

AMENDMENT FORM

Suggestion for amendment of Article 27 :

By Mr FARNLEITNER :

Status : - Member

Article 27: Delegated regulations Delegated acts

1. European laws and European framework laws may delegate to the Commission the power to enact ~~delegated~~ **European regulations or European directives** in order to supplement or amend certain non-essential elements of the European law or the European framework law.

~~The objectives, content, scope and duration of the delegation~~ **scope and duration of the delegation as well as the objectives and content of the European regulation or the European directive** shall be explicitly defined in the **European** laws and **the European** framework laws. ~~A delegation may not cover the essential elements of an area. These shall be reserved for the European law or the European framework law.~~

2. The conditions of application to which the delegation is subject shall be explicitly determined in the **European** law or **the European** framework law; they shall consist of one or more of the following possibilities:
 - the European Parliament and the Council **jointly or the Council alone, as applicable**, may decide to revoke the delegation; **the delegated act shall remain in force unless the European Parliament and the Council jointly decide otherwise or, as applicable, the Council alone decides otherwise when revoking the delegation;**
 - the **European** ~~delegated~~ **regulation or the European directive** may enter into force only if no objection has been expressed by the European Parliament ~~or~~ **and the Council jointly or by the Council alone, as applicable**, within a period set by the **European** law or **the European** framework law;
 - the provisions of the **European** ~~delegated~~ **regulation or the European directive** are to lapse after a period set by the **European** law or **the European** framework law. They may be extended, on a proposal from the Commission, by decision of the European Parliament and of the Council **or, as applicable, by decision of the Council alone.**

For the purposes of the preceding ~~sub~~paragraph, the European Parliament shall act by a majority of its members, and the Council by a qualified majority.

Explanation :

Following the systematics of the preceding Articles, the title should bear the name of the type of procedure under which the legal acts fall and not the name of the legal act itself dealt with in this Article.

Throughout this and the following Articles, European laws and European framework laws should be mentioned with their full title.

Should the “delegated act” be introduced into the EU legal system, no new category of legal acts or subcategory of non-legislative acts should be created in Article 24. I also propose that the acts adopted on the basis of a delegation would not be given a separate name but would be called “European regulation” or “European directive” because it would seem less harmful to subsume the delegated acts under the existing forms in the category of non-legislative acts.

The possibility of adopting a delegated act in the form of a European directive should be added since otherwise there could be a discrepancy in the legal effects between a European framework law allowing for a delegated act and the European regulation adopted pursuant to this. The former would leave the national authorities the choice of form and methods, the latter not.

With regard to the elements which the European laws and European framework laws will need to include in order to define the delegation given to the Commission, it should be made clearer that these refer to the scope and the duration of the delegation on the one hand and to the objectives and content of the delegated act on the other. The last two sentences in para. 1 subpara. 2 are a mere duplication of the limits of the delegation (non-essential elements of the area in question) which are already contained in the preceding subpara.. I propose deletion.

The recurrent amendments in para. 2 (the European Parliament and the Council jointly or, as applicable, the Council alone) make it clear that the control rights shall only be exercised jointly by all components of the legislator that had adopted the delegating act. Therefore only the European Parliament and the Council acting jointly in cases of acts adopted through the legislative procedure or, as applicable, the Council alone in the cases of Art. 25 para. 2 shall be able to exercise the control rights. An important clause safeguarding legal certainty in the context of the exercise of control rights is added at the end of para. 2 first indent. In case the delegation is revoked, the delegated act adopted on the basis of this delegation shall remain in force unless the legislator decides otherwise at the moment of revoking the delegation.

Technical correction concerning the cross-reference in the last subpara. of para. 2.