

AMENDMENT FORM

Suggestion for amendment of Article : III-5

Part III of the Constitutional Treaty

By Ms. Dybkjær

Status : - Member X Alternate

<i>Article III-5</i>	<i>Amendment</i>
<p>1. Without prejudice to the other provisions of this Constitution and within the limits of the powers conferred by it upon the Union, a European Law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after consulting the European Parliament.</p> <p>2. By way of derogation from paragraph 1, the European law or framework law shall establish the Union's incentive measures, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States</p>	<p>1. Without prejudice to the other provisions of this Constitution and within the limits of the powers conferred by it upon the Union, a European law or framework law (delete: of the Council) may establish <i>appropriate actions</i> to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. (delete: The Council shall act unanimously after consulting the European Parliament.)</p> <p>2. (delete: By way of derogation from Paragraph 1,) The European law or framework law shall also establish the Union's incentive measures, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States</p> <p><i>3. With a view to ensuring full equality in practice, actions to combat discrimination shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for any disadvantages linked to any of the grounds referred to in paragraph 1.</i></p>

Explanation (if any) :

The amendment aims at reintroducing the wording of the article 13 TEC in paragraph one, as the proposal for article III-5 is more restrictive.

In addition the proposed change also, bearing in mind the expected enlargement of the Union, facilitates the easier adoption of legislation in the Council through Qualified Majority Voting and .gives the European Parliament a greater role through the co-decision procedure, so increasing the democratic legitimacy of adopted measures.

With the Treaty of Nice Member States had already decided to introduce qualified majority voting and co-decision for incentives measures mentioned in paragraph two.

Finally a new paragraph is introduced allowing for “positive actions”. Article 141(4) EC already provides for positive action designed to make it easier for the “under-represented sex to pursue a vocational activity or to prevent or compensate for the disadvantages in professional careers”. The other grounds covered by Article 13 EC similarly require a specific Treaty mandate providing for positive action. Article 13(3) EC follows the Framework Employment Directive by allowing Member States to continue to promote the interests of disabled persons. Without such a provision existing and new national measures targeted at disabled persons could fall foul of Community law. This is also consistent with article II-26 (Charter of fundamental rights).