

AMENDMENT FORM

Suggestion for amendment of Article : 14

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Dimitrij Rupel, Mr Karel De Gucht, Mr Peeter Kreitzberg, Mr Agirdas Gričius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; and Alternate Members: Mr Willem van Eekelen, Lord Robert MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Article 14 : [Judicial cooperation in civil matters]

1. The Union shall develop judicial cooperation in civil matters, *including commercial cases*, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation shall include the adoption of measures for the approximation of national laws having cross-border implications.
2. To this end, the *Union* shall adopt laws and framework laws aiming inter alia to ensure:
 - the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;
 - the cross-border service of judicial and extrajudicial documents;
 - the compatibility of the rules applicable in the Member States concerning the conflict of laws and of jurisdiction;
 - cooperation in the taking of evidence;
 - a high level of access to justice, *including civil law protection against violation of fundamental rights*;
 - the good functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;
 - the development of measures of preventive justice and alternative methods of dispute settlement;
 - support for the training of the judiciary and judicial staff;
 - *family law, in particular concerning parental responsibility.*
3. *[Delete]*

Explanation:

We have specified that civil cases also include commercial cases so as to be consistent with and have the same intended effect as Article 65 TEC.

As Article 25 of Part One provides, the norm is that the Union passes laws according to the legislative procedure involving the Parliament and the Council. It is not necessary to spell this out every time. The repetition is irritating and lengthy.

The legal characteristics of the national and EU fundamental rights protection systems impose a clear duty of care on citizens exercising their fundamental rights: they must not damage another citizen's fundamental right or restrict the existence thereof.

Tort action before civil courts is the normal remedy against the civil violation of a legal duty of care of this type. The availability of this remedy is a necessity in order to secure an area of freedom, security, peaceable civil relations and justice.

Subject as always to the principle of subsidiarity, the inclusion of family law in the normal legislative procedures should in our view be permitted. Paragraph 3 is therefore deleted.