

FICHE AMENDEMENT 6

Proposition d'amendement à l'Article : Artículo 20

Déposée par Messieurs : Borrell (miembro), Carnero y López Garrido (suplentes)

Artículo 20: El Tribunal de Justicia de la Unión Europea

Añadir al punto 2:

2. El Tribunal de Justicia estará compuesto por un juez por Estado miembro y estará asistido por abogados generales. El Tribunal de Instancia dispondrá al menos de un juez por Estado miembro; el número de sus jueces se fijará en el Estatuto del Tribunal de Justicia. Los jueces del Tribunal de Justicia y del Tribunal de Instancia, así como los abogados generales del Tribunal de Justicia, elegidos entre personalidades que ofrezcan plenas garantías de independencia y que reúnan las condiciones requeridas en el artículo [XX] de la Parte II, serán designados *por el Consejo a propuesta de los gobiernos* de los Estados miembros para un mandato de seis años. *En el caso del Tribunal de Justicia, la propuesta conjunta deberá ser ratificada por el Parlamento Europeo.* Los miembros salientes podrán ser nuevamente designados.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article 20

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p>Article 20 : The Court of Justice of the European Union</p> <p>1. The Court of Justice, including the High Court, shall ensure respect for the Constitution and Union law.</p> <p>The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.</p> <p>2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.</p> <p>3. The Court of Justice shall be competent for :</p> <p>- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities</p>	<p>Article 20 : The Court of Justice of the European <u>Community</u></p> <p>1. The Court of Justice, including the High Court, shall ensure respect for the <u>simplifying Treaty</u> and <u>Community</u> law.</p> <p>The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of <u>Community</u> law.</p> <p><i>NO AMENDMENT</i></p> <p><i>NO AMENDMENT</i></p>

foreseen in article [YY] of Part II;

- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;

- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20

**Déposée par Olivier Duhamel, titulaire
Anne Van Lancker, titulaire
Pervenche Berès, suppléante**

Article 20 - La Cour de Justice de l'Union européenne

Paragraphe 2

2- ...et qui réunissent les conditions requises à l'article [XX] de la partie II, sont nommés d'un commun accord par les gouvernements des Etats membres pour un mandat de *neuf ans non renouvelable*.

Justification

Un mandat plus long et non renouvelable assure mieux l'indépendance des juges.

AMENDMENT FORM

Suggestion for amendment of: PART I OF THE CONSTITUTION, TITLE IV: The Union's Institutions, Article 20 : The Court of Justice of the European Union

By Ms / Mr : BROK; SANTER; TAJANI; VAN DER LINDEN; AZEVEDO; BASILE; BREJC; CUSHNAHAN; DEMETRIOU; DOLORES; FOGLER; FREDO; KAUPPI; KELEMEN; KORHONEN; KRASTS; KROUPA; LAMASSOURE; MAIJ-WEGGEN; MLADENOV; PIKS; RACK; VAN DIJK; WITTBRODT; ZIELENIEC; ZILE

Status : - Member - Alternate

Suggestion

TITLE IV: The Union's Institutions

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure *that in the interpretation and application of this Constitution and the Acts taken under its provisions the law is observed.*
~~respect for the Constitution and Union law.~~

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by ~~common accord of the governments of the Member States~~ *the Council, acting by qualified majority, with obtaining the assent of the European Parliament* for a *non-renewable* term of ~~six~~ *eight* years ¹, ~~renewable~~.

¹ For the Court of Justice the Discussion Circle, chaired by Mr Vitorino, also examined the possibility of a non-renewable mandate of 9 or 12 years.

3. The Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation (if any) :

The role of the Court should be specified more clearly. Text taken from Art. 220 ECT (Nice).

The judges and the advocates general should be appointed by the Council by qualified majority and after assent of the European Parliament.

The term should be prolonged but be non-renewable in order to enhance the independence of judges and advocates general.

AMENDMENT FORM

Suggestion for amendment of Article : 20 Suggestion for Part I

By Mr : Vytenis Povilas Andriukaitis, Algirdas Gričius, Gintautas Šivickas, Eugenijus Maldeikis

Status : Member, member, alternate, alternate

Article 20 19: The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure respect for the Constitution and Union law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of ~~six~~ **nine** years, ~~renewable~~ **non-renewable**.

3. The Court of Justice shall be competent for:
 - ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
 - ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for protocol :

By Ms / Mr :

Status : - Member - Alternate

PART I OF THE CONSTITUTION

TITLE IV: The Union's Institutions

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure respect for the **TREATY [DELETE: Constitution]** and Union law **AND SHALL RESPECT THE NATIONAL CONSTITUTIONS AND THE EUROPEAN CONVENTION OF HUMAN RIGHTS AS INTERPRETED BY THE NATIONAL HIGH COURTS AND THE COURT OF HUMAN RIGHTS IN STRASBOURG.**

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years¹, renewable.
3. The Court of Justice shall be competent for :

¹ For the Court of Justice the Discussion Circle, chaired by Mr Vitorino, also examined the possibility of a non-renewable mandate of 9 or 12 years.

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 20 (2)

Suggestion for protocol :

By Ms / Mr : Linda McAvan

Status : - Member - Alternate

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure respect for the Constitution and Union law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by **qualified majority voting in the Council with the assent of the European Parliament after examination of the candidate's qualifications. The judges will serve a 9 year non-renewable term.**

3. The Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendement of Article : 20

Suggestion for Part I

By Ms/ Mr : Georgios Papandreou and Mr Georgios Katiforis

Status : - Member Alternate

Article 20 : The Court of Justice

1. The Court of Justice, including the High Court **and Specialised Courts**, shall ensure respect ~~for the Constitution and Union law.~~ **that in the interpretation and application of this Constitution the law is observed.**

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General.

The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice.

The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States. **The judges of the Court of Justice shall be appointed for a term of twelve years, non-renewable. The judges of the High Court shall be appointed** for a term of six years, renewable. Departing members can be re-appointed.

3. **In the cases and according to the modalities foreseen in article [YY] of Part II**, the Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person ~~in the cases and according to the modalities foreseen in article [YY] of Part II;~~
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : Art. 20

Suggestion for protocol :

By: Ernâni Lopes, Maria Eduarda Azevedo, António Nazaré Pereira, Manuel Lobo Antunes.

Status : - Members and Alternates

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court **and Specialised Courts**, shall ensure respect for the Constitution and Union law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of ~~six years renewable~~ **nine years non renewable**.

3. The Court of Justice shall be competent for:

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

NB: we generally agree with the proposed text. Nevertheless, we would prefer to include in n° 3 other competencies of the Court as presently stated in articles 229/229-A (unlimited jurisdiction), 235 (jurisdiction in disputes relating to compensation for damage), 236 (jurisdiction in disputes between the Community and its servants) and 238 (voluntary jurisdiction).

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20

Déposée par Madame ou Monsieur : M. Louis Michel, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention ainsi que M. Patrick Dewael, observateur à la Convention

Qualité : - Membre - Suppléant

1. L'institution Cour de justice est composée de la Cour de justice et du Tribunal général. Le statut de la Cour de justice peut prévoir que sont adjointes au Tribunal général des juridictions spécialisées pour exercer des compétences dans certains domaines spécifiques.

2. La Cour de justice et le Tribunal général assurent le respect de la présente Constitution et du droit de l'Union.

Les États membres établissent les voies de recours nécessaires pour assurer une protection juridictionnelle effective dans le domaine du droit de l'Union.

3. La Cour de justice est formée d'un juge par État membre et est assistée d'avocats généraux. Le Tribunal général compte au moins un juge par État membre; le nombre de ses juges est fixé par le statut de la Cour de justice. Le statut peut prévoir que le Tribunal général est assisté d'avocats généraux.

Les juges et les avocats généraux de la Cour de justice, les juges et, le cas échéant, les avocats généraux du Tribunal général, choisis parmi des personnalités offrant toutes garanties d'indépendance et qui réunissent les conditions requises à l'article XX de la Partie III, sont nommés d'un commun accord par les gouvernements des États membres pour un mandat de six ans. Les juges et les avocats généraux sortants peuvent être nommés à nouveau.

4. L'institution Cour de justice est, selon les modalités prévues à l'article YY de la Partie III, compétente pour:

- statuer sur les recours introduits par **une institution**, un État membre, **une Région à pouvoirs législatifs reconnue comme telle par l'Etat concerné** ou des personnes physiques ou morales;
- statuer à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation **de la présente Constitution ou du droit de l'Union ou sur la validité d'actes adoptés par les institutions;**
- **rendre des avis sur la compatibilité des accords internationaux envisagés avec les dispositions de la présente Constitution.**

5. La Cour de justice statue sur des pourvois contre les décisions du Tribunal général ou réexamine celles-ci dans les conditions prévues par le statut de la Cour de justice pour assurer l'unicité et la cohérence du droit de l'Union.

Explication éventuelle :

Le texte du Praesidium ne tient pas compte des développements afférents à la Cour de Justice convenus à Nice, notamment en ce qui concerne la place et le rôle du Tribunal de 1^{ère} instance.

Le texte du Praesidium maintient la confusion actuelle entre la Cour de Justice en tant qu'institution et la Cour de Justice en tant que plus haute juridiction de l'Union

Un accès aux Régions à pouvoir législatif, selon des modalités à inscrire dans la partie III, doit être prévu.

AMENDMENT FORM

Suggestion for amendment of Article : 20

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member ~~Alternate~~

Artikel 20: Der Gerichtshof der Europäischen Union

(1) Der Gerichtshof und das Gericht der Europäischen Union sichern die Wahrung der Verfassung und des Rechts der Union.

~~Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.~~

2) Der Gerichtshof besteht aus einem Richter je Mitgliedstaat und wird von Generalanwälten unterstützt. Das Gericht besteht aus mindestens einem Richter je Mitgliedstaat; die Zahl der Richter wird in der Satzung des Gerichtshofs festgelegt, **die als Organakt vom Europäischen Parlament und dem Rat im Gesetzgebungsverfahren erlassen wird.** Zu Richtern des Gerichtshofs und des Gerichts sowie Generalanwälten des Gerichtshofs sind Personen auszuwählen, die jede Gewähr für Unabhängigkeit bieten und die in Artikel [XX] des Teils II verlangten Voraussetzungen erfüllen; sie werden von den Regierungen der Mitgliedstaaten im gegenseitigen Einvernehmen für eine Amtszeit von sechs Jahren ernannt. Die Wiederernennung ausscheidender Mitglieder ist zulässig.

(3) Der Gerichtshof entscheidet

- über Klagen der Kommission **oder** eines Mitgliedstaats **gegen einen Mitgliedstaat; eines Organs oder juristischer oder natürlicher Personen in den Fällen und nach den Modalitäten, die in Artikel [YY] des Teils II vorgesehen sind;**
- **über Klagen einer Institution der Union, eines Mitgliedstaats oder juristischer oder natürlicher Personen gegen eine Institution der Union;**
- im Wege der Vorabentscheidung auf Antrag der einzelstaatlichen Gerichte über die Auslegung des Unionsrechts oder über die Gültigkeit der von den Organen erlassenen Rechtsakte;
- über Rechtsmittel gegen die Entscheidungen des Gerichts oder überprüft in Ausnahmefällen diese Entscheidungen nach Maßgabe der Bedingungen, die in der Satzung des Gerichtshofs vorgesehen sind.

(4) Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.

Explanation (if any) :

Absatz 3: Der Formulierungsvorschlag des Präsidiums ist so verknüpft, dass er nicht mehr verständlich ist.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 20

Déposée par : Dominique de Villepin

Qualité : - Membre -Suppléant

Article 20 : La Cour de Justice de l'Union européenne

1. **En tant qu'institution, la Cour de justice de l'Union européenne regroupe deux juridictions** : la Cour de justice et ~~y compris~~ le Tribunal de grande instance. **Elles assurent, dans le cadre de leurs compétences respectives, le respect du droit dans l'interprétation et l'application de la présente Constitution assure le respect de la Constitution et le droit de l'Union.**
~~l'Union.~~
Les États membres établissent les voies de recours nécessaires pour assurer une protection juridictionnelle effective dans le domaine du droit de l'Union.
2. La Cour de justice est formée d'un juge par État membre et est assistée d'**au moins huit** avocats généraux. Le Tribunal de grande instance compte au moins un juge par État membre: le nombre des juges est fixé par le Statut de la Cour de justice. Les juges de la Cour de Justice et du Tribunal de grande instance, et les avocats généraux de la Cour de justice, choisis parmi des personnalités offrant toutes garanties d'indépendance et qui réunissent les conditions requises à l'article [XX] de la Partie II, sont nommés d'un commun accord par les gouvernements des États membres pour un mandat de ~~six~~ **neuf ans non renouvelables**. ~~Les membres sortants peuvent être nommés à nouveau.~~
3. La Cour de justice est compétente pour:
 - statuer sur les recours introduits par la Commission, un État membre, une Institution ou des personnes physiques et morales dans les cas visés et selon les modalités prévues à l'article [YY] de la Partie II;
 - statuer, à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation du droit de l'Union ou sur la validité d'actes adoptés par les institutions; statuer sur les pourvois à l'encontre des décisions rendues par le Tribunal de grande instance ou à titre

exceptionnel pour réexaminer ces décisions dans les conditions prévues dans le Statut de la Cour.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 20

By Mr. Kimmo Kiljunen, Mr Matti Vanhanen, Ms Riitta Korhonen and Mr Antti Peltomäki

Status : - Kiljunen and Vanhanen – Members
- Korhonen and Peltomäki - Alternates

Article 20: ~~The Court of Justice~~ **Jurisdiction of the European Union**

1. ~~The Court of Justice, including the High Court,~~ **institutional framework of the Union also comprises the independent and impartial Jurisdiction of the European Union, which shall have as its duty to ensure compliance with law in the interpretation and application respect for the of this Constitution and Union law. The Jurisdiction of the European Union consists of the Court of Justice of the European Union and the General Court of the European Union, as well as of the Specislised Courts established in accordance with the procedure laid down in Part II.**

Each Court shall act within the limits of the powers conferred upon it by Part II.

The Statute of the Jurisdiction shall be laid down in a separate Protocol to this Constitution.

~~The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.~~

2. ~~The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General, the number of which is determined in the Statute. The High General Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The statute may also provide for the General Court to be assisted by advocates-General. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.~~

The judges of the Court of Justice and the General Court and the Advocates-General, shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence. They shall be appointed by common accord of the governments of the Member States for a term of six years¹, renewable.

The provisions on the composition of Specialised Courts are laid down in the decisions

¹ For the Court of Justice the Discussion Circle, chaired by Mr Vitorino, also examined the possibility of a non-renewable mandate of 9 or 12 years.

on their establishment.

The Judges shall be immune from legal proceedings, as provided in the Statute.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

~~3. The Court of Justice shall be competent for :~~

- ~~—— ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;~~
 - ~~—— preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;~~
 - ~~—— ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.~~
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FICHE AMENDEMENT

Titre IV

Proposition d'amendement à l'Article : Artigo 20.º Tribunal de Justiça (3 palavras suprimidas)

Déposée par Monsieur Luís Queiró

Qualité: Suppléant

1. **No âmbito das respectivas competências, o Tribunal de Justiça e o Tribunal de Grande Instância garantem o respeito do direito na interpretação e aplicação do presente Tratado e da legislação adoptada em sua aplicação (20 palavras suprimidas).**

A União e os Estados-Membros estabelecem as vias de recurso necessárias para assegurar uma protecção jurisdicional efectiva no domínio do direito da União.

2. O Tribunal de Justiça é composto por um juiz de cada Estado-Membro e é assistido por advogados-gerais. O Tribunal de Grande Instância é constituído, no mínimo, por um juiz de cada Estado-Membro, sendo o número de juízes fixado no Estatuto do Tribunal de Justiça. Os juízes do Tribunal de Justiça e do Tribunal de Grande Instância, bem como os advogados-gerais do Tribunal de Justiça, escolhidos entre personalidades que ofereçam todas as garantias de independência e reúnam as condições exigidas no artigo [XX] da Parte II, são nomeados de comum acordo pelos Governos dos Estados-Membros, por um mandato de **nove** anos (8 palavras suprimidas).

3. O Tribunal de Justiça é competente para:

- decidir (1 palavra suprimida) os recursos interpostos (2 palavras suprimidas) **ou as acções propostas por qualquer das Instituições**, por um Estado-Membro, (3 palavras suprimidas) ou por pessoas singulares e colectivas nos casos referidos e segundo as modalidades previstas no artigo [YY] da Parte II;

- decidir a título prejudicial, a pedido dos órgãos jurisdicionais nacionais, sobre a interpretação do direito da União ou sobre a validade dos actos aprovados pelas Instituições;

- decidir sobre os recursos contra decisões proferidas pelo Tribunal de Grande Instância ou, excepcionalmente, reapreciar essas decisões, nas condições previstas no Estatuto do Tribunal de Justiça.

Explication éventuelle :

Quanto ao n.º 1, segue-se a redacção em vigor – adaptada – do primeiro parágrafo do artigo 220.º CE. O nome dado ao actual Tribunal de Primeira Instância é um claro recurso ao sistema jurisdicional francês.

AMENDMENT FORM

Suggestion for amendment of Article : 20

Suggestion for protocol :

By Mr : John Gormley

Status : Alternate

Article 20: Add to the first sentence “**and ensure respect for Member States’ constitutions, the interpretation of those constitutions by the respective Member States’ supreme courts, and the European Convention on Human Rights as interpreted by the European Court of Human Rights in Strasbourg**”.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 20

By Mr. Péter Balázs, Mr. Hannes Farnleitner, Ms. Sandra Kalniete, Mr. Jan Kohout, Mr. Ivan Korčok, Mr. Rytis Martikonis, Mr. Lennart Meri, Mr. Dimitrij Rupel, Ms. Teija Tiilikainen

Status : - Members

Article 20: The ~~Court of Justice~~ Jurisdiction of the European Union

1. The ~~Court of Justice, including the High Court,~~ **institutional framework of the Union also comprises the independent and impartial Jurisdiction of the European Union, which shall have as its duty to ensure compliance with law in the interpretation and application respect for the of this Constitution and Union law. The Jurisdiction of the European Union consists of the Court of Justice of the European Union and the General Court of the European Union, as well as of the Specislised Courts established in accordance with the procedure laid down in Part II.**

Each Court shall act within the limits of the powers conferred upon it by Part II.

The Statute of the Jurisdiction shall be laid down in a separate Protocol to this Constitution.

~~The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.~~

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General, **the number of which is determined in the Statute.** The ~~High~~ **General Court** shall include at least one judge per Member State: the number shall be fixed by the Statute ~~of the Court of Justice.~~ **The statute may also provide for the General Court to be assisted by advocates-General.** ~~The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.~~

The judges of the Court of Justice and the General Court and the Advocates-General, shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence. They shall be appointed by common accord of the governments of the Member States for a term of six years¹, renewable.

¹ For the Court of Justice the Discussion Circle, chaired by Mr Vitorino, also examined the possibility of a non-renewable mandate of 9 or 12 years.

The provisions on the composition of Specialised Courts are laid down in the decisions on their establishment.

The Judges shall be immune from legal proceedings, as provided in the Statute.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

~~3. The Court of Justice shall be competent for :~~

- ~~— ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;~~
 - ~~— preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;~~
 - ~~— ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.~~
-

AMENDMENT FORM

Suggestion for amendment of Article : Title IV

By Ms / Mr : Jan Kohout

Status : - Member

20. The Court of Justice

1. The Court of Justice, comprising of High Court and Court of First Instance, shall ensure respect for the Constitution and Union law.
 2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include one judge per Member State. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article (XX) of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.
 3. The Court of Justice shall be competent for :
 - ruling on actions brought by the Commission , a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article (YY) of Part II ;
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law, including the Constitutional Treaty, or the validity of acts adopted by the institutions ;
 - ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.
-

Explanation (if any) :

20 : *The article lacks any provision on Court's Statute.*

20.2 : *number of judges should strictly correspond to the number of Member States (one or two per state). Longer mandate should be considered, as well as partial renewal of one third or half of judges in order to ensure continuity of the Court's decision making.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20, partie I de la Constitution:

Déposée par Mme Elena PACIOTTI, Mme Anne VAN LANCKER, M. Olivier DUHAMEL, Mme Linda McAVAN, M. Luis MARINHO, Mme Pervenche BERÈS, M. Carlos CARNERO

Qualité: - Membres et Suppléants

ARTICLE 20 – La Cour de Justice de l'Union européenne

1. La Cour de justice, y compris le Tribunal de grande instance, assure le respect de la Constitution et le droit de l'Union. **Elle est autonome et indépendante de tout autre pouvoir.**

Les États membres établissent les voies de recours nécessaires pour assurer une protection juridictionnelle effective dans le domaine du droit de l'Union.

2. La Cour de justice est formée d'un juge par État membre et est assistée d'avocats généraux. Le Tribunal de grande instance compte au moins un juge par État membre: le nombre des juges est fixé par le Statut de la Cour de justice. Les juges de la Cour de Justice et du Tribunal de grande instance, et les avocats généraux de la Cour de justice, choisis parmi des personnalités offrant toutes garanties d'indépendance et qui réunissent les conditions requises à l'article [XX] de la Partie II, sont nommés d'un commun accord par les gouvernements des États membres pour un mandat de **neuf ans¹ non renouvelable**. Les membres sortants peuvent être nommés à nouveau.

Explication éventuelle:

¹ Pour la Cour de Justice, le cercle de réflexion présidé par M. Vitorino a aussi examiné la possibilité d'un mandat de neuf ou douze ans, non-renouvelable.

AMENDMENT FORM

Title IV

Suggestion for amendment of Article : 20

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Algirdas Gričius, Mrs Lone Dybkjaer, Lord MacLennan, Mr Adrian Severin.

Status : Members and alternate members.

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure *that, in the interpretation and application of the Constitution and of acts made under it, the law is observed.*

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of *nine* years, *non-renewable*.

3. The Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;

- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation:

1. The description of the powers of the Court seems too limited. We propose here a re-formulation of the present Article 220 TEC in order to guarantee that there is to be no regression from the present acquis.

2. The term of office of nine years, non-renewable, is the best way to achieve the joint objective of stability and neutrality.

AMENDMENT FORM

Part I of the Constitution, Title IV: The Union's Institutions

Suggestion for amendment of Article: 20, point 3, paragraph 1

**By: M. P. DEWAEL
M. J. CHABERT**

Status : - ~~Member~~ ——— - ~~Alternate~~ -Observer

Amend as follows:

3. The Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution, a body or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II. Member States can make a declaration in wich they indicate wich authority can act independently before the European Court of Justice in those cases in wich the Treaty provides an action of the Member State and with respect to wich Union competences the authorities concerned can act.
- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation: /

FICHE AMENDEMENT

I ERE PARTIE TITRE IV : LES INSTITUTIONS DE L'UNION

Proposition d'amendement à l'Article : 20 § 3 alinéa 1

Déposée par: M.J.CHABERT
M.M.DAMMEYER
Mme C. du GRANRUT
M.C.MARTINI
M.R.VALCARCEL SISO

Qualité : - Membre -Suppléant - Observateur

Modifier de la façon suivante :

3. La Cour de justice est compétente pour :
- statuer sur les recours introduits par la Commission, un État membre, une Institution, un organe ou des personnes physiques et morales dans les cas visés et selon les modalités prévues à l'article [YY] de la Partie II ;
 - statuer, à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation du droit de l'Union ou sur la validité d'actes adoptés par les institutions ;
 - statuer sur les pourvois à l'encontre des décisions rendues par le Tribunal de grande instance ou à titre exceptionnel pour réexaminer ces décisions dans les conditions prévues dans le Statut de la Cour.

Explication éventuelle :

La rédaction proposée par le Praesidium semble avoir oublié les dispositions prévues dans les protocoles relatifs au rôle des Parlements ainsi qu'au contrôle de subsidiarité et de proportionnalité. La mention des organes, sans préciser s'il s'agit d'organes de l'Union ou des Etats membres, permet de prendre en compte à la fois les Parlements nationaux, qui n'ont pas nécessairement la qualité de personne morale, et le Comité des régions, auquel le protocole reconnaît le droit de recours pour le contrôle de la subsidiarité et pour la sauvegarde de ses intérêts. Il permet aussi d'ouvrir la voie à un droit de recours au Comité économique et social pour la sauvegarde de ses intérêts, ce qui est conforme aux principes de l'Etat de droit dont se prévaut l'Union.

AMENDMENT FORM

Suggestion for amendment of Article 20, Title IV of Part I of the Constitution

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives, and Mr Sören Lekberg, Mr Göran Lenmarker, Mr Kenneth Kvist and Mr Ingvar Svensson, national parliament representatives.

Status : - Member: Hjelm-Wallén, Lekberg and Lenmarker
 - Alternate: Petersson, Kvist and Svensson

Article 20 : The Court of Justice of the European Union¹

1. The Court of Justice, including the High Court², shall ensure ~~respect for the Constitution and Union law~~ **that in the interpretation and the application of the Constitution and of the acts adopted by the institutions and organs of the Union the law is observed.**³

~~The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.~~⁴

2. The Court of Justice shall consist of one judge from each Member State, ~~and shall be assisted by Advocates General.~~ The High Court shall include at least one judge per Member State. ~~++~~ The number **of judges of the High Court** shall be fixed by the Statute of the Court of Justice. The judges ~~of the Court of Justice and the High Court, and the Advocates General of the Court of Justice,~~ **shall be** chosen from persons whose independence is beyond doubt and who satisfy the conditions set out ~~at in~~ Article [XX] of Part II. **They** shall be appointed by common accord of the governments of the Member States for a term of six years, ~~renewable.~~ **Judges may be reappointed.**⁵

¹ Paragraph 1 of Article 20 does not specifically exclude ECJ jurisdiction over CFSP and CFSP elements of international agreements. This issue will have to be addressed explicitly in Part I.

² We have doubts on name "High Court".

³ The wording "ensure respect for" seems vague when describing the main object of the Court of Justice. The proposed wording corresponds to article 220 EC but takes into consideration that the jurisdiction of the Court according to the Constitution includes not only the former first pillar areas. The meaning of and the distinction between "the Constitution" and "Union law" is unclear and is therefore replaced by the terminology currently used in the opening articles of the Constitution.

⁴ The second paragraph should be deleted. Title IV concerns the rights and obligations of the institutions of the Union and the articles of this title are thus aimed at the institutions, not the Member States. It therefore seems inconsistent to include a paragraph concerning the obligations of the Member States to ensure effective legal protection in the field of Union law.

⁵ The role of the Advocates-General should be reviewed. A possibility for the Court of Justice to require the assistance of Advocates-General in certain cases could be laid down in

3. The Court of Justice shall **have jurisdiction to hear and determine the cases set out in Articles [YY] of Part II.**⁶ ~~be competent for:~~
- ~~— ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;~~
 - ~~— preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;~~
 - ~~— ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.~~
4. **The High Court shall have jurisdiction to hear and determine the cases set out in Articles [YY] of Part II, if so provided in the Statute of the Court of Justice. Decisions given by the High Court shall be subject to a right of appeal to the Court of Justice under the conditions and within the limits laid down in Article [ZZ] in Part II.**
5. **According to Article [YYY] in Part II specialized courts may be set up to hear and determine at first instance actions brought in specific areas within the jurisdiction of the Court of Justice.**⁷

the Statute, as well as the fixing of their number. The other suggestions for amendments are made for editorial reasons.

⁶ Since the overall task of the Court is set out in paragraph 1 in Article 20 and the jurisdiction of the Court will be defined elsewhere in the Constitution, it would seem more appropriate to simply refer to these articles. An effort to go beyond such a reference seems both unnecessary and risks to raise questions on the interpretation of Article 20 when read together with the articles defining the jurisdiction of the Court in detail.

⁷ In order to give a correct description of the court system, a reference to the High Court should be included in Article 20 as well as a reference to the specialized courts.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 20

Proposition d'amendement au protocole:

Déposée par Madame ou Monsieur : Gianfranco FINI – Francesco SPERONI

Qualité : - Membre - Suppléant

Articolo 20: La Corte di giustizia dell'Unione europea

1. ~~La Corte di giustizia ed ivi compreso il Tribunale assicurano il rispetto della Costituzione e del diritto dell'Unione.~~ **La Corte di giustizia assicura il rispetto del diritto nell'interpretazione e nell'applicazione della Costituzione. Essa è costituita dalla Corte di giustizia e dal Tribunale, nonché da uno o più tribunali specializzati.**

Gli Stati membri stabiliscono i rimedi giurisdizionali necessari per assicurare una tutela giurisdizionale effettiva nel settore del diritto dell'Unione.

2. La Corte di giustizia è composta da un giudice per Stato membro ed è assistita da avvocati generali. Il Tribunale è composto da almeno un giudice per Stato membro: il numero dei giudici è stabilito dallo statuto della Corte di giustizia. I giudici della Corte di giustizia e del Tribunale e gli avvocati generali della Corte di giustizia, scelti tra personalità che offrano tutte le garanzie di indipendenza e che soddisfino le condizioni richieste all'articolo [XX] della parte II, sono nominati di comune accordo per un mandato di sei anni dai governi degli Stati membri ¹. I membri uscenti possono essere nuovamente nominati.

3. La Corte di giustizia è competente:

- a pronunciarsi sui ricorsi presentati dalla Commissione, da uno Stato membro, da un'istituzione o una persona fisica o giuridica, nei casi e secondo le modalità di cui all'articolo [YY] della parte II;
- a pronunciarsi, in via pregiudiziale, su richiesta dei giudici nazionali, sull'interpretazione del diritto dell'Unione o sulla validità degli atti adottati dalle istituzioni;

¹ Per la Corte di giustizia, il circolo di riflessione presieduto dal sig. Vitorino ha altresì esaminato la possibilità di un mandato di nove o dodici anni, non rinnovabile.

- a pronunciarsi sulle impugnazioni delle decisioni emesse dal Tribunale, o a titolo eccezionale, a riesaminare tali decisioni, alle condizioni previste dallo statuto della Corte.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article 20

By Ms Maria BERGER

Status: Alternate

Article 20 : ~~The Court of Justice~~ Judicial System of the European Union

1. The Court of Justice **of the European Union**, ~~including and~~ the High Court, shall ensure respect for the Constitution and Union law.

2. **In carrying out their responsibilities, the Courts shall be completely independent. In the discharge of their duties the judges shall neither seek nor take instructions from any government or other body.**

3. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Courts ~~of Justice~~. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of ~~six years~~, ~~renewable~~. **nine years, non renewable in the case of judges at the Court of Justice and six years , renewable in the case of judges at the High Court.**

4. The Court of Justice **and the High Court** shall be competent for :
 - ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
 - **the Court of Justice in addition for ruling on appeals on decisions given by the High Court or**

exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

5. The Member States shall provide rights of appeal sufficient to ensure **natural and legal persons** effective legal protection in the field of Union law.

Explanation (if any):

AMENDMENT FORM

Suggestion for amendment of Article: 20
By Mr: Erwin Teufel
Status: Member

Text of the Praesidium

- (1) The Court of Justice, including the High Court, shall ensure respect for the Constitution and Union law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

- (3) The Court of Justice shall be competent for:
- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
 - ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Proposed Amendment

- (1) The Court of Justice, including the High Court, shall, **within its jurisdiction**, ensure respect for the Constitution and Union law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

- (3) The Court of Justice shall be competent for:
- ruling on actions brought by the Commission, a Member State, **a region within its legislative powers, any chamber of a national parliament**, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
 - ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the

Court.

Explanation:

Paragraph 1

The current wording of Article 220 TEC should be retained. The delimitation of competences between the European Court of Justice (including the High Court) and the Member States' courts shall be subject to the allocation of competencies in the Constitution, as it is foreseen in other areas, too.

Paragraph 3

Regions with legislative powers have to be vested with the right of action in order to guard their competences and powers as well as for the safeguarding of the principle of subsidiarity (cf. CONV 530/03). Beyond this, any chamber of national parliaments should be vested with a right of action for the safeguarding of the principle of subsidiarity. The general enumeration of those parties with a (sometimes limited) right of action in Paragraph 3 therefore has to encompass regions and chambers of national parliaments as well. The specific conditions of these powers to bring an action before the Court of Justice are contained in the other parts of the Constitution, especially Article [YY] of Part Two and the protocol on the principle of subsidiarity (cf. pertinent proposed amendment).

FICHE AMENDEMENT

Proposition d'amendement à l'Article:	20
Déposée par Monsieur:	Erwin Teufel
Qualité:	Membre

Texte du Praesidium

- (1) Der Gerichtshof und das Gericht der Europäischen Union sichern die Wahrung der Verfassung und des Rechts der Union.

Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.

- (3) Der Gerichtshof entscheidet
- über Klagen der Kommission, eines Mitgliedstaats, eines Organs oder juristischer oder natürlicher Personen in den Fällen und nach den Modalitäten, die in Artikel [YY] des Teils II vorgesehen sind;
 - im Wege der Vorabentscheidung auf Antrag der einzelstaatlichen Gerichte über die Auslegung des Unionsrechts oder über die Gültigkeit der von den Organen erlassenen Rechtsakte;
 - über Rechtsmittel gegen die Entscheidungen des Gerichts oder überprüft in

Amendement proposé

- (1) Der Gerichtshof und das Gericht der Europäischen Union sichern **im Rahmen ihrer jeweiligen Zuständigkeiten** die Wahrung der Verfassung und des Rechts der Union.

Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.

- (3) Der Gerichtshof entscheidet
- über Klagen der Kommission, eines Mitgliedstaats, **einer Region im Rahmen ihrer Gesetzgebungsbefugnisse, einer Kammer eines nationalen Parlaments**, eines Organs oder juristischer oder natürlicher Personen in den Fällen und nach den Modalitäten, die in Artikel [YY] des Teils II vorgesehen sind;
 - im Wege der Vorabentscheidung auf Antrag der einzelstaatlichen Gerichte über die Auslegung des Unionsrechts oder über die Gültigkeit der von den Organen erlassenen Rechtsakte;
 - über Rechtsmittel gegen die Entscheidungen des Gerichts oder überprüft in

Ausnahmefällen diese Entscheidungen nach Maßgabe der Bedingungen, die in der Satzung des Gerichtshofs vorgesehen sind.

Ausnahmefällen diese Entscheidungen nach Maßgabe der Bedingungen, die in der Satzung des Gerichtshofs vorgesehen sind.

Begründung:

Abs. 1

Die derzeitige Formulierung des Artikels 220 EG-Vertrags sollte beibehalten werden. Die Abgrenzung der Zuständigkeiten zwischen den europäischen Gerichten und den Gerichten der Mitgliedstaaten muss sich ebenso wie in anderen Bereichen der Verfassung nach den dort konkret zugewiesenen Kompetenzen richten.

Abs. 3

Regionen mit Gesetzgebungsbefugnissen müssen ein Klagerecht zur Wahrung ihrer Rechte und zur Sicherung des Subsidiaritätsgrundsatzes erhalten (vgl. CONV 530/03). Ferner soll jede Kammer eines nationalen Parlaments ein Klagerecht zur Wahrung des Subsidiaritätsgrundsatzes erhalten. Die allgemeine Aufzählung der – ggf. beschränkt – Klagebefugten in Absatz 3 muss daher auch die Regionen und die Kammern der nationalen Parlamente enthalten. Die genauen Modalitäten dieser Klagerechte ergeben sich aus den anderen Teilen der Verfassung, insbesondere aus Artikel [YY] des Teils II und aus dem Subsidiaritätsprotokoll (vgl. diesbezüglichen Änderungsvorschlag).

AMENDMENT FORM

Title IV

Suggestion for amendment of Article : 20

By Members: Voggenhuber, Lichtenberger, Wagener, MacCormick, Nagy

Status : Members and alternate members.

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court, shall ensure respect **for the Charter of Fundamental Rights**, the Constitution and Union law. The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable **and subject to confirmation by the European Parliament.**

3. The Court of Justice shall be competent for :

- **individual complaints regarding the violation of Fundamental Rights under the Charter. Therefore a Fundamental Rights senate and a claims-acceptance procedure to examine the admissibility of a claim shall be established.**

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;

- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;

- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court

Explanation:

FICHE AMENDEMENT

Proposition d'amendement à l'Article:

Partie I, Article 20 Abs. 1

Déposée par Monsieur: Joachim Wuermeling

Qualité: Alternate

Texte du Praesidium

Amendement proposé

Artikel 20: Der Gerichtshof der Europäischen Union

(1) Der Gerichtshof und das Gericht der Europäischen Union sichern die Wahrung der Verfassung und des Rechts der Union.

Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.

Artikel 20: Der Gerichtshof der Europäischen Union

(1) Der Gerichtshof und das Gericht der Europäischen Union sichern im Rahmen ihrer jeweiligen Zuständigkeiten die Wahrung der Verfassung und des Rechts der Union.

~~Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.~~

~~Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.~~

Begründung:

Durch die vom Präsidium gewählte Formulierung in Satz 1 könnte der Eindruck entstehen, dass sich die Abgrenzung der Zuständigkeiten des Gerichtshofs und des Gerichts der Europäischen Union auf der einen und der nationalen Gerichte auf der anderen Seite nicht nach den den europäischen Gerichten konkret zugewiesenen Kompetenzen richtet, sondern dass den europäischen Gerichten eine allgemeine Aufgabe der Wahrung der Verfassung und des Rechts der Union zugewiesen wird, neben die dann – dazu nicht näher abgegrenzte- Rechtsbehelfe zu den Gerichten der Mitgliedstaaten

treten sollen. Damit wären Kompetenzabgrenzungsprobleme vorprogrammiert, die die Verfassung gerade vermeiden soll.

Stattdessen sollte die derzeitige Formulierung (vgl. Art. 220 EGV) beibehalten werden. Die Abgrenzung der Kompetenzen zwischen den europäischen Gerichten und den Gerichten der Mitgliedstaaten, denen aus Gründen der Subsidiarität und der Bürgernähe ebenfalls die Aufgabe der Wahrung der Verfassung und des Rechts der Union zukommen muss, muss sich ebenso wie in anderen Bereichen der Verfassung nach den dort konkret zugewiesenen Kompetenzen richten.

Satz 2 sollte gestrichen werden. Soweit diese Bestimmung der Aufgabenabgrenzung zwischen den europäischen Gerichten und den Gerichten der Mitgliedstaaten dienen soll, ist sie wegen ihrer Unbestimmtheit ungeeignet (s.o.). Soweit dadurch lediglich eine Verpflichtung der Mitgliedstaaten bestimmt werden soll, wirksame Rechtsbehelfe bei Verletzung des Unionsrechts zu gewährleisten, ist sie neben Artikel 47 der Grundrechtecharta, die Bestandteil des Vertrages und damit rechtswirksam werden soll, überflüssig.

AMENDMENT FORM

Suggestion for amendment of Article : Organe Entwurf von Artikeln für Titel IV des Teils I der Verfassung

Suggestion for protocol :

By Mr : Joachim Wuermeling

Status : - Alternate

Artikel 20: Der Gerichtshof der Europäischen Union

(3) Der Gerichtshof entscheidet

- über Klagen ~~der Kommission~~, eines Mitgliedstaats, eines Organs oder juristischer oder natürlicher Personen in den Fällen und nach den Modalitäten, die in Artikel [YY] des Teils II vorgesehen sind;
- im Wege der Vorabentscheidung auf Antrag der einzelstaatlichen Gerichte über die Auslegung des Unionsrechts oder über die Gültigkeit der von den Organen erlassenen Rechtsakte;
- über Rechtsmittel gegen die Entscheidungen des Gerichts oder überprüft in Ausnahmefällen diese Entscheidungen nach Maßgabe der Bedingungen, die in der Satzung des Gerichtshofs vorgesehen sind.

Explanation (if any) :

Bereits durch „Organ“ abgedeckt.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20- Partie I - Architecture constitutionnelle Titre IV Des institutions de l'Union

Déposée par Monsieur William ABITBOL

Qualité : - Suppléant

Article 20 : la Cour de Justice de l'Union européenne

Conv 691/03

1. La Cour de justice, y compris le Tribunal de grande instance, assure le respect du présent traité constitutionnel et le droit de l'Union.
2. Supprimé.
3. Idem.
4. La Cour de Justice de l'Union européenne n'est pas compétente pour statuer à l'encontre des décisions des Cours constitutionnelles des Etats membres.

AMENDMENT FORM

Suggestion for amendment of Article : Article 20 (Title IV)

Suggestion for protocol :

By Ms / Mr : David Heathcoat-Amory

Status : X - Member - Alternate

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the [*High Court*] **Court of First Instance**, shall [*ensure respect for the Constitution and Union law.*] **adjudicate on matters referred to it by a Member state concerning the application and enforcement of Union laws.**

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

New 1a. National laws passed notwithstanding Union law is superior to European law. When a Member State has recourse to this clause, it shall raise the matter in the next Council meeting.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years 1, renewable.

New 2a. For issues in which a divergence in legal tradition is evident, between Common, Napoleonic, Scots law or similar, then due consideration shall be made to such distinction and consequence, and the pertinent judges shall sit in attendance.

New 2b. The EU, in pursuit of this article, shall not itself fund the teaching of Union law.

3. The Court of Justice shall be competent for :

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;

- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;

- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

New 4. It shall have no competence in issues concerning the Common Foreign and Security Policy, or other matters concerning national criminal justice, or policing.

Explanation (if any) :

(1) « Ensuring respect » is proactive and open to interpretation.

(1a) Acknowledges that there are constitutional issues that arise from the supremacy of EU law, and addresses the concerns of such as the German Constitutional Court, and Thomas Paine (« no Parliament can bind its successor »)

(2a) Recognises that the EU has different legal traditions. The Canadian Supreme Court does likewise, by providing for a set number of its judges to come from the minority tradition.

(2b) Provides for the EU not to be involved in funding EU law courses, which may be interpreted as unduly supporting a tradition of the superiority of EU law

(4) Prevents the ECJ from interpreting on areas currently dealt with on an intergovernmental basis.

AMENDMENT FORM

Title IV

Suggestion for amendment of Article 20

By Mr. Adrian Severin

Status : Alternate Member

Replace the paragraph 1 with the following:

1. **The judicial system of the European Union shall ensure the respect for the Constitution and the Union law, and will be structured as follows:**
 - I. **The European Judicial System is formed by the Court of Justice of the European Union[and the national Courts]. The Court of Justice of the European Union will be structured as follows:**
 - i. **The Court of Justice**
 - ii. **The High Court**
 - iii. **The Specialized Branches of the Court of Justice of the European Union**

The citizens of the member states and the citizens of the Union will have a direct individual right of recourse to the European Court of Justice in defense of their rights provided by the present Constitution. The same right will be recognized to the European Regions members of the Committee of the Regions and to this Committee as such. This right may be exercised after the procedures in front of the national courts of justice are completed. In this respect, the member states shall provide, at the national level, sufficient rights of appeal to ensure natural and legal persons an effective judicial protection in the field of the Union's law.

Explanation:

- 1. The Judicial Power of the EU must be described in a clear systemic and comprehensive way. At the same time, the national courts should be included into the European Judicial System thus being Europeanized.*
- 2. One should assure the coherence and the efficacy of the judicial protection of the European law at the level of the whole Union.*

AMENDMENT FORM

Suggestion for amendment of Article 20 : The Court of Justice of the European Union

By : Mr Dick Roche, Member ; Mr Pat Carey and Mr Bobby McDonagh, Alternates

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, ~~including the High Court~~, **together with the Court of First Instance**, shall ensure respect for the Constitution and Union law.

The Member States shall provide rights of ~~appeal~~ **access to their national courts** sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The [High Court] shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the [High Court], and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.
3. The Court of Justice, **in keeping with the provisions of Part Two of the Treaty**, shall be competent for :
 - ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person ~~in the cases and according to the modalities foreseen in article [YY] of Part II~~;
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
 - ruling on appeals on decisions given by the [High Court] or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

Explanation (if any) :

The Discussion Circle on the Court of Justice considered the future name of the Court of First Instance. The majority view in the Group was that 'High Court' is not appropriate. Consideration should be given to adopting one of the options which received positive consideration in the group.

In all of the matters referred to in paragraph 3, the Court should act in accordance with the provisions of Part Two of the Treaty.

AMENDMENT FORM

Suggestion for amendment of Article 20

By Mr : Józef Oleksy

Status : Member

Article 20:

The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a ~~term of six years¹, renewable.~~ **non-renewable term of 9 years.**

Explanation (if any) :

In order to shield them better from political pressure.

¹ For the Court of Justice the Discussion Circle, chaired by Mr Vitorino, also examined the possibility of a non-renewable mandate of 9 or 12 years.

AMENDMENT FORM

Suggestion for amendment of Article : Article 20 (TITLE IV)

Suggestion for protocol :

By Mr :Emilio GABAGLIO

Status : Observer

TITLE IV

Amendment : Article 20

Add in paragraph 3, 1st indent after ...« an institution »:

« the Social Partners »

Explanation (if any) :

The Social Partners, irrespective of their legal personality, should be allowed to bring in actions referring to social partners agreements enacted by Union law.

AMENDMENT FORM

Suggestion for amendment of Article : IV 20

Suggestion for protocol :

By: Mr Caspar EINEM

Status : Member

Artikel 20: ~~Der Gerichtshof~~ Das Justizsystem der Europäischen Union

(1) Der Gerichtshof **der Europäischen Union** und das Gericht ~~der Europäischen Union~~ sichern die Wahrung der Verfassung und des Rechts der Union.

~~Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.~~

(2) **In Ausübung ihrer Aufgaben sind die Gerichte vollständig unabhängig. In Erfüllung ihrer Aufgaben dürfen die Richter weder von einer Regierung noch von sonstiger Stelle Aufträge entgegen nehmen.**

(3) Der Gerichtshof besteht aus einem Richter je Mitgliedstaat und wird von Generalanwälten unterstützt. Das Gericht besteht aus mindestens einem Richter je Mitgliedstaat; die Zahl der Richter wird in der Satzung ~~des Gerichtshofs~~ **der Gerichte** festgelegt. Zu Richtern des Gerichtshofs und des Gerichts sowie Generalanwälten des Gerichtshofs sind Personen auszuwählen, die jede Gewähr für Unabhängigkeit bieten und die in Artikel [XX] des Teils II verlangten Voraussetzungen erfüllen; sie werden von den Regierungen der Mitgliedstaaten im gegenseitigen Einvernehmen **im Falle der Richter des Gerichtshofs für eine nicht verlängerbare** Amtszeit von **neun Jahren und im Falle der Richter des Gerichts für die Dauer von sechs Jahren** ernannt. ~~Die Ihre~~ Wiederernennung ~~auscheidender Mitglieder~~ ist zulässig.

(4) Der Gerichtshof **und das Gericht entscheidet entscheiden**

- über Klagen der Kommission, eines Mitgliedstaats, eines Organs oder juristischer oder natürlicher Personen in den Fällen und nach den Modalitäten, die in Artikel [YY] des Teils II vorgesehen sind;
- im Wege der Vorabentscheidung auf Antrag der einzelstaatlichen Gerichte über die Auslegung des Unionsrechts oder über die Gültigkeit der von den Organen erlassenen Rechtsakte;
- über Rechtsmittel gegen die Entscheidungen des Gerichts oder überprüft in Ausnahmefällen diese Entscheidungen nach Maßgabe der Bedingungen, die in der Satzung des Gerichtshofs vorgesehen sind.

(5) **Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit sowohl für natürliche, wie für juristische Personen ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.**

Explanation (if any) :

Grundsätzlich soll die Überschrift offener gehalten werden, zumal es um zumindest zwei Gerichte geht.

Richter am Gerichtshof sollen im Sinne der Ergebnisse der Arbeitsgruppe Vitorino für eine nicht verlängerbare Periode von 9 Jahren bestellt werden, die am Gericht für erneuerbare 6 Jahre.

Die Individualbeschwerdemöglichkeit, vor allem auch bei Grundrechtsverletzungen, soll jedenfalls im in Absatz 4 zitierten Artikel des zweiten Teiles der Verfassung verankert werden.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 20

Déposée par : Pervenche Berès, Olivier Duhamel

Qualité : - Membres et Suppléants

Article 20 : La Cour de Justice de l'Union européenne

2. (bis nouveau)

Le Conseil, statuant à la majorité super-qualifiée, après avis conforme du Parlement européen, peut adopter une loi européenne créant une juridiction d'arbitrage en matière civile au sein de la CJCE. Cette juridiction est compétente pour définir, en cas de contentieux en matière civile entre deux juridictions internes relevant d'Etats membres différents, le droit applicable et le juge compétent.

La loi visée au paragraphe précédent fixe le statut de l'Autorité arbitrale, les conditions d'exercice de ses fonctions, et les règles de procédure applicables à ses activités.

3. La Cour de justice est compétente pour:

- statuer sur les recours introduits par la Commission, un État membre, une Institution ou des personnes physiques et morales dans les cas visés et selon les modalités prévues à l'article [YY] de la Partie II, y compris s'agissant du respect de la Charte des droits fondamentaux;
- statuer, à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation du droit de l'Union ou sur la validité d'actes adoptés par les institutions;
- statuer sur les pourvois à l'encontre des décisions rendues par le Tribunal de grande instance ou à titre exceptionnel pour réexaminer ces décisions dans les conditions prévues dans le Statut de la Cour.

AMENDMENT FORM

Suggestion for amendment of Article 20

By Mr Barnier, Mr Vitorino, Mr O'Sullivan and Mr Ponzano:

Status : Members and Alternates

Article 20 : The Court of Justice of the European Union

1. The Court of Justice, including the High Court **and the judicial panels**, shall ensure **that in the interpretation and application of the law of the Union the law is observed.**~~respect for the Constitution and Union law.~~

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice.

The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed **by the Council.** ~~by common accord of the governments of the Member States for a term of six years, renewable.~~

The judges of the Court of justice are appointed for a term of twelve years, not renewable. The judges of the High Court and the Advocates-General are appointed for a term of six years, renewable.

3. **According to the conditions and the modalities laid down in the Constitution and the Statute of the Court of Justice,** the Court of Justice shall be competent for :
 - ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person ~~in the cases and according to the modalities foreseen in article [YY] of Part II;~~
 - preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;

- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions ~~under conditions laid down in the Statute of the Court,~~
- **delivering opinions on the compatibility of an international agreement with the Constitution.**

Explanation :

Paragraph 1

The amendment seeks to restore the formulation of Article 220 EC, which is more correct. Besides, the text should mention the judicial panels, which can be created following the modifications of the EC Treaty agreed at Nice.

Paragraph 2

It seems appropriate to bring the appointment procedure for the members of the Court in coherence with the appointment procedure provided for the members of other institutions and organs. As was suggested in the Discussion Circle on the Court of Justice, in order to guarantee even more the independence of the judges of the Court of Justice, it seems appropriate to provide that their mandate cannot be renewed. In that case, their mandate should be extended to twelve years.

Paragraph 3

It seems appropriate to mention also the competence of the Court according to Article 300, paragraph 6, to give opinions on the compatibility of international agreements with the Treaty. Besides, the indication that the Court exercises its competences in the conditions laid down in the Constitution and the Statute of the Court, should cover all competences of the Court.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20

Déposée par M. Barnier, M. Vitorino, M. O'Sullivan et M. Ponzano

Qualité : Membres et Suppléants

Article 20 : La Cour de Justice de l'Union européenne

1. La Cour de justice, y compris le Tribunal de grande instance **et les chambres juridictionnelles**, assure le respect **du droit dans l'interprétation et l'application du droit de l'Union** ~~de la Constitution et le droit de l'Union~~.

Les États membres établissent les voies de recours nécessaires pour assurer une protection juridictionnelle effective dans le domaine du droit de l'Union.

2. La Cour de justice est formée d'un juge par État membre et est assistée d'avocats généraux. Le Tribunal de grande instance compte au moins un juge par État membre: le nombre des juges est fixé par le Statut de la Cour de justice.

Les juges de la Cour de Justice et du Tribunal de grande instance, et les avocats généraux de la Cour de justice, choisis parmi des personnalités offrant toutes garanties d'indépendance et qui réunissent les conditions requises à l'article [XX] de la Partie II, sont nommés **par le Conseil** ~~d'un commun accord par les gouvernements des États membres pour un mandat de six ans. Les membres sortants peuvent être nommés à nouveau.~~ **Les juges de la Cour de justice sont nommés pour un mandat non-renouvelable de douze ans. Les juges du Tribunal de grande instance et les avocats généraux sont nommés pour un mandat renouvelable de six ans.**

3. **Selon les conditions et modalités fixées par la Constitution et le Statut de la Cour de justice**, la Cour de justice est compétente pour :
 - statuer sur les recours introduits par la Commission, un État membre, une Institution ou des personnes physiques et morales ~~dans les cas visés et selon les modalités prévues à l'article [YY] de la Partie II;~~
 - statuer, à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation du droit de l'Union ou sur la validité d'actes adoptés par les institutions;

- statuer sur les pourvois à l'encontre des décisions rendues par le Tribunal de grande instance ou à titre exceptionnel pour réexaminer ces décisions ~~dans les conditions prévues dans le Statut de la Cour.~~
 - **formuler des avis sur la compatibilité d'un accord international avec la Constitution.**
-

Explication :

Paragraphe 1

L'amendement vise à rétablir la formulation de l'article 220 CE, qui est plus correcte.

Par ailleurs, il convient d'ajouter également de mentionner les chambres juridictionnelles, qui peuvent être instaurées, en vertu des modifications apportées au traité CE par le traité de Nice.

Paragraphe 2

Il convient d'aligner la procédure de nomination des membres de la Cour de Justice sur celle prévue pour les autres institutions et organes.

Comme cela a été suggéré au Cercle de discussion sur la Cour de justice, il semble approprié, pour garantir encore plus l'indépendance des juges de la Cour, de prévoir que leur nomination n'est pas renouvelable. Dans ce cas, la période du mandat devrait être étendue à douze ans.

Paragraphe 3

Il convient de mentionner également la compétence de la Cour en vertu de l'article 300, paragraphe 6 CE pour donner des avis sur la compatibilité d'accords internationaux avec le traité. Il semble par ailleurs mieux de mentionner l'indication que la Cour exerce ses compétences dans les conditions prévues par la Constitution et le Statut de façon à viser l'ensemble des compétences de la Cour.

AMENDMENT FORM

Suggestion for amendment of Article : 20

By Mr : Joschka Fischer

Status : - Member

Artikel 20: Der Gerichtshof der Europäischen Union

(1) Der Gerichtshof und das Gericht der Europäischen Union sichern die Wahrung der Verfassung und des Rechts der Union.

~~Die Mitgliedstaaten schaffen die erforderlichen Rechtsbehelfe, damit ein wirksamer Rechtsschutz auf dem Gebiet des Unionsrechts gewährleistet ist.~~

(2) Der Gerichtshof besteht aus einem Richter je Mitgliedstaat und wird von Generalanwälten unterstützt. Das Gericht besteht aus mindestens einem Richter je Mitgliedstaat; die Zahl der Richter wird in der Satzung des Gerichtshofs festgelegt. Zu Richtern des Gerichtshofs und des Gerichts sowie Generalanwälten des Gerichtshofs sind Personen auszuwählen, die jede Gewähr für Unabhängigkeit bieten und die in Artikel [XX] des Teils II verlangten Voraussetzungen erfüllen; sie werden von den Regierungen der Mitgliedstaaten im gegenseitigen Einvernehmen für eine Amtszeit von sechs Jahren ernannt ¹. Die Wiederernennung ausscheidender Mitglieder ist zulässig.

¹ Für den Gerichtshof hat der von Herrn Vitorino geleitete Arbeitskreis auch die Möglichkeit einer Amtszeit von neun oder zwölf Jahren, bei der keine Wiederernennung zulässig wäre, geprüft.

(3) Der Gerichtshof entscheidet

- über Klagen der Kommission, eines Mitgliedstaats, einer Kammer eines nationalen Parlaments eines Mitgliedstaates, eines Organs oder juristischer oder natürlicher Personen in den Fällen und nach den Modalitäten, die in Artikel [YY] des Teils II vorgesehen sind;
- im Wege der Vorabentscheidung auf Antrag der einzelstaatlichen Gerichte über die Auslegung des Unionsrechts oder über die Gültigkeit der von den Organen erlassenen Rechtsakte;
- über Rechtsmittel gegen die Entscheidungen des Gerichts oder überprüft in Ausnahmefällen diese Entscheidungen nach Maßgabe der Bedingungen, die in der Satzung des Gerichtshofs vorgesehen sind.

Explanation (if any) :

Absatz 3: Das Klagerecht sollte in Subsidiaritätsfragen ausdrücklich auf die Kammern der einzelstaatlichen Parlamente ausgeweitet werden.

AMENDMENT FORM

Suggestion for amendment of Article : 20, Title IV, Part I

Suggestion for protocol :

By Ms / Mr : Hain

Status : - Member

1. *OK.*
2. *OK. Provision will be needed for an advisory panel for appointments, to reflect the conclusions of the Discussion Circle. If not in this Article, it should be in Part II.*
3. *This paragraph paraphrases inaccurately a number of important Treaty articles. Either we require a lot more detail which may be inappropriate for Part I, or we could substitute the text with:*

The jurisdiction of the Court of Justice, including the High Court, is set out in Part II.

4. *The Court of Justice shall have no jurisdiction over any matter relating to the CFSP.*
-

Explanation (if any) :

Article 20.4 *New additional paragraph required.*

Amendments submitted by the UK to Article 9 of the Freedom, Security and Justice title reflected the distinct arrangements we would wish to see for ECJ jurisdiction in JHA. An alternative to this would be to include similar language in Article 20.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20

Déposée par MM. Hubert Haenel, membre titulaire, et Robert Badinter, membre suppléant

Article 20 : La Cour de Justice de l'Union européenne

1. La Cour de justice, y compris le Tribunal de ~~grande instance~~ **l'Union**, assure le respect de la Constitution et **du** droit de l'Union.

Les États membres établissent les voies de recours nécessaires pour assurer une protection juridictionnelle effective dans le domaine du droit de l'Union.

2. La Cour de justice est formée d'un juge par État membre et est assistée d'avocats généraux. Le Tribunal de ~~grande instance~~ **de l'Union** compte au moins un juge par État membre: le nombre des juges est fixé par le Statut de la Cour de justice. Les juges de la Cour de Justice et du Tribunal de ~~grande instance~~ **l'Union** et les avocats généraux de la Cour de justice, choisis parmi des personnalités offrant toutes garanties d'indépendance et qui réunissent les conditions requises à l'article [XX] de la Partie II, sont nommés d'un commun accord par les gouvernements des États membres pour un mandat de ~~six ans. Les membres sortants peuvent être nommés à nouveau~~ **neuf ans non renouvelable**.

3. La Cour de justice est compétente pour:

- statuer sur les recours introduits par la Commission, un État membre, une Institution ou des personnes physiques et morales dans les cas visés et selon les modalités prévues à l'article [YY] de la Partie II;
- statuer, à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation du droit de l'Union ou sur la validité d'actes adoptés par les institutions;
- statuer sur les pourvois à l'encontre des décisions rendues par le Tribunal de ~~grande instance~~ **l'Union** ou à titre exceptionnel pour réexaminer ces décisions dans les conditions prévues dans le Statut de la Cour.

Explication éventuelle :

1. L'appellation Tribunal de grande instance n'est pas adaptée à la stature et aux compétences de l'actuel Tribunal de première instance. Tribunal de l'Union paraît préférable.
2. Il convient de fixer le mandat des juges de la Cour de Justice à 9 ans non renouvelable, pour assurer une parfaite indépendance des juges.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 20, 3

Déposée par Anne Van Lancker

3. La Cour de justice est compétente pour:

- statuer sur les recours introduits par la Commission, un État membre, une Institution ou des personnes physiques et morales dans les cas visés et selon les modalités prévues à l'article [YY] de la Partie II, **y compris s'agissant du respect de la Charte des droits fondamentaux;**
- statuer, à titre préjudiciel, à la demande des juridictions nationales, sur l'interprétation du droit de l'Union ou sur la validité d'actes adoptés par les institutions;
- statuer sur les pourvois à l'encontre des décisions rendues par le Tribunal de grande instance ou à titre exceptionnel pour réexaminer ces décisions dans les conditions prévues dans le Statut de la Cour.

AMENDMENT FORM

Suggestion for amendment of Article : 20, para 2 - CONV 691/03

By Ms / Mr : František Kroupa

Status : - Member - Alternate

~~The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.~~

The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates- General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX]of Part II, shall be appointed by common accord of the governments of the Member States for a term of nine years non-renewable.

AMENDMENT FORM

PART I, TITLE IV: THE UNION'S INSTITUTIONS - REVISED TEXT

Suggestion for amendment of Article I-28 § 3, alinéa 1: The Court of Justice

By: M.J.CHABERT
M.M.DAMMEYER
M.P.DEWAEL
Ms. C.du GRANRUT
M.C.MARTINI
M.R.VALCARCEL SISO

Status : - ~~Member~~ - ~~Alternate~~ -Observer

Amend as follows:

3. The Court of Justice shall:

- **rule** on actions brought by ~~the Commission,~~ a Member State, an institution, **a body** or a natural or legal person **in accordance with the provisions of Part III;**