

AMENDMENT FORM

Suggestion for amendment of Article : III-271 (ex 234)

By Mr Hain

Status : Member

(a) OK.

(b) OK.

Add new additional paragraph:

A Member State may at any time make a declaration that only a court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice to give a preliminary ruling under this Article concerning the validity or interpretation of acts of the institutions of the Union based on Chapter IV of Part Three. This Article shall apply in accordance with any such declaration unless it is withdrawn by the Member State concerned.

Explanation (if any) :

This article resembles the amendment we submitted for the original Article 9 in Title X on an area of freedom, security and justice.

The additional paragraph would regulate the rules on preliminary rulings references. This would ensure that the Court of Justice had jurisdiction to give preliminary rulings in relation to Chapter IV of Title III. It would, however, give Member States flexibility to decide which arrangements for preliminary rulings fit best with their national judicial systems, maintaining the theme of respect for the diversity of legal systems and traditions which needs to run throughout the title. The UK is concerned that there would be a much greater number of preliminary rulings in asylum and immigration cases in particular, which the Court of Justice is not equipped to manage, if it was open to any court or tribunal to refer a case. The limitation currently found in Article 68(1) TEC in relation to immigration, asylum etc matters should remain available to Member States; this can act as an effective filter mechanism. Similarly, Member States should be free to choose which referral arrangements should apply in respect of the former Third Pillar.