

AMENDMENT FORM

Suggestion for amendment of article 9

By Mr Poul Schlüter

Status: Alternate

Article 9: Judicial control

In exercising its competences regarding the provisions of Chapters 3 and 4 of this Title, the Court of Justice shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security, ~~where such action is a matter of national law~~.

Explanation:

The proposed wording corresponds to the present wording of art. 35(5) TEU. As it appears from the report of the Working Group, there are some doubts in the interpretation of the provision in art. 35(5) TEU. According to some members, the Court has already today competence in the case of acts carried out pursuant to Union law. However, other members of the Working Group argued that the Court has no competence according to art. 35(5), regardless if the action is a matter of pure national law or Union law. The Court of Justice has not had the opportunity to interpret the provision.

As a consequence of these doubts, it will be appropriate to maintain the existing wording of art. 35 (5).