

AMENDMENT FORM

Suggestion for amendment of Article 9 (Title Area of freedom, security and justice, Part II of the Treaty)

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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:

Some limitation on the Court's jurisdiction remains appropriate in the area of justice and home affairs corresponding to the current third pillar. The proposed draft Article 9 takes over the wording of the current Article 35, paragraph 5, of the TEU, save for the phrase "where such action is a matter of national law". The meaning of the phrase in question is not clear, however. If the intention is to exclude from the Court's jurisdiction situations where no Union law is involved, the phrase is superfluous as the Court's jurisdiction does not, in any field, extend to matters belonging solely to national law. If something else is intended, that intention is not adequately disclosed by the Praesidium's text. That being the case, the phrase should be deleted.