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**PROPOSALS FOR AMENDMENTS TO THE DRAFT ARTICLES OF THE  
TREATY ESTABLISHING A CONSTITUTION FOR EUROPE**

**ARTICLES ON THE COURT OF JUSTICE AND THE HIGH COURT**

**General Comments**

**The articles on the Court of Justice and the High Court include some positive improvements with a view to the European Parliament, the speeding up of the penalty procedure, the inclusion of the European Council into the jurisdiction of the Court of Justice, albeit in a very restricted way of a violation of essential procedures laid down in Article 45, Part One. Also, the idea of a panel to be established in the framework of the election and nomination procedure of Judges and Advocates-General has its merits. However, the overall progress in comparison to the Nice Treaty is still very limited. The suggested amendments aim at:**

- **Strengthening the independence of the judges and Advocates-General through a longer term of office (8 years), not renewable**
- **Strengthening the procedure of selection and nomination of judges and Advocates-General by involving the Council and the European Parliament**
- **Introducing elements of transparency through public hearings in the panel and a decision-making procedure on its establishment putting the Council and the Parliament on an equal footing**
- **Including references to the fundamental rights granted (probably) in Part II of the Constitution.**

**PART ONE**

THE COURT OF JUSTICE  
Article 20

**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.

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 Two, shall be appointed ~~by common accord of the governments of the Member States~~ in accordance with the procedures of Article 223 and 224, Part II of the Constitution for a term of ~~six~~ eight years, ~~renewable~~. Their term of office shall not be renewable.<sup>1</sup>
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 Articles [YY] of Part Two;
  - 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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<sup>1</sup> The sentence has been changed due to redundancies with Articles 223 and 224, Part II of the Constitution. The important point here is that the independence of the judges of the Court of Justice and the High Court as well as of the Advocates -General of the Court of Justice is better established by a longer and not renewable term of office of 8 years.