

AMENDMENT FORM

Suggestion for amendment of Article : 8

By Mr : Lord Robert MacLennan

Status : Alternate

Article 8: [Right of initiative]

The acts referred to in Chapters 3 and 4 of this Title shall be adopted on a proposal from the Commission *acting either on its own initiative* or on the initiative of a quarter of the Member States.

Where in the exercise of its right of initiative the Union proposes, under articles 14, 15 16 or 17 in Chapters II & III of this Title, measures for the approximation of national laws it shall seek an advisory opinion from a standing committee of eminent jurisconsults, representative of the Member States' legal systems, as to the necessary means of doing so.

Explanation:

Whoever takes the political initiative, the legislative initiative must come from the Commission alone in order to ensure coherence and purposefulness.

The present arrangements under Pillar Three demonstrate very clearly how Member States cannot achieve the necessary quality of legislative proposal if left to their own devices.

'Approximation' is not standardization. It may only require the amendment of certain member states' laws to render cross border legal cooperation effective. It could be invidious, however, for individual Member States to accept the technical necessity of such amendments being made without weighty and fully transparent legal argumentation. Such an objective Commission would not be pre-empting or sharing the Commission's right of initiative. It would merely be pointing out technical ways and means of proceeding. Such a standing Law Commission could serve other purposes including considering whether consolidation or repeal of Union legislation, which has fallen into desuetude, should be undertaken.