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

2022/0906(COD) - 27/02/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 600 votes to 13, with 12 abstentions, a legislative resolution 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 European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Transfer of jurisdiction to hear and determine questions referred for a preliminary ruling to the General Court

In order to enable the Court of Justice to continue to fulfil its task of protecting and strengthening the unity and consistency of Union law, and to ensure that the Court's decisions are of the highest quality, it is necessary to transfer to the General Court jurisdiction to hear and determine questions referred for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union (TFEU), in specific areas determined by the Statute of the Court of Justice of the European Union.

The transfer to the General Court of part of the jurisdiction to give preliminary rulings should enable the Court of Justice to devote more time and resources to examining the most complex and sensitive requests for a preliminary ruling.

Case before the Court of Justice

The text stated that 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 should be notified to the Court by the court or tribunal concerned. The decision should then be notified by the Registrar of the Court to the parties, to the Member States, to the European Parliament, to the Council, to the Commission and to the European Central Bank, as well as 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 and, where they consider they have a particular interest in the issues raised by the request for a preliminary ruling, the European Parliament, the Council and the European Central Bank should be entitled to submit statements of case or written observations to the Court of Justice. Where appropriate, the institution, body, office or agency which has adopted the act the validity or interpretation of which is in dispute should also be entitled to submit statements of case or written observations.

General Court

The General Court should be assisted by one or more Advocates General in dealing with requests for a preliminary ruling transmitted. The Judges of the General Court should elect from among their number, in accordance with the Rules of Procedure of the General Court, the Members that are to perform the duties of Advocate General. In the period during which those Members perform the duties of Advocate General, they shall not sit as Judges in requests for a preliminary ruling.

For each request for a preliminary ruling, the Advocate General should be selected from among the Judges elected to perform that duty who belong to a chamber other than the chamber to which the request in question has been assigned. The Judges elected to perform the duties referred to in the second paragraph should be elected for a term of three years. They may be re-elected once.

Court's jurisdiction

The General Court should have jurisdiction to hear and determine requests for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union that come exclusively within one or several of the following specific areas:

- the common system of value added tax;

- excise duties;

- the Customs Code;

- the tariff classification of goods under the Combined Nomenclature;

- compensation and assistance to passengers in the event of denied boarding or of delay or cancellation of transport services;

- the system for greenhouse gas emission allowance trading.

The Court of Justice should 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 should 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 should refer that action or request to the General Court, whereupon that Court may not decline jurisdiction.

Monitoring

The proposed Regulation entails a significant change to the Union's judicial framework and therefore its implementation should be closely monitored. To that end, the Court of Justice should 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 mechanism for the determination of whether an appeal is allowed to proceed. The Court of Justice should, in particular, provide information that allows 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.