

## AMENDMENT FORM

**Suggestion for amendment of: Part III, Article 166**

**By Mr : Dick Roche**

**Status : - Member**

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### Article III–166 (ex Article 15)

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article [III–167].

A European law or framework law **of the Council** 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) prevent and settle conflicts of jurisdiction between Member States;
- ~~(c) encourage the training of the judiciary and judicial staff;~~
- (d) facilitate cooperation in criminal matters between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

**The Council shall act unanimously after consulting the European Parliament.**

**2. A European law or framework law shall establish measures to encourage the education of the judiciary and judicial staff in matters relating to judicial cooperation.**

**32.** In order to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having cross-border implications, a European framework law **of the Council** may establish minimum **standards** ~~rules~~ concerning:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in

advance by a European decision. The Council shall act unanimously after receiving the approval of the European Parliament.

**The Council shall act unanimously after consulting the European Parliament.**

Adoption of such minimum **standards** ~~rules~~ shall not prevent Member States from maintaining or introducing a higher **standards** ~~level of protection for the rights of individuals~~ in criminal procedure.

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## **Explanation**

Unanimity is the most appropriate decision-making procedure for the more fundamental aspects of judicial cooperation set out in paragraph 1. QMV, however, is acceptable for measures to encourage the training of the judiciary, although this should be limited to areas relating to judicial cooperation.

The phrase ‘minimum standards’ is more appropriate than ‘minimum rules’ in the areas covered by paragraph 2 (to make it clear that the article is not attempting to harmonise aspects of the criminal procedure of Member States, but rather to establish the minimum necessary to facilitate mutual recognition). It should also be clear that the introduction of minimum standards in any or all of the areas covered does not prevent Member States from requiring higher standards.

Given the sensitivity of the matters involved, and the diversity of Member States’ legal systems, unanimity is the appropriate decision-making procedure.