

AMENDMENT FORM

Suggestion for amendment of Article : 1

Suggestion for protocol :

By Mr : Farnleitner

Status : - Member

Part Two of the Constitution

Title ...: Area of freedom, security and justice

Article 1: Definition of the area

The Union shall constitute an area freedom, security and justice **on the basis of the rule of law. In taking measures under this title, the Union shall** ~~with respect for~~ fundamental rights and ~~taking into account~~ the different European legal traditions and systems.

It shall ensure ~~the absence of internal border controls for persons~~ **the principle of free movement within the area allowing the crossing of internal borders at any given spot without any controls** 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~~ **freedom and security** by measures to prevent and combat crime and promote coordination and cooperation between criminal police and judicial authorities and other competent authorities, as well as by the mutual recognition of judgments in criminal matters and the approximation of criminal laws.

The Union shall facilitate access to justice, in particular by the free movement of documents and judgments in civil matters based on the principle of mutual recognition.

Explanation (if any) :

The remarks of the Praesidium state that the articles in Part Two of the Constitution “will have no headings, the headings in square brackets are given simply as an aid to Convention members at this stage”. I think that the headings are indeed helpful and I am convinced that it is exactly one of our main goals to make the Constitution better readable and understandable for the public. Consequently, the public should be given at least the same help the experts apparently need or

welcome. The headings therefore should not “disappear” in the final version.

The principle of the rule of law should be explicitly mentioned.

For these reasons it is appropriate to mention explicitly the rule of law which is a basic principle of European (constitutional) traditions (see Report of WG X, page 2).

It is proposed to clarify that national legal traditions and systems have to be respected by the Union when taking measures (see comments in CONV 614/03).

Change towards crossing of borders in order to ensure that other executive measures taken by police are excluded.

The measures mentioned in subpara. 3 do not promote only security but also freedom.