

AMENDMENT FORM

Suggestion for amendment of Article : 224a

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

Status : - Members and Alternate Members

[Article 224a

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the High Court before the governments of the Member States take the decisions referred to in Articles 223 and 224.

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the High Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The appointment of members of the panel and the panel's operating rules shall be decided by the Council, acting by a qualified majority, on a proposal from the President of the Court of Justice.]

Explanation:

Support in principle, but it is recommended to reflect once more on more transparent possibilities to give an opinion on the candidates' suitability (maybe elements of the concept chosen by the ECHR could be used).

AMENDMENT FORM

Suggestion for amendment of Article : 228

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

Status : - Members and Alternate Members

Article 228

1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under the Constitution, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.
2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the Court's judgment, it may bring the case before the Court of Justice after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.
If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.
This procedure shall be without prejudice to Article 227.
3. ~~When the Commission brings a case before the Court of Justice pursuant to Article 226 on the grounds that the State concerned has failed to fulfil its obligations to notify measures transposing a framework law, it may, when it deems appropriate, request that, in the course of the same proceedings, the Court of Justice impose the payment of a lump sum or penalty if the Court finds that there has been such a failure. If the Court of Justice complies with the Commission's request, the payment in question shall take effect within the time limit laid down by the Court of Justice in its judgment.~~

Explanation :

It seems inappropriate to immediately impose financial penalties on Member States for the mere fact of non-notification. On the other hand cases of non-transposition may be hardly discerned from cases of non-complete transposition. If Member States could simply avoid the penalty being imposed by claiming transposition (notification), the provision will not improve the current enforcement system.

AMENDMENT FORM

Suggestion for amendment of Article : 245

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

Status : - Members and Alternate Members

Article 245

The Statute of the Court of Justice shall be laid down in a Protocol.

The A European law may amend the provisions of the Statute, with the exception of the matters contained in Title I and Article 64. The European Parliament and the Council shall act either at the request of the Court of Justice and after consulting the Commission, or at the request of the Commission and after consulting the Court of Justice.

Explanation:

The exception for Title I and Art. 64 should not only give a formal but also a substantial guarantee for the matters being dealt with there.