

## AMENDMENT FORM

### **Part III - Chapter VI: The Functionings of the Union - Chapter 1 - Section 1 - The Institutions**

#### **Suggestion for amendment of Article : III-278**

**By Members: Mr Giuliano Amato, Mr Elmar Brok and Mr Andrew Duff**

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#### Article III-278 (ex Article 240a)

1. The Court of Justice shall not have jurisdiction with respect to Articles [I-39 and I-40] and the provisions of [Chapter II of Title V of Part III] concerning the common foreign and security policy.
  2. *By way of derogation from paragraph 1, proceedings may be instituted according to the provisions of Article III-266.2 solely in cases brought by a Member State, and according to the provisions of Article III-266.4, Article III-268 and Article III-272.*
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#### **Explanation:**

*The merger of the pillars implies that there are no a priori areas where the supervision of the Court cannot apply. Already, Articles 1 and 9 of Part One, as well as the horizontal provisions of the Charter, insist on respect for both Union competence and national law. Together they provide an adequate safeguard.*

*The powers of the Court are clearly not the same in CFSP as they are in the former first and third pillars, but the constitutionalisation of the Union requires the potential for judicial review over the whole spectrum of the Union's activities. The citizen will not understand why CFSP is excluded.*

*Due to the special nature of the Court's role in CFSP, we have limited the extent of its purview to four aspects similar to the role of national courts with regard to national foreign policy in most Member States. These are Article III-266.2 (actions brought by member states challenging the legality of CFSP acts), Article 266.4 (actions brought by individuals directly concerned), Article 268 (procedures) and Article 272 (damages).*