

AMENDMENT FORM

Suggestion for amendment of Article: III-263 (ex Article 228)

By: Danuta Hübner

Status: Member

Text of the Praesidium

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 judgement 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 judgement, 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 judgement it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to [ex Article 227].

3. When the Commission brings a case before the Court of Justice pursuant to [ex 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

Proposed Amendments

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2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the Court's judgement, it shall, after giving that State the opportunity to submit its observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgement of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgement within the time limit laid down by the Commission, the latter ~~it~~ may bring the case before the Court of Justice. ~~after giving that State the opportunity to submit its observations.~~ In so doing ~~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 judgement it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to [ex Article 227].

~~3. When the Commission brings a case before the Court of Justice pursuant to [ex Article 226] on the grounds that the State concerned has failed to fulfil its obligations to~~

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Explanation:

The current provisions of the article 228 TEC should be maintained.

It seems inappropriate to impose financial penalties on Member States for the mere fact of non-notification measures transposing a framework law.