

Suggestion for amendment of Article: III-166

By Mr: Farnleitner

Status: Member

1. Judicial co-operation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include, **where necessary and taking account of the different legal traditions and systems of the Member States**, the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 3 and in Article [III-167].
2. **In accordance with paragraph 1**, a European law or framework law shall establish measures to:
 - (a) establish rules and procedures aimed at ensuring the recognition throughout the Union of all forms of judgments and judicial decisions;
 - (b) **facilitate co-operation to settle** *[delete: prevent and settle]* conflicts of jurisdiction between Member States;
 - (c) **support** *[delete: encourage]* the training of the judiciary and judicial staff **to facilitate co-operation under this section**;
 - (d) facilitate co-operation in criminal matters between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.
3. *[Delete: In order to]*
To the extent that it is necessary to facilitate mutual recognition in judgments and judicial decisions *[Delete: and police and judicial co-operation in criminal matters]*, **the Council may act by unanimity, after consulting the European Parliament**, to establish European framework laws for minimum rules in the following areas to prevent discrimination on grounds of nationality in cases with a cross-border dimension:
 - (a) the provision of legal advice;
 - (b) the provision of information to individuals about their rights in criminal procedure;
 - (c) access to interpretation and translation facilities;
 - (d) access to diplomatic or consular authorities;
 - (e) **other specific aspects of criminal procedure, which shall be identified in advance by the Council, acting unanimously, after receiving the assent of the European Parliament.**

[NB: this is an indicative list of areas where action is necessary to prevent discrimination on grounds of nationality. Willing to consider other specific suggestions which are limited to non-discrimination. The following indents in the article have been deleted: (a) mutual admissibility of evidence; (b) definition of the rights of individuals in criminal procedure; (c) rights of victims of crime;]

Explanation:

This proposal is based on the suggestion for amendment of Article III-166 made by Peter Hain (UK member) which I fully support.

However, it seems to me that the areas requiring approximation on a priority basis in order to facilitate mutual recognition in criminal matters as identified in para 3 of the UK proposal are too restrictive. Consequently, I suggest to supplement the UK proposal by a para 3e), as it cannot be excluded that in the context of mutual recognition in criminal matters a need for approximation of areas other than those listed in para 3a) – d) of the UK proposal will arise.

It should be pointed out that the text of the proposed para 3e) is identical with Article III-166 para 2d) as contained in the revised Treaty text.