

AMENDMENT FORM

Suggestion for amendment of Article I-9, para 2:

By **BROK, SZAJER, AKCAM, GIANNAKOU, VAN DER LINDEN, LAMAS-SOURE, BREJC, DEMETRIOU, FIGEL, LIEPINA, SANTER, KELAM, KROUPA, TAJANI, ALMEIDA GARRETT, KAUPPI, LENNMARKER, MAIJ-WEGGEN, RACK, VILEN**

on behalf of the EPP Convention Group

Status :

Suggestion

Article I-9: Fundamental principles

2. Under the principle of conferral, the Union shall act within the limits of the competences conferred upon it by ~~the Member States in the Constitution~~ to attain the objectives set out in the Constitution. Competences not conferred upon the Union in the Constitution remain with the Member States.
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Explanation:

- *Article I-9.2 now states that not the Constitution itself, but the Member States confer competences on the Union. Both politically and legally, this would represent a serious step backwards. Politically, because this Constitution has the ambition to have two sources of legitimacy – the Member States and the peoples/citizens of Europe; it would therefore give the wrong political signal to state that only the Member States would have attributed competences to the Union. Legally, in any constitutional system – including the current EC Treaty –, also those from which constitutional competences derive are ultimately subject to the Constitution itself and can only depart from it by making use of the amendment procedures explicitly provided for in the Constitution. In a “Union governed by the rule of law”, the Member States should therefore not be seen as a “second source” of authority next to the Constitution. Otherwise, they may one day decide to take away some competences from the Union without bothering to use the procedures provided in the Constitution. It is of utmost important for the respect for the law of the Union, and for the special nature of the Union itself, that its competences result from the Constitution, and from nowhere else (see the present Article 5(1) EC). The Member States (and citizens) as authority behind the Constitution should and must be mentioned in the preamble and in the ratifying clauses – but not in the Title on competences. They are also mentioned as “Masters of the Treaties” in Article I-1, first paragraph. It is therefore strongly recommended to go back to the original text of the Praesidium in this respect.*