Basic information

2011/0902(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
EU Civil Service Tribunal: temporary judges Repealed by 2015/0906(COD) **Subject** 8.40.04 Court of Justice, Court of First Instance	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)	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3132	2011-12-05
Employment, Social Policy, Health and Consumer Affairs	3188	2012-10-04

European Commission

Commission DG	Commissioner
Legal Service	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
28/03/2011	Legislative proposal published	01923/2011	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	A7-0184/2012	Summary
04/07/2012	Debate in Parliament		
05/07/2012	Decision by Parliament, 1st reading	T7-0295/2012	Summary
05/07/2012	Results of vote in Parliament		
04/10/2012	Act adopted by Council after Parliament's 1st reading		
25/10/2012	Final act signed		
25/10/2012	End of procedure in Parliament		
31/10/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/0902(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealed by 2015/0906(COD)
Legal basis	Euratom Treaty A 106a-pa Treaty on the Functioning of the European Union TFEU 257
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/05777

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE475.770	29/11/2011	
Amendments tabled in committee		PE478.660	16/01/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0184/2012	05/06/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0295/2012	05/07/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00029/2012/LEX	25/10/2012	

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	01923/2011	28/03/2011	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2012/0979
OJ L 303 31.10.2012, p. 0083 Summary

EU Civil Service Tribunal: temporary judges

2011/0902(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 relating to temporary judges of the European Union Civil Service Tribunal.

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

The committee commends this proposal of the Court of Justice as a sensible solution to a practical problem which can be very disruptive to the work of the European Civil Service Tribunal. The proposed amendments are purely technical and reproduce those put forward by the Commission in its opinion.

EU Civil Service Tribunal: temporary judges

2011/0902(COD) - 05/07/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 591 votes to 20, with 7 abstentions, a legislative resolution on the draft regulation of the European Parliament and of the Council relating to temporary judges of the European Union Civil Service Tribunal.

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 are purely technical and reproduce those put forward by the Commission in its opinion.

The draft regulation stipulates that on a proposal from the President of the Court of Justice, the Council, acting unanimously, shall draw up a list of three persons appointed as temporary Judges within the meaning of the Statute. That list shall determine the order in which temporary Judges are to be called upon to perform their duties. It is also stipulated that the duties of a temporary Judge shall end when the Judge whom he has replaced is no longer prevented from acting. However, the temporary Judge shall continue to perform his duties until the cases assigned to him have been disposed of.

EU Civil Service Tribunal: temporary judges

2011/0902(COD) - 28/03/2011 - Legislative proposal

PURPOSE: to lay down the rules governing the appointment of temporary Judges to the European Union Civil Service Tribunal, their rights and duties, the conditions under which they may perform their duties and the circumstances in which they would cease to perform those duties.

PROPOSED ACT: Regulation of the European Parliament and of the Council (at the request of the Court of Justice of the EU.)

LEGAL BASIS : Article 257 of the Treaty on the Functioning of the European Union (TFEU) and Article 106(a) of the Treaty establishing the European Atomic Energy Community;

Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 62c thereof and Article 2(2) of Annex I thereto.

BACKGROUND: the Court of Justice submits to the European Union legislature a proposal for amendments to the Statute of the Court and Annex I thereto. This single text incorporates separate proposals in respect of each of the three jurisdictions which comprise the Court of Justice of the European Union. 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.

In accordance with Article 62c of the Statute, as thus amended, the actual attachment of temporary Judges to the Civil Service Tribunal requires an amendment to Annex I [1] to the Statute.

CONTENT: at the Court of Justice's request, this proposal aims to lay down the rules governing the appointment of temporary Judges of the Tribunal, 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. This draft Regulation is linked to the draft amendments to the Statute of the Court and Annex I thereto. Its main points are as follows:

- on a proposal from the President of the Court of Justice, the Council of the European Union shall draw up **a list of three persons to be temporary Judges. Temporary Judges** shall be chosen from among former Members of the Court of Justice of the European Union who are able to place themselves at the disposal of the Civil Service Tribunal. Temporary Judges shall be appointed for a period of four years and may be reappointed;
- the Civil Service Tribunal may decide to avail itself of the assistance of a temporary Judge if it determines that a Judge is or will be prevented, on medical grounds, from participating in judicial business and that **the situation will be or is likely to be of at least three months' duration,** and if it takes the view that that Judge is nevertheless not suffering from disablement deemed to be total. In this case, the President of the Tribunal shall call upon a temporary Judge to undertake judicial duties;
- temporary Judges who are called upon to take up their duties shall exercise the prerogatives of a Judge **solely in the context of dealing with cases to which they are assigned.** This implies that temporary Judges would be able to perform only strictly judicial duties and would not be entitled to participate in the administration of the Civil Service Tribunal or in the election of the President of the Tribunal or Presidents of Chambers;
- with regard to **emoluments**, the proposal provides that temporary Judges shall receive remuneration of an amount equal to 1/30th of the basic monthly salary allocated to Judges under Article 21c(2) of Regulation No 422/67/EEC and No 5/67/Euratom for each day. Temporary Judges would also be entitled to reimbursement of their travel and hotel expenses, as well as to payment of a daily subsistence allowance, in respect of journeys to Luxembourg in the course of their duties. The amount by which the remuneration together with the pension provided for in Article 8 of Regulation No 422/67/EEC and No 5/67/Euratom exceeds the remuneration, before deduction of taxes, which the temporary Judge was receiving as a member of the Court of Justice of the European Union shall be deducted from that pension;
- lastly, the draft regulation sets out the **circumstances under which the duties of temporary judges will cease**. This will take place on his death or resignation, or by decision to deprive him of his office as provided by the Statute. The duties of a temporary Judge shall also end when the Judge whom he has replaced is no longer prevented from acting.

EU Civil Service Tribunal: temporary judges

2011/0902(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.

EU Civil Service Tribunal: temporary judges

2011/0902(COD) - 25/10/2012 - Final act

PURPOSE: to lay down the rules governing the appointment of temporary Judges to the European Union Civil Service Tribunal, their rights and duties, the conditions under which they may perform their duties and the circumstances in which they would cease to perform those duties.

LEGISLATIVE ACT: Regulation (EU, Euratom) No 979/2012 of the European Parliament and of the Council relating to temporary Judges of the European Union Civil Service Tribunal

CONTENT: following agreement at first reading, the European Parliament and Council adopted this Regulation laying down the rules governing the appointment of temporary judges to the EU Civil Service Tribunal. This Regulation is linked to the draft amendments to the Statute of the Court and Annex I thereto. Its main points are as follows:

- on a proposal from the President of the Court of Justice, the Council of the European Union shall draw up a **list of three persons to be temporary Judges**. Temporary Judges shall be chosen from among former Members of the Court of Justice of the European Union who are able to place themselves at the disposal of the Civil Service Tribunal. Temporary Judges shall be appointed for a period of four years and may be reappointed;

- the Civil Service Tribunal may decide to avail itself of the assistance of a temporary Judge if it determines that a Judge is or will be prevented, on medical grounds, from participating in judicial business and that **the situation will be or is likely to be of at least three months' duration,** and if it takes the view that that Judge is nevertheless not suffering from disablement deemed to be total. In this case, the President of the Tribunal shall call upon a temporary Judge to undertake judicial duties;

- where a Judge will foreseeably be prevented from acting and the Civil Service Tribunal takes a prospective decision, the temporary Judge may not take up his duties or participate in the disposal of cases **until the Judge whom he is to replace is actually prevented from acting;**

- temporary Judges who are called upon to take up their duties shall exercise the prerogatives of a Judge solely in the context of dealing with cases to which they are assigned. This implies that temporary Judges would be able to perform only strictly judicial duties and would not be entitled to participate in the administration of the Civil Service Tribunal or in the election of the President of the Tribunal or Presidents of Chambers;

- with regard to **emoluments,** the Regulation provides that temporary Judges shall receive remuneration of an amount equal to 1/30th of the basic monthly salary allocated to Judges under Article 21c(2) of Regulation No 422/67/EEC and No 5/67/Euratom for each day. Temporary Judges would also be entitled to reimbursement of their travel and hotel expenses, as well as to payment of a daily subsistence allowance,

in respect of journeys to Luxembourg in the course of their duties. The amount by which the remuneration together with the pension provided for in Article 8 of Regulation No 422/67/EEC and No 5/67/Euratom exceeds the remuneration, before deduction of taxes, which the temporary Judge was receiving as a member of the Court of Justice of the European Union shall be deducted from that pension. Temporary Judges shall not be entitled, in that capacity, to a transitional allowance or pension under Articles 7 and 8 of Regulation No 422/67/EEC, No 5 /67/Euratom;

- lastly, the Regulation sets out the circumstances under which the duties of temporary judges will cease. This will take place on his death or resignation, or by decision to deprive him of his office as provided by the Statute. The duties of a temporary Judge shall also end when the Judge whom he has replaced is no longer prevented from acting. However, **the temporary Judge shall continue to perform his duties until the cases assigned to him have been disposed of.**

ENTRY INTO FORCE: 01/11/2012.