

## AMENDMENT FORM

**Suggestion for amendment of: Part III, Articles 245 - 253**

**By Mr : Dick Roche**

**Status : - Member**

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### Subsection 4

#### The Commission

Article III-245 (ex Article 213(1) and ex Article 214)

~~European Commissioners and non-voting~~ Commissioners, **voting and non-voting**, shall be appointed for a period of five years, subject, if need be, to Article III-238. Only nationals of Member States may be ~~European Commissioners and~~ Commissioners.

Article III-246 (ex Article 213(2))

~~European Commissioners and~~ Commissioners shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the ~~European Commissioners and~~ Commissioners in the performance of their tasks.

~~European Commissioners and~~ Commissioners may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council, acting by a simple majority, or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article [III-248 (26)] or deprived of his right to a pension or other benefits in its stead.

Article III-247 (ex Article 215)

1. Apart from normal replacement, or death, the duties of a ~~European Commissioner or Commissioner~~ shall end when he resigns or is **obliged to resign** ~~compulsorily retired~~. A European Commissioner or Commissioner shall resign if the President so requests.
2. A vacancy caused by resignation, **obligatory resignation** ~~compulsory retirement~~ or

death shall be filled for the remainder of the ~~European Commissioner or~~ Commissioner's term of office by a new ~~European Commissioner or Commissioner~~ appointed by the President of the Commission according to the same procedures.

3. In the event of resignation, **obligatory resignation** ~~compulsory retirement~~ or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article I-26(1) shall be applicable for the replacement of the President.

4. In the case of the resignation of all ~~European Commissioners and~~ Commissioners, they shall remain in office until they have been replaced, for the remainder of their term of office, in accordance with the procedures laid down in Articles I-25 and I-26.

#### Article III-248 (ex Article 216)

If any ~~European Commissioner or~~ Commissioner no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council, acting by a simple majority, or by the College, **oblige him to resign** ~~compulsorily retire~~ him.

#### Article III-249 (ex Article 217)

The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President, subject to Article I-27(3) of the Constitution. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. ~~European Commissioners and~~ Commissioners shall carry out the duties devolved upon them by the President under his authority.

#### Article III-250 (new)

#### Article III-251 (ex Article 218)

The ~~College~~ **Commission** shall adopt its Rules of Procedure so as to ensure both its own operation and that of its departments. It shall ensure that these rules are published.

#### Article III-252 (ex Article 219)

The ~~College~~ **Commission** shall act by a majority of its Members. The Rules of Procedure shall determine the quorum.

#### Article III-253 (ex Article 212)

The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.

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**Explanation**

The use of terminology in the draft Articles (in Parts I and III) appears confused. In places reference is made to 'the College', in others to 'the Commission as a College', in others to 'the Commission'. The simplest course is to refer throughout to 'the Commission'.

Likewise, given that the provisions of all of the Articles in this part of Part III apply both to Commissioners with votes and to those without, the simplest solution here is to refer to all as 'Commissioners'.

The text for Article III 250 appears to be missing.

Although it reflects existing Treaty language, the phrase 'compulsory retirement' is better rendered as 'obliged to resign'.