

Working group V

Working document 6

Working Group V – Complementary Competences

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Complementary competences as part of EU competences

Paper for the Working Group on Complementary Competences

Contribution to a constitutional treaty

Title x Competences

Section I – General

Article A – Principles

- (I) The European Union shall have only such competences as are specifically assigned to it in this Constitutional Treaty. All other responsibilities shall continue to be vested in the Member States.
- (II) The competences of the European Union shall be exercised with due regard for the principle of subsidiarity and proportionality. The Community shall therefore take action only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States or the regions or in cross-border cooperation. Any action shall not go beyond what is necessary to achieve the objectives of this Treaty.

(III) Enforcement of EU law is a matter for the Member States. The possibility of initiating proceedings for failure to fulfil an obligation shall remain unaffected. In exceptional cases, individual decisions of the European Commission may be transferred to the area of Union responsibilities.

Article B – Categories of competences

European competences shall be:

- The responsibilities of the Union (Section II)
- Shared responsibilities (Section III)
- Complementary measures (Section IV)

I. Article C – Christophersen clause

The Union shall respect the national identities of its Member States, the constitutional and political structure, the regional and local responsibilities and the status of the churches and charity organisations.

Section II – Responsibilities of the Union

(...)

Section III – Shared responsibilities

(...)

Section IV – Complementary measures

Article A – Definition

In specific areas of responsibility of the Member States the Union may take complementary measures, excluding any harmonisation, to further the Member States' aims.

Article B – Areas

- (I) Complementary measures may be taken in the following areas:
- (a) Education
 - (b) Culture
 - (c) Health
 - (d) Consumer protection
 - (e) Industrial policy
 - (f) Research and development
 - (g) Employment
- (II) Where action is taken by the Union on the basis of other responsibilities, and the aims and emphasis of the measures fall within these areas, that action shall remain unaffected.
- (III) Complementary measures may also be taken in the area of shared responsibility.

Article C – Instruments

- (I) Complementary measures shall include support for
- cross-border cooperation or projects of Europe-wide significance
 - exchange of experience and benchmarking Europe-wide
 - voluntary cooperation

- (II) Support programmes shall require a legal basis, which shall be determined in accordance with the procedure laid down in Article ... (codecision procedure).

[Article may be deleted if there is an overall arrangement on instruments, as suggested in Title y.]

A. Article D – Education

(...)

Article B – Culture

(...)

Article C – Health

(...)

Article D – Consumer protection

(...)

Article E – Industrial policy

(...)

Article F – Research and development

(...)

Article G – Employment

(...)

(a) Title y – Instruments

Article A – Forms of action

- (I) The European Union shall act by means of harmonisation, mutual recognition, complementarity, support and cooperation.
- (a) In the case of harmonisation, the Union shall lay down standards by law.
 - (b) Mutual recognition shall empower the Union to oblige the Member States to recognise one another's laws and administrative acts.
 - (c) Complementarity shall enable Community solutions to be applied to cross-border aspects of the responsibilities of the Member States.
 - (d) Support shall permit financial assistance.
 - (e) Cooperation shall enable the Union to organise exchanges of information and experience and to compare performance.

2. Article B – Legal instruments

For the purposes of implementing the above forms of action, the Union shall have the following legal instruments at its disposal:

- (a) Legislative action
- (1) Regulations/Community laws shall have direct application. They shall be binding in their entirety and directly applicable in all Member States.
 - (2) Directive/framework provisions shall be binding, as to the result to be achieved, upon each Member State to which they are addressed, but shall leave to the national authorities the choice of form and methods.

(3) Recommendations and opinions shall have no binding force.

(b) Other action

(1) Programmes shall establish the conditions of implementation of Union support measures.

(2) Enforcement shall empower the Union itself to carry through its legislative aims and enact the administrative provisions required for the purpose.

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