

AMENDMENT FORM

Suggestion for amendment of Article :Part 2 article 1

Suggestion for protocol :

By Mr David Heathcoat-Amory

Status :X - Member - Alternate

N.B. ‘()’ denote text deleted ‘_____’ denotes text added

Article 1 The Union shall constitute an area of freedom, security and justice (with respect for fundamental rights), taking into account the different European legal traditions and systems, in particular the traditions of Common law, Scots law, Udal law and Sami rights.(It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control based on solidarity between Member States and fairness towards third-country nationals)

The Union shall ensure a high level of safety by measures to (prevent and) combat crime and promote coordination between criminal police and judicial authorities and other competent authorities, as well as by the mutual recognition of judgements in certain criminal matters and (the approximation) of criminal laws.

The rights of states with opt-outs shall not be infringed.

The provisions of this article shall not have any bearing on Courts Martial

Explanation (if any) :

The draft text does not sufficiently recognise the legal diversity present in the EU. The Canadian constitution, for instance, establishes that its Supreme Court has a set number of judges on its panel representing both legal traditions.

Nevertheless, there is in the EU a real danger that « harmonisation » will threaten the distinctiveness of these other legal systems, for instance on the separation of the investigatorial and prosecuting agencies, presumption of innocence, habeas corpus, land rights, and so on.

The list of legal systems listed is not meant to be exclusive.