

## **AMENDMENT FORM**

### **Suggestion for amendment of Article : 229**

**By Ms Maria Berger, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Reinhard Rack,  
Mr Gerhard Tusek**

**Status :        - Members and Alternate Members**

---

#### **Article 229**

European laws and framework laws as well as Council ~~laws and~~ regulations, adopted pursuant to the provisions of the Constitution, may give the Court of Justice unlimited jurisdiction with regard to the penalties provided for in them.

---

#### **Explanation:**

There are no Council laws in Part one.

## AMENDMENT FORM

### Suggestion for amendment of Article : 229a

By Ms Maria Berger, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Reinhard Rack,  
Mr Gerhard Tusek

Status : - Members and Alternate Members

---

#### Article 229a

Without prejudice to the other provisions of the Constitution, **a European law shall** ~~may~~ confer on the Court of Justice, to the extent that it shall determine, jurisdiction in disputes relating to the application of acts adopted on the basis of the Constitution which create industrial property rights.

---

#### Explanation:

There is no justification to change the existing legal situation and thus to oblige the legislator to confer jurisdiction on the ECJ.

## AMENDMENT FORM

### Suggestion for amendment of Article : 230

**By Mr Peter Altmaier, Ms Maria Berger, Mr Elmar Brok, Mr Panayiotis Demetriu, Mr Andrew Duff, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Ben Fayot, Ms Elena Paciotti, Mr Reinhard Rack, Mr Gerhard Tusek, Mr Joachim Würmeling**

**Status : - Members and Alternate Members**

---

#### Article 230

1. The Court of Justice shall review the legality of European laws and European framework laws, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of agencies and bodies of the Union which produce legal effects vis-à-vis third parties.
  2. It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Constitution or of any rule of law relating to its application, or misuse of powers.
  3. The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives.
  4. Any natural or legal person may, under the same conditions, institute proceedings against an act addressed to that person or which is of direct and individual concern to him, and against **an regulatory** act which is of direct concern to him without entailing implementing measures.
  5. Acts setting up agencies and bodies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies or agencies intended to produce legal effects.
  6. The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.
- 

#### Explanation:

It will be hardly understandable for the citizens why only regulatory acts shall be challengeable, when rights provided by the Constitution are infringed by European Laws or Framework Laws. The distinction between regulatory acts und legislative acts depends largely on the legislator's choice. However, legal protection cannot be dependent on legislative choices.

## AMENDMENT FORM

### Suggestion for amendment of Article : 234

By Ms Maria Berger, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Reinhard Rack,  
Mr Gerhard Tusek

Status : - Members and Alternate Members

---

#### Article 234

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of the Constitution;
- (b) the validity and interpretation of acts of the institutions of the Union;
- (c) the interpretation of the statutes of **agencies or bodies** established by an act of the Union, where those statutes so provide.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

**[If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice shall act with the minimum of delay.]**

---

#### Explanation:

Full support for the idea behind the last sentence, but should it not be left to the rules of procedure?

## **AMENDMENT FORM**

### **Suggestion for amendment of Article : 240a**

**By Ms Maria Berger, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Reinhard Rack,  
Mr Gerhard Tusek**

**Status :        - Members and Alternate Members**

---

#### **Article 240a**

**~~The Court of Justice shall not have jurisdiction with respect to Articles 29 and 30 of  
Part One and the provisions of Chapter I of Part Two concerning the common  
foreign and security policy.~~**

---

#### **Explanation:**

We do not see a justification for excluding legal acts under the common foreign and security policy from the jurisdiction of the ECJ.

## AMENDMENT FORM

### Suggestion for amendment of Article : 240b

By Ms Maria Berger, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Reinhard Rack,  
Mr Gerhard Tusek

Status :        - Members and Alternate Members

---

Article 240b

~~In exercising its competences regarding the provisions of Chapters 3 and 4 of Title [...]  
concerning the area of freedom, security and justice, the Court of Justice shall have no  
jurisdiction to review the validity or proportionality of operations carried out by the police or  
other law enforcement services of a Member State or the exercise of the responsibilities  
incumbent upon Member States with regard to the maintenance of law and order and the  
safeguarding of internal security, **where such action is a mater of national law.**~~

---

### Explanation:

See already our comments on Art. 9 of Part two.

## AMENDMENT FORM

### Suggestion for amendment of Article : 241

By Ms Maria Berger, Mr Caspar Einem, Mr Hannes Farnleitner, Mr Reinhard Rack,  
Mr Gerhard Tusek

Status :      - Members and Alternate Members

---

#### Article 241

Notwithstanding the expiry of the period laid down in the fifth paragraph of Article 230, any party may, in proceedings in which **a European law, a law** or a regulation of the Council, of the Commission, or of the ECB is at issue, plead the grounds specified in the second paragraph of Article 230 in order to invoke before the Court of Justice the inapplicability of that act.

---

#### Explanation:

There are no laws of the Council in Part one.