Basic information

2011/0901B(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute) **Subject** 8.40.04 Court of Justice, Court of First Instance	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	MARINHO E PINTO António (ALDE)	03/09/2014
	Shadow rapporteur ZWIEFKA Tadeusz (PPE) DELVAUX Mady (S&D) KARIM Sajjad (ECR) CHRYSOGONOS Kostas (GUE/NGL) HAUTALA Heidi (Verts/ALE) LEBRETON Gilles (ENF)	

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs	THEIN Alexandra (ALDE)	08/06/2012

Committee for opinion	Rapporteur for opinion	Appointed
AFCO Constitutional Affairs	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
AFCO Constitutional Affairs	The committee decided not to give an opinion.	

Council of the European Union	Council configuration	Meetings	Date
	Justice and Home Affairs (JHA)	3433	2015-12-03

European Commission	Commission DG	Commissioner
	Legal Service	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
08/05/2012	Legislative proposal published	02074/2011	Summary
12/06/2012	Committee referral announced in Parliament, 1st reading		
20/06/2013	Vote in committee, 1st reading		
10/07/2013	Committee report tabled for plenary, 1st reading	A7-0252/2013	Summary
12/12/2013	Decision by Parliament, 1st reading	T7-0581/2013	Summary
12/12/2013	Results of vote in Parliament		
15/04/2014	Decision by Parliament, 1st reading	T7-0358/2014	Summary
15/04/2014	Results of vote in Parliament		
11/11/2014	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
24/06/2015	Council position published	09375/1/2015	Summary
09/07/2015	Committee referral announced in Parliament, 2nd reading		
08/10/2015	Vote in committee, 2nd reading		
14/10/2015	Committee recommendation tabled for plenary, 2nd reading	A8-0296/2015	Summary
27/10/2015	Debate in Parliament		
28/10/2015	Decision by Parliament, 2nd reading	T8-0377/2015	Summary
03/12/2015	Act approved by Council, 2nd reading		
03/12/2015	End of procedure in Parliament		
16/12/2015	Final act signed		
24/12/2015	Final act published in Official Journal		

Technical information

Procedure reference	2011/0901B(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Other legal basis	Rules of Procedure EP 165

Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/01093

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE504.284	05/03/2013	
Amendments tabled in committee		PE510.489	18/04/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0252/2013	10/07/2013	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0581/2013	12/12/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0358/2014	15/04/2014	Summary
Committee draft report		PE567.628	10/09/2015	
Amendments tabled in committee		PE567.740	25/09/2015	
Committee recommendation tabled for plenary, 2nd reading		A8-0296/2015	14/10/2015	Summary
Text adopted by Parliament, 2nd reading		T8-0377/2015	28/10/2015	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	10043/1/2015	22/06/2015	
Council position	09375/1/2015	24/06/2015	Summary
Draft final act	00062/2015/LEX	16/12/2015	

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2011)0596	30/09/2011	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2015)0569	13/11/2015	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0596	15/04/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

CJEC	Legislative proposal	02074/2011	08/05/2012	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Regulation 2015/2422 OJ L 341 24.12.2015, p. 0014	Summary

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 10/07/2013 - Committee report tabled for plenary, 1st reading/single reading

The Legal Affairs Committee adopted the report by Alexandra THEIN (ADLE, DE) on the proposed Regulation of the European Parliament and of the Council amending the Statute of the Court of Justice of the European Union to increase the number of judges at the General Court.

The parliamentary committee recommended that the position of the European Parliament adopted at first reading following the ordinary legislative procedure amend the proposed Regulation.

The Committee agreed with the arguments put forward by the Court according to which the need to appoint additional judges is proven. It therefore proposed that the General Court consist of **one Judge per Member State and 12 additional Judges**.

According to the Committee, the system should be as follows: **one Judge per Member State** would be appointed under the present system. Thus, an appropriate geographical balance would be ensured and representation of national legal systems taken into account.

The 12 additional Judges should be appointed exclusively on the basis of their professional and personal suitability, regardless of their nationality. However, there should be no more than two Judges for any Member State.

To ensure that the experience of retiring judges is not lost, the report furthermore proposes that **retiring judges** should be able to nominate themselves in direct submissions to the panel referred to in Article 255 of the Treaty on the Functioning of the European Union.

The 12 additional Judges appointed on the basis of the Regulation shall take up their duties immediately once they have taken the oath. The term of office of six of them, chosen by lot, shall end six years after the first partial replacement of the General Court following the entry into force of this Regulation. The term of the other six judges shall end six years after the second partial replacement of the General Court following the entry into force of this Regulation.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 12/12/2013 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 553 votes to 25 with 9 abstentions, **amendments** to the proposed Regulation of the European Parliament and of the Council amending the Statute of the Court of Justice of the European Union to increase the number of judges at the General Court.

The matter was referred back to the competent committee for re-consideration. The vote on the legislative resolution was moved to a later plenary session.

Parliament recognised that the number of cases brought before the General Court has been steadily increasing over the years, resulting over time in an increase in the number of cases pending before that court and an increase in the duration of proceedings.

Accordingly, Parliament proposed that **the General Court should be composed of one Judge per Member State and 12 additional Judges.**

According to Members, the system should be as follows: one Judge per Member State would be appointed under the present system. Thus, an appropriate geographical balance would be ensured and representation of national legal systems taken into account.

The 12 additional Judges should be appointed exclusively on the basis of their professional and personal suitability, **regardless of their nationality.** All Member State governments may submit nominations. However, there should be no more than two Judges for any Member State.

To ensure that the experience of retiring judges is not lost, Parliament furthermore proposed that **retiring judges should be able to nominate themselves in direct submissions to the panel** referred to in Article 255 of the Treaty on the Functioning of the European Union. The panel shall give an opinion on nominees' suitability to perform the duties of Judge of the General Court. The opinion on candidates' suitability will contain a list of candidates having the most suitable high-level experience, by order of merit.

The 12 additional Judges appointed on the basis of the Regulation shall take up their duties immediately once they have taken the oath.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 13/11/2015 - Commission opinion on Parliament's position at 2nd reading

The Commission gave its **opinion on the amendments** proposed by the European Parliament at second reading on the 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.

To recall, the aim of the Court of Justice's request is to alleviate the congestion at the General Court of the European Union by increasing the number of judges. Initially, the Court requested 12 additional judges. Subsequently, in view of the worsening situation at the General Court, the Court of Justice informally suggested that the number of judges be gradually increased in three stages, to stand at 56 judges in 2019 (two judges per Member State), and that the posts of judges of the Civil Service Tribunal be integrated into the General Court. It was on this basis that the Council adopted its position at first reading.

The European Parliament adopted at second reading a consolidated text containing a number of amendments to the text of the Council's position at first reading. The text is the result of negotiations between Parliament, the Council and the Commission. The Commission **accepts all the amendments** adopted by Parliament.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 24/06/2015 - Council position

The Council adopted its **position at first reading** with a view to the adoption of a 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.

To recall, on 28 March 2011, the Court of Justice submitted a legislative initiative1 under the second paragraph of Article 281 TFEU to amend the Protocol on the Statute of the Court of Justice, which included inter alia an increase of the number of judges at the General Court by 12. While the other proposed amendments were adopted on 11 August 2012, it was impossible to find an agreement within the Council as to the increase of the number of judges.

The European Parliament adopted at its plenary session on 15 April 2014 its position at first reading on the Court's proposal, supporting an increase of the number of judges at the General Court by 12.

Taking into account the important increase of the caseload of the General Court since the initial proposal was made, the Court of Justice suggested on 13 October 2014 that the co-legislators amend it so as to **double the number of judges at the General Court in three stages by 2019**, including the integration of the Civil Service Tribunal in the General Court, resulting in a net increase of the number of judges by 21 additional judges.

The Council's position at first reading corresponds in essence to the suggestion of the Court of Justice of 13 October 2014, albeit with reduced costs. It foresees an **increase of the number of judges at the General Court to 56 in three stages** :

- first phase : from September 2015 (or the date of entry into force of the amending Regulation, if posterior to 1 September 2015) : **increase of the number of judges by 12** (40 judges);

- **second phase: from September 2016**: transfer of first instance jurisdiction in Union civil service cases to the General Court and **integration of the 7 posts of judges of the Civil Service Tribunal into the General Court**, on the basis of a future legislative request by the Court of Justice, subject to its adoption by the European Parliament and by the Council (47 judges);

- **third phase: from September 2019**: increase of the number of judges by 9 (2 judges from each Member States, 56 in total).

During phases 1 and 2, each of the additional judges would have three legal secretaries. However, as set out in Recital n° 9 and agreed with the Court of Justice, the third phase should not entail any additional administrative costs (no recruitment of additional legal secretaries and assistants).

The cost of the reform which would result from the Council's position at first reading would amount to **yearly additional costs of EUR 13.5 million** in net figures at cruise speed, to be compared to the initial proposal evaluated at EUR 11.2 million for 12 additional judges which has already been accepted by the European Parliament in its position at first reading.

The Council's position at first reading thus represents an **increase of the overall cost of the reform by 20%** compared to the 2011 proposal, while at the same time the number of new cases per year at the General Court increased by 43%Taking into account also the cost of non-reform, these costs appear to be modest and justified.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 590 votes to 79, 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 by increasing the number of Judges at the General Court.

The report was referred back to the committee at the 12 December 2012 plenary sitting.

Parliament adopted its position at first reading the text adopted on 12 December 2013 (*please refer to the summary of the same date*).

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 14/10/2015 - Committee recommendation tabled for plenary, 2nd reading

The Committee on Legal Affairs adopted the recommendation for second reading contained in the report by António MARINHO E PINTO (ADLE, PT) on the Council position at first reading with a view to the adoption of a 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 recommended that the European Parliament’s position adopted at second reading under the ordinary legislative procedure should amend the Council position as follows:

- the number of Judges should be fixed at 56 at the end of a three-stage process, that is to say **two Judges who are each appointed upon a proposal by each of the Member States**;
- the appointment of additional Judges should be **based on their independence, impartiality and expertise**, taking account of their professional and personal suitability and their knowledge of the legal systems of the European Union and of the Member States, and ensuring, furthermore, gender balance in the overall composition of the Court;
- partial replacements in the General Court should be organised in such a way that the governments of Member States gradually begin to **nominate two Judges for the same partial replacement**;
- **19 legal secretaries** should be appointed so that every Judge can have an additional legal secretary (taking into account the nine secretaries appointed in 2014);
- in 2019, prior to the replacement of the General Court confirming the decision to allocate nine additional Judges to it, an **impact study** shall be carried out;
- **by five years after the entry into force of this Regulation**, the Court of Justice shall draw up a report, using an external consultant, for the European Parliament, the Council and the Commission on the functioning of the General Court. In particular, that report shall: (i) focus on the efficiency of the General Court, (ii) the necessity and effectiveness of the increase in the number of its judges to 56, (iii) the use and effectiveness of resources and the further establishment of specialised chambers and/or other structural changes. The Court of Justice shall submit legislative proposals to amend its Statute accordingly;
- **by two years after the entry into force of this Regulation**, the Court of Justice shall draw up a report for Parliament, the Council and the Commission on possible changes to the distribution of competence for preliminary rulings under Article 267 of the Treaty on the Functioning of the European Union. The report shall be accompanied, where appropriate, by legislative proposals.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 16/12/2015 - Final act

PURPOSE: to amend Protocol No 3 of the Statute of the Court of Justice of the European Union bearing in mind the progressive expansion of its jurisdiction since its creation.

LEGISLATIVE ACT: Regulation (EU, Euratom) 2015/2422 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: as a consequence of the progressive expansion of its jurisdiction since its creation, the number of cases before the General Court is now constantly increasing, which has causes relating, inter alia, to the increase in the number and variety of legal acts of the institutions, bodies, offices and agencies of the Union, as well as to the volume and complexity of the cases brought before the General Court, particularly in the areas of competition, State aid and intellectual property.

At present, the duration of proceedings does not appear to be acceptable from the point of view of litigants. Suitable measures of an organisational, structural and procedural nature, including, in particular, an increase in the number of Judges, should be taken to address this situation.

Increase in the number of judges: the Regulation amends Protocol No 3 of the Statute of the Court of Justice of the European Union, so that **the number of judges is fixed at 56 at the end of a three-stage process.**

The General Court shall consist of:

- 40 judges as from 25 December 2015;
- 47 judges as from 1 September 2016;
- two judges per Member State as from 1 September 2019.

Partial replacements: in order to ensure **gender balance** within the General Court, the Regulation provides that partial replacements in that Court should be organised in such a way that the governments of Member States gradually begin to **nominate two judges** for the same partial replacement with the aim therefore of choosing one woman and one man, provided that the conditions and procedures laid down by the Treaties are respected.

Reports:

- **By 26 December 2020**, the Court of Justice shall draw up a report on the functioning of the General Court. That report shall focus on the efficiency of the General Court, the necessity and effectiveness of the increase to 56 Judges, the use and effectiveness of resources and the further establishment of specialised chambers and/or other structural changes. Where appropriate, the Court of Justice shall make legislative requests to amend its Statute accordingly.
- **By 26 December 2017**, the Court of Justice shall draw up a report on possible changes to the distribution of competence for preliminary rulings under Article 267 TFEU. The report shall be accompanied, where appropriate, by legislative requests.

ENTRY INTO FORCE: 25.12.2015.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 28/10/2015

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a 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 second reading amended the Council position as follows:

Term of office of the additional Judges of the General Court: the partial renewal of the General Court should be organised so that the governments of Member States are able to appoint two judges during the partial renewal of the Tribunal in 2016, 2019 and 2022.

Reports:

By **five years** after the entry into force of this Regulation at the latest, the Court of Justice shall draw up a report, using an external consultant, for the European Parliament, the Council and the Commission on the functioning of the General Court. This report shall focus on the efficiency of the General Court, the necessity and effectiveness of the increase to 56 judges, the use and effectiveness of resources and the further establishment of specialised chambers and/or other structural changes. Where appropriate, the Court of Justice shall make legislative proposals to amend its Statute accordingly;

By **two years** after the entry into force of this Regulation at the latest, the Court of Justice shall draw up a report on possible changes to the distribution of competence for preliminary rulings under Article 267 of the Treaty on the Functioning of the European Union. The report shall be accompanied, where appropriate, by legislative proposals.

Gender equality: a new recital stressed the importance of ensuring gender balance within the General Court. In order to achieve that objective, partial replacements in that Court should be organised in such a way that the Governments of Member States gradually begin to nominate two Judges for the same partial replacement with the aim therefore of choosing one woman and one man, provided that the conditions and procedures laid down by the Treaty are respected.

In a **joint statement** annexed to the resolution, the European Parliament and the Council declared that the governments of the Member States should, to the greatest possible extent, in the process of appointing candidates as Judges at the General Court, ensure an equal presence of women and men.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 28/10/2015 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a 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 second reading amended the Council position as follows:

Term of office of the additional Judges of the General Court: the partial renewal of the General Court should be organised so that the governments of Member States are able to appoint two judges during the partial renewal of the Tribunal in 2016, 2019 and 2022.

Reports:

By **five years** after the entry into force of this Regulation at the latest, the Court of Justice shall draw up a report, using an external consultant, for the European Parliament, the Council and the Commission on the functioning of the General Court. This report shall focus on the efficiency of the General Court, the necessity and effectiveness of the increase to 56 judges, the use and effectiveness of resources and the further establishment of specialised chambers and/or other structural changes. Where appropriate, the Court of Justice shall make legislative proposals to amend its Statute accordingly;

By **two years** after the entry into force of this Regulation at the latest, the Court of Justice shall draw up a report on possible changes to the distribution of competence for preliminary rulings under Article 267 of the Treaty on the Functioning of the European Union. The report shall be accompanied, where appropriate, by legislative proposals.

Gender equality: a new recital stressed the importance of ensuring gender balance within the General Court. In order to achieve that objective, partial replacements in that Court should be organised in such a way that the Governments of Member States gradually begin to nominate two Judges for the same partial replacement with the aim therefore of choosing one woman and one man, provided that the conditions and procedures laid down by the Treaty are respected.

In a **joint statement** annexed to the resolution, the European Parliament and the Council declared that the governments of the Member States should, to the greatest possible extent, in the process of appointing candidates as Judges at the General Court, ensure an equal presence of women and men.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 08/05/2012 - 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.

Court of Justice of the European Union: number of judges at the General Court (amend. Protocol No 3 on the Statute)

2011/0901B(COD) - 30/09/2011 - Document attached to the procedure

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.