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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Position of the Council at first reading in view of 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

REGULATION (EU, EURATOM) 2015/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**amending Protocol No 3 on the Statute
of the Court of Justice of the European Union**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 254 and the second paragraph of Article 281 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the request of the Court of Justice,

Having regard to the opinion of the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and position of the Council at first reading of ... (not yet published in the Official Journal).

Whereas:

- (1) 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 over the years, resulting over time in an increase in the number of cases pending before that Court. This has an impact on the duration of proceedings.
- (2) At present, the duration of proceedings does not appear to be acceptable from the point of view of litigants, particularly in the light of the requirements set out in Article 47 of the Charter of Fundamental Rights of the European Union and in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- (3) The situation in which the General Court finds itself has structural 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 and State aid.
- (4) Consequently, the necessary measures should be taken to address this situation, and the making use of the possibility, provided for by the Treaties, of increasing the number of Judges of the General Court would allow for a reduction within a short time of both the volume of pending cases and the excessive duration of proceedings before the General Court.

- (5) Taking into account the likely evolution of the workload of the General Court, the number of Judges should be fixed at 56 at the end of a three-stage process, it being understood that at no point of time can there be more than two Judges sitting at the General Court appointed upon a proposal by the same Member State.
- (6) In order to rapidly reduce the backlog of pending cases, twelve additional Judges should take office ...*.
- (7) In September 2016, first instance jurisdiction in Union civil service cases, and the seven posts of the Judges sitting at the European Union Civil Service Tribunal, should be transferred to the General Court, on the basis of a future legislative request by the Court of Justice.
- (8) In September 2019, the remaining nine additional Judges should take office. In order to ensure cost effectiveness, this should not entail the recruitment of additional legal secretaries or other support staff. Internal re-organisation measures within the institution should ensure that efficient use be made of existing human resources.
- (9) It is necessary to adapt accordingly the provisions of the Statute of the Court of Justice of the European Union on the partial replacement of Judges and Advocates-General that takes place every three years.
- (10) Protocol No 3 on the Statute of the Court of Justice of the European Union should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION :

* OJ: insert "in September 2015", or "upon entry into force of this Regulation" if the date of entry into force of this Regulation is after 31 August 2015.

Article 1

Protocol No 3 on the Statute of the Court of Justice of the European Union is hereby amended as follows:

- (1) Article 9 is replaced by the following :

"Article 9

When, every three years, the Judges are partially replaced, one half of the number of Judges shall be replaced. If the number of Judges is an uneven number, the number of Judges who shall be replaced shall alternately be the number which is the next above one half of the number of Judges and the number which is next below one half.

The first paragraph shall also apply when the Advocates-General are partially replaced, every three years."

- (2) Article 48 is replaced by the following :

"Article 48

The General Court shall consist of:

- (a) 40 Judges as from ...*;
- (b) 47 Judges as from 1 September 2016;
- (c) two Judges per Member State as from 1 September 2019."

* OJ: insert "1 September 2015", or the date of entry into force of this Regulation if that date is after 1 September 2015.

Article 2

The term of office of the additional Judges of the General Court to be appointed pursuant to Article 48 of Protocol No 3 on the Statute of the Court of Justice of the European Union shall be as follows:

- (a) The term of office of six of the twelve additional Judges to be appointed as from ...* shall end on 31 August 2016. Those six Judges shall be chosen by lot. The term of office of the other six Judges shall end on 31 August 2019;
- (b) The term of office of three of the seven additional Judges to be appointed as from 1 September 2016 shall end on 31 August 2019. Those three Judges shall be chosen by lot. The term of office of the other four Judges shall end on 31 August 2022;
- (c) The term of office of four of the nine additional Judges to be appointed as from 1 September 2019 shall end on 31 August 2022. Those four Judges shall be chosen by lot. The term of office of the other five Judges shall end on 31 August 2025.

* OJ: insert "1 September 2015", or the date of entry into force of this Regulation if that date is after 1 September 2015.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., on ...

For the European Parliament
President

For the Council
President
