

AMENDMENT FORM

Suggestion for amendment of Article : 99 (ex Article 137), part III of the Constitution

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Article III-99 (ex Article 137)

1. With a view to achieving the objectives of [Article III-98 (ex 136)], the Union shall support and complement the activities of the Member States in the following fields:
 - (a) improvement in particular of the working environment to protect workers' health and safety;
 - (b) working conditions;
 - (c) social security and social protection of workers;
 - (d) protection of workers where their employment contract is terminated, **excluding unemployment benefits**;
 - (e) the information and consultation of workers;
 - (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;
 - (g) conditions of employment for third-country nationals legally residing in Union territory, **including work permits**;
 - (h) the integration of persons excluded from the labour market, without prejudice to [Article III-178 (ex 150)];
 - (i) equality between men and women with regard to labour market opportunities and treatment at work;
 - (j) the combating of social exclusion;
 - (k) the modernisation of social protection systems without prejudice to point (c).
2. To this end:
 - (a) a European law or framework law may establish measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and

evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;

- (b) in the fields referred to in paragraph 1(a) to (i), a European framework law may establish minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such European framework law shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

In all cases, the European law or framework law shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

- 3. By way of derogation from paragraph 2, in the fields referred to in paragraph 1(c), ~~(d), (f) and~~ (g), the European law or framework law shall be adopted by the Council acting unanimously after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.

The Council may, on a proposal from the Commission, adopt a European decision making the ordinary legislative procedure applicable to paragraph 1~~(d), (f) and~~ (g) of this Article. It shall act unanimously after consulting the European Parliament.

- 4. A Member State may entrust management and labour, at their joint request, with the implementation of European framework laws adopted pursuant to paragraph 2.

In this case, it shall ensure that, no later than the date on which a European framework law must be transposed, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that framework law.

- 5. The European laws and framework laws adopted pursuant to this Article:

- (a) shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof;
- (b) shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Constitution.

- 6. This Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Explanation:

We are in favour of qualified majority voting in respect of Article III-99(1)(d) and (f). Unanimity requirement should only be maintained in respect of social security (Article III.99 (1)(c)) and work permits (Article III-99 (1)(g)).

If Article III-99 (ex Article 137) (1)(d) is to be transferred to qualified majority voting, a clarification is needed to ensure that unanimity will still be required in respect of unemployment

benefits, which should be understood as being a part of social security referred to in Article III-99 (1)(c). (Background information: Also unemployment benefits are covered by ILO Convention 158 on the termination of the employment.)

The legal basis for work permits is at present unclear and needs therefore to be clarified. According to the opinion of the Council Legal Service the present article 137 (1)(g) is the right legal basis for adopting provisions on work permits.