Basic information

2011/0901A(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Court of Justice of the European Union: statute (amend. Protocol and Annex I) **Subject** 8.40.04 Court of Justice, Court of First Instance	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	THEIN Alexandra (ALDE)	12/04/2011
	Shadow rapporteur ZWIEFKA Tadeusz (PPE) MASIP HIDALGO Antonio (S&D) LICHTENBERGER Eva (Verts/ALE) ZIOBRO Zbigniew (ECR) MAŠTÁLKA Jiří (GUE/NGL) SPERONI Francesco Enrico (EFD)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	WERTHMANN Angelika (NI)	28/09/2011
AFCO Constitutional Affairs	MESSERSCHMIDT Morten (EFD)	12/07/2011

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3132	2011-12-05

European Commission

Commission DG	Commissioner
Legal Service	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
28/03/2011	Legislative proposal published	02074/2011	Summary
07/04/2011	Committee referral announced in Parliament, 1st reading		
05/12/2011	Debate in Council		
31/05/2012	Vote in committee, 1st reading		
05/06/2012	Committee report tabled for plenary, 1st reading	A7-0185/2012	Summary
04/07/2012	Debate in Parliament		
05/07/2012	Decision by Parliament, 1st reading	T7-0294/2012	Summary
05/07/2012	Results of vote in Parliament		
11/08/2012	Act adopted by Council after Parliament's 1st reading		
11/08/2012	Final act signed		
11/08/2012	End of procedure in Parliament		
23/08/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/0901A(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Euratom Treaty A 106a-pa Treaty on the Functioning of the European Union TFEU 281-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/05776

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE475.771	29/11/2011	
Amendments tabled in committee		PE478.661	12/01/2012	
Committee opinion	BUDG	PE475.913	27/01/2012	
Committee opinion	AFCO	PE470.092	05/03/2012	

Committee report tabled for plenary, 1st reading/single reading		A7-0185/2012	05/06/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0294/2012	05/07/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00028/2012/LEX	11/08/2012	

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2011)0596	30/09/2011	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CJEC	Legislative proposal	02074/2011	28/03/2011	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2012/0741
OJ L 228 23.08.2012, p. 0001 Summary

Court of Justice of the European Union: statute (amend. Protocol and Annex I)

2011/0901A(COD) - 05/06/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report drafted by Alexandra THEIN (ADLE, DE) on the draft regulation of the European Parliament and of the Council amending the Protocol on the Statute of the Court of Justice of the European Union and Annex I thereto.

It recommends that the European Parliament's position adopted at first reading, under the ordinary legislative procedure, should be to amend the draft regulation as follows:

The text underlines that in order to increase the participation of all Judges in the decisions of the Grand Chamber of the Court of Justice, there should be an increase in the number of Judges who may participate in the Grand Chamber, and the automatic participation of all of the Presidents of Chambers of five Judges should cease.

The increasing responsibilities of the Presidents of the Court of Justice and of the General Court require the establishment in each of those courts of an office of Vice-President in order to assist the President in carrying out those responsibilities.

The amended regulation stipulates that the **Vice-President** shall assist the President in accordance with the conditions laid down in the Rules of Procedure. He shall take the latter's place when he is prevented from attending or when the office of President is vacant.

The Grand Chamber shall consist of 15 Judges. It shall be presided over by the President of the Court. The Vice-President of the Court , three Presidents of Chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

Members propose that the European Parliament takes note that, having regard to the partial renewal of the Court of Justice on 7 October 2012 and the urgent need to find a solution guaranteeing a proper functioning of the Civil Service Tribunal, it is necessary for **the proposed modifications of the Statute relating to the Court of Justice, to the organisation of the General Court and to the Civil Service Tribunal to be adopted without further delay**, as pointed out in the letter of the President of the Court of Justice of the European Union of 8 May 2012.

Parliament should be able to reserve its right to **examine the part of the request on the membership of the General Court submitted by the Court at a later stage**.

It may also decide to hold a debate in Parliament in the near future on the merits of introducing the possibility of issuing dissenting opinions at the Court of Justice.

Court of Justice of the European Union: statute (amend. Protocol and Annex I)

2011/0901A(COD) - 05/07/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 584 votes to 26, with 7 abstentions, a legislative resolution on the draft regulation of the European Parliament and of the Council amending the Protocol on the Statute of the Court of Justice of the European Union and Annex I thereto.

Parliament adopted its position at first reading, under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the draft regulation as follows:

The text underlines that in order to increase the participation of all Judges in the decisions of the Grand Chamber of the Court of Justice, there should be an increase in the number of Judges who may participate in the Grand Chamber, and the automatic participation of all of the Presidents of Chambers of five Judges should cease.

The increasing responsibilities of the Presidents of the Court of Justice and of the General Court require the establishment in each of those courts of an office of Vice-President in order to assist the President in carrying out those responsibilities.

The amended regulation stipulates that the **Vice-President** shall assist the President in accordance with the conditions laid down in the Rules of Procedure. He shall take the latter's place when he is prevented from attending or when the office of President is vacant.

The Grand Chamber shall consist of 15 Judges. It shall be presided over by the President of the Court. The Vice-President of the Court, three Presidents of Chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

Members propose that the European Parliament takes note that, having regard to the partial renewal of the Court of Justice on 7 October 2012 and the urgent need to find a solution guaranteeing a proper functioning of the Civil Service Tribunal, it is necessary for **the proposed modifications of the Statute relating to the Court of Justice, to the organisation of the General Court and to the Civil Service Tribunal to be adopted without further delay**, as pointed out in the letter of the President of the Court of Justice of the European Union of 8 May 2012.

Parliament should be able to reserve its right to **examine the part of the request on the membership of the General Court submitted by the Court at a later stage**.

It may also decide to hold a debate in Parliament in the near future on the merits of introducing the possibility of issuing dissenting opinions at the Court of Justice.

Court of Justice of the European Union: statute (amend. Protocol and Annex I)

2011/0901A(COD) - 11/08/2012 - Final act

PURPOSE: to make amendments to the Statute of the Court of Justice.

LEGISLATIVE ACT: Regulation No 741/2012 of the European Parliament and of the Council amending the Protocol on the Statute of the Court of Justice of the European Union and Annex I thereto.

CONTENT: following agreement in first reading between the European Parliament and Council, this Regulation is aimed at improving the efficiency of the work of the three courts composing the Court of Justice and reducing the length of their proceedings. The amendments are as follows:

Increase in the number of judges in the Grand Chamber of the Court of Justice: in order to increase the participation of all the Judges in the decisions of the Grand Chamber of the Court of Justice, there is an increase in the number of Judges who may participate in the Grand Chamber. Articles 16 and 17 of the Statute are amended as to increase to 15 the number of Judges constituting the Grand Chamber and to end the automatic participation of the Presidents of Chambers of five Judges in Grand Chamber cases. Corresponding adjustments are made to the rules relating to the quorum of the Grand Chamber and of the full Court: Decisions of the Grand Chamber are valid only if 11 Judges are sitting, and Decisions of the full Court are valid only if 17 Judges are sitting.

Establishment of the office of Vice-President: the latter will sit, like the President, in every case assigned to the Grand Chamber. In addition to sitting in every Grand Chamber case, the Vice-President will also assist the President of the Court in his duties.

General Court: as a consequence of the progressive expansion of its jurisdiction since its creation, the number of cases before the General Court has been steadily increasing. The number of cases brought before the General Court exceeds the number of cases disposed of each year, resulting in a significant increase in the number of cases pending before that Court and an increase in the duration of proceedings. There is a continuing need to tackle delays arising from he heavy workload of the General Court, and it is, therefore, appropriate to work towards putting in place appropriate measures by the time of the partial renewal of the membership of that Court in 2013. With a view to the partial renewal of the Court of Justice on 7 October 2012 and in accordance with the letter of the President of the Court of Justice of the European Union of 8 May 2012, as a first step, only amendments to the Statute concerning the organisation of the Court of Justice and the General Court are adopted.

Examination of the part of the request on the membership of the General Court submitted by the Court of Justice is reserved for a later stage.

Temporary judges: in order to enable the specialised courts to continue to function satisfactorily in the absence of a Judge who, while not suffering from disablement deemed to be total, is prevented from participating in the disposal of cases for a lengthy period of time, provision is made for the possibility of attaching temporary Judges to those courts.

ENTRY INTO FORCE: 01/09/2012. Certain provisions shall apply from the first occasion when the Judges are partially replaced, as provided for in the first paragraph of Article 9 of Protocol No 3 on the Statute of the Court of Justice of the European Union.

Court of Justice of the European Union: statute (amend. Protocol and Annex I)

2011/0901A(COD) - 30/09/2011

The Commission presents its Opinion on the requests for the amendment of the Statute of the Court of Justice of the EU, presented by the Court in two requests on 28 March 2011. The proposed amendments concern to varying degrees the three courts currently making up the Court of Justice of the European Union: the Court of Justice, the General Court and the Civil Service Tribunal. The Court also proposes an amendment that would affect the three courts in the same way, namely dropping the provision on periods of grace based on considerations of distance, which would in fact result in the disappearance of the ten-day fixed period which is currently added to the procedural deadlines. Following the entry into force of the Lisbon Treaty, these provisions should, for the first time, be adopted by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure.

Court of Justice: the amendments are intended to:

- establish the office of Vice-President of the Court and to determine the tasks to be entrusted to him/her;
- modify the composition of the Grand Chamber;
- increase the quorum for decisions by the Grand Chamber and the full Court;
- abolish the reading at the hearing of the report presented by the Judge-Rapporteur.

The Commission supports all the proposals made in relation to the Court of Justice, but suggests:

- stating in which cases the President of the Court can be replaced by the Vice-President;
- ensuring more stability in the composition of the enlarged Grand Chamber. The Commission suggests a rule that three Presidents of Chambers of five Judges must always form part of this Grand Chamber. The Rules of Procedure would contain conditions governing the participation of judges in each case, probably involving a system of two rotating lists (instead of a single list as is the case at the moment): one consisting of the Presidents of the Chambers of five Judges and the second one consisting of the other judges.

The General Court: in order to cope with the increase in its caseload and the resulting increase in the time taken to handle cases, it is proposed that the number of judges be increased to 39. The Commission approves the amendments, subject to comments and proposals regarding:

- the replacement of judges;
- the number of specialised chambers, with a minimum of two;
- the need for an office of Vice-President of the General Court, as proposed for the Court of Justice;
- a transitional provision stating that the new judges will take up their posts immediately before their first six-year term has formally started, and . also determining the effective duration of terms of each new judge;

Civil Service Tribunal: the Court requests that it be assigned three temporary judges upon whom it could call in the event that a judge is prevented from attending for a long period of time. The Commission approves the amendments, subject to comments on the need to lay down the order in which the three temporary judges are required to undertake judicial duties when, in accordance with the conditions laid down, one of the member judges is unable to attend.

The Court proposes that in the event of the return of the judge who was absent, the Tribunal can decide on a discretionary basis that a temporary judge should continue to perform his duties until the cases in which he has been sitting are completed. The Commission has some criticism to make about this approach since it could weaken the independence of temporary judges given that the permanent judges with whom they work would decide whether or not they continue to perform their duties. For this reason, it considers that it would be more appropriate to adopt an objective criterion to determine the cases which the temporary judge would continue to handle even after the return of the judge he is replacing.

Amendments relating to all three Courts: lastly, the Court proposes dropping the provision on the ten-day fixed period of grace based on considerations of distance on the grounds that it is no longer justified in this era of new technology. The Commission states that if the ten-day grace period is dropped, it would recommend extending some specific periods set down in the Statute, amongst them, the period set down for submitting written observations on cases referred to the Court of Justice, and the period for appealing against certain decisions of the General Court and of the Civil Service Tribunal.

Court of Justice of the European Union: statute (amend. Protocol and Annex I)

2011/0901A(COD) - 28/03/2011 - Legislative proposal

PURPOSE: to submit to the EU legislature draft amendments to the Statute of the Court of Justice and Annex I thereto.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

LEGAL BASIS: Article 19(2), second paragraph, of the Treaty on the Functioning of the European Union. (TFUE); first paragraph of Article 254, the first and second paragraphs of Article 257 and the second paragraph of Article 281 TFEU; Article 106a(1) of the Treaty establishing the European Atomic Energy Community.

CONTENT: the **Court of Justice submits to the European Union legislature** draft amendments to the Statute of the Court of Justice and its Annex I. This single text incorporates separate proposals in respect of each of the three jurisdictions which comprise the Court of Justice of the European Union.

1) Proposals relating to the Court of Justice: the Court considers it desirable to establish the office of Vice-President of the Court of Justice and to amend the rules relating to the composition of the Grand Chamber.

The current structure of the Grand Chamber and the rules determining how it operates – a quorum of nine Judges together with the participation in every case of the President of the Court and the Presidents of the Chambers of five Judges – are the product of amendments introduced by the Treaty of Nice, which entered into force on 1 February 2003.

Since that date, there have been a number of changes affecting the work of the Court: (i) the accession of 12 new Member States; (ii) the transition from two to three Chambers of five Judges in May 2004 and to four Chambers of five Judges in October 2006; (iii) the introduction of the urgent preliminary ruling procedure in March 2008; and (iv) the introduction of the review procedure following the establishment of the Civil Service Tribunal.

At present, the President of the Court and the Presidents of the Chambers of five Judges have a very heavy workload, whereas other Judges sit in relatively few cases assigned to the Grand Chamber.

The proposal provides for :

- **broader participation by the Judges in cases assigned to the Grand Chamber**, allowing them to sit far more frequently than at present (in almost half, instead of a third, of all cases). That would be achieved by the amendment of Articles 16 and 17 of the Statute so as to increase to 15 the number of Judges constituting the Grand Chamber and to end the automatic participation of the Presidents of Chambers of five Judges in Grand Chamber cases. Corresponding adjustments must be made to the rules relating to the quorum of the Grand Chamber and of the full Court;
- the **establishment of the office of Vice-President**: the latter would sit, like the President, in every case assigned to the Grand Chamber. The permanent presence of two persons, together with the more frequent participation of the other Judges in the work of the Grand Chamber, would ensure that its case-law is consistent. In addition to sitting in every Grand Chamber case, the Vice-President would also assist the President of the Court in his duties.

2) Proposals relating to the General Court: for several years now, the number of cases disposed of by the General Court has been lower than the number of new cases, so that the number of pending cases is rising constantly. At the end of 2010, there were 1 300 cases pending, whereas, in the same year, 527 cases were disposed of.

In addition to the number of cases currently pending, the likely increase in the number of cases brought before the General Court must be taken into account: there was an **increase of 65% between 2000 and 2010**. In addition to those areas of litigation, further litigation will be generated by the application of the numerous regulations establishing European Union agencies, in particular the REACH Regulation **The current increase in workload is due to** (i) the devolution of jurisdiction, since 2004, to rule on certain classes of action or proceedings brought by the Member States; (ii) to the increase in litigation following the 2004 and 2007 accessions; (iii) to the litigation engendered by the increase, resulting from greater European integration, in the number and variety of legislative and regulatory acts of the institutions, bodies, offices and agencies of the EU; and (iv) to the growth of litigation relating to Community trade mark applications.

The Court of Justice believes that a structural solution is urgently required. The Treaties offer **two possible routes to reform**:

(a) to establish specialised courts with jurisdiction to hear and determine direct actions in a specific area, in accordance with the first paragraph of Article 257 TFEU. The field of intellectual property has been mooted in that regard; (b) increasing the number of Judges of the General Court by means of an amendment to Article 48 of the Statute in accordance with the mechanism provided for in the second paragraph of Article 281 TFEU.

Having weighed up the two options at length, **the Court of Justice has come to the conclusion that an increase in the number of Judges is clearly preferable to the establishment of a specialised court in the field of intellectual property**. Its reasons relate to the effectiveness of the proposed solution, the urgency of the situation, the flexibility of the measure envisaged and the consistency of European Union law.

The Court of Justice therefore considers that **an increase in the number of Judges by at least 12**, bringing the number of General Court Judges to **39**, is necessary.

3) Proposals relating to the Civil Service Tribunal: the European Union Civil Service Tribunal comprises seven Judges. Owing to that limited composition, the functioning of the Tribunal can be seriously affected if one of its members, for an extended period of time, is prevented on medical grounds from performing his duties, without however suffering from disablement within the meaning of Article 10 of Council Regulation No 422/67/EEC, No 5/67/Euratom.

In order to ensure that the Civil Service Tribunal is not placed in a situation of difficulty such as to prevent it from carrying out its judicial functions, it is proposed to amend Article 62c of the Statute of the Court by providing, in general terms, for the **possibility of attaching temporary Judges** to the specialised courts.

The rules governing the appointment of temporary Judges, their rights and obligations, the conditions under which they are to perform their duties and the circumstances in which they will cease to perform those duties are laid down in a separate draft regulation, which would supplement Annex I to the Statute.