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

2022/0906(COD) - 12/08/2024 - Final act

PURPOSE: to amend the Statute of the Court of Justice of the European Union.

LEGISLATIVE ACT: Regulation (EU, Euratom) 2024/2019 of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union.

CONTENT: according to the statistics of the Court of Justice, both the number of pending preliminary ruling cases and the average time taken to deal with those cases are increasing. This situation is attributable not only to the high number of requests for a preliminary ruling of which the Court of Justice is seized each year, but also to the great complexity and particularly sensitive nature of a growing number of questions put to that court.

The purpose of this amendment to the Statute of the Court of Justice of the European Union is to lighten the workload of the Court of Justice in the area of preliminary rulings and to enable it to continue, within a reasonable time, to perform its task of ensuring that the law is observed in the application and interpretation of the Treaties. The reform will enable the Court of Justice to concentrate on its task of protecting and strengthening the unity and consistency of Union law.

The main aspects of the reform are as follows:

Transfer to the General Court of part of the jurisdiction to give preliminary rulings

The first part of the reform relates to the transfer from the Court of Justice to the General Court, to which two judges are appointed per Member State, of jurisdiction to give preliminary rulings. For reasons of legal certainty, the transfer concerns only six areas, which are clearly defined and sufficiently separable from other areas and which have given rise to a substantial body of case-law of the Court of Justice. Jurisdiction will thus be conferred on the General Court to rule on requests for a preliminary ruling that come exclusively within one or several of the following six specific areas:

1. the common system of value added tax;

2. excise duties;

3. the customs code;

4. the tariff classification of goods under the combined nomenclature;

5. compensation and assistance for passengers whose transport services are delayed or cancelled or who are denied boarding;

6. the scheme for greenhouse gas emission allowance trading.

The Court of Justice will retain jurisdiction in respect of requests for a preliminary ruling which, even where they fall within one or more of the specific areas, raise independent questions of interpretation of: primary law, including 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 will 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 fall within the jurisdiction of the General Court, it will refer that action or request to the General Court, whereupon that Court may not decline jurisdiction.

Furthermore, every request for a preliminary ruling must be **submitted to the Court of Justice** so that that court may determine, in accordance with the detailed rules set out in its Rules of Procedure, whether the request falls exclusively within one or several specific defined areas and, accordingly, whether that request is to be transmitted to the General Court.

Changes applicable to all preliminary ruling cases

A second part of the reform comprises two changes:

- in the first place, as is already the case for all Member States and for the Commission, all requests for a preliminary ruling will from now on be notified to the European Parliament, the Council and the European Central Bank, so that they can assess whether they have a particular interest in the issues raised and decide whether they therefore wish to exercise their right to submit statements of case or written observations;

- in the second place, in all preliminary ruling cases, the statements of case or written observations submitted by an interested person referred to in Article 23 of the Statute will be published on the **website of the Court of Justice** within a reasonable time after the closing of the case, unless that person raises objections to the publication of that person's own written submissions.

Extension of the mechanism for the determination of whether an appeal is allowed to proceed

To allow the Court of Justice to focus on the appeals that raise important legal questions, the mechanism for the determination of whether an appeal is allowed to proceed is extended to other decisions of the General Court. The mechanism for the determination by the Court of Justice of whether an appeal is allowed to proceed concerns appeals in cases which have already been considered twice, initially by an independent board of appeal of a body, office or agency of the Union, then by the General Court. The mechanism currently concerns the decisions of four boards of appeal which are subsequently challenged before the General Court, as referred to in Article 58a of the Statute. The amendment to the Statute will see six new independent boards of appeal added to the four current boards of appeal, bringing their total number to ten. The relevant boards of appeal are those of:

1. The European Union Intellectual Property Office (EUIPO);

2. The Community Plant Variety Office (CPVO);

3. The European Chemicals Agency (ECA);

4. The European Union Aviation Safety Agency (EASA);

5. The European Union Agency for the Cooperation of Energy Regulators (ACER);

6. The Single Resolution Board (SRB);

7. The European Banking Authority (EBA);

8. The European Securities and Markets Authority (ESMA);

9. The European Insurance and Occupational Pensions Authority (EIOPA);

10. The European Union Agency for Railways (ERA).

The mechanism is extended to disputes relating to the performance of contracts containing an **arbitration clause**.

By 2 September 2025, the Court of Justice will present a report on the implementation of the reform of the Statute introduced by this Regulation.

ENTRY INTO FORCE: 13.8.2024.