

AMENDMENT FORM

Suggestion for amendment of Article : III-163

By Mr Hain

Status : Member

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to Combat, illegal immigration and ~~trafficking in human beings~~ facilitation of illegal entry and presence.

2(a) Okay

2(b) delete - see 2. bis

2(c) Okay

2 bis. A European law or framework law of the Council may establish measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States. The Council shall act unanimously after consulting the European Parliament.

3. The Union may conclude readmission agreements with third countries for the readmission of third-country nationals residing without authorisation to their countries of origin or ~~provenance~~ transit.

4. Okay

5. Measures adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing in the areas concerned national provisions which are compatible with this Treaty and with international agreements.

Explanation (if any) :

The use of facilitation of illegal entry is more appropriate as this refers to the cross border nature of the act.

Article 2(b) allows for decisions on all aspects of the rights of third country nationals including access to the labour market and social security – this is a considerable extension of the Union's competence from that in the current treaty. UK accepts that this legal base could be used for measures relating to the rights of third country nationals legally resident in one Member State who move to another Member State, provided that social security provision for third country nationals is still on the basis of unanimity. Our amendment is intended to make this clear.

We fully support the inclusion of provisions on transit as they are of fundamental importance if readmission agreements are to be fully effective. This has been recognised in the previous work of the Union in this area. It is not clear if provenance is intended to be the same but our amendment is simply intended to use more appropriate terminology.

UK's addition of paragraph 5 reintroduces language currently found at the end of Article 63 TEC. The Praesidium's commentary says that it is not necessary to repeat this principle which follows from the fact that the sector is defined as one of shared competence. We consider its retention essential until the full implications for JHA cooperation as a shared competence in Part 1 and the article on external agreements are known. See also UK comments on Article III-153.