

**NOTE**

---

from :	Secretariat
to :	Members of the discussion circle on the Court of Justice
Subject :	Record of the meeting on 17 February 2003 of the discussion circle on the Court of Justice

---

1. At its last meeting, on 17 February 2003, the Discussion Circle held an in-depth exchange of views with the President of the Court of Justice, Mr Rodriguez Iglesias; the text of the latter's statement (in French) has in the meantime been forwarded to members of the circle - the English translation will follow.
2. In the ensuing discussion the members broached with the President of the Court the issues included in the framework of proceedings, with particular reference to questions in connection with the possible amendment of Articles 221 and 223 of the TEC on the number of judges and the procedure for appointing judges and advocates-general.
3. On Article 221 (number of judges) and Article 223 (appointment procedure), members in substance expressed themselves as follows:
  - (a) Principle of one judge per Member State (Nice system: Article 221): should this system stand or should the Court be smaller? Members were divided (the President of the Court explained the advantages of a smaller Court; while several members supported his arguments, others preferred the system of one judge per Member State);
  - (b) On the procedure for appointing judges and advocates-general: some members wanted to retain appointment "by common accord" of the governments, but more wanted them to be appointed by Council act;

- (c) The idea of setting up a panel to assess the candidates was well received, although some members preferred to keep the present system; some members proposed that governments should put forward more than one candidate while others preferred a single candidate; the importance of establishing criteria which would guarantee the professional quality, independence and impartiality of the candidates was stressed; the Council would decide on the composition of the panel (it could include a former President of the Court, Presidents of Constitutional or Supreme Courts of the Member States; it was also suggested that the European Parliament might designate a member of the panel); some members opposed the idea that the panel could interview the candidates;
- (d) As regards the judges' term of office, most members favoured a non-renewable nine-year term, although some could also accept a longer, non-renewable term of 12 years. (In his intervention, the President of the Court of Justice came down in favour of a 12-year term on the grounds that nine years was too short). On the subject of the length of the term, some members suggested that a provision in the treaty indicate that members of the Court were appointed for the entire term of office when they replaced a member (rather than just for the remainder of their predecessor's term).
4. In concluding the discussion, it was agreed that these points should also be examined with the President of the Court of First Instance for the aspects which concerned it. Some members also wanted the President of the Court of First Instance to give his views on the distribution of powers between the two Courts.
5. A number of members also suggested that the discussion circle examine the question of whether some of the present provisions on the Court could be transferred from the treaty to the Statute of the Court to allow them to be amended more easily in future.
6. Some members wanted the discussion circle to widen the framework of its proceedings, but no decision was reached on the matter.
7. The next meeting will be held on 24 February 2003.
-