

Ordentliches Gesetzgebungsverfahren statt Verordnungsgebung durch den Rat. Die Anhörung der Zentralbank ergibt sich bereits aus Artikel I-29 Absatz 5.

## AMENDMENT FORM

**Suggestion for amendment of Article : III-75**

**By Mr : Joschka Fischer**

**Status : - Member**

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### **Artikel III-75 (ex-Artikel 106)**

(1) Die Europäische Zentralbank hat das ausschließliche Recht, die Ausgabe von Euro-Banknoten innerhalb der Union zu genehmigen. Die Europäische Zentralbank und die nationalen Zentralbanken sind zur Ausgabe von Euro-Banknoten berechtigt. Die von der Europäischen Zentralbank und den nationalen Zentralbanken ausgegebenen Banknoten sind die einzigen Banknoten, die in der Union als gesetzliches Zahlungsmittel gelten.

(2) Die Mitgliedstaaten haben das Recht zur Ausgabe von Euro-Münzen, wobei der Umfang dieser Ausgabe der Genehmigung durch die Europäische Zentralbank bedarf. Durch ein Europäisches Gesetz oder Rahmengesetz des Rates können Maßnahmen festgelegt werden mit dem Ziel, die Stückelung und die technischen Merkmale aller für den Umlauf bestimmten Münzen so weit zu harmonisieren, wie dies für deren reibungslosen Umlauf innerhalb der Union erforderlich ist. Das betreffende Gesetz oder Rahmengesetz wird vom Rat nach Anhörung des Europäischen Parlaments und der Europäischen Zentralbank erlassen.

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### **Explanation (if any) :**

**Zu Abs. 1 ist Formulierung des CONV 725/03 korrekt, CONV 727/03 weicht hiervon ab. Die Ausgabe von Münzen erfolgt durch die Mitgliedstaaten, nicht durch die Zentralbank. Daher ist eine Anhörung des Europäischen Parlaments systematisch korrekt.**

**In Absatz 2 sollte der Übergang ins Gesetzgebungsverfahren überdacht werden. Aufgrund des exekutiven Charakters der Vorschrift wäre ein Anhörungsrecht des EP systematisch korrekt.**

## AMENDMENT FORM

### Suggestion for amendement of Article III –74.1

By Mr Proinsias De Rossa

Status : - Member

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### Article III –74.1

Amend the text as follows:

.....in accordance with the principle of an open, **social** market economy with free,  
**undistorted** competition,.....

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### Explanation (if any) :

To render the text consistent with the values and objectives of the Union set out in Part I

## AMENDMENT FORM

### Suggestion for amendment of Article : 74 (ex Article 105) part III of the Constitution

**By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén and Hannu Takkula**

**Status :      Tiilikainen, Kiljunen, Vilén - Members  
                 Peltomäki and Takkula - Alternates**

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#### Article III-74 (ex Article 105)

1.            The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to this objective, the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article 3 of Part One. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in [ex Article 4].
2.            The basic tasks to be carried out through the European System of Central Banks shall be:
  - (a)            to define and implement the Union's monetary policy;
  - (b)    to conduct foreign exchange operations consistent with the provisions of [Article III-223 (ex 111)];
  - (c)            to hold and manage the official foreign reserves of the Member States;
  - (d)            to promote the smooth operation of payment systems.
3.            Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
4.            The European Central Bank shall be consulted:
  - (a)            on any proposed Union act in its fields of competence;
  - (b)    by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in [Article III-76(6) (ex 107(6))].

The European Central Bank may submit opinions to the Union Institutions or bodies or to national authorities on matters in its fields of competence.

5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. A European law or framework law **of the Council** may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ **The Council shall act unanimously** after consultation of the **European Parliament and the** European Central Bank.

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**Explanation (if any) :**

*We do not support the use of the ordinary legislative procedure in Article 74, paragraph 6. Given the nature of the tasks involved, a centralisation of the prudential supervision would not be appropriate, nor the ECB a suitable body in which to centralise the supervision.*

## FICHE AMENDEMENT

**Proposition d'amendement à l'Article : Art III-74**

**Déposée par Mme SIGMUND, M. BRIESCH et M. FRERICHES**

**Qualité : Observateurs**

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**Modifier comme suit le par. 1 de l'Art. III-74 (ex-article 105):**

1. L'objectif principal du Système européen de banques centrales est de maintenir la stabilité des prix. Sans préjudice de cet objectif, le Système européen de banques centrales apporte son soutien aux politiques économiques générales dans l'Union, pour contribuer à la réalisation des objectifs de celle-ci, tels que définis à l'article 3 de la première partie. Le Système européen de banques centrales agit conformément au principe d'une économie ***sociale*** de marché ouverte où la concurrence est libre, en favorisant une allocation efficace des ressources et en respectant les principes fixés à [l'ex-article 4].

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### **Explication:**

Cet amendement vise à mettre en cohérence le libellé de cet article avec l'article I-3 de la partie I du Projet de Constitution sur les objectifs de l'Union et qui prévoit, en son paragraphe 3, que l'Union œuvre pour une Europe du développement durable fondé notamment sur "une économie ***sociale*** de marché hautement compétitive".



## AMENDMENT FORM

**Suggestion for amendment of Article : III - 74**

**Suggestion for protocol :**

**By Mr : Dick Roche**

**Status : - Member**

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### Article III-74 (ex Article 105)

1. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to this objective, the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article 3 of Part One. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in [ex Article 4].
  2. The basic tasks to be carried out through the European System of Central Banks shall be:
    - (a) to define and implement the Union's monetary policy;
    - (b) to conduct foreign exchange operations consistent with the provisions of [Article 111];
    - (c) to hold and manage the official foreign reserves of the Member States;
    - (d) to promote the smooth operation of payment systems.
  3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
  4. The European Central Bank shall be consulted:
    - (a) on any proposed Union act in its fields of competence;
    - (b) by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in [ex Article 107(6)].
- The European Central Bank may submit opinions to the Union Institutions or bodies or to national authorities on matters in its fields of competence.
5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.
  6. A European law or framework law may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial

institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted after consulting the European Central Bank.~~ **The Council shall act unanimously, after consultation of the European Parliament and the European Central Bank in adopting any such law or framework law.**

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**Explanation (if any) : This provision allows the conferring on the ECB of specific tasks concerning policies relating to the prudential supervision of credit institutions. I am of the view that the unanimity requirement needs to be retained given the implications of any extension of the ECB's role for the domestic regulatory sector, which is the responsibility of individual Member States.**

## AMENDMENT FORM

### Suggestion for amendment of: Article III-74 (6)

By: **Mr. Rein Lang, Mr. Tunne Kelam - members**

**Mr. Henrik Hololei, Mrs. Liina Tõnisson, Mr. Urmas Reinsalu - alternates**

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### Article III-74 (ex Article 105)

6. A European law ~~or framework law~~ **of the Council** may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ **The Council shall act unanimously** after consulting the European Central Bank **and after receiving the consent of the European Parliament.**

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### **Explanation:**

The current Article 105(6) requires the Council to act unanimously after consulting the ECB and after receiving the assent of the European Parliament. We want this procedure to be kept as it is.

To confer new tasks on the ECB is a decision of a constitutional nature, which implies that certain competencies will be transferred to the supranational level. Therefore, the relevant decision should continue to be made in the Council by unanimity, even under a simplified amendment procedure without ratification.

## AMENDMENT FORM

### Suggestion for amendment of Article : III -74

By Mr : Esko Helle

Status : - Alternate

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#### Article III-74 (ex Article 105)

1. The primary objective of the European System of Central Banks shall be to maintain price stability. **This objective shall be one means, through which** the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article 3 of Part One. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in [ex Article 4].
2. The basic tasks to be carried out through the European System of Central Banks shall be:
  - (a) to define and implement the Union's monetary policy;
  - (b) to conduct foreign exchange operations consistent with the provisions of [Article III-223 (ex 111)];
  - (c) to hold and manage the official foreign reserves of the Member States;
  - (d) to promote the smooth operation of payment systems.
3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
4. The European Central Bank shall be consulted:
  - (a) on any proposed Union act in its fields of competence;
  - (b) by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in [Article III-76(6) (ex 107(6))].

The European Central Bank may submit opinions to the Union Institutions or bodies or to national authorities on matters in its fields of competence.

5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. A European law or framework law **of the Council** may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ **The Council shall act unanimously** after consultation of the **European Parliament and the** European Central Bank.

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**Explanation (if any) :**

*Price stability should be one of the ways through which the European System of Central Banks supports the objectives of the Constitutional Treaty.*

*The ordinary legislative procedure should not be used in Article 74, paragraph 6. Given the nature of the tasks involved, a centralisation of the prudential supervision would not be appropriate, nor is the ECB a suitable body in which to centralise the supervision.*

## AMENDMENT FORM

### Suggestion for amendment of Article: 74 (ex 105)

By Mr Hain

Status : - Member

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1. OK
  2. OK
  3. OK.
  4. OK.
  5. OK.
  6. A European law or framework law may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ The Council shall act unanimously, after consultation of the European Central Bank, and obtaining the assent of the European Parliament.
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### Explanation (if any) :

*There has been a lengthy debate on financial supervision in the EU: following the Lamfalussy report, the EU has recently established a set of committees to create a single market in financial services in the EU. The working group on Economic Governance considered that "a proper assessment of [Lamfalussy] could only be made in the light of sufficient experience." The group made no proposal to change article 105(6). There is no consensus in the Convention to change the existing procedure.*

*In terms of the ECB itself:*

- *The ECB has a specific focus - maintaining price stability. Its additional powers are of a secondary nature and designed to bolster delivery of its primary objective.*
- *A power to turn the ECB into a supervisory body, if used, could make the ECB a different animal, a process that could compromise its primary objective.*

*Overall, changing the legislative procedure for this article could have serious implications for market confidence in financial supervision, and in the ECB. This is a step that should not be taken lightly. As this article is quasi-constitutional, it is appropriate that the requirement of unanimity should be maintained.*

## AMENDMENT FORM

### Suggestion for amendment of Article : III-74

By Ms / Mr : **Joschka Fischer**

Status :    - Member            - Alternate

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#### Artikel III-74 (ex-Artikel 105)

(1) Das vorrangige Ziel des Europäischen Systems der Zentralbanken ist es, die Preisstabilität zu gewährleisten. Soweit dies ohne Beeinträchtigung dieses Ziels möglich ist, unterstützt das Europäische System der Zentralbanken die allgemeine Wirtschaftspolitik in der Union, um zur Verwirklichung der in Artikel 3 des ersten Teils festgelegten Ziele der Union beizutragen. Das Europäische System der Zentralbanken handelt im Einklang mit dem Grundsatz einer offenen Marktwirtschaft mit freiem Wettbewerb, wodurch ein effizienter Einsatz der Ressourcen gefördert wird, und hält sich dabei an die in [ex-Artikel 4] genannten Grundsätze.

(2) Die grundlegenden Aufgaben des Europäischen Systems der Zentralbanken bestehen darin,

- a) die Geldpolitik der Union festzulegen und auszuführen,
- b) Devisengeschäfte im Einklang mit [Artikel 111] durchzuführen,
- c) die offiziellen Währungsreserven der Mitgliedstaaten zu halten und zu verwalten,
- d) das reibungslose Funktionieren der Zahlungssysteme zu fördern.

(3) Absatz 2 Buchstabe c berührt nicht die Haltung und Verwaltung von Arbeitsguthaben in Fremdwährungen durch die Regierungen der Mitgliedstaaten.

(4) Die Europäische Zentralbank wird gehört

- a) zu allen Vorschlägen für Rechtsakte der Union im Zuständigkeitsbereich der Europäischen Zentralbank,
- b) von den nationalen Behörden zu allen Entwürfen für Rechtsvorschriften im Zuständigkeitsbereich der Europäischen Zentralbank, und zwar innerhalb der Grenzen und unter den Bedingungen, die der Rat nach dem Verfahren des [ex-Artikels 107 Absatz 6] festlegt.

Die Europäische Zentralbank kann gegenüber den zuständigen Organen und Einrichtungen der Union und gegenüber den nationalen Behörden Stellungnahmen zu in ihren Zuständigkeitsbereich fallenden Fragen abgeben.

(5) Das Europäische System der Zentralbanken trägt zur reibungslosen Durchführung der von den zuständigen Behörden auf dem Gebiet der Aufsicht über die Kreditinstitute und der Stabilität des Finanzsystems ergriffenen Maßnahmen bei.

(6) Durch Europäische Gesetze oder Rahmengesetze können der Europäischen Zentralbank besondere Aufgaben im Zusammenhang mit der Aufsicht über Kreditinstitute und sonstige Finanz-

institute mit Ausnahme von Versicherungsunternehmen übertragen werden. Die betreffenden Gesetze oder Rahmengesetze werden vom Rat einstimmig nach Anhörung der Europäischen Zentralbank erlassen.

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**Explanation (if any) :**

**An der Voraussetzung einer einstimmigen Beschlussfassung durch den Rat sollte festgehalten werden. Dies rechtfertigt sich bereits durch die besondere Rechtsnatur der Norm. Art. III-74 Absatz 6. Sie stellt eine Ausnahmenvorschrift dar, mit der die politischen Organe der Gemeinschaft ermächtigt werden, der EZB weitere Aufgaben zu übertragen, ohne das langwierige Verfahren einer Vertragsänderung einschlagen zu müssen. Das Vertragsänderungsverfahren kann gem. Art. 48 EUV nur im Rahmen einer Regierungskonferenz durchgeführt werden und verlangt die Ratifizierung der neuen Vorschriften durch alle Mitgliedstaaten. Das Prinzip der Einstimmigkeitsentscheidung wurde bei Schaffung des Art. 105 Absatz 6 EGV mitübertragen, um der besonderen konstitutionellen Natur solcher Übertragungsakte hinreichend Rechnung zu tragen.**

**Aber auch sachliche Gründe machen ein Festhalten an dem Prinzip der Einstimmigkeit erforderlich. An eine Kompetenzausweitung der EZB im Bankaufsichtsbereich sind, insbesondere wegen der sehr inhomogenen Aufsichtsstrukturen in Europa und der präjudizierenden Wirkung in Bezug auf die Rolle der Zentralbanken im nationalen Aufsichtsbereich, überdurchschnittliche Anforderungen zu stellen. Nur durch Einstimmigkeit wird den jeweiligen Funktionen von Finanzministerien, Zentralbanken und Aufsichtsbehörden sowie ihrem national unterschiedlich gewichteten Beitrag zur Finanzstabilität Rechnung getragen.**



## **FICHE AMENDEMENT**

### **Proposition d'amendement à l'Article III-74**

**Déposée par Monsieur de Villepin**

**Qualité : - Membre**

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1. L'objectif principal du Système européen de banques centrales est de maintenir la stabilité des prix. Sans préjudice de cet objectif, le Système européen de banques centrales apporte son soutien aux politiques économiques générales dans l'Union, pour contribuer à la réalisation des objectifs de celle-ci, tels que définis à l'article 3 de la première partie. Le Système européen de banques centrales agit conformément au principe d'une économie de marché ouverte où la concurrence est libre, en favorisant une allocation efficace des ressources et en respectant les principes fixés à [l'ex-article 4].
2. Les missions fondamentales relevant du Système européen de banques centrales consistent à:
  - a) définir et mettre en œuvre la politique monétaire de l'Union;
  - b) conduire les opérations de change conformément à [l'article III-223 (ex-111)];
  - c) détenir et gérer les réserves officielles de change des États membres;
  - d) promouvoir le bon fonctionnement des systèmes de paiement.
3. Le paragraphe 2, point c), s'applique sans préjudice de la détention et de la gestion, par les gouvernements des États membres, de fonds de roulement en devises.
4. La Banque centrale européenne est consultée:
  - a) sur tout acte de l'Union proposé dans les domaines relevant de sa compétence;
  - b) par les autorités nationales, sur tout projet de réglementation dans les domaines relevant de sa compétence, mais dans les limites et selon les conditions fixées par le Conseil conformément à la procédure prévue à [l'article III-76 (ex-107), paragraphe 6].

La Banque centrale européenne peut, dans les domaines relevant de sa compétence, soumettre des avis aux institutions ou organes de l'Union ou aux autorités nationales.
5. Le Système européen de banques centrales contribue à la bonne conduite des politiques

menées par les autorités compétentes en ce qui concerne le contrôle prudentiel des établissements de crédit et la stabilité du système financier.

6. ~~La loi ou la loi-cadre européenne~~ **Le Conseil, statuant à l'unanimité sur proposition de la Commission, après consultation de la Banque centrale européenne et après approbation du Parlement européen,** peut confier à la Banque centrale européenne des missions spécifiques ayant trait aux politiques en matière de contrôle prudentiel des établissements de crédit et autres établissements financiers, à l'exception des entreprises d'assurances. ~~Elle est adoptée après consultation de la Banque centrale européenne.~~

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**Explication éventuelle :**

## AMENDMENT FORM

### Suggestion for amendment of Article III-74, para 6:

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

on behalf of the EPP Convention Group

Status :

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### Suggestion

#### Article III-74 (ex Article 105)

6. A European law ~~or framework law~~ **of the Council** may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. ~~Such law or framework law shall be adopted~~ **The Council shall act unanimously** after consulting the European Central Bank **and after receiving the consent of the European Parliament.**

#### **Explanation:**

- Here, the decision-making procedure has been changed by the Praesidium. The current Article 105(6) requires the Council to act **unanimously** after consulting the ECB and after receiving **the assent of the European Parliament**. We ask for keeping his procedure. **To confer new tasks on the ECB is not legislation, but a decision of a constitutional nature which implies a transfer of competences to the supranational level. Such a decision should continue to require unanimity in the Council and the assent of the European Parliament.** It should also be noted that no discussion about this important issue has been taken place in the plenary of the Convention.
- 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.”

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : III-74 (partie III)

Déposée par Mme Pervenche Berès, Olivier Duhamel, Ben Fayot, Caspar Einem, Elena Paciotti, Sylvia Kaufmann, Anne Van Lancker, Emilio Gabaglio, Roger Briesch, Helle Thorning-Schmidt, Luis Marinho, Carlos Carnero - Gonzalez, Linda Mc Avan, Maria Berger, Elio Di Rupo, Vytenis Andriukaitis, Adrian Severin, Claudio Martini, Proinsias De Rossa, Robert Badinter

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#### Article III-74 (ex-article 105)

1. Les objectifs principaux du Système européen de banques centrales sont de maintenir la stabilité des prix, de contribuer à la croissance économique et au développement de l'emploi. Sans préjudice de ces objectifs, le Système européen de banques centrales apporte son soutien aux politiques économiques générales dans l'Union, pour contribuer à la réalisation des objectifs de celle-ci, tels que définis à l'article I-3. Le Système européen de banques centrales agit conformément au principe d'une économie sociale de marché ~~où la concurrence est libre~~, en favorisant une allocation efficace des ressources et en respectant les principes fixés à [l'article III-66].