

## AMENDMENT FORM

### Suggestion for amendment of Article : 263 (ex Article 228), part III of the Constitution

**By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle**

**Status :       Tiilikainen, Kiljunen, Vilén - Members  
                  Peltomäki, Takkula and Helle - Alternates**

---

#### **Article III-263 (ex Article 228)**

1.           If the European 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 European 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 European 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.~~

**2.           If the Commission considers that the Member State concerned has not taken such measures it shall 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 may bring the case before the Court of Justice. 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 European 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 [Article III-262 (ex 227)].

~~3.           When the Commission brings a case before the European Court of Justice pursuant to [Article III 261 (ex 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 European 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 European Court of Justice complies with the Commission's request, the payment in question shall take effect within the time limit laid down by the European Court of Justice in its judgement.~~

---

**Explanation (if any) :**

*Paragraph 2: We are in favour of strengthening the sanctions machinery. However, we consider that the stage of reasoned opinion should be preserved for the reason that it is not always clear what kind of measures are needed for the implementation of a judgment of the Court. We find it important to set a clear deadline for the Member States to fulfil their obligations at the initial stage, after which, in case of a failure to do so, the case may be referred to the Court for the implementation of sanctions.*

*Paragraph 3: We do not find this provision necessary. The question whether a Member State has implemented a certain framework law or not, is not always simple. The proposed procedure can cause situations that are open to differing interpretations. On the other hand, the provision does not have much significance if the Article is interpreted in a way that the threat is eliminated simply by sending a notification.*