

## AMENDMENT FORM

### Suggestion for amendment of Article 40, Part I of the Constitution

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#### **Article I-40: Specific provisions for implementing common defence policy**

1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capability drawing on assets civil and military. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.
2. The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty, and be compatible with the common security and defence policy established within that framework.

3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make those forces available to the common security and defence policy.

~~Member States shall undertake progressively to improve their military capabilities.~~ **Member States shall undertake to develop their capabilities with a view to contributing to the implementation of the common security and defence policy.** A European Armaments, Research and Military Capabilities Agency shall be established to identify operational requirements, to put forward measures to satisfy those requirements, to contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy, and to assist the Council in evaluating the improvement of military capabilities.

4. Decisions on the implementation of the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the Union's Minister for Foreign Affairs or from a Member State. The Minister for Foreign Affairs may propose the use of both national

resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to maintain the Union's values and serve its interests. The execution of such a task shall be governed by Article [...] of Part Three, Title B, of the Constitution.
  6. ~~Those Member States whose military capabilities meet higher criteria and which have made more binding commitments to one another in this area with a view to more demanding missions shall establish structured cooperation within the Union framework. Such cooperation shall be governed by the provisions of Article [...] of Part Three, Title B, of the Constitution.~~
  7. ~~Until such time as the European Council has acted in accordance with paragraph 2 of this Article, closer cooperation shall be established, in the Union framework, as regards mutual defence. Under this cooperation, if one of the Member States participating in such cooperation is the victim of armed aggression on its territory, the other participating States shall give it aid and assistance by all the means in their power, military or other, in accordance with Article 51 of the United Nations Charter. In the execution of closer cooperation on mutual defence, the participating Member States shall work in close cooperation with the North Atlantic Treaty Organisation. The detailed arrangements for participation in this cooperation and its operation, and the relevant decision-making procedures, are set out in Article [...] of Part Three, Title B, of the Constitution.~~
  8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common security and defence policy, and shall be kept informed of how it evolves.
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#### **Explanation (if any):**

Explanation 40(3): In our view, the development of the capabilities of the Member States needs to be linked to the implementation of Common Security and Defence policy.

Explanation 40(6): This Article does not build on the idea of a Union sharing a common security and defence policy. The proposed Euro-zone approach would not apply in the field of security policy. As far as crisis management is concerned, an institutionalised division of the ESDP would be detrimental to the future of the CFSP and ESDP. Security policy and crisis management actions of the Union should be inclusive in nature and open to all Member States. Such actions should enjoy maximal support of the Member States instead of becoming tasks for closed country groupings only. A smaller group of Member States could even under the current Treaty carry out a military operation with the support of the entire Union, since participation in EU-led operations is optional. It could also be possible to develop military capabilities among interested Member States, and, if need be, develop further mechanisms for this purpose. Any provisions leading to an institutionalised division of ESDP and the establishment of close groupings, would undermine rather than strengthen the security of the Union. However, if the development of the described functions will be decided upon, the conditions and procedures in the present Treaties on the enhanced co-operation shall apply.

Explanation 40 (7): We would prefer deletion of this Article. It is not necessary to establish closer co-operation in the field of defence. However, the provisions in the present Treaties on the number of participating Member States, openness and decision-making should be applied as a minimum standard.