

AMENDMENT FORM

Suggestion for amendment of Article : 17

By Mrs : Lone Dybkjær

Status : - Member

Part II of the Constitutional treaty:

Article 17: [substantive criminal law]:

...in the areas of particularly serious crime with cross-border dimensions resulting from the nature or impact of the offences or of a special need to prosecute them jointly. These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, **racist and xenophobic behaviour**, computer crime and organised crime...

Explanation :

The current article 29 TEU states: "without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia..."

The current proposal for the first 23 articles of Part II of the Constitutional treaty not only drop this specific reference to the prevention and combating of racism and xenophobia, but additionally, when detailing the policies, explicitly state that such a reference is superfluous, since we now have article 13 TEC and therefore racist and xenophobic behaviour is not to be considered as a "particularly serious crime with cross-border dimensions" (article 17 Part II), thus **contradicting not only the reality but also a number of previous declarations and statements of the Council, the Commission and the Parliament.**

The prevention and combating of racism and xenophobia is a fundamental prerequisite to obtaining an area of freedom security and justice for all. It is also a fundamentally different approach from the fight against discrimination, the former focuses on the sphere of public law and the latter deals with "equal treatment", namely the social behaviour aspect of the issue. The two issues are, although related, very different and both deserve an appropriate but distinct approach.

The existing acquis can not be compromised!