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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.

- 2.* 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.

I 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.

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

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~~ 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.

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.

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.
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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."

AMENDMENT FORM

Suggestion for amendment of Article : 25

By Mr Andrew Duff, Lamberto Dini, Paul Helminger, Dimitrij Rupel, Peeter Kreitzberg, Algirdas Griekus, Puiu Hasotti, Jelko Kacin, Zekeriya Akcam, 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-Kovaes, Ibrahim Ozal, alternate Members of the Convention.

Article 25: Legislative procedure

1. The legislature is composed of the Council and the European Parliament. The legislative procedure shall apply to the enactment of normative rules involving basic political choices which place rights and obligations on Member States and natural or legal persons.

1 bis. Laws and framework laws shall be adopted by the legislature on the basis of proposals from the Commission. The legislative procedure shall consist of a first reading, and, where necessary a second reading and a conciliation procedure, as follows:

- (i) Le Parlement européen statue à la majorité des suffrages exprimés en première et en troisième lecture et à la majorité absolue en deuxième lecture.*
- (ii) Le Conseil statue à la majorité qualifiée sauf sur des amendements ayant fait l'objet d'un avis négatif de la Commission, ou il statue à l'unanimité.*
- (iii) La Commission peut modifier sa proposition tout au long de la procédure et peut la retirer jusqu'à la fin de la deuxième lecture.*

Première lecture

- (iv) La Commission présente une proposition à la législature. Le Parlement adopte sa position en première lecture et la transmet au Conseil. Si le Conseil approuve tous les amendements adoptés par le Parlement, l'acte proposé ainsi amendé est réputé adopté par les deux institutions.*
- (v) Si le Parlement ne propose aucun amendement, le Conseil peut approuver l'acte proposé, lequel est réputé adopté par les deux institutions.*
- (vi) Dans les autres cas, le Conseil adopte sa position en première lecture et la transmet au Parlement. Le Conseil informe pleinement le Parlement des raisons qui l'ont conduit à arrêter sa position.*

Deuxième lecture

- (vii) Si, dans un délai de trois mois après cette transmission, le Parlement approuve la position du Conseil ou ne s'est pas prononcé, l'acte concerné est réputé arrêté par les deux institutions.*

- (viii) *Si le Parlement rejette la position du Conseil, l'acte proposé est réputé non adopté.*
- (ix) *Si le Parlement propose des amendements à la position du Conseil, le texte ainsi amendé est transmis au Conseil. Si, dans un délai de trois mois après cette transmission, le Conseil approuve tous les amendements du Parlement, l'acte concerné est réputé adopté. Si le Conseil n'approuve pas tous les amendements, le président du Conseil, en accord avec le président du Parlement, convoque le comité de conciliation dans un délai de six semaines.*

Conciliation et troisième lecture

- (x) *Le comité de conciliation, qui réunit les membres du Conseil et autant de représentants du Parlement, a pour mission d'aboutir à un accord sur un projet commun à la majorité qualifiée des membres du Conseil et à la majorité des représentants du Parlement. La Commission participe aux travaux du comité de conciliation et prend toutes les initiatives nécessaires en vue de promouvoir un rapprochement des positions du Parlement et du Conseil. Pour s'acquitter de sa mission, le comité de conciliation examine les positions adoptées par le Parlement européen et le Conseil.*
- (xi) *Le comité de conciliation dispose d'un délai de six semaines après sa convocation pour parvenir à un accord. Lorsque le comité de conciliation n'approuve pas de projet commun, l'acte proposé est réputé non adopté.*
- (xii) *Lorsque le comité de conciliation approuve un projet commun, la législature dispose d'un délai de six semaines supplémentaires à compter de cette approbation pour arrêter l'acte concerné conformément au projet commun. En l'absence d'approbation en troisième lecture par soit le Conseil ou le Parlement dans le délai visé, l'acte proposé est réputé non adopté.*
- (xiii) *Les délais de trois mois et de six semaines visés au présent article sont prolongés respectivement d'un mois et de deux semaines au maximum à l'initiative du Parlement ou du Conseil. Le délais de six semaines ne courent pas pendant le mois d'août.*

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

In the case of organic law, where the Council acts by qualified majority vote, the Council shall act by enhanced qualified majority vote. Where the Parliament acts by an absolute majority it shall act by a two-thirds majority of its Members.

2. *Delete*
3. *When acting under any procedure for the adoption of **legislation**, the European Parliament and the Council shall meet in public **and publish their proceedings**.*

Explanation:

We propose a change of title because this Article is about the legislative procedure and not the legislative acts.

- 25.1 *To aid comprehension we propose that the Constitution reminds everyone here that the*

Union has a legislature which is made up of the Council and the Parliament.

To effect the constitutional delimitation of legislative and executive action there is a need to define what is 'legislative' and what is 'executive'. The definition of 'legislation' in the Constitution would impose a substantive requirement on the Union. If the 'legislation' did not appear to be legitimated by procedural and/or substantive requirements, it would be open to challenge in the Court of Justice.

25.1 bis. The details of the codecision procedure are essential elements of the Constitution. It is preferable therefore to give them maximum visibility by placing them in Part One. We reproduce the essence of Article 251 TEC (the codecision procedure) in a revised, and one hopes, clearer and shorter form.

The special thresholds for organic laws are also provided for.

25.2 There is an important point of principle here which should be made explicit. Nothing should become law that is not passed both by the Council and by the Parliament. Only the legislature shall exercise legislative power. The Praesidium's Article 25.2 offends that principle as it allows the Council to legislate independently of the Parliament. What is the justification for this?

25.3 The injunction to openness would be strengthened by a reference to the publication of the Council's verbatim proceedings.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 25:

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

Qualité: - Membres

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

Qualité: - Suppléants

ARTICLE 25 – Les actes législatifs[†]

1. La loi et la loi-cadre européennes sont adoptées, sur proposition de la Commission, conjointement par le Parlement européen et le Conseil, **respectivement à la majorité des membres qui le composent et à la majorité qualifiée**, conformément aux modalités de la procédure législative visées à l'article X (*deuxième partie de la Constitution*). Si les deux institutions ne parviennent pas à un accord, l'acte en question n'est pas adopté.

~~Des dispositions spécifiques sont d'application pour les cas prévus à l'article Z (ex troisième pilier) (supprimer ce paragraphe).~~

- ~~2. Dans les cas spécifiques prévus par la Constitution, les lois et les lois-cadres européennes sont adoptées par le Conseil. (supprimer ce paragraphe).~~

3. Lorsqu'ils statuent dans le cadre d'une procédure conduisant à l'adoption d'une loi européenne ou d'une loi-cadre européenne, le Parlement européen et le Conseil siègent en public.

Note de bas de page supprimée

[†] ~~L'article 29 précisera que le recours à des actes législatifs est exclu dans le cadre de la PESG.~~

AMENDMENT FORM

Suggestion for amendment of Article : 25

Suggestion for protocol :

By Ms / Mr : Member of the Convention Mr. Jens-Peter Bonde, alternate Esko Seppänen and member David Heathcoat-Amory

Status : X - Member X- Alternate

Article 25: Legislative acts ¹

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

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 laws and European framework laws shall be adopted by the Council **AND THE NATIONAL PARLIAMENTS**.
 3. When acting under any procedure for the adoption of a European law ~~or a European framework law~~, the European Parliament and the Council shall meet in public. **AGENDAS, WORKING DOCUMENTS AND MINUTES SHALL BE AVAILABLE FOR ALL ELECTED MEMBERS OF PARLIAMENTS UNLESS A QUALIFIED MAJORITY IN THE COUNCIL DECIDES NOT TO. THIS DECISION CAN BE APPEALED TO THE OMBUDSMAN OR THE EUROPEAN COURT OF JUSTICE.**
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Explanation (if any) :

¹ Article 29 will stipulate that legislative acts cannot be used for the CFSP.

AMENDMENT FORM

Suggestion for amendment of Article : 26

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 26: Executive acts¹

The Council *or the* Commission, as well the European Central Bank, shall adopt regulations or decisions in the cases referred to in *Article 28* and in cases specifically laid down in the Constitution.

Explanation:

The article should be renamed. As the accompanying explanation recognises, "non-legislative acts are adopted by the two institutions exercising executive powers ...". For the sake of clarity all reference to 'non-legislative' should be replaced by 'executive'.

This article should follow the subsequent one not precede it. It concerns non-legislative acts which are the subject of Article 28, not 27 (see footnote).

It should be the Council or the Commission. 'And' implies a joint action, which is not presumably intended.

¹ Transpose with Article 27 and re-number.

The Praesidium seems confused. We are not talking here of secondary legislation but of implementing acts.

AMENDMENT FORM

Suggestion for amendment of Article : 26

Suggestion for protocol :

By Ms / Mr : Member of the Convention Mr. Jens-Peter Bonde, alternate Esko Seppänen and member David Heathcoat-Amory

Status : X - Member X - Alternate

Article 26: Non-legislative acts

The Council and the Commission as well as the European Central Bank, shall adopt European regulations or European decisions in the cases referred to in Articles 27 and 28 and in cases specifically laid down in the Constitution. **THEY EXPIRE AFTER A CERTAIN PERIOD OF TIME , IF THEY ARE NOT CONFIRMED BY QUALIFIED MAJORITY VOTING IN THE COUNCIL AND THE EUROPEAN PARLIAMENT.**

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 27

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 27: Delegated law

1. Laws and framework laws may delegate to the Commission the power to enact *secondary legislation*.

The objectives, content, scope and duration of the delegation shall be explicitly defined in the laws and framework laws. A delegation may not cover the *fundamental* elements of an area. These shall be reserved for the law or framework law.

2. *The Commission shall enact delegated law. It shall transmit to the legislature its draft measure. If neither the Council, acting by a qualified majority, nor the Parliament, acting by a majority of its Members, raises an objection within a period of three months the delegated law shall be adopted.*

If either the Council or the Parliament raises an objection within this period, the draft delegated law shall be submitted to the legislative procedure.

In urgent circumstances, the Commission may enact a delegated law and then submit it to the legislature. If either the Council, acting by a qualified majority, or the Parliament, acting by a majority of its Members, raises an objection within a period of three months, the measure shall be suspended. The Commission shall then decide to withdraw, amend or submit the suspended measure to the legislature.

3. The conditions of application to which the delegation is subject *may provide for the delegated law* to lapse after a period set by the law or framework law. *That period* may be extended, on a proposal from the Commission, by *the legislature*.
-

Explanation :

The Praesidium's choice of the term 'delegated regulation' here only serves to confuse the reader with the regulation of an executive type that is provided for in Article 24. That is why we change the title. The term 'regulation' should be used both sparingly and specifically.

27.1 This category of delegated act is secondary legislation, a readily understood concept. Why not say so?

The purpose of delegated law is to expand on the primary law in terms of specificity, modify the

fields of application of existing law or adapt existing law to meet new conditions, for example by revising regulatory norms.

Curiously, the Praesidium's formulation only allows for the call-back of a delegated law to be one of the possibilities that could be explicitly determined in the primary law. The possibility of revocation should be systematic and not optional.

The sunset clause is, however, retained as an option in 27.3. It cannot always be appropriate to limit the duration of secondary legislation, and may lead to serious legal lacunae.

AMENDMENT FORM

Suggestion for amendment of Article : 27

Suggestion for protocol :

By Mr. Poul Schlüter

Status : Alternate

Article 27: Delegated regulations

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

The objectives, content and scope of the delegation shall be explicitly defined in the laws and framework laws. A delegation may not cover the essential elements of an area. These shall be reserved for the law or framework law.

2. The conditions of application to which the delegation is subject shall be explicitly determined in the law or framework law; they shall consist of one or more of the following possibilities:
 - the European Parliament ~~and~~ or the Council may decide to revoke the delegation in the cases laid down by the law or framework law
 - the delegated regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the law or framework law; except on imperative grounds of urgency this period shall be no less than two months.
 - the provisions of the delegated regulation are to lapse after a period set by the law or framework law. They may be extended, on a proposal from the Commission, by decision of the European Parliament and of the Council.

For the purposes of the preceding paragraph, the European Parliament shall act by an absolute-majority-of the votes cast of its members, and the-Council shall act by a qualified majority of its members.

When drafting delegated acts, the Commission shall, wherever appropriate, consult representatives of Member States, the European Parliament as well as civil society. Such consultation may take place in the framework of advisory committees.

Explanation (if any) :

Delegation to the Commission will only take place as intended if the legislator has sufficient trust in the new system. The system must therefore be transparent and offer good opportunities for the Council and the European Parliament to control the exercise of the powers delegated to the Commission. The amendments proposed above are intended to ensure this.

The proposed amendment to the first indent allows both of the two branches of the legislature to revoke the delegation irrespective of the position of the other branch.

The proposed indicative time limit should make it possible for both the European Parliament and the Council to have sufficient time to examine the delegated regulations.

The proposed voting rules would make it easier for the Council and the European Parliament to exercise control.

The proposed wording on consultation aims to ensure sufficient transparency in the drafting of delegated regulations to allow the Commission to take all relevant information and views into account.

On the consultation of Member States, it should be noted that Member States are responsible for adopting all measures of national law necessary to implement the Union's legally binding acts, cf. Art. 28, Par. 1 of the draft Constitutional Treaty. National authorities possess knowledge of national and local conditions on which basis they may provide valuable advice to the Commission with a view to promoting the effective implementation of delegated regulations.

Let me add that these issues are complicated and may require more analysis. Other ways to achieve the same objectives may be found. I therefore reserve my right to return to these issues.

AMENDMENT FORM

Suggestion for amendment of Article 27, paragraph 1

By Mr Henrik Dam KRISTENSEN

Member

Article 27, paragraph 1

Add at the end of paragraph 1 the following phrase:

“The Commission shall when it enacts delegated regulations respect the authonomy and the powers granted to management and labour by the Constitution ”

Explanation:

The powers granted to the social partners at all levels in the Treaty must be fully respected also in relation to non-essential elements. Attention is drawn to the fact that the Treaty in the chapter on social provisions clearly states that measures must take account of the diverse forms of national practices, in particular in the field of contractual relations. The social partners at European level are granted the rights to consultations and to conclude European agreements. At national level implementation by collective agreements should be fully respected. The present wording of the articles 24 and 27 does not take account of the authonomy of the social partners at all levels.

AMENDMENT FORM

Suggestion for amendment of Article : 27

Suggestion for protocol :

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

Status : x - Member X - Alternate

Article 27: Delegated regulations

1. European laws and European framework laws may delegate to the Commission the power to enact delegated regulations in order to supplement or amend certain non-essential elements of the law or framework law. **THEY EXPIRE AFTER A CERTAIN PERIOD OF TIME , IF THEY ARE NOT CONFIRMED BY QUALIFIED MAJORITY VOTING IN THE COUNCIL AND THE EUROPEAN PARLIAMENT.**

THE COMMISSION SHALL WHEN IT ENACTS DELEGATED REGULATIONS RESPECT THE AUTONOMY AND THE POWERS GRANTED TO SOCIAL PARTNERS BY THE CONSTITUTION OR BY COLLECTIVE AGREEMENTS IN THE MEMBER STATES.

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

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

For the purposes of the preceding paragraph, the European Parliament shall act by **SIMPLE MAJORITY OF VOTING** members, and the Council by a qualified majority.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 28.2:

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 28 – Les actes d'exécution

2. Lorsque des conditions uniformes de mise en œuvre des actes obligatoires de l'Union sont nécessaires, ces actes peuvent conférer à la Commission ou ~~dans des cas spécifiques et~~ **(5 mots supprimés)** dans les cas prévus à l'article [PESC], au Conseil, des compétences d'exécution.

AMENDMENT FORM

Suggestion for amendment of Article : 28

By Mr Andrew Duff, Lamberto Dini, Paul Helminger, 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 28: Implementing acts

1. Member States shall adopt all measures of national law necessary to implement the Union's legally binding acts.
 2. Where uniform conditions for the implementation of the Union's binding acts are needed, those acts may confer implementing powers on the **Commission and** in the cases provided for in Article [CFSP], on the Council. ***Specialised agencies possessing legal personality may also be entrusted with implementing tasks. Such tasks must be strictly defined and purely executive in a technical sense.***
 3. ***In the exercise of its implementing powers, the Commission may establish advisory committees composed of representatives of Member States. The Commission may also establish supervisory committees at a technical level.***
 4. Implementing acts of the Union shall take the form of implementing regulations or implementing decisions.
-

Explanation :

In Article 28.2 we remove the reference to (unspecified) 'specific cases'. It is the Commission and not the Council that has executive power to implement acts at the Union level. The extension of codecision to all law-making renders null and void the (even today) exceptional power of the Council to grant itself implementing powers.

Discretionary powers must be restricted to the Union institutions themselves. Nevertheless, it would be useful to make explicit the basic principles of the ECJ's case law on the delegation of executive powers as found in Meroni.

In Article 28.3, therefore, we suppress the bizarre reference to future 'control mechanisms' and spell out precisely what the Commission needs to do to bring greater efficiency, effectiveness and transparency to the implementation of the Union's law and policy.

If the Convention were to fail to reform the comitology procedures it will have failed comprehensively.

AMENDMENT FORM

Suggestion for amendment of Article : 28

Suggestion for protocol :

By Ms / Mr : Member of the Convention Mr. Jens-Peter Bonde, alternate Esko Seppänen and member David Heathcoat-Amory

Status : X- Member X- Alternate

Article 28: Implementing acts

1. Member States shall adopt all measures of national law necessary to implement the Union's legally binding acts.
2. **MEMBER STATES ARE NOT OBLIGED TO IMPLEMENT A EU-LAW IF THEIR NATIONAL PARLIAMENT VETO THE LAW ON GROUNDS OF VITAL INTERESTS AND THEIR PRIME MINISTER WILL DEFEND THIS VETO ON THE NEXT EUROPEAN COUNCIL MEETING.**
2. Where uniform conditions for the implementation of the Union's binding acts are needed, those acts may confer implementing powers on the Commission or in specific cases and in the cases provided for in Article [CFSP], on the Council.
3. Implementing acts of the Union may be subject to control mechanisms which shall be consonant with principles and rules laid down in advance by the European Parliament and the Council in accordance with the legislative procedure.
4. Implementing acts of the Union shall take the form of European implementing regulations or European implementing decisions.

AMENDMENT FORM

Suggestion for amendment of Article : 30

Suggestion for protocol :

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

Status : ☒ - Member ☐ - Alternate

DELEAT art 30.

Explanation (if any) : There shall be no Common Military policy in the EU.

AMENDMENT FORM

Suggestion for amendment of Article : 31

By Mr Andrew Duff, Lamberto Dini, Paul Helming, Peeter Kreitzberg, Algirdas Griekus, Puiu Hasotti, Jelko Kacin, Zekeriya Akcam, 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.

Delete

Explanation:

It is unnecessary to have special provision for instruments in police and criminal justice policy.

The special procedures are foreseen in Article 25.1.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 31:

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 31 – [Politique en matière de police et de justice dans le domaine pénal]

Supprimer cet article.

AMENDMENT FORM

Suggestion for amendment of Article : 32

By Mr Andrew Duff, Paul Helminger, 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 32: Principles governing acts of the Union

1. Unless the Constitution contains a specific stipulation, the institutions shall decide, in compliance with the procedures applicable, on the type of act to be adopted in each case, in accordance with the principle of proportionality set out in Article 8.
2. Laws, framework laws, regulations and decisions shall state the reasons on which they are based and shall refer to any proposals or opinions required by this Constitution.
3. *Upon the adoption of a framework law in the Council, each Member State shall stipulate in an annex how they intend to transpose the legislation into national law.*

Explanation :

In the title, the use of the phrase governing is more accurate than 'common'.

This additional proposal stems from the current work of the institutions on better regulation. The obligation placed on governments to set out their intentions with respect to the transposition of EU law into their domestic jurisdiction will assist scrutiny of the measure by national parliaments and comprehension by regional and local authorities and the social partners.

It may also encourage member state governments to share best practice.

AMENDMENT FORM

Suggestion for amendment of Article : 33

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 33: Publication and entry into force

1. **Legislation** adopted in accordance with the legislative procedure shall be signed by the President of the European Parliament and by the President of the Council. **It** shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following that of their publication.
 2. **Decisions of general application and regulations shall be signed by the President of the institution that adopts them.** Regulations of the Commission or of the Council and decisions which do not specify those to whom they are addressed or which are addressed to all Member States shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following that of their publication.
 3. Other decisions shall be notified to those to whom they are addressed and shall take effect upon such notification.
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Explanation :

This Article may be better placed in Part Two.

In Article 33.1 we propose the use of the generic term 'legislation' in order to help the Praesidium with its drafting.

We have also removed the reference to the solitary signature of the President of the Council in legislative matters which is redundant.

In Article 33.2 we provide for an appropriate methodology for the promulgation of decisions and regulations.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 33:

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 33 – Publication et entrée en vigueur

Les lois européennes et les lois-cadre européennes, adoptées conformément à la procédure législative, sont signés par le Président du Parlement européen et par le Président du Conseil. ~~Dans les autres cas, elles sont signées par le Président du Conseil~~ **(12 mots supprimés)**. Les lois de l'Union européenne et les lois-cadres de l'Union européenne, sont publiées dans le Journal Officiel de l'Union européenne et entrent en vigueur à la date qu'elles fixent ou, à défaut, le vingtième jour suivant leur publication.

