

## AMENDMENT FORM

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

**By Ms:** Linda McAvan

**Status :** - Member

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. ***These observations must be submitted within three months.*** 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. ***The Court of Justice must deliberate the case within six months of it's referral.***

If the Court of Justice finds that the Member State concerned has not complied with its judgement it may impose ***either*** a lump sum or penalty payment, ***or both a lump sum and 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 ***either*** a lump sum or penalty, ***or both a lump sum and a penalty payment***, 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 judgement. ***The Court of Justice must deliberate the case within six months of it's referral.***

**Explanation (if any):** After account has been taken of the nature of the infringement, a Member State should pay a lump sum for not complying with EU legislation as well as a penalty payment in order to encourage compliance.