

## AMENDMENT FORM

### Suggestion for amendment of Article 24 :

By Mr FARNLEITNER :

Status : - Member

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#### Article 24: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, **and in accordance with its provisions**, the Union shall use as legal instruments **acts**, ~~in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions~~ **legislative acts, non-legislative acts or non-binding acts.**

2. **Legislative acts are European laws and European framework laws.**

A European law shall be a legislative act having general application. It shall be binding in its entirety and directly applicable in all Member States.

A European framework law shall be a legislative act which shall be binding, as to the result to be achieved, ~~on the~~ **upon each Member State** ~~States~~ **State** to which it is addressed, but shall leave ~~to the national authorities entirely free to choose the form and means of achieving that result~~ **the choice of form and methods.**

3. **Non-legislative acts are European regulations, European directives, and European decisions.**

A European regulation shall be a non-legislative act having general application ~~for the implementation of legislative acts and of certain specific provisions of the Constitution.~~ It shall be binding in its entirety and directly applicable in all Member States.

**A European directive shall be a non-legislative act binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.**

A European decision shall be a non-legislative act, binding in its entirety A decision which specifies those to whom it is addressed shall be binding only on them.

4. **Non-binding acts are recommendations and opinions.**

Recommendations and opinions adopted by the institutions shall have no binding force.

5. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts ~~not provided for by the Constitution~~ **other than legislative acts.**
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#### **Explanation :**

For systematic reasons, Art. 24 should start off by giving in para. 1 a complete list of the different types of legal acts of the Union. In each of the subsequent separate paras. the legal acts falling under the different categories should be listed and defined. The non-binding acts should be distinguished from the legally-binding acts and should therefore be captured in a separate para.. We should avoid introducing the new term “legal instrument” in para. 1 and use “legal act” instead as in the title of the Article.

Since certain provisions of Part I of the constitution may allow the use of legal acts (e.g. Art. 16 of the draft Constitution) the specific reference in para. 1 to Part Two of the Constitution should be deleted.

For the sake of consistency and legal certainty, it is proposed not to deviate from formulations currently used in corresponding Treaty provisions. A cases in point is in para. 2 subpara. 2 the definition of the European framework law.

The definition of the European regulation in para. 3 subpara. 1 should only contain the general legal characteristics of this act. The different finalities that the European regulation can serve, and the different procedures under which the European regulation may be adopted, should the approach of the Praesidium be followed (as a “delegated act” in accordance with Art. 27 or as an “implementing act” in accordance with Art. 28), would be laid down in Art. 26. More detailed explanations will be given under my proposed amendments in Article 27.

The current form of directive with which certain provisions of the Treaty or of legislative acts are implemented should be maintained as a non-legislative act called “European directive” as introduced in para. 3 subpara 2.

The formulation proposed by the Praesidium in para. 5 that during the consideration of legislative proposals the adoption of acts not provided for in the Constitution is prohibited is a shortening of what is currently contained in the Rules of Procedure of the Council. The wording proposed by the Praesidium would in my view, however, not be far-reaching enough since it would also allow the adoption of e.g. recommendations provided for in this Article of the Constitution. This should be solved with the proposed rewording.