

AMENDMENT FORM

Suggestion for amendment of Article 24

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<u>TITLE V: EXERCISE OF UNION COMPETENCE</u>	<u>TITLE V: EXERCISE OF <i>COMMUNITY</i> COMPETENCE</u>
<u>Article 24: The legal acts of the Union</u> 1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions. 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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result. 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 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. Recommendations and opinions adopted by the institutions shall have no binding force. 2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.	<u>Article 24: The legal acts of the <i>Community</i></u> 1. In exercising the competences conferred on it in the <u>simplifying Treaty</u> , the <i>Community</i> shall use as legal instruments, in accordance with the provisions of Part Two, <u>European Community laws and European Community opinions</u> . A European <i>Community</i> law shall be a legislative act having general application. It shall be binding in its entirety and directly applicable in all Member States. <i>DELETE</i> <i>DELETE</i> <i>DELETE</i> <i>European Community</i> opinions adopted by the institutions shall have no binding force. 2. When considering proposals for <u>European Community laws or European Community opinions</u> , the European Parliament and the Council shall refrain from adopting acts not provided for by the <u>simplifying Treaty</u> .

Explanation: Restricting the available legal instruments to binding European Community laws and non-binding European Community opinions would improve accountability in the Community.

AMENDMENT FORM

Suggestion for amendment of Article : I-32

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel I-32: Die Rechtsakte der Union

(1) Die Union übt die ihr in der Verfassung übertragenen Zuständigkeiten gemäß den Bestimmungen in Teil III mittels folgender Rechtsakte aus: **Europäischer Organakt**, Europäisches Gesetz, Europäisches Rahmengesetz, Europäische Verordnung, Europäische ~~Beschluss~~ **Entscheidung**, Empfehlung und Stellungnahme.

Der Europäische Organakt ist ein Gesetzgebungsakt, der in allen seinen Teilen für die Organe der Union verbindlich ist.

Das Europäische Gesetz ist ein Gesetzgebungsakt mit allgemeiner Geltung. Es ist in allen seinen Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Das Europäische Rahmengesetz ist ein Gesetzgebungsakt *mit allgemeiner Geltung*, der für jeden Mitgliedstaat, an den es gerichtet ist, hinsichtlich des zu erreichenden Ziels verbindlich ist, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlässt.

Die Europäische Verordnung ist ein Rechtsakt mit allgemeiner Geltung ohne Gesetzescharakter; ~~sie dient der Durchführung der Gesetzgebungsakte und bestimmter Einzelvorschriften der Verfassung.~~ Sie kann entweder in allen ihren Teilen verbindlich sein und unmittelbar in jedem Mitgliedstaat gelten oder für jeden Mitgliedstaat, an den sie gerichtet ist, hinsichtlich des zu erreichenden Ziels verbindlich sein, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlassen.

~~Der~~ **Die** Europäische ~~Beschluss~~ **Entscheidung** ist ein Rechtsakt ohne Gesetzgebungscharakter, ~~der~~ **die** in allen ~~seinen~~ **ihren** Teilen verbindlich ist. Ist ~~er~~ **sie** an bestimmte Adressaten gerichtet, so ist ~~er~~ **sie** nur für diese verbindlich.

Empfehlungen und Stellungnahmen ~~der Organe~~ sind rechtlich nicht bindend.

(2) Werden das Europäische Parlament und der Rat mit einem Vorschlag für einen Gesetzgebungsakt befasst, so nehmen sie in dem betreffenden Bereich keine in diesem Artikel nicht vorgesehenen Handlungen vor.

(3) Die Europäischen Organakte müssen mit der Verfassung vereinbar sein. Die Europäischen Gesetze und Rahmengesetze müssen mit dieser Verfassung und den Europäischen Organakten vereinbar sein. Die Europäischen Verordnungen und Entscheidungen müssen mit dieser Verfassung und den Gesetzgebungsakten vereinbar sein.

Explanation (if any) :

Die Einführung des Organaktes ist sinnvoll und notwendig zur Regelung gerade solcher Einzelfragen,

- die so wesentlich sind, daß sie den einfachen Rechtsakten vorgehen sollten,
- die zu detailliert sind, um in der Verfassung geregelt zu werden und
- wegen ihrer Bedeutung oder wegen ihrer Außenwirkungen nicht dem Selbstorganisationsrecht des jeweiligen Organs oder der jeweiligen Institution überlassen werden können.

Der Organakt würde damit bestimmte Regelungen ersetzen und modifizieren können, die derzeit noch auf der Ebene der Verfassung angesiedelt sind und zu deren Änderung es des aufwendigen und schwerfälligen Vertragsänderungsverfahrens bedarf.

Vor allem im Bereich der institutionellen Regelungen (Aufgabe, Struktur und Arbeitsweise der Organe, Einrichtungen und Agenturen) werden bisher auf der Ebene der Verfassung einschließlich ihrer Protokolle eine Vielzahl von Einzelregelungen getroffen, die die Verfassung überfrachten und zu Unübersichtlichkeit führen. Kleinste Änderungen an der Satzung des EuGH, der Satzung des ESZB oder der Satzung der Europäischen Investitionsbank, die in Protokollen niedergelegt sind, haben das langwierige und schwerfällige Verfahren der Verfassungsänderung zu durchlaufen.

Die Satzung des EuGH, des ESZB oder andere derzeit auf Verfassungsebene geregelte institutionelle Bestimmungen könnten dagegen als Organakt fortbestehen und nach dem dafür einschlägigen Verfahren abgeändert werden. Damit könnten **juristisch heikle Änderungsbestimmungen, wie in Artikel III-76** für die ESZB-Satzung vorgesehen sind, entfallen.

AMENDMENT FORM

Suggestion for amendment of Article : I-32

By Ms: Danuta Hübner

Status : - Member

<u>Article I-32: The legal acts of the Union</u>	<u>Article I-32: The legal acts of the Union</u>
<p>1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Three, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.</p> <p>A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.</p> <p>A European framework law shall be a legislative act binding, as to the result to be achieved, on the Member States, but leaving the national authorities entirely free to choose the form and means of achieving that result.</p> <p>1) A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain specific provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as regards the result to be achieved, on all Member States to which it is addressed, but leaving the national authorities entirely free to choose the form and means of achieving that result.</p> <p>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.</p> <p>Recommendations and opinions adopted by the institutions shall have no binding force.</p>	<p>1. In exercising the competences conferred on it in the Constitution, the Union shall use as-legal binding and nonbinding instruments, in accordance with the provisions of Part Three, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.</p> <p>A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.</p> <p>A European framework law shall be a legislative act binding, as to the result to be achieved, on the Member States, but leaving the national authorities entirely free to choose the form and means of achieving that result.</p> <p>2) A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain specific provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as regards the result to be achieved, on all Member States to which it is addressed, but leaving the national authorities entirely free to choose the form and means of achieving that result.</p> <p>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.</p> <p>Recommendations and opinions adopted by the institutions shall have no binding</p>

<p>2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by this Article in the area in question.</p>	<p>force.</p> <p><u>1. Legal non-binding instruments are : recommendations and opinions.</u></p> <p>2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by this Article in the area in question.</p>
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Explanation (if any) : I propose to separate the acts with no binding force and to create another paragraph.

AMENDMENT FORM

Suggestion for amendment of Article :Article I-32°

By Mr : Ernâni Lopes and Manuel Lobo Antunes

Status : Member and Alternate

Article I- 32°:

~~2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by this Article in the area in question.~~

AMENDMENT FORM

Suggestion for amendment of Article : 32

By Ms / Mr : J. Kohout

Status : - Member

- 1) It should be avoided to give a double use to one kind of act (the European regulation). It is recommended rather to re-introduce the « directive ».
- 2) All the introduced acts are legislative acts in the Continental understanding. Avoid the term « non-legislative act » used by the European regulation and European decision in Art. 32 - 38.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : I-32

By Mr : Hain

Status : - Member -

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Three, European laws, European framework laws, European regulations, European [decisions], recommendations and opinions.

Sub-paragraphs 2-4: OK.

[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.]

Sub-paragraph 6: OK.

2. *See comment.*
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Explanation (if any) :

We will need to differentiate the kinds of instruments listed here from those applicable in CFSP, as part of ring-fencing CFSP.

1. *Sub-paragraph 1: Does this mean the distinction between Beschluss (sui generis) and Entscheidung (Art 249) decisions disappears within the context of a CFSP decision?*

Sub-paragraph 5: We will need to differentiate decisions from CFSP Decisions in order to differentiate CFSP instruments from other instruments.

2. *Will this prevent the use of atypical Acts and Council Conclusions, declarations and resolutions? We couldn't support such a loss of flexibility.*

AMENDMENT FORM

Suggestion for amendment of Article I - 32 :

By Mr FARNLEITNER :

Status : - Member

Article I-32: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Three, European laws, European framework laws, European regulations, **European directives**, European decisions, recommendations and opinions.

A European law shall be a legislative act of 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 binding, as to the result to be achieved, on the Member States to which it is addressed, but leaving the national authorities entirely free to choose the form and means of achieving that result.

A European regulation shall be a non-legislative act of general application ~~for the implementation of legislative acts and of certain specific provisions of the Constitution. It either shall be binding in its entirety and directly applicable in all Member States, or be binding, as regards the result to be achieved, on all Member States to which it is addressed, but leaving the national authorities entirely free to choose the form and means of achieving that result.~~

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.

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

2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by this Article in the area in question.

Explanation :

According to the proposals of the Presidium, “directives” as non legislative acts shall be suppressed. Instead, the European regulation shall have the function of a directly applicable act or of an act needing transposition into national law by the Member States.

This **double function** of the “European regulation” will lead to a **lack of transparency for the citizens and to less legal certainty**, as the name of an act in itself will not indicate any more whether it shall be directly applicable or not.

I therefore propose to keep the current form of directive with which certain provisions of the Treaty or of legislative acts are implemented as a non-legislative act called “European directive”.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24.^o - Titre

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

Article 24: Les instruments juridiques de l'Union

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 24.º - Epígrafe

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

Artigo 24.º Instrumentos jurídicos da União

Explication éventuelle :

FICHA DE ALTERAÇÃO

Proposta de Alteração ao Artigo 24.º

Apresentada pelos Deputados Alberto Costa e Guilherme d'Oliveira Martins

Na qualidade de Membro Efectivo e Membro Suplente

Artigo 24.º

1. No exercício das competências (....)

A lei europeia (....)

A lei-quadro europeia (....)

O regulamento europeu é um acto não legislativo de carácter geral destinado a dar execução aos actos legislativos e aos actos não legislativos aprovados nos termos da Constituição ~~a certas disposições específicas da Constituição~~. É obrigatório em todos os seus elementos e directamente aplicável em todos os Estados-Membros.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24

Déposée par Monsieur : Alberto Costa / Guilherme d'Oliveira Martins

Qualité : Membre Effective / Suppléant

Article 24

1. Dans l'exercice des compétences (....)

La loi européenne (....)

La loi-cadre européenne (....)

Le règlement européen est un acte non législatif de portée générale pour la mise en œuvre des actes législatifs et des actes non législatifs adoptés en vertu de la Constitution~~de certaines dispositions spécifiques de la Constitution~~. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 24.º, n.1, §4

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

O regulamento europeu é um acto (1 palavra suprimida) legislativo **ou não, conforme os casos,** (3 palavras suprimidas) destinado **a completar e a alterar ou** a dar execução aos actos legislativos e a certas disposições específicas **do Tratado**. É obrigatório em todos os seus elementos e directamente aplicável em todos os Estados-Membros. **É um acto legislativo no primeiro caso e executivo no segundo.**

Explication éventuelle :

É o próprio "comentário técnico" ao acto delegado que reconhece que o legislador europeu, através do mecanismo da avocação ("call back"), tem "a garantia de algum modo recuperar a sua competência legislativa" (e não executiva). A distinção entre actos legislativos delegados e actos de execução é assim absolutamente necessária.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24, n°1, §4

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

Le règlement européen est, selon les cas, un acte (*1 mot supprimé*) législatif ou non, pour compléter et modifier ou pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques du traité. Il est obligatoire dans tous ses éléments et directement applicable dans tout Etat membre. Il est un acte législatif dans le premier cas et un acte d'exécution dans le deuxième.

Explication éventuelle :

Dans le « commentaire technique » sur l'acte délégué, il est reconnu que le législateur européen a « la garantie de pouvoir récupérer en quelque sorte son pouvoir de légiférer » (et non d'exécution), à travers le mécanisme de "call back". La distinction entre les actes délégués et les actes d'exécution est absolument nécessaire.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 24.º, n.1, §5

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

A decisão europeia é um acto não legislativo obrigatório em todos os seus elementos para os destinatários que designar. (8 palavras suprimidas)

Explication éventuelle :

O pretendido alargamento desta definição para abranger os instrumentos jurídicos da PESC ("acção comum" e "posição comum") é prematuro. Retoma-se portanto a definição (actualizada) do Artigo 249.º do TCE.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24.º, nº1, §1

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

1. Dans l'exercice des compétences qui lui sont attribuées dans **le traité**, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, la loi européenne, la loi-cadre européenne, le règlement européen, la décision européenne, les recommandations et les avis.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24, n°1, §5

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

La décision européenne est un acte non législatif qui est obligatoire dans tous ses éléments ***pour les*** destinataires ***qu'elle désigne***.

Explication éventuelle :

L'extension de cette définition ayant comme but d'intégrer les instruments juridiques de la PESC (« action commune » et « position commune ») est prématuré. On reprend donc la définition actualisée de l'article 249° du TCE.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24.^o - Titre

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

Article 24: Les instruments juridiques de l'Union

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24

Déposée par Messieurs Olivier Duhamel, Andrew Duff, Alain Lamassoure, Luis Marinho

Qualité : Titulaires
Madame Pervenche Berès
Suppléante

Article 24: Les actes juridiques de l'Union

1. Dans l'exercice des compétences qui lui sont attribuées dans la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, la loi européenne, la loi-cadre européenne, le règlement européen, la décision européenne, les recommandations et les avis.

La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au résultat à atteindre **dans un délai imparti**, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.

Lorsque la loi-cadre européenne pose des règles minimales notamment en matière de qualité de la vie, d'égalité et de promotion des droits, elle n'empêche pas un Etat membre de conserver ou d'établir des mesures plus protectrices, compatibles avec la présente Constitution.

Le règlement européen est un acte non législatif de portée générale pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques de la Constitution. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La décision européenne est un acte non législatif qui est obligatoire dans tous ses éléments. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci.

Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.

Justification : *Il est important pour les citoyens de l'Union de savoir que l'existence de règles générales communes n'empêchent pas les Etats membres de maintenir ou de conserver des standards de protection plus élevés.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24

Déposée par : M. Louis **Michel**, M. Karel **de Gucht**, M. Elio **di Rupo**, Mme Anne **Van Lancker**, membres de la Convention et M. Pierre **Chevalier** et Mme Marie **Nagy**, membres suppléants de la Convention

1. Dans l'exercice des compétences qui lui sont attribuées dans la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie **III**¹, **les lois organiques européennes**, les lois européennes, les lois-cadres européennes, les règlements **délégés** européens, les décisions européennes, les recommandations et les avis.

La loi organique européenne régit l'organisation institutionnelle et le fonctionnement de l'Union dans les cas prévus par la Constitution

La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au résultat à atteindre, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.

Le règlement **délégué** européen est un acte non législatif de portée générale **qui complète ou qui modifie certains éléments non essentiels de la loi organique, de la loi ou de la loi- cadre européenne**. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La décision européenne est un acte non législatif qui met en œuvre des actes législatifs ou des règlements délégués européens et certaines dispositions spécifiques de la Constitution. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci.

¹ Dès lors que la Charte doit être intégrée dans la partie II

Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.

2. Pas d'amendement

Explication éventuelle :

Paragraphe 1^{er} :

- Il y a lieu de prévoir un instrument supplémentaire – la loi organique- pour l'adoption de certaines décisions spécifiques portant sur l'organisation institutionnelle et le fonctionnement de l'Union.
- Il faut se féliciter de la hiérarchie des normes établie par l'article 24. Le système n'est cependant pas parfaitement lisible dans la distinction qu'il établit entre les règlements européens délégués et les règlements européens d'exécution. Pour rendre le texte transparent – un des objectifs de la Constitution – l'on pourrait faire l'économie des règlements européens d'exécution et ne mentionner parmi les actes d'exécution que la décision d'exécution qui peut être de portée générale ou non. Il y aurait donc d'une part les règlements délégués européens et d'autres part les décisions européennes.

Les articles suivants du texte ont été modifiés en tenant compte de la simplification ainsi opérée.

Observation supplémentaire

La proposition du Praesidium ne couvre pas la « méthode de coordination ouverte ». Si cette omission peut éventuellement se justifier au motif que cette méthode de coordination apparaît davantage – ainsi que son nom l'indique – comme une méthode que comme un instrument, cette omission ne saurait être comprise comme une renonciation à inscrire cette méthode dans la Constitution. Il a à cet égard été pris note de ce que le Praesidium présentera un texte sur la méthode de coordination lors de la session plénière de la Convention des 3 et 4 avril. La question de la définition de cette méthode et celle de sa place dans la structure de la Constitution devront de toute évidence être examinées à cette occasion.

AMENDMENT FORM

Suggestion for amendment of Article : 24

By Ms / Mr : J. Kohout

Status : ☒ - Member - Alternate

Art. 24.1: Delete mentioning of the implementation of „certain specific provisions of the Constitution“ by European regulation.

Remove (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“

Art. 24.2: systematically could be shifted in Art. 25

Explanation (if any) :

The implementation is mentioned by the European regulation only but all legal acts of the Union will serve to this purpose.

European regulations will not only be used for implementing acts under Art. 28, but for „supplementing and amending“ them under Art. 27, too; the description of the function of a European regulation could be deleted (there is no one similar clause in the definitions of other acts).

AMENDMENT FORM

Suggestion for amendment of Article : 24 : para 1.3

Suggestion for protocol :

By Mr : Emilio GABAGLIO

Status : Observer

Article 24, para 1.3

Delete at the end « entirely free »

Explanation (if any) :

Changing the existing provision would undermine the role of the ECJ in hearing cases related to inconsistency of national implementation of EU legislation.

ECJ jurisprudence in the social field proves the worthiness of this role.

AMENDMENT FORM

Suggestion for amendment of Article 24

By: Edmund Wittbrodt,

Marta Fogler

Status: Member,

Alternate Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
<u>Article 24: The legal acts of the Union</u> 1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions. 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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result. 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	<u>Article 24: The legal acts of the Union</u> 1. In exercising the competences conferred on it in the Constitution, the Union shall use legal binding and non-binding instruments. 2. Legal binding instruments are: European laws, European framework laws, European regulations and European decisions. 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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result. 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

<p>entirety and directly applicable in all Member States.</p> <p>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.</p> <p>Recommendations and opinions adopted by the institutions shall have no binding force.</p> <p>2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.</p>	<p>entirety and directly applicable in all Member States.</p> <p>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.</p> <p>3. Legal non-binding instruments are: recommendations and opinions.</p> <p>3. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.</p> <p>Article 24 bis (new) : The following articles shall establish democratic, public and transparent procedures for implementing the competences of the Union.</p>
<p>Explanation:</p> <p>1. Above dealing will better clarify the Union's instruments</p> <p>2. New article 24bis follows the EPP proposal.</p>	

AMENDMENT FORM

Suggestion for amendment of Article: 24

By :

Mr Tunne Kelam (member)

Mrs Liia Hänni (alternate)

Mr Ülo Tärno (alternate)

Article 24: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use as **binding** legal instruments, ~~in accordance with the provisions of Part Two,:~~

- European **Union** laws;
- European **Union** framework laws;
- European **Union** regulations;
- European **Union** decisions.

A **Union** ~~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 **Union** ~~European~~ framework law shall be a legislative act which shall be binding, as to the result to be achieved, on the member states to which it is addressed, but shall leave the national authorities ~~entirely~~ free to choose the form and means of achieving that result.

A **Union** ~~European~~ regulation shall be an ~~non-legislative~~ **implementing** act having general application, **adopted on the basis for the implementation** of legislative acts ~~and or~~ of certain specific provisions of the Constitution. It shall be binding in its entirety and directly applicable in all member states.

A **Union** ~~European~~ decision shall be an ~~non-legislative~~ **implementing** act, binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them. **Specific provisions shall apply in the cases referred to in Article 29 [CFSP].**

2. Recommendations and opinions adopted by the institutions shall have no binding force.
32. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.

Explanation:

1. **Names of legal acts.**

The Working group on simplification proposed that the EU legal acts should be called “European Union laws”, “European Union framework laws” etc., because these names are

more precise and because European Union does not include all European states. The proposal of WG IX should be respected.

Using the full names of Union acts throughout Articles 24 to 33 (and the Constitution) involves too much repetition and is not necessary for introducing the new names of Union acts in the everyday vocabulary in the Union. Therefore, it is proposed that the full names would only be used in Article 24, first sentence. In addition, if so decided, Article 33 could include a provision, which indicates the formal names of the Union acts, as they appear on those acts when they are published.

2. The classification of Union acts.

We agree with the reform of control mechanisms proposed by WG IX and the praesidium (introduction of call back and simplification of comitology procedures). However, the presentation of this new system is currently geared towards lawyers and technocrats, not ordinary citizens of the Union. The citizens mainly want to know what is the legal effect of different acts, who has adopted them and on what basis. The distinction between Union legislative acts and implementing acts is sufficient from this perspective. The difference in control mechanisms does not justify creating an additional “in-between” category of acts, which blurs the basic distinction between legislative and implementing acts and is unknown for many citizens of the Union.¹

We are aware that the Convention has to make a choice of principle between two competing proposals for a future system of Union acts, neither of which is perfect. In making this choice, we are convinced that the overriding concern of the Convention should be the quest for simplicity and easy understanding by the citizens. The debates between constitutional lawyers concerning the nuances should recede in the face of that overall concern.

(For further details concerning an alternative proposal, see our amendments to Articles 25-28.)

¹ In this context, firstly, we are not convinced by the argument that the principle of national implementation makes it inevitable that the term “implementing acts” should be avoided at the Union level as much as possible and the category of delegated acts created instead. The priority of member states’ intervention (the principle of executive federalism) is mainly a question of division of competencies between the EU and the member states (see further under Article 28). In Articles 24-33 the Constitution should take the necessity of EU intervention as given and deal only with the EU level acts and the relations between them. In this context the use of the term implementation – as currently – would mainly refer to the relationship between the Union legislative acts and the Union acts adopted on their basis.

Secondly, we are also not convinced that the exact nature of control mechanisms, and most notably the introduction of a call back mechanism, should dictate a change in the general classification of Union acts. While it is true that the notion of “delegated legislation” would reassure those who would like a justification for the control by the legislator, it is equally true that the same term would alert those who do not like the idea that the executive (the Commission) could adopt acts, which should normally be adopted by the legislature. On balance, the quest for simplicity should prevail.

Finally, while it has been necessary to justify the intervention of national civil servants in the Commission decision-making under the present comitology system, this concern is likely to be less relevant in the future, given that the introduction of call back mechanism will in any case significantly reduce the role of national civil servants in the framework of simplified comitology procedures.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 24 (1er paragraphe)

Déposée par Monsieur : Alain Lamassoure

Qualité : Membre

Article 24: Les actes juridiques de l'Union

1. Dans l'exercice des compétences qui lui sont attribuées dans la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, la loi européenne, la loi-cadre européenne, le règlement européen, la décision européenne, les recommandations et les avis.

La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au résultat à atteindre ***et aux délais à respecter***, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.

Le règlement européen est un acte non législatif de portée générale pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques de la Constitution. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La décision européenne est un acte non législatif qui est obligatoire dans tous ses éléments. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci.

Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.

2. Lorsqu'ils sont saisis d'une proposition d'acte législatif, le Parlement européen et le Conseil s'abstiennent d'adopter des actes non prévus par la Constitution.

Explication : *l'expérience montre que certains Etats membres ont un retard permanent et grave dans la transposition des textes communautaires. La simple obligation de « loyauté » introduite plus haut ne suffit pas.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 24.º - Epígrafe

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

Artigo 24.º Instrumentos jurídicos da União

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 24(1), fifth paragraph

Suggestion for protocol :

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members

Recommendations ~~and opinions~~ adopted by the institutions shall have no binding force and shall not contain provisions which should be implemented through other legal instruments.”

Explanation (if any) : In order to further simplify the instruments and given the similarities between them, there is no need to maintain the difference between recommendations and opinions. Furthermore, it must be made very clear that recommendations are non-binding.

AMENDMENT FORM

Suggestion for amendment of Article : 24(1), fourth paragraph

Suggestion for protocol :

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members

~~“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 regulation shall be a non legislative act having general application. It may take one of two forms: either it shall be binding in its entirety and directly applicable in all Member States, or it shall be binding, as to the result to be achieved upon each Member State to which it is addressed, but shall leave the national authorities entirely free to choose form and means of achieving that result.”

Explanation (if any) : It is important that the European regulation can take the form of a directive. This instrument is most suitable for the implementation of framework laws.

AMENDMENT FORM

Suggestion for amendment of Article : 24(2)

Suggestion for protocol :

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members

~~“When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.”~~

Explanation (if any) : This article does not belong in a Constitution. It should remain in the Rules of Procedure of the Council.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 24.º, n.1, §1

Proposition d'amendement au protocole:

Déposée par Monsieur Luís Queiró

Qualité : Suppléant

1. No exercício das competências que lhe são atribuídas **no Tratado**, a União utiliza como instrumentos jurídicos, em conformidade com o disposto na Parte II, a lei europeia, a lei--quadro europeia, o regulamento europeu, a decisão europeia, as recomendações e os pareceres.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 24(1), sixth paragraph

Suggestion for protocol :

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members

”Recommendations ~~and opinions~~ adopted by the institutions shall have no binding force and shall not contain provisions which should be implemented through other legal instruments.”

Explanation (if any) : In order to further simplify the instruments and given the similarities between them, there is no need to maintain the difference between recommendations and opinions. Furthermore, it must be made very clear that recommendations are non-binding.

FICHE AMENDEMENT

Proposition d'amendement à l'Article :

Déposée par M. Pierre LEQUILLER, Membre

Article 24

PROJET DU PRAESIDIUM	AMENDEMENTS DE M. PIERRE LEQUILLER
<p>Article 24: Les actes juridiques de l'Union</p> <p>1. Dans l'exercice des compétences qui lui sont attribuées dans la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, la loi européenne, la loi-cadre européenne, le règlement européen, la décision européenne, les recommandations et les avis.</p> <p>La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.</p> <p>La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au Résultat à atteindre, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.</p> <p>Le règlement européen est un acte non législatif de portée générale pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques de la Constitution. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.</p> <p>La décision européenne est un acte non législatif qui est obligatoire dans tous ses éléments. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci. Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.</p> <p>2. Lorsqu'ils sont saisis d'une proposition d'acte législatif, le Parlement européen et le Conseil s'abstiennent d'adopter des actes non prévus par la Constitution.</p>	<p>Article 24: Les actes juridiques de l'Union</p> <p>1. Dans l'exercice des compétences qui lui sont attribuées dans la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, <u>la loi organique européenne, la loi-cadre européenne, la loi européenne,</u> le règlement européen, la décision européenne, les recommandations et les avis. <u>La loi organique européenne est un acte législatif qui établit les dispositions nécessaires au bon fonctionnement institutionnel de l'Union.</u></p> <p>La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au Résultat à atteindre, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.</p> <p>La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.</p> <p>Le règlement européen est un acte non législatif <u>exécutif</u> de portée générale pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques de la Constitution. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.</p> <p>La décision européenne est un acte non législatif <u>exécutif</u> qui est obligatoire dans tous ses éléments. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci. Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.</p> <p>2. Lorsqu'ils sont saisis d'une proposition d'acte législatif, le Parlement européen et le Conseil s'abstiennent d'adopter des actes non prévus par la Constitution.</p>

	<div data-bbox="804 259 975 293" data-label="Section-Header"> <p>Justification :</p> </div> <div data-bbox="804 329 1407 763" data-label="Text"> <p><i>L'introduction d'une nouvelle catégorie de « lois organiques européennes » vise à permettre l'adoption de dispositions relatives au fonctionnement institutionnel de l'Union sans recourir à la règle de l'unanimité. Dans l'ordre juridique communautaire, ces lois organiques sont infra-constitutionnelles, mais supralégislatives, ce qui les soumet à une procédure d'adoption spécifique faisant notamment intervenir le Conseil européen et prévoyant le recours à une majorité qualifiée renforcée tant au Parlement européen qu'au Conseil des ministres.</i></p> </div> <div data-bbox="804 799 1407 1032" data-label="Text"> <p><i>Les règlements et les décisions européennes sont qualifiés d'actes exécutifs, de préférence à la dénomination d'actes « non législatifs ». Il est en effet préférable de définir positivement ces actes dont la nature est par essence exécutive, ce qui les distingue des lois organiques, des lois cadres et de lois européennes.</i></p> </div>
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AMENDMENT FORM

Suggestion for amendment of Article : 24

By Mr : Fischer

Status : - Member

Artikel 24: Die Rechtsakte der Union

(1) Die Union übt die Zuständigkeiten, die ihr in der Verfassung übertragen werden, gemäß den Bestimmungen des Teils II im Wege der folgenden Rechtsakte aus: europäisches Gesetz, europäisches Rahmengesetz, europäische Verordnung, europäische Entscheidung, Empfehlungen und Stellungnahmen.

Das europäische Gesetz ist ein ~~allgemein-gültiger~~ Gesetzgebungsakt mit allgemeiner Geltung. Es ist in allen seinen Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Das europäische Rahmengesetz ist ein Gesetzgebungsakt, der für jeden Mitgliedstaat, an den es gerichtet wird, hinsichtlich des zu erreichenden Ziels verbindlich ist, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlässt.

Die europäische Verordnung ist eine ~~allgemein-gültiger~~ Rechts~~normakt~~ mit allgemeiner Geltung ohne Gesetzgebungscharakter; sie dient der näheren Ausführung oder Änderung bestimmter nicht wesentlicher Vorschriften eines Gesetzgebungsaktes oder der Durchführung der Gesetzgebungsakte und bestimmter Einzelschriften der Verfassung.-Sie ist in allen ihren Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat. Wenn sie der näheren Ausführung oder Änderung bestimmter nicht wesentlicher Vorschriften eines Rahmengesetzes dient, ist sie für jeden Mitgliedstaat, an den sie gerichtet ist, hinsichtlich des zu erreichenden Ziels verbindlich, überlässt jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel.

Die europäische Entscheidung ist ein Rechtsakt ohne Gesetz~~es~~gebungscharakter, der in allen seinen Teilen verbindlich ist. Ist sie an bestimmte Adressaten gerichtet, so ist sie nur für diese verbindlich.

Die Empfehlungen und die Stellungnahmen, die von den Organen angenommen werden, sind rechtlich nicht bindend.

(2) Werden das Europäische Parlament und der Rat mit einem Vorschlag für einen Gesetzgebungsakt befasst, so nehmen sie davon Abstand, in Formen und Akten zu handeln~~In Rechtsakte anzunehmen~~, die in der Verfassung nicht vorgesehen sind.

Explanation:

Absatz 1 Unterabsatz 2: Sprachliche Korrektur (auch mit Bezug auf Artikel 249 EGV).

Absatz 1 Unterabsatz 4 (Streichung von "ohne Gesetzgebungscharakter"): Eine Europäische Verordnung ist zwar kein Gesetz im formellen, aber im materiellen Sinne.

Absatz 1 Unterabsatz 4: Die weitere Präzisierung ist notwendig. Delegierte Verordnungen dürfen keine unmittelbare Wirkung in den Mitgliedstaaten entfalten, wenn sie sich auf ein Rahmengesetz stützen. Sie müssen dann den innerstaatlichen Stellen die Wahl der Form und der Mittel überlassen.

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FICHE AMENDEMENT

Proposition d'amendement à l'Article 24

Déposée par Monsieur Ben Fayot (Chambre des Députés, Luxembourg)

Qualité : - Membre

1. Dans l'exercice des compétences qui lui sont attribuées ~~dans~~ **par** la Constitution, l'Union....
2. (biffer ce paragraphe)

Explication éventuelle :

1. Il convient d'uniformiser l'emploi de la préposition **par** suivant l'usage introduit dans l'article 8.2 sur les principes fondamentaux des compétences.
2. Cette disposition inscrite dans la Constitution peut, dans certains cas, bloquer toute initiative non législative. On sait que dans certains cas la législation européenne peut mettre des années (p.ex. sur la société européenne) à être adoptée. Il doit rester possible de procéder à des aménagements concrets ou à rechercher des accords entre Etats membres.

AMENDMENT FORM

Suggestion for amendment of Article 24

By: Mr J. CHABERT
Mr M. DAMMEYER
Mr P. DEWAELE
Ms C. du GRANRUT
Mr C. MARTINI
Mr R. VALCARCEL SISO

Status :- **Member** - ~~Alternate~~ — - **Observer**

A European framework law shall be a legislative act which shall be binding, as to the result to be achieved, on the Member States to which it is addressed, but shall leave the national or regional authorities entirely free to choose the form and means of achieving that result, in accordance with the provisions of each Member State's constitution.

Add the following text:

"3. In cases provided for by the Constitution, a protocol may stipulate the terms of its application. The protocol shall be adopted and amended in accordance with the procedure for amendments to Part II of the Constitution."

Reason

Although the text uses the wording of the ECT Article 249, 3rd paragraph, this wording dates from the Treaty of Rome and takes no account of the division of powers within many of the Member States; it gives citizens the false impression that national authorities can choose on a case-by-case basis whether or not to delegate legislative power to a regional authority, whereas it is in application of the Constitution that the national authority or, alternatively, the regional authority will be required to transpose a framework law.

New text

"To avoid further proliferation of protocols, the Constitution should limit their number by anticipating them. The Convention should decide on the procedure applying to protocols once the general procedure for amending the Constitution has been determined."

FICHE AMENDEMENT

Proposition d'amendement à l'Article :24

Proposition d'amendement au protocole:

Déposée par Messieurs Ernâni Lopes et Manuel Lobo Antunes

Qualité : - Membre et suppléant.

- Titre V :~~L'exercice des compétences de l'Union~~ **Les actes juridiques de l'Union**

- suppression du paragraphe 2

Explication :

-paragraphe 2 : il s'agit d'une disposition ayant trait au fonctionnement interne du Conseil, qui devra continuer à relever de son Règlement Intérieur.

AMENDMENT FORM

Suggestion for amendment of Article : 24

~~Suggestion for protocol :~~

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member ~~Alternate~~

~~Artikel 24: Die Rechtsakte der Union~~

Artikel 24: Die Rechtsinstrumente der Union

(1) Die Union übt die *ihre* Zuständigkeiten, ~~die ihr in der Verfassung übertragen werden~~, gemäß den Bestimmungen des Teils II im Wege der folgenden ~~Rechtsakte~~ **Rechtsinstrumente** aus: *europäische Organakte*, europäisches Gesetz, europäisches Rahmengesetz, europäische Verordnungen, europäische Entscheidungen, Empfehlungen und Stellungnahmen.

Der europäische Organakt ist ein Gesetzgebungsakt, der in allen seinen Teilen für die Organe der Union verbindlich ist.

Das europäische Gesetz ist ein allgemein gültiger Gesetzgebungsakt. Es ist in allen seinen Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Das europäische Rahmengesetz ist ein **allgemein gültiger** Gesetzgebungsakt, der für jeden Mitgliedstaat, an den es *er* gerichtet wird, hinsichtlich des zu erreichenden Ziels verbindlich ist, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlässt.

Die europäische Verordnung ist ein allgemein gültiger Rechtsakt ohne Gesetzgebungscharakter; ~~sie dient der Durchführung der Gesetzgebungsakte und bestimmter Einzelvorschriften der Verfassung.~~ Sie ist in allen ihren Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Die europäische Entscheidung ist ein Rechtsakt ohne Gesetzgebungscharakter, der in allen seinen Teilen verbindlich ist. Ist sie an bestimmte Adressaten gerichtet, so ist sie nur für diese verbindlich.

Die Empfehlungen und die Stellungnahmen, ~~die von den Organen angenommen werden,~~ sind rechtlich nicht ~~bindend~~ **verbindlich**.

~~(2) Werden das Europäische Parlament und der Rat mit einem Vorschlag für einen Gesetzgebungsakt befasst, so nehmen sie davon Abstand, Rechtsakte anzunehmen, die in der Verfassung nicht vorgesehen sind.~~

(2) Die Organakte müssen mit dieser Verfassung vereinbar sein. Die Gesetze und Rahmengesetze müssen mit dieser Verfassung und den Organakten vereinbar sein. Die Verordnungen und Entscheidungen müssen mit dieser Verfassung und den Gesetzgebungsakten vereinbar sein.

Explanation (if any) :

Titel:

Der Titel ("legal acts" bzw. "actes juridiques") steht im Widerspruch zum Wortlaut des Absatz 1 Unterabsatz 1, wo von "legal instruments" bzw. "instruments juridiques" gesprochen wird. Art. 24 definiert alle Rechtsinstrumente ("legal instruments") und gerade nicht nur die Rechtsakte ("acts").

Absatz 1 Unterabsatz 1:

Dass die Union nur solche Zuständigkeiten besitzt, die ihr durch die Verfassung übertragen worden sind, ist in Art. 8 Abs. 1 ausdrücklich klargestellt und muss nicht ständig wiederholt werden.

Die Ersetzung des Wortes "Rechtsakte" durch "Rechtsinstrumente" betrifft die deutsche Übersetzung. "Legal instruments" kann nicht mit "Rechtsakte" übersetzt werden, da dieser Begriff verfassungsrechtlich durch "acts" besetzt ist. "Legal instruments" und "acts" sind aber nicht identisch; letztere umfassen definitionsgemäß nur Gesetze, Rahmengesetze, Verordnungen und Entscheidungen.

Absatz 1 Unterabsatz 2:

Als neue Kategorie von Rechtsinstrumenten sollte der "Organakt" eingeführt werden. Viele institutionelle Regelungen sind zu detailliert, als dass sie in die Verfassung gehörten. Dennoch sollten sie beim Erlass von Gesetzen, Rahmengesetzen, Verordnungen und Entscheidungen zu beachten sein. Zudem müssen auch diese Regelungen in einem transparenten Verfahren erlassen werden.

Es handelt sich hierbei zum Beispiel um die in Art. 28 vorgesehenen Grundsätze und Regeln der Übertragung von Durchführungsbefugnissen, um Organisationsakte zur Schaffung von Einrichtungen und um Angelegenheiten, die derzeit in einer Vielzahl von interinstitutionellen Vereinbarungen "versteckt" sind.

Ein Organakt ist in der Regel allgemeiner Natur, kann aber auch konkreter oder individueller Natur sein.

Absatz 1 Unterabsatz 4:

Der Änderungsvorschlag greift die Rechtsprechung des Gerichtshofs zur Abgrenzung zwischen Richtlinien und Entscheidungen, die an Mitgliedstaaten gerichtet sind, auf [vgl. *EuGH*, Rs. C-298/89, Slg. 1993, I-3605, Rn. 15 ff.]. Diese Abgrenzung wurde aus dem bisherigen Wortlaut des

Art. 249 Abs. 3 EGV nicht deutlich, kann aber gerade im Hinblick auf Art. 230 Abs. 4 EGV entscheidend für den zu wählenden Rechtsweg sein.

Absatz 1 Unterabsatz 5:

Die Aussage zur Durchführungsfunktion von Verordnungen ist bereits in Art. 28 Abs. 2 bis 4 enthalten.

Absatz 1 Unterabsatz 6:

Der Änderungsvorschlag greift die Formulierung aus Art. 249 Abs. 5 EGV auf. Der Präsidiumsvorschlag stellt demgegenüber keine Verbesserung dar. Auch Empfehlungen und Stellungnahmen, die nicht von den Organen angenommen worden sind, sind rechtlich nicht verbindlich. Umgekehrt sind auch Gesetze, Rahmengesetze und Verordnungen nur dann verbindlich, wenn sie von den Organen angenommen werden.

Absatz 2 (alt):

Diese Bestimmung ist Ausdruck eines allgemeinen Grundsatzes, der für alle Rechtsakte der Union und alle Organe gilt, und gehört dementsprechend in Art. 32 "Gemeinsame Grundsätze für die Rechtsakte der Union".

Absatz 2 (neu):

Eine der Zielstellungen des Konvents ist es, in die Rechtsordnung der Union eine klare Hierarchie der Rechtsnormen einzuführen.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24.2

Déposée par Madame et Monsieur : Maria Eduarda Azevedo / António Nazaré Pereira

Qualité : Membre Effective / Suppléant

Article 24.2

2. Lorsqu'ils sont saisis d'une proposition d'acte législatif, le Parlement Européen et le Conseil **ne peuvent que adopter** des actes prévus par la Constitution.

AMENDMENT FORM

Suggestion for amendment of Article : 24

By Mr : Gianfranco FINI

Status : - Member

1. Per l'esercizio delle competenze attribuitele dalla Costituzione **e in conformità delle disposizioni di questa**, l'Unione ~~utilizza come strumenti giuridici, in conformità delle disposizioni della parte II, la~~ **adotta** leggi europea, la leggi quadro europea, il regolamenti europeo, la decisioni europea, le raccomandazioni e i pareri.

La legge europea **dell'Unione** è un atto legislativo di portata generale. Essa è obbligatoria in tutti i suoi elementi e direttamente applicabile in ciascuno degli Stati membri.

La legge quadro ~~europea~~ **dell'Unione** è un atto legislativo che vincola lo Stato membro cui è rivolta per quanto riguarda il risultato da raggiungere, salva restando la competenza degli organi nazionali in merito alla scelta della forma e dei mezzi.

Il regolamento ~~europeo~~ **dell'Unione** è un atto non legislativo di portata generale volto all'attuazione degli atti legislativi e di talune disposizioni specifiche della Costituzione. Esso è obbligatorio in tutti i suoi elementi e direttamente applicabile in ciascuno degli Stati membri.

La decisione ~~europea~~ **dell'Unione** è un atto non legislativo obbligatorio in tutti i suoi elementi. Se designa dei destinatari, essa è obbligatoria soltanto nei confronti di questi.

Le raccomandazioni e i pareri ~~adottati dalle istituzioni non hanno effetto vincolante~~ **sono vincolanti.**

2. In presenza di proposte di atti legislativi, il Parlamento europeo e il Consiglio si astengono dall'adottare atti non previsti dalla Costituzione.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article: 25 Legislative Acts

By The Earl of Stockton MEP

Status : Alternate

Paragraph 2. DELETE

Explanation (if any) : The draft paragraph would compromise the co-decision procedure.

AMENDMENT FORM

Suggestion for amendment of Article 25:

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Göran Lennmarker and Mr Kenneth Kvist , national parliament representatives.

Status : - Member: Hjelm-Wallén, Lekberg and Lennmarker
- Alternate: Petersson and Kvist

Article 25: ~~Legislative acts~~ EU laws and EU framework laws¹

1. ~~European~~ EU laws and ~~European~~ EU framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council in accordance with the rules of the legislative procedure referred to in Article X (*Part Two of the Constitution*) **if not otherwise determined by specific provisions of Part Two of the Constitution.** ~~If the two institutions cannot reach agreement on an act, it shall not be adopted.~~²

Specific provisions shall apply in the cases referred to in Article Z (*ex-third pillar*).

2. In the specific cases provided for by the Constitution, ~~European~~ EU laws and ~~European~~ EU framework laws shall be adopted by the Council.
3. When acting under any procedure for the adoption of a ~~European~~ EU law or a ~~European~~ EU framework law, the European Parliament and the Council shall meet in public.³

¹ The distinction between 'legislative' and 'non-legislative' legal acts is unclear and confusing.

² Redundant.

³ See proposal for Article 32 paragraph 3 (new).

AMENDMENT FORM

Suggestion for amendment of Article: 24 The legal acts of the Union

By The Earl of Stockton MEP

Status : Alternate

1. Paragraph 3 DELETE

Paragraph 4 (NEW) A European Recommendation 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 except when explicitly specified.

Paragraph 5 DELETE

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 24

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Göran Lennmarker, Mr Kenneth Kvist and Mr Ingvar Svensson, national parliament representatives.

Status : - Member: Hjelm-Wallén, Lekberg and Lennmarker
- Alternate: Petersson, Kvist and Svensson

Article 24: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, ~~European~~ EU¹ laws, ~~European~~ EU framework laws, ~~European~~ EU regulations, ~~European~~ EU decisions, recommendations and opinions.

~~An European~~ EU law shall ~~be a legislative act having~~ have² general application. It shall be binding in its entirety and directly applicable in all Member States.

~~An European~~ EU framework law shall be ~~a legislative act which~~² binding, as to the result to be achieved, on the Member States to which it is addressed, but shall leave the national authorities ~~entirely~~³ free to choose the form and means of achieving that result.

~~An European~~ EU regulation shall ~~have be a non-legislative act having~~² general application for the implementation of ~~legislative acts~~ EU laws or EU framework laws and of certain specific provisions of the Constitution. It shall be binding in its entirety and directly applicable in all Member States.⁴

~~An European~~ EU decision shall be ~~a non-legislative act,~~² binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

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

2. When considering proposals for ~~legislative acts~~² EU laws and EU framework laws, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.

¹ WG IX proposed that the instruments should be called 'European Union laws' – 'EU laws' and 'European Union Framework laws' – 'EU framework laws' (CONV 424/02)

² The distinction between 'legislative' and 'non-legislative' legal acts is unclear and confusing.

³ The definition should correspond to that of the directive referred to in Article 249 EC.

⁴ It may be necessary to preserve a possibility for the Commission to adopt directives (See for example Article 86.3 EC).

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24

Déposée par Messieurs Santer, Helminger et Fayot (titulaires, Luxembourg) et Monsieur Schmit (suppléant, Luxembourg):

Article 24: Les actes juridiques de l'Union

1. Dans l'exercice des compétences qui lui sont attribuées ~~dans~~ par-la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, la loi européenne, la loi-cadre européenne, le règlement européen, la décision européenne, les recommandations et les avis.

La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au résultat à atteindre, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.

Le règlement européen est un acte non législatif de portée générale pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques de la Constitution. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

Le règlement-cadre européen est un acte non législatif que la Commission peut adopter en vertu de certains pouvoirs autonomes prévus dans la Constitution et qui lie tout État membre destinataire quant au résultat à atteindre, tout en laissant aux instances nationales la compétences quant au choix de la forme et des moyens.

La décision européenne est un acte non législatif qui est obligatoire dans tous ses éléments. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci.

Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.

- ~~2. Lorsqu'ils sont saisis d'une proposition d'acte législatif, le Parlement européen et le Conseil s'abstiennent d'adopter des actes non prévus par la Constitution.~~

Explication éventuelle :

ad 1.: Il convient d'uniformiser l'emploi de la préposition "par" suivant l'usage introduit dans l'article 8, paragraphe 2, sur les principes fondamentaux; celle-ci correspond d'ailleurs déjà à la formulation agréée dans le TCE qui dispose que "La Communauté agit dans les limites des

compétences qui lui sont conférées et des objectifs qui lui sont assignés par le présent traité".

Le traité prévoit actuellement l'adoption par la Commission de directives dans certains domaines en vertu de pouvoirs autonomes de celle-ci (cf. articles 86 ou 96 TCE). Le projet du Présidium limiterait le choix des instruments aux règlements; or, pour certaines questions la possibilité d'une transposition nationale ne devrait pas être exclue.

ad 2.: Dans le cadre de certaines procédures législatives, particulièrement difficiles, la possibilité pour le Conseil de marquer politiquement des avancées ou simplement des étapes ne devrait pas être exclue; de même, le Parlement européen pourrait éventuellement vouloir exprimer sa position par l'adoption d'un acte non prévu par la Constitution (par exemple une résolution).

AMENDMENT FORM

Suggestion for amendment of Article 24

By: Danuta Hübner, Jozef Oleksy, Genowefa Grabowska

Status: Member, Member, Alternate

Proposed Amendments

Article 24: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use legal binding and non-binding instruments.

2. Legal binding instruments are: European laws, European framework laws, European regulations and European decisions.

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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result.

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 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.

3. Legal non-binding instruments are: recommendations and opinions.

4. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.

Explanation:

1. We propose to separate the acts with no binding force and create another paragraph.

AMENDMENT FORM

Suggestion for amendment of Article : 24

By Mr Hain

Status : Member

Article 24: The legal acts of the Union

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

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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result.

~~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 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.

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

2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.

Explanation (if any) :

Article 24 (1) :

We delete the definition of European regulation as we do not think that there is a need to have a European regulation as a primary instrument. However, in this Article a definition of delegated regulations and implementing regulations, as referred to in Article 27 and 28, will need to be

provided. (We will submit language later).

Article 24 (2) :

Could it be clarified as to whether this is intended to prevent the use of atypical acts and Council conclusions, declarations and resolutions? We could not support such a loss of flexibility.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24

Proposition d'amendement au protocole:

Déposée par ~~Madame ou~~ Monsieur : Dominique de VILLEPIN

Qualité : - Membre - Suppléant

Article 24: Les actes juridiques de l'Union

(paragraphes 1 et 2 sans changement)

3. L'Union et ses Etats membres peuvent instaurer des mécanismes de coordination des politiques nationales sur des questions d'intérêt commun. Les modalités de cette coordination font l'objet de dispositions spécifiques à chaque domaine où elle s'applique

Explication éventuelle :

- le nouveau paragraphe proposé vise à intégrer la méthode ouverte de coordination parmi les instruments de l'Union.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 24

Déposée par Madame : Pervenche Berès

Qualité : - Suppléante

Article 24: Les actes juridiques de l'Union

1. Dans l'exercice des compétences qui lui sont attribuées dans la Constitution, l'Union utilise comme instruments juridiques en conformité avec les dispositions de la Partie II, la loi européenne, la loi-cadre européenne, le règlement européen, la décision européenne, les recommandations et les avis.

La loi européenne est un acte législatif de portée générale. Elle est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au résultat à atteindre, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.

La loi de ratification est un acte non-législatif adopté par le Parlement européen et le Conseil, respectivement à la majorité des membres qui le composent et à la majorité qualifiée.

Le règlement européen est un acte non législatif de portée générale pour la mise en œuvre des actes législatifs et de certaines dispositions spécifiques de la Constitution. Il est obligatoire dans tous ses éléments et directement applicable dans tout État membre.

La décision européenne est un acte non législatif qui est obligatoire dans tous ses éléments. Lorsqu'elle désigne des destinataires, elle n'est obligatoire que pour ceux-ci.

Les recommandations et les avis adoptés par les institutions n'ont pas d'effet contraignant.

AMENDMENT FORM

Suggestion for amendment of Article : 24

By Mr Andrew Duff, Paul Helminger, Dimitrij Rupel, Peeter Kreitzberg, Algirdas Gričius, Puiu Hasotti, Jelko Kacin, Zekeriya Akçam, Members of the Convention

Lone Dybkjaer, Willem Van Eekelen, Lord Robert MacLennan of Rogart, Nesrin Uzun, Marios Matsakis, Androula Vassiliou, Istvan Szent-Ivanyi, Peter Eckstein-Kovacs, Ibrahim Ozal, alternate Members of the Convention.

Article 24: The acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, *organic law, law, framework law, delegated law, regulation, decision, recommendation and opinion*.

Organic laws shall govern the organisation of the institutions and the operation of the Union in the cases provided for by the Constitution.

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

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

A delegated law shall supplement or implement a law or framework law.

- 1 bis.* A regulation shall be *an executive*, 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 decision shall be *an executive*, non-legislative act, binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

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

2. When considering proposals for legislative acts the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.

Explanation:

In the title we drop the adjective 'legal' which does not work as well as 'juridique' in French, rather begging the question about the Union's use of non-legal acts.

In Article 24.1 and throughout we drop the adjective 'European'. What else could they be? Its

appearance is superfluous and its repetition irritating.

We re-introduce the concept of organic law, supported by many in the Working Group on Simplification, for quasi-constitutional matters that could shift the balance of power between the institutions, among the member states or between the institutions and the member states. They are a useful form of very hard law for particularly solemn matters, such as the financial perspective of the Union or the uniform electoral procedure.

The method of deciding organic laws will be enhanced QMV procedures in both the Council and Parliament (see Article 25).

We introduce here the concept of delegated law (an improvement in nomenclature to the delegated 'regulation' or 'act'- in the Praesidium's CONV 571/03 both terms are used! - which we find muddling. It would be better to be more precise that what we mean here is secondary legislation that flows from primary legislation, a concept which is perfectly well understood in the constitutional traditions of most member states.

1 bis. The juridical but non-legislative acts of the Union - that is, the executive acts - deserve a paragraph to themselves in order to accentuate the distinction we are trying to make throughout the Constitution between the legislative and executive.

AMENDMENT FORM

Suggestion for amendment of Article 24 :

By Mr FARNLEITNER :

Status : - Member

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.**
-

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.

AMENDMENT FORM

Suggestion for amendment of Article : 24

Suggestion for protocol :

By Ms / Mr : Member of the Convention Mr Jens-Peter Bonde and alternate Esko Seppänen

Status : X - Member X - Alternate

Article 24: The legal acts of the Union

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

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, **IN THE TIME FRAME INDICATED IN THE LAW.**

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

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, **AND SHALL HAVE LEGAL BASIS IN A EU-LAW.**

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.

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

2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.
-

Explanation (if any) :

In a EU-Law the legislators can leave open the details to be decided by Member State as in what is called directives today, there is no need for one more word (EU-framework laws) to fulfil this task.

I prefer EU-framework law not to be an instrument. If adopted the following paragraph should be added:

"A European regulation based on delegation by framework laws shall be binding, as to the result to be achieved, on the Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving the result."

FICHE AMENDEMENT

Proposition d'amendement à l'Article:

24

Déposée par Monsieur:

Erwin Teufel

Qualité:

Membre

Texte du Praesidium

- (1) Die Union übt die Zuständigkeiten, die ihr in der Verfassung übertragen werden, gemäß den Bestimmungen des Teils II im Wege der folgenden Rechtsakte aus: europäisches Gesetz, europäisches Rahmengesetz, europäische Verordnung, europäische Entscheidung, Empfehlungen und Stellungnahmen.

Das europäische Gesetz ist ein allgemein gültiger Gesetzgebungsakt. Es ist in allen seinen Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Das europäische Rahmengesetz ist ein Gesetzgebungsakt, der für jeden Mitgliedstaat, an den es gerichtet wird, hinsichtlich des zu erreichenden Ziels verbindlich ist, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlässt.

Die europäische Verordnung ist ein allgemein gültiger Rechtsakt ohne Gesetzgebungscharakter; sie dient der Durchführung der Gesetzgebungsakte und bestimmter Einzelvorschriften der Verfas-

Amendement proposé

- (1) Die Union übt die Zuständigkeiten, die ihr in der Verfassung übertragen werden, gemäß den Bestimmungen des Teils II im Wege der folgenden Rechtsakte aus: europäisches Gesetz, europäisches Rahmengesetz, europäische Verordnung, europäische Entscheidung, Empfehlungen und Stellungnahmen.

Das europäische Gesetz ist ein allgemein gültiger Gesetzgebungsakt. Es ist in allen seinen Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Das europäische Rahmengesetz ist ein Gesetzgebungsakt, der – **ohne Einzelheiten zu regeln** – für jeden Mitgliedstaat, an den es gerichtet wird, hinsichtlich des zu erreichenden Ziels verbindlich ist, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlässt.

Die europäische Verordnung ist ein allgemein gültiger Rechtsakt ohne Gesetzgebungscharakter; sie dient der Durchführung der Gesetzgebungsakte und bestimmter Einzelvorschriften der Verfas-

sung. Sie ist in allen ihren Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Die europäische Entscheidung ist ein Rechtsakt ohne Gesetzgebungscharakter, der in allen seinen Teilen verbindlich ist. Ist sie an bestimmte Adressaten gerichtet, so ist sie nur für diese verbindlich.

Die Empfehlungen und die Stellungnahmen, die von den Organen angenommen werden, sind rechtlich nicht bindend.

sung. Sie ist in allen ihren Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Die europäische Entscheidung ist ein Rechtsakt ohne Gesetzgebungscharakter, der in allen seinen Teilen verbindlich ist. Ist sie an bestimmte Adressaten gerichtet, so ist sie nur für diese verbindlich.

Die Empfehlungen und die Stellungnahmen, die von den Organen angenommen werden, sind rechtlich nicht bindend.

Begründung:

Richtlinien waren in der Vergangenheit häufig entgegen ihrer Definition zu detailliert. Ähnlichen Entwicklungen sollte beim Nachfolgeinstrument der Richtlinie vorgebeugt werden. Entsprechend seiner Bezeichnung soll das Rahmengesetz lediglich hinsichtlich der zu erreichenden Ziele einen Rahmen setzen, den die Mitgliedstaaten durch Wahl der Form und Mittel ausfüllen.

AMENDMENT FORM

Suggestion for amendment of Article: 24

By Mr: Erwin Teufel

Status: Member

Text of the Praesidium

- (1) In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result.

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 en-

Proposed Amendment

- (1) In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

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 – **without laying down details** – shall be binding, as to the result to be achieved, on the Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result.

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 en-

tirety and directly applicable in all Member States.

tirety and directly applicable in all Member States.

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.

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.

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

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

Explanation:

In the past, directives were - in spite of their legal definition - often too detailed. Similar developments are to be prevented in relation to the successor instrument. True to its name the framework law should only constitute a frame for the objectives which are to be achieved while leaving it to the Member States to choose the necessary form and means.

AMENDMENT FORM

Suggestion for amendment of Article 24

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen and Esko Helle

**Status : Tiilikainen, Kiljunen, Vanhanen - Members
 Peltomäki, Korhonen, Helle - Alternates**

Article 24: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

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 Member States to which it is addressed, but shall leave the national authorities ~~entirely~~ free to choose the form and means of achieving that result.

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.~~ **taking the form of either a delegated regulation or an implementing regulation for the implementation of legislative acts and of certain specific provisions of the Constitution. It shall either be binding in its entirety and directly applicable in all Member States, or it shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave the national authorities free to choose the form and means of achieving that result.**

A European decision shall be a non-legislative act **for the implementation of legislative acts and of certain specific provisions of the Constitution. It shall be** binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

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

2. **[removed to Article 25, para. 3bis]**
-

Explanation (if any) :

The word “entirely” in the third subparagraph of paragraph 1 does not feature in the current Article 249, paragraph 3, on directives and should therefore be deleted.

The fourth subparagraph on “European regulations” is somewhat confusing. It is not entirely clear whether that category is intended to cover delegated acts (article 27) alongside with implementing acts (article 28). If so, this should be made more explicit in the text.

Another problem with the fourth subparagraph is that it only seems to cover instruments that are directly applicable. There should also be a possibility adopt delegated acts that had legal effects similar to the proposed European framework laws (i.e., the current EC directives).

As the prohibition to use “non-standard acts” only concerns the situation when there is a legislative proposal before the Council and the European Parliament, the proposed paragraph 2 should be removed to Article 25 on legislative acts. Moreover, it is a principle governing the conduct of the institutions within the framework of the legislative procedure and not one relating to the definition of the various legal acts of the Union (on which Art. 24 should be devoted).

AMENDMENT FORM

Suggestion for amendment of Article 24, Title V

By : Mr.V.P.Andriukaitis (LT Parl., Status-Member), Mr.A.Gricius (LT Parl., Status-Member), Mr. R.Martikonis (LT Gov., Status-Member), Mr. G.Šivickas (LT Parl., Status-Alternate)

Article 24.1.

Add “Union”, i.e.:

A European Union law ; A European Union framework law ; A European Union regulation ; A European Union decision.

Article 24.2.

Move the Paragraph 2 to the Article 32.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 24

Suggestion for protocol :

By Mr : Joachim Wuermeling and Peter Altmaier

Status : - Alternates

(1) Die Union übt die Zuständigkeiten, die ihr in der Verfassung übertragen werden, gemäß den Bestimmungen des Teils II im Wege der folgenden Rechtsakte aus: europäisches Gesetz, europäisches Rahmengesetz, europäische Verordnung, europäische Entscheidung, Empfehlungen und Stellungnahmen.

Das europäische Gesetz ist ein allgemein gültiger Gesetzgebungsakt. Es ist in allen seinen Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Das europäische Rahmengesetz ist ein Gesetzgebungsakt, der **– ohne Einzelheiten zu regeln –**, für jeden Mitgliedstaat, an den es gerichtet wird, hinsichtlich des zu erreichenden Ziels verbindlich ist, jedoch den innerstaatlichen Stellen die Wahl der Form und der Mittel überlässt.

Die europäische Verordnung ist ein allgemein gültiger Rechtsakt ohne Gesetzgebungscharakter; sie dient der Durchführung der Gesetzgebungsakte und bestimmter Einzelvorschriften der Verfassung. Sie ist in allen ihren Teilen verbindlich und gilt unmittelbar in jedem Mitgliedstaat.

Die europäische Entscheidung ist ein Rechtsakt ohne Gesetzgebungscharakter, der in allen seinen Teilen verbindlich ist. Ist sie an bestimmte Adressaten gerichtet, so ist sie nur für diese verbindlich.

Die Empfehlungen und die Stellungnahmen, die von den Organen angenommen werden, sind rechtlich nicht bindend.

Explanation (if any) : In der Vergangenheit wurden Richtlinien häufig durch in Einzelheiten gehende Regelungen überfrachtet. Ähnlichen Entwicklungen sollte beim Nachfolgeinstrument der Richtlinie vorgebeugt werden. Entsprechend seiner Bezeichnung soll das Instrument lediglich hinsichtlich der zu erreichenden Ziele einen Rahmen setzen, den die Mitgliedstaaten durch Wahl der Form und Mittel ausfüllen.

AMENDMENT FORM

Suggestion for amendment of Article : 24 (1)

Suggestion for protocol :

By Mr : David Heathcoat-Amory

Status : - Member

Delete fourth paragraph, starting ‘A European regulation....’

Explanation (if any) :

It is objectionable to have ‘non-legislative acts’ which are binding on all citizens of member states. We should support the rule of law, not rule by decree

AMENDMENT FORM

Suggestion for amendment of Article : 24

Suggestion for protocol :

By Mr. Poul Schlüter

Status : Alternate

Article 24: The legal acts of the Union

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Two, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

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 Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result.

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 can take two forms. Either –It shall be binding in its entirety and directly applicable in all Member States or it shall be binding, as to the results to be achieved, on the Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving that result.

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.

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

2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the Constitution.

Explanation: The Praesidium's text seems to indicate that it will only be possible to adopt delegated acts and implementing acts which are directly applicable and hence impossible to adopt delegated acts and implementing acts with legal effects similar to the framework law. The proposal intends to remedy this situation.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : **Art 24 par 3**

Déposée par : **Cristiana MUSCARDINI**

Qualité : **Membre**

Art. 24 par. 3

La legge quadro europea è un atto legislativo che **indica agli Stati membri gli obiettivi** da raggiungere, salva restando la competenza degli organi nazionali in merito alla scelta della forma e dei mezzi.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 24.1 3ème paragraphe:

Déposée par M. Olivier DUHAMEL
M. Caspar EINEM
Mme Linda McAVAN
M. Luis MARINHO
Mme Anne VAN LANCKER

Qualité: - Membres

Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI
Mme Helle THORNING-SCHMIDT

Qualité: - Suppléants

ARTICLE 24 – Les actes juridiques de l'Union

1.
.....
.....

La loi-cadre européenne est un acte législatif qui lie tout État membre destinataire quant au résultat à atteindre **dans un délai imparti**, tout en laissant aux instances nationales la compétence quant au choix de la forme et des moyens.

.....

AMENDMENT FORM

Suggestion for amendment of Article 24, paragraph 1

By Mr Henrik Dam KRISTENSEN

Member

New Article 24, paragraph 1, section 5

Add the following phrase as a new section 5:

“A European regulation based on delegation by framework laws shall be binding, as to the result to be achieved, on the Member States to which it is addressed, but shall leave the national authorities entirely free to choose the form and means of achieving the result.”

Explanation:

It must be made clear that also the details (non-essential elements) of a European framework law must be left to the Member States to implement in accordance with national practice. Otherwise it would per se be an infringement of the principles of subsidiarity and proportionality.

FICHE AMENDEMENT 1

Proposition d'amendement à l'Article : Artículo 24

Déposée par Madame ou Monsieur : Borrel (miembro), Carnero y López Garrido (suplentes)

Qualité : - Membre - Suppléant

Añadir en el punto 1:

1. En el ejercicio de las competencias que le atribuye la Constitución, Unión se servirá **únicamente** de los siguientes instrumentos jurídicos,...

Explication éventuelle :

FICHE AMENDEMENT 2

Proposition d'amendement à l'Article : Artículo 24

Déposée par Madame ou Monsieur : Borrel (miembro), Carnero y López Garrido (suplentes)

Qualité : - Membre - Suppléant

Suprimir el punto:

2. Cuando se les presente una propuesta de acto legislativo, el Parlamento Europeo y el Consejo se abstendrán de adoptar actos no previstos en la Constitución

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article :24

Suggestion for protocol :

By Ms / Mr : dhr. Danny PIETERS

Status : - ~~Member~~ - Alternate

Overall waar ‘wetgevingsbesluit’ staat vervangen door een meer adekwate term, zoals ‘wetegeversakten’ of ‘wetegeversinstrumenten’ , of, in ondergeschikte orde, ‘legislatief instrument’ of ‘legislatieve akte’.

Explanation (if any) :

De Nederlandse term ‘wetgevingsbesluit’ lijkt me contradictoir en in alle geval niet verhelderend. Ofwel gebruikt men ‘wetgeving’ in de materiële zin en dan staat deze term enigszins tegenover besluit in de zin van een beschikking die geen materiële wetgeving bevat.

Ofwel gebuikt men ‘wetgeving’ in de formele zin, maar dan staat de term tegenover besluit als een maatregel uitgaande van de Uitvoerende Macht.

Bedoeld wordt hier een normatief geheel (instrument of akte) uitgaande van de Wetgevende Macht (of wat aldus beschouwd kan worden). Vandaar het voorstel ‘Wetgeversinstrument’ of ‘Wetgeversakte’ of , als zulks beter klinkt legislatief instrument of akte, ook al gaat het dan om een concept dat zowel naar de Macht als naar de aktie (wetgeving) kan verwijzen.

FICHE AMENDEMENT

Proposition d'amendement à l'Article I-32

Déposée par MM. Barnier, Vitorino, O'Sullivan et Ponzano

Qualité : Membres et Suppléants

Article I-32 : les actes juridiques de l'Union

1. *inchangé*
2. **L'action de l'Union s'inscrit dans une programmation interinstitutionnelle.**

Dans le cadre des orientations politiques générales du Conseil européen et du cadre financier pluriannuel, le Parlement européen, le Conseil et la Commission, sur proposition de cette dernière, concluent un accord interinstitutionnel relatif à cette programmation interinstitutionnelle, dont les éléments essentiels sont adoptés par le Conseil européen.

3. *actuel paragraphe 2, inchangé*
-

Explication:

Actuellement, la Constitution passe sous silence la question de la programmation de l'action de l'Union, qui est pourtant essentielle pour aboutir à un système plus transparent et efficace.

Il est suggéré d'insérer une disposition fixant une procédure à cet effet, qui par ailleurs permettrait une plus grande responsabilisation des institutions. Par ailleurs, une telle disposition favoriserait davantage l'implication effective des parlements nationaux dans le fonctionnement de l'Union, dans la mesure où elle s'articulerait avec le point 1 du protocole sur le rôle de ces parlements, qui prévoit que leur soient envoyés « le programme législatif annuel ainsi que tout autre instrument de programmation législative ».

S'agissant de la place de cette disposition, elle mériterait peut-être un article distinct.