Statute of the Court of Justice: amendment of Protocol No 3

2022/0906(COD) - 27/09/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Ilana CICUREL (Renew, FR) on the draft regulation of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

As a reminder, following the reform of the Union's judicial framework as a result of Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council, the General Court is currently in a position to be able to deal with the increase in workload that will follow from that transfer of jurisdiction to give preliminary rulings.

The report introduces new articles into the Statute concerning:

Right of access to documents

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right to access, upon request, documents of the Court in accordance with arrangements set out in the Rules of Procedure. The President shall refuse access to a document, either of his or her own motion or at the request of a party or any other person concerned, where disclosure would undermine protection of the public interest, or the privacy or the integrity of an individual.

The President shall also refuse access to a document where disclosure would undermine the protection of commercial interests or the Court's decision-making process, unless there is an overriding public interest in disclosure.

Notification of cases

In the cases governed by Article 267 of the Treaty on the Functioning of the European Union, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court of Justice shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States, to the European Parliament, to the Commission and to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute.

Within two months of this notification, the parties, the Member States, the Commission, the European Parliament and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled to submit statements of case or written observations to the Court.

Administration of justice

The report noted that there is an upward trend in the number of requests for a preliminary ruling, that are meanwhile becoming increasingly complex and sensitive. Examination of these cases therefore requires greater mobilisation of the Court's resources, resulting in an increase in the average length of time needed

to deal with cases. Therefore, the report introduced a new article stipulating that the General Court shall be assisted by **one or more Advocate Generals** in dealing with requests for a preliminary ruling transmitted to it.

The Judges of the General Court shall elect, in accordance with its Rules of Procedure and only from the Judges among their number who do not belong to a Chamber which is designated to deal with requests for a preliminary ruling transmitted to the General Court, the Judges that are to perform the duties of an Advocate General.

The Judges elected to perform the duties shall be elected for a term of **three years**. They may be re-elected once.

Request for a preliminary ruling

The amended text added that the Court of Justice shall retain jurisdiction to hear and determine requests for a preliminary ruling that raise independent questions relating to the interpretation of primary law, public international law, general principles of Union law or the Charter of Fundamental Rights of the European Union.

Where the General Court finds that it does not have jurisdiction to hear and determine an action or a request for a preliminary ruling in respect of which the Court of Justice has jurisdiction, it shall refer that action or request to the Court of Justice. Likewise, where the Court of Justice finds that an action or a request for a preliminary ruling falls within the jurisdiction of the General Court, it shall refer that action to the General Court, whereupon that Court may not decline jurisdiction.

Moreover, Members stressed that any amendment of this Statute at the request of the Court of Justice shall be subject to a public consultation of two months being carried out prior to the adoption of the legislative request by the Court of Justice.

Monitoring

Lastly, given that the proposed regulation entails a significant change to the Union's judicial framework, Members considered that its implementation should be closely monitored. To that end, the Court of Justice shall submit to the European Parliament, the Council and the Commission, in a timely manner, a report on the transfer to the General Court of jurisdiction for preliminary rulings in specific areas and on the **extension of the initial admission mechanism for appeals**. The Court shall, in particular, provide information that allows for an assessment of the extent to which the stated objectives were achieved, having regard to the speed with which cases were dealt with and the efficiency of the examination of the most complex or sensitive appeals and requests for a preliminary ruling.