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## NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Draft Amendments to the Rules of Procedure of the General Court

Delegations will find attached a letter dated 27 February 2024 from Mr. Marc van der Woude, President of the General Court of the European Union, to Ms Hadja Lahbib, President of the Council of the European Union, transmitting draft amendments to the Rules of Procedure of the General Court, as well as corrigenda to the Rules of Procedure in nine language versions (Bulgarian, Czech, German, Spanish, Italian, Hungarian, Maltese, Portuguese and Romanian), which are attached to this document only in the respective language versions concerned by the corrigenda.

7226/24

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GENERAL COURT  
OF THE  
EUROPEAN UNION

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**President**

Luxembourg, 27 February 2024

Ms Hadja Lahbib  
President of the Council of the European  
Union  
175, rue de la Loi  
B-1048 BRUSSELS

**Re: Draft amendments to the Rules of Procedure of the General Court**

Dear President,

With reference to the fifth paragraph of Article 254 of the Treaty on the Functioning of the European Union, a provision which is also applicable to the Treaty establishing the European Atomic Energy Community in accordance with Article 106a thereof, I am pleased to submit, for the Council's approval, draft amendments to the Rules of Procedure of the General Court.

First of all, the draft amendments concerned arise in connection with the request to amend Protocol No 3 on the Statute of the Court of Justice of the European Union ('the Statute'), submitted by the Court of Justice on 30 November 2022 with a view to transferring to the General Court jurisdiction to hear and determine questions referred for a preliminary ruling under Article 267 TFEU in certain specific areas. In order to implement that transferral of jurisdiction, it is necessary to insert in the Rules of Procedure of the General Court the procedural provisions necessary to provide national courts and tribunals, as well as the interested persons referred to in Article 23 of the Statute, with the same safeguards as are applied by the Court of Justice when dealing with requests for a preliminary ruling. The draft amendments have been drawn up on the basis of amendments to the Statute which were the subject of a political agreement on 7 December 2023. That agreement has since been confirmed by the European Parliament and by the Council.

Next, the draft amendments aim to modify certain provisions which are not intended to apply to references for a preliminary ruling specifically. The amendment of those provisions is justified by the need to simplify the scope and clarify the content thereof, to reflect the lessons drawn from their implementation, to reduce the time spent on certain parts of the procedure, and to further the possibilities for the digitalisation of that procedure.

Lastly, like the Court of Justice, the General Court wishes to introduce into the Rules of Procedure an explicit legal basis as regards the possibility of broadcasting certain hearings.

I would also like to draw your attention to the explanatory notes, which give reasons for the overall choices that have been made and the amendments that are envisaged in respect of each provision.

The draft amendments to the Rules of Procedure of the General Court are enclosed in all the official languages.

In addition, as regards the Bulgarian, Czech, German, Spanish, Italian, Hungarian, Maltese, Portuguese and Romanian versions of the Rules of Procedure of the General Court, I am pleased to submit, for the Council's approval, requests for rectification of certain Articles of the language versions concerned, in order to correct typographical errors or obvious translation errors.

Yours faithfully,

Marc van der Woude

## AMENDMENTS TO THE RULES OF PROCEDURE OF THE GENERAL COURT

### **Explanatory statement**

*These draft amendments to the Rules of Procedure of the General Court arise in connection with the request to amend Protocol No 3 on the Statute of the Court of Justice of the European Union ('the Statute'), submitted by the Court of Justice on 30 November 2022 with a view to transferring to the General Court jurisdiction to hear and determine questions referred for a preliminary ruling under Article 267 TFEU in certain specific areas. They are intended to insert in the Rules of Procedure of the General Court the procedural provisions necessary to provide national courts and tribunals, as well as the interested persons referred to in Article 23 of the Statute, with the same safeguards as are applied by the Court of Justice when dealing with requests for a preliminary ruling.*

*To meet that objective, first, a new Title bringing together all of the rules applicable to references for a preliminary ruling (the new Title VI), with the sole exception of the rules for determining the language to be used (which fall under Title II), has been added to the Rules of Procedure of the General Court. Rather than supplementing certain rules applicable to direct actions with those governing references for a preliminary ruling so as to create a set of provisions common to direct actions and references for a preliminary ruling, followed by a Title containing rules specific to direct actions and a Title containing rules specific to references for a preliminary ruling, modelled on the structure of the Rules of Procedure of the Court of Justice, the option of adding a new, clearly distinct Title was preferred. This option offers all users of the preliminary ruling procedure, national courts and tribunals, and interested persons referred to in Article 23 of the Statute the advantage of clarity and legibility. It also enables the numbering of almost all of the Articles of the Rules of Procedure of the General Court to be retained, which will facilitate the continued implementation of the current provisions of those Rules which are not affected by the new jurisdiction of the General Court to give preliminary rulings. Grouping the relevant provisions in a separate Title is also justified by the fact that they govern proceedings that are clearly distinct from other proceedings initiated before the General Court. Lastly, it is the option which is best aligned with the position that references for a preliminary ruling – representing, on average, around one hundred cases brought per annum, which is lower than the number of direct actions governed by Title III of the Rules of the Procedure of the General Court (approximately 500 actions brought per annum) and intellectual property cases to which Title IV of the Rules of Procedure is dedicated (approximately 300 cases brought per annum) – are likely to occupy within the cases dealt with by the General Court. The new Title VI comprises some 40 Articles, reproducing the provisions of Title III (References for a Preliminary Ruling) of the Rules of Procedure of the Court of Justice and the provisions of Title II (Common Procedural Provisions) of those Rules which are applicable to references for a preliminary ruling. The sole caveat to this relates to secondary aspects of the Rules of Procedure of the Court of Justice; this is justified by the need to maintain overall consistency in the provisions of the Rules of Procedure of the General Court.*

*Secondly, pursuant to the new Article 49a and the fourth paragraph of the new Article 50b of the Statute, certain provisions of Title I (Organisation of the General Court) of the Rules of Procedure of the General Court have been amended and supplemented to provide that (i) requests for a preliminary ruling transmitted by the Court of Justice are to be assigned to Chambers designated for that purpose (Articles 25 to 28) and (ii) an Advocate General is to assist the competent formation of the General Court in all preliminary ruling cases, mirroring the participation of Advocates General in proceedings before the Court of Justice (Articles 30 to 31b).*

*Thirdly, several provisions of Title I of the Rules of Procedure of the General Court have been amended and supplemented to specify the composition of the new formation created on the occasion of the transfer to the General Court of jurisdiction to give preliminary rulings, which is the Intermediate Chamber between Chambers of five Judges and the Grand Chamber, as well as the circumstances and conditions under which the General Court will sit in that new formation (Articles 11, 14, 15a, 17, 20, 23a and 28).*

*In addition, those amendments are supplemented by amendments to other provisions of the Rules of Procedure of the General Court which are not intended to apply to references for a preliminary ruling specifically, but which, by simplifying and clarifying the provisions concerned, by reducing the time spent on certain parts of the procedure and by furthering the digitalisation of procedures, will, inter alia, reduce pressure on the Registry, enabling it to cope better with the additional workload caused by the transfer to the General Court of jurisdiction to give preliminary rulings. It is particularly opportune to include the amendments in question – which do not, in themselves, justify a specific process being initiated – in the present regulatory review process, given that, in view of the scale of the amendments to be made to the Statute and to the Rules of Procedure of the General Court in order to implement the partial transfer to the General Court of jurisdiction to give preliminary rulings, it is unlikely that the Rules of Procedure of the General Court will be amended again in the short term. These supplementary amendments, which are of limited scope, concern 12 Articles of the Rules of Procedure of the General Court (Articles 32, 37, 38, 56a, 68, 86, 92, 113, 130, 139, 162 and 178).*

THE GENERAL COURT,

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

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

Having regard to Protocol No 3 on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas Regulation (EU, Euratom) 2024/XXXX of the European Parliament and of the Council of XXXX, amending Protocol No 3 on the Statute of the Court of Justice of the European Union,<sup>1</sup> inserts a new Article 50b in the Statute, providing that the Court of Justice is to transmit to the General Court requests for a preliminary ruling coming exclusively within the areas of: the common system of value added tax; excise duties; the Customs Code and the tariff classification of goods under the Combined Nomenclature; compensation and assistance to passengers in the event of delay, cancellation of transport services, or denied boarding; and the scheme for greenhouse gas emission allowance trading,

Whereas it is appropriate to amend the Rules of Procedure of the General Court in order to lay down the procedures under which requests for a preliminary ruling transmitted by the Court of Justice will be dealt with by the General Court and it is necessary, in order to do so and to provide national courts and tribunals, as well as the interested persons referred to in Article 23 of the Statute, with the same safeguards as are applied by the Court of Justice when dealing with requests for a preliminary ruling, to insert in the Rules of Procedure of the General Court those provisions of the Rules of Procedure of the Court of Justice which are applicable to requests for a preliminary ruling submitted to the Court of Justice, subject to any adjustments necessary to maintain the overall consistency of the procedural provisions applicable to the General Court,

Whereas Regulation 2024/XXXX provides, by the amendment of Article 50 of the Statute, that the General Court may also sit in an Intermediate Chamber between the Chambers of five Judges and the Grand Chamber and that the General Court is to sit in an Intermediate Chamber where a Member State or an institution which is a party to the proceedings so requests,

Whereas it is appropriate to amend the Rules of Procedure of the General Court in order to specify the composition of the Intermediate Chamber, as well as the circumstances and conditions under which the General Court shall sit in such a Chamber,

Whereas Regulation 2024/XXXX provides, by inserting Article 49a in the Statute, that the General Court is to be assisted by one or more Advocates General in dealing with requests for a preliminary ruling which are transmitted to it,

Whereas it is appropriate to specify the rules applicable to the election of Advocates General, their designation for the purpose of dealing with requests for a preliminary ruling, and the performance of their tasks,

Whereas it is appropriate to simplify and clarify certain provisions of the Rules of Procedure which are not intended to apply to requests for a preliminary ruling specifically, particularly

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<sup>1</sup> OJ L XXXX of XXXX, p. X.

in order to reduce the time spent on certain parts of the procedure and to reap the full benefits of digitalising procedures,

With the agreement of the Court of Justice,

With the approval of the Council given on XXXX,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

#### *Article 1*

The Rules of Procedure of the General Court of 4 March 2015 <sup>2</sup> are hereby amended as follows:

1) Article 1(2) is amended as follows:

a) A new point (e) is added. The text is as follows:

‘(e) “interested persons referred to in Article 23 of the Statute” means all the parties, States, institutions, bodies, offices and agencies authorised, pursuant to that Article, to submit statements of case or written observations in the context of a reference for a preliminary ruling;’

b) The current points (e) to (k) become points (f) to (l);

c) Point (i), which now becomes point (j), is amended as follows:

“direct actions” means ~~actions brought on the basis of Articles 263 TFEU, 265 TFEU, 268 TFEU, 270 TFEU and 272 TFEU~~ all of the actions that may be brought before the General Court, with the exception of requests for a preliminary ruling;’

#### Reasons:

*The transfer to the General Court of jurisdiction to give preliminary rulings requires the term ‘direct actions’ (all of the actions governed by Titles III and IV and by the new Title V) to be clarified so that it can be used in certain Articles of Title I of these Rules that are common to all cases brought before the General Court (Articles 28, 30 and 31), as opposed to ‘references for a preliminary ruling’ or ‘requests for a preliminary ruling’ (the new Title VI), in the sense of the terms used in the new Article 50b of the Statute or in the Rules of Procedure of the Court of Justice (Article 30 and the new Articles 31a and 31b of these Rules). It also requires a definition of ‘interested persons referred to in Article 23 of the Statute’ who are entitled to take part in preliminary ruling proceedings. That definition reproduces the definition contained in Article 1(2)(c) of the Rules of Procedure of the Court of Justice.*

2) Article 3(3) is amended as follows:

‘3. Every Judge, with the exception of the President, the Vice-President and the Presidents of Chambers of the General Court, may, in the circumstances defined in Articles 30 ~~and to~~ 31b, perform the duties of an Advocate General ~~in a particular case.~~’

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<sup>2</sup> OJ L 105, 23.4.2015, p. 1, as amended on 13 July 2016 (OJ L 217, 12.8.2016, p. 71; OJ L 217, 12.8.2016, p. 72; OJ L 217, 12.8.2016, p. 73), 11 July 2018 (OJ L 240, 25.9.2018, p. 68), 31 July 2018 (OJ L 240, 25.9.2018, p. 67) and 30 November 2022 (OJ L 44, 14.2.2023, p. 8).



Reasons:

*The amendments to this provision are intended to take account of the new rules governing the involvement of Advocates General in preliminary ruling cases transmitted to the General Court and the decision to assign the presidency of the Intermediate Chamber to the Vice-President (see Article 11 of these Rules). While these Rules were amended in 2018 to enable the Vice-President to perform the duties of an Advocate General as part of his mission to enhance the consistency and quality of the case-law of the General Court, his new role as President of the Intermediate Chamber, which is also justified by that mission, requires that amendment to be reviewed in so far as, in preliminary ruling cases, an Advocate General is designated in every case, including in cases that will be referred to the Intermediate Chamber, and, in direct actions, more often than not, those cases which might justify a referral to the Intermediate Chamber are also those which might justify the designation of an Advocate General.*

3) Article 11 is amended as follows:

a) The text of paragraph 4 is replaced by the following:

‘4. The Intermediate Chamber, referred to in Article 15a, shall be presided over by the Vice-President. In that case Article 19 shall apply.’

b) Paragraph 4, currently in force, is renumbered and becomes paragraph 5.

Reasons:

*This new provision is among those necessitated by the creation of the Intermediate Chamber (Article 50 of the Statute, as amended). The decision has been taken to assign the presidency of that Chamber to the Vice-President, first, in line with the mission of ensuring the consistency of case-law which has been conferred on the Vice-President and which the Intermediate Chamber also seeks to ensure (recital XXX of Regulation 2024/XXXX) and, secondly, in order to make a clear distinction between the Intermediate Chamber and the Grand Chamber, which is presided over by the President of the General Court.*

4) The following is added to Article 14(2):

‘2. Cases may be heard and determined by the Grand Chamber or by the Intermediate Chamber under the conditions laid down in Article 28.’

Reasons:

*Reference to the Intermediate Chamber is added in this Article, which mentions the various formations of the General Court.*

5) A new Article 15a, headed ‘Composition of the Intermediate Chamber’, is inserted after Article 15. The text is as follows:

‘Article 15a  
**Composition of the Intermediate Chamber**



1. The Intermediate Chamber shall be composed of nine Judges.
2. The General Court shall decide how to designate the Judges composing the Intermediate Chamber. That decision shall be published in the *Official Journal of the European Union*.

Reasons:

*The decision has been taken to set the number of Judges composing the Intermediate Chamber at nine. An Intermediate Chamber composed of only seven Judges was considered too similar to the formation of five Judges and therefore insufficiently representative given the number of Judges and Chambers which currently make up the General Court. In contrast, an Intermediate Chamber composed of eleven or even thirteen Judges would be too similar to the Grand Chamber and could lead, particularly in preliminary ruling cases assigned to Chambers designated for that purpose, to Judges who do not belong to those Chambers being designated to form part of the Intermediate Chamber.*

*In addition, this Article provides, tracking Article 15 of these Rules, that the composition of the Intermediate Chamber is to be determined by a decision published in the Official Journal. That composition may vary, depending on whether or not the cases referred to the Intermediate Chamber come within the remit of Chambers specifically responsible for hearing and determining those cases. This is so as to preserve the specific way in which those cases are dealt with, including when they are referred to the Intermediate Chamber.*

6) Article 17 is amended as follows:

a) The text of paragraph 2 is replaced by the following:

‘2. If in the Intermediate Chamber the number of Judges provided for by Article 15a is not attained as a result of a Judge’s being prevented from acting before the deliberations have begun or before the case is pleaded, the President of the General Court shall designate a Judge to complete that Chamber in order to restore the requisite number of Judges.’

b) Paragraphs 2 and 3, currently in force, are renumbered and become paragraphs 3 and 4.

Reasons:

*The new Article 17(2) governs situations in which a Judge of the Intermediate Chamber is prevented from acting, reproducing the rules for the replacement of a Judge prevented from acting in a Grand Chamber.*

7) Article 20 is amended as follows:

‘Without prejudice to Article 10(5) and Article 11~~(4)~~(5), when the President of a Chamber is prevented from acting, his functions shall be exercised by a Judge of that formation of the Court according to the order laid down in Article 8.’

Reasons:

*The amendment to this Article is the result of a paragraph being added to Article 11 of these Rules.*

8) The following is added to Article 23(3):

‘3. If the quorum is no longer attained but the hearing has taken place, the Judge prevented from acting shall be replaced as provided in paragraph 2 and a new hearing shall be organised at the request of a main party or an interested person referred to in Article 23 of the Statute. It may also be organised by the General Court of its own motion. A new hearing must be held if measures of inquiry have been adopted in accordance with Article 91(a) and (d) and Article 96(2). If no new hearing is organised, Article 21(2) shall not apply.’

Reasons:

*This Article, which is dedicated to the quorum of the Grand Chamber, is adapted to include, as participants in preliminary ruling proceedings, the interested persons referred to in Article 23 of the Statute.*

9) A new Article 23a, headed ‘Quorum of the Intermediate Chamber’, is inserted after Article 23. The text is as follows:

‘Article 23a  
**Quorum of the Intermediate Chamber**

1. Decisions of the Intermediate Chamber shall be valid only if seven Judges are sitting.
2. If, as a result of a Judge’s being prevented from acting, that quorum is not attained, the President of the General Court shall designate another Judge in order to attain the quorum of the Intermediate Chamber.
3. If the quorum is no longer attained but the hearing has taken place, the Judge prevented from acting shall be replaced as provided in paragraph 2 and a new hearing shall be organised at the request of a main party or an interested person referred to in Article 23 of the Statute. It may also be organised by the General Court of its own motion. A new hearing must be held if measures of inquiry have been adopted in accordance with Article 91(a) and (d) and Article 96(2). If no new hearing is organised, Article 21(2) shall not apply.’

Reasons:

*This new Article is based on Article 23, which is dedicated to the quorum of the Grand Chamber, and adapts it to the number of Judges making up the Intermediate Chamber by setting its quorum at seven Judges.*

10) The following is added to Article 24(3):

‘3. If the quorum is no longer attained but the hearing has taken place, the Judge prevented from acting shall be replaced as provided in paragraph 2 and a new hearing

shall be organised at the request of a main party or an interested person referred to in Article 23 of the Statute. It may also be organised by the General Court of its own motion. A new hearing must be held if measures of inquiry have been adopted in accordance with Article 91(a) and (d) and Article 96(2). A new hearing must be held if more than one Judge who took part in the original hearing has to be replaced. If no new hearing is organised, Article 21(2) shall not apply.'

Reasons:

*This Article, which is dedicated to the quorum of Chambers sitting with three or with five Judges, is adapted to include, as participants in preliminary ruling proceedings, the interested persons referred to in Article 23 of the Statute.*

11) The following is added to Article 25(1):

'1. The General Court shall lay down criteria by which cases are to be allocated among the Chambers. The General Court may make one or more Chambers responsible for hearing and determining cases in specific matters. The General Court shall designate one or more Chambers responsible for dealing with requests for a preliminary ruling.'

Reasons:

*This paragraph has been supplemented in order to insert the procedure for assigning preliminary ruling cases to Chambers designated for that purpose, as laid down in the fourth paragraph of the new Article 50b of the Statute. To that end, a third sentence has been added without any amendment being made to the second sentence, which constitutes the legal basis for the specialisation by area of certain Chambers of the General Court.*

12) The following is added to Article 26(1):

'1. As soon as possible after the document initiating proceedings has been lodged, the President of the General Court shall assign the case to a Chamber according to the criteria laid down by the General Court in accordance with Article 25. Requests for a preliminary ruling shall be assigned to a Chamber sitting with five Judges.'

Reasons:

*A second sentence has been added to this paragraph to reflect the decision of the General Court to make Chambers sitting with five Judges the ordinary court formation responsible for preliminary ruling cases, on account of the importance given by the General Court to this new jurisdiction.*

13) Article 27 is amended as follows:

a) Paragraph 5 is amended as follows:

'5. Where the composition of the Chambers has changed as a result of a decision of the General Court on the assignment of Judges to Chambers, a case shall be heard and determined by the Chamber in which the Judge-Rapporteur sits following that decision, unless ~~the deliberations have commenced or~~ the oral part of the procedure

has been opened or the decision has been made to rule without an oral part of the procedure.'

b) Paragraph 6 is amended as follows:

'6. Without prejudice to the provisions of paragraph 5, ~~where a case concerns a specific matter for the purposes of Article 25,~~ in a case concerning a request for a preliminary ruling or in a case concerning a specific matter for the purposes of Article 25, ~~and the written part of the procedure has not been closed~~ the oral part of the procedure has not been opened or the decision has not been made to rule without an oral part of the procedure when the decision of the General Court on the assignment of Judges to Chambers is adopted, a new Judge-Rapporteur shall be designated within a Chamber which hears and determines requests for a preliminary ruling or cases concerning that matter if the initial Judge-Rapporteur is assigned to a Chamber which does not do so.'

c) A new paragraph 7 is inserted after paragraph 6:

'7. Where the Judge-Rapporteur designated to deal with a request for a preliminary ruling is elected to perform the function of Advocate General for the purpose of dealing with requests for a preliminary ruling, a new Judge-Rapporteur shall be designated within a Chamber which hears and determines requests for a preliminary ruling in order to deal with the request where the oral part of the procedure has not been opened or the decision has not been made to rule without an oral part of the procedure on the date of election.'

#### Reasons:

*The amendments to paragraph 6 of this Article give effect, upon the triennial partial renewal of the Members of the General Court and the change in the composition of its Chambers, to the amendments to Article 25, by enabling preliminary ruling cases to remain in the Chambers designated for that purpose when the composition of the Chambers is so changed.*

*The new paragraph 7 is the consequence of the rule set out in the second paragraph of Article 49a of the Statute. The rule is clarified and supplemented in these Rules by the phrase 'in order to deal with the request where the oral part of the procedure has not been opened or the decision has not been made to rule without an oral part of the procedure on the date of election'. For overriding reasons of continuity and the proper administration of justice, it cannot be accepted that a case which is very far advanced, for example, one which has reached the deliberation stage, should have to be taken over by another Judge-Rapporteur, which would necessarily entail a fresh analysis of the case by the newly designated Judge-Rapporteur, the repetition of certain procedural steps (Chamber conference, potential hearing, deliberation) and thus a substantial increase in the length of the proceedings. If, from the moment of his election as Advocate General, a Judge-Rapporteur were required to cease taking part in the adjudication of a case, which might be of considerable importance and complexity, this would result in serious harm to the treatment of that case and to the litigants. Such a change in the Judge-Rapporteur has far more significant consequences for the handling of a case and for the course of proceedings than the replacement of another Judge of the formation or the mere application of the quorum rule. In addition, the designation of another Judge-Rapporteur in a case is subject to a very strict framework under these Rules, in particular Article 27(3), which does not permit such designation where the Judge-Rapporteur has already presented the preliminary report, precisely in order to avoid*

*the repetition and additional analyses referred to above, which are detrimental to the proper administration of justice.*

*The decision has been taken, for reasons for clarity and legal certainty, to fix the same time limit for the reassignments envisaged by this Article, which explains the amendment to paragraph 5 and the additional amendment to paragraph 6.*

14) Article 28 is amended as follows:

a) The following is added to paragraph 1:

‘1. Whenever the legal difficulty or the importance of the case or special circumstances so justify, a case may be referred to the Grand Chamber, to the Intermediate Chamber, or to a Chamber sitting with a different number of Judges.’

b) The following is added to paragraph 3:

‘3. The President of the General Court or the Vice-President of the General Court may propose to the plenum that the case be referred as provided for in paragraph 1 until the close of the oral part of the procedure or, where Article 106(3) or Article 213(2) applies, before the Chamber seized of the case decides to rule without an oral part of the procedure.’

c) Paragraph 5 is amended as follows:

‘5. The decision to refer ~~a case~~ a direct action to a formation sitting with a lesser number of Judges shall be taken by the plenum, after the main parties have been heard.’

d) A new paragraph 6 is inserted after paragraph 5:

‘6. Having regard to the lack of difficulty of the questions of law raised by a request for a preliminary ruling, the Chamber sitting with five Judges seized of that request may decide to refer it to a Chamber sitting with three Judges. The General Court shall decide how to designate the three Judges composing that Chamber. That decision shall be published in the *Official Journal of the European Union*.’

e) Paragraph 6, currently in force, is renumbered and becomes paragraph 7:

‘7. The case shall be heard and determined by a Chamber sitting with at least five Judges where a Member State or an institution of the Union which is a party to the proceedings so requests.’

f) A new paragraph 8 is inserted after paragraph 7:

‘8. A request for a preliminary ruling shall be dealt with by the Intermediate Chamber where a Member State or an institution of the Union which is a party to the proceedings so requests in accordance with the fourth paragraph of Article 50 of the Statute.’

#### Reasons:

*The purpose of the amendments to this Article is twofold.*

*First, it is necessary to include the Intermediate Chamber among the formations sitting with a different number of Judges to which a case may be referred. Paragraph 1 has therefore been supplemented accordingly. In that regard, the decision has been taken to add a single reference to the Intermediate Chamber without distinguishing between direct actions and requests for a preliminary ruling in order to limit the amendments to this provision and maintain the flexibility in terms of a referral to another Chamber which results from the current wording.*

*Secondly, it is necessary to insert in these Rules a reference to decisions of the General Court regarding the referral of requests for a preliminary ruling to Chambers sitting with a different number of Judges.*

*A new paragraph 6 sets out the procedures for the transition from the Chamber sitting with five Judges, which is the ordinary court formation responsible for preliminary ruling cases, to the Chamber sitting with three Judges. For reasons of simplicity and expediency, the General Court has decided to entrust the referral decision to the Chamber originally seised of the case and not to the plenum, after hearing the Advocate General (see Article 31(3) and Article 31b(2) of these Rules), but without any prior hearing of the interested persons referred to in Article 23 of the Statute, who are likewise not heard by the Court of Justice on the assignment of cases to formations of the Court of Justice (Article 60 of the Rules of Procedure of the Court of Justice). The composition of the Chamber sitting with three Judges will be determined by the General Court in a decision published in the Official Journal of the European Union.*

*Paragraph 6, which becomes paragraph 7, also applies to requests for a preliminary ruling and guarantees the Member States and the institutions of the Union which are parties to the proceedings the right to obtain a decision on the request for a preliminary ruling from a Chamber sitting with five Judges, should that Chamber wish to refer the case to a Chamber sitting with three Judges. A new paragraph 8 similarly guarantees the same parties to the proceedings the right to obtain a decision on the request for a preliminary ruling from the Intermediate Chamber, in accordance with the fourth paragraph of Article 50 of the Statute. It should be noted that, in accordance with the interpretation adopted by the Court of Justice in preliminary ruling proceedings, the Member States and institutions of the Union are to be regarded as parties to the proceedings, even if they have not submitted observations during the preliminary ruling proceedings and are therefore not participants in those proceedings.*

*Lastly, it is important to note the addition to paragraph 3, consisting in the insertion of the Article applicable to requests for a preliminary ruling, which corresponds to Article 106(3), applicable to direct actions.*

15) Article 30 is amended as follows:

a) The single paragraph becomes paragraph 1 and is supplemented as follows:

*‘1. In dealing with direct actions, the General Court may be assisted by an Advocate General if it is considered that the legal difficulty or the factual complexity of the case so requires.’*

b) A paragraph 2 is added. The text is as follows:

*‘2. In dealing with requests for a preliminary ruling, the General Court shall be assisted by an Advocate General.’*



Reasons:

*The purpose of this addition is to implement the first paragraph of the new Article 49a of the Statute, which provides that the formation of the General Court is to be assisted by an Advocate General in all preliminary ruling cases.*

16) Article 31 is amended as follows:

a) The heading is amended as follows:

**‘Procedures concerning the designation of an Advocate General to deal with direct actions’**

b) Paragraph 1 is amended as follows:

‘1. The decision to designate an Advocate General ~~in a particular case~~ to deal with a direct action shall be taken by the plenum at the request of the Chamber to which the case has been assigned or referred.’

c) The following is added to paragraph 3:

‘3. After being so designated, the Advocate General shall be heard before the decisions provided for in Articles 16, 28, 45, 55, 68, 70, 83, 87, 90, 92, 98, 103, 105, 106, 110a, 113, 126 to 132, 144, 151, 165, 168 and 169 are taken.’

Reasons:

*The amendments to the heading and to paragraph 1 of this Article are intended to limit the application of the current rules on the designation of an Advocate General to direct actions. The addition, in paragraph 3, of the reference to Article 55 of these Rules is intended to align the regime for excluding certain representatives from the proceedings, established by that Article, with that in place at the Court of Justice, which provides for the prior hearing of the Advocate General (Article 46(2) of the Rules of Procedure of the Court of Justice) and will apply to references for a preliminary ruling dealt with by the General Court (see the new Article 197 of these Rules).*

17) An Article 31a is inserted after Article 31. The text is as follows:

*‘Article 31a*

**Election of Advocates General to deal with requests for a preliminary ruling**

1. The Judges shall elect from among their number, in accordance with Article 49a of the Statute and Article 9(3) of these Rules, the Judges called upon to perform the duties of an Advocate General in dealing with requests for a preliminary ruling and the Judges called upon to replace them if they are prevented from acting.

2. The election of the Judges called upon to perform those duties shall take place immediately after the elections of the President and of the Vice-President of the General Court provided for in Article 9 and after the elections of the Presidents of Chambers provided for in Article 18.



3. If the office of the Judge called upon to perform those duties falls vacant before the normal date of expiry of the term thereof, the Judges shall elect a successor to perform those duties for the remainder of the term, in accordance with the procedure laid down in Article 9(3).

4. The names of the Judges called upon to perform those duties elected in accordance with this Article shall be published in the *Official Journal of the European Union*.’

Reasons:

*The purpose of this new Article is to give effect to Article 49a of the Statute and to provide that Judges are to be elected to perform the duties of an Advocate General in dealing with requests for a preliminary ruling in accordance with the procedure laid down for the election of the President, Vice-President and Presidents of Chambers by Article 9 of these Rules. The rules on replacement if the office falls vacant and on the publication of the names of the elected Advocates General, laid down for Presidents of Chambers by Article 18 of these Rules (paragraphs 3 and 4 of this Article), are also reproduced.*

18) An Article 31b is inserted after Article 31a. The text is as follows:

*‘Article 31b*

**Procedures concerning the designation of Advocates General to deal with requests for a preliminary ruling**

1. The President of the General Court shall assign each case to an Advocate General. In accordance with the third paragraph of Article 49a of the Statute, the Advocate General shall be selected from among the Judges elected to perform that duty who belong to a Chamber other than the Chamber to which the case has been assigned.

2. After being so designated, the Advocate General shall be heard before the decisions provided for in Articles 16 and 28 are taken, as well as in the cases provided for in Titles II and VI.’

Reasons:

*This Article governs the procedure for designating Advocates General by specifying the authority responsible for that designation, namely the President of the General Court in the absence of the First Advocate General of the General Court (Article 16(1) of the Rules of Procedure of the Court of Justice) and in line with his general task of assigning cases brought before the General Court, as well as one of the criteria to be taken into account for that purpose, namely the assignment to a Chamber other than that to which the preliminary ruling case concerned has been assigned, in accordance with the third paragraph of Article 49a of the Statute.*

*Unlike Article 31(3) of these Rules, the new Article 31b does not list all of the Articles providing for decisions prior to whose adoption the Advocate General is to be heard. The General Court has instead opted to state ‘after hearing the Advocate General’ in each of the provisions of the new Title VI and of Title II which specifically govern references for a preliminary ruling and which are concerned by such a prior hearing, drawing on the Rules of Procedure of the Court of Justice. This difference is justified, first, by the different position which the Advocate General will occupy in preliminary ruling proceedings (designation in each case from the outset of the proceedings before the General Court) and when dealing*

*with direct actions (exceptional designation by decision of the plenum) and, secondly, by the desire to make it clear that the provisions of the Rules of Procedure of the Court of Justice relating to references for a preliminary ruling are reproduced as drafted. However, the reference to the provisions in Title I common to direct actions and to references for a preliminary ruling (Articles 16 and 28) has been maintained in order to ensure that the references in those provisions to the Advocate General are consistent (there is no reference to the prior hearing of the Advocate General in those Articles and provision is made for such a prior hearing in a general provision referring to those Articles) and to avoid difficulties in understanding and implementing those provisions.*

19) The following is added to Article 32(5):

‘5. The Registrar shall take the oath set out in Article 5 before the General Court and sign the declaration provided for in Article 6.’

Reasons:

*The first Rules of Procedure of the General Court provided – and it has been settled practice since the creation of the General Court – that its Registrar is to take the oath before the Judges of the General Court. The words ‘before the General Court’ have been reintroduced in this provision in order to avoid ambiguity arising from the fact that the oath set out in Article 5 of these Rules, which is also referred to in the present provision, is taken by the Judges of the General Court before the Court of Justice.*

20) Article 37 is amended as follows:

‘Anyone may consult the register at the Registry and obtain copies or extracts ~~on payment of a charge on a scale fixed by the General Court on a proposal from the Registrar.~~

Reasons:

*In view of the difficulties involved in collecting the sums in question, even though they are often modest, and since copies of or extracts from the register, governed by this Article, as well as copies of procedural documents and authenticated copies of decisions, governed by Article 38 of these Rules, are, in principle, now communicated by electronic means, it is proposed that collection of those sums be waived.*

21) Article 38(1) is amended as follows:

‘1. Subject to the provisions of Article 68(4), Articles 103 to 105 and of Article 144(7), any party to the proceedings may have access to the file in the case and, ~~on payment of the appropriate charge referred to in Article 37,~~ may obtain copies of procedural documents and authenticated copies of orders and judgments.’

Reasons:

*See the statement of reasons relating to the amendment of Article 37 of these Rules.*

22) Article 42(1) is amended as follows:

‘1. Decisions concerning administrative issues and the decisions referred to in Articles 7, 9, 11, 13, 15, 15a, 16, 18, 25, 28, 31, 31a, 32, ~~to~~ 33, 41, 56a, 207 and ~~224~~243 shall be taken by the General Court at the plenum in which all the Judges shall take part and have a vote, save as otherwise provided in these Rules. The Registrar shall be present, unless the General Court decides to the contrary and save in relation to the decisions referred to in Article 32.’

Reasons:

*The reference to Articles ‘31 to 33’ is replaced by a reference to Articles ‘31, 31a, 32, 33’, since the plenum is not involved in the adoption of the decisions provided for by the new Article 31b of these Rules. In addition, a reference has been added to the new Articles 15a and 207 of these Rules, which provide for the competence of the plenum to decide, respectively, on the composition of the Intermediate Chamber and on the referral of a case to the Court of Justice under the second subparagraph of Article 256(3) TFEU. It should be noted that the Registrar does not attend the plenum when the General Court is called upon to decide on the appointment of the Registrar pursuant to Article 32 of these Rules.*

23) Article 45 is amended as follows:

a) Paragraph 2 is deleted.

b) The current paragraphs 3 and 4 become paragraphs 2 and 3.

c) The text of the new paragraph 4 is as follows:

‘4. In preliminary ruling proceedings, the language of the case shall be the language of the referring court or tribunal. At the duly substantiated request of one of the parties to the main proceedings, and after the other party to the main proceedings and the Advocate General have been heard, the use of another of the languages mentioned in Article 44 may be authorised for the oral part of the procedure. Where granted, the authorisation to use that other language shall apply in respect of all the interested persons referred to in Article 23 of the Statute.’

d) A paragraph 5 is added. The text is as follows:

‘5. The requests referred to in paragraphs 1 and 4 shall be decided on by the President; where the latter proposes to accede to a request without the agreement of all the parties, he must refer the request to the General Court.’

Reasons:

*The mechanism for determining the language of the case in preliminary ruling proceedings is added in this Article (paragraph 4). The provisions of Article 37(3) of the Rules of Procedure of the Court of Justice are reproduced here. As regards the taking of decisions on requests to derogate from the language rules, the inherent power of the President of the formation of the Court of Justice has also been reproduced, although the wording of paragraph 5 reproduces that of the current paragraph 2 and differs slightly from that of Article 37(4) of the Rules of Procedure of the Court of Justice, since the possibility for the President to refer a decision to*

*the Chamber derives generally from Article 19 and need not, therefore, be repeated in this Article.*

24) Article 46 is amended as follows:

a) The following is added to paragraph 4:

‘4. Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when taking part in preliminary ruling proceedings or when intervening in a case before the General Court. This provision shall apply both to written documents and to oral statements. The Registrar shall arrange in each instance for translation into the language of the case.’

b) The following is added to paragraph 5:

‘5. The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, shall be entitled to use one of the languages mentioned in Article 44, other than the language of the case, when they take part in preliminary ruling proceedings or when they intervene in a case before the General Court. This provision shall apply both to written documents and to oral statements. The Registrar shall arrange in each instance for translation into the language of the case.’

c) The text of paragraph 6 is replaced by the following:

‘6. Non-Member States taking part in preliminary ruling proceedings pursuant to the fourth paragraph of Article 23 of the Statute shall be entitled to use one of the languages mentioned in Article 44 other than the language of the case. This provision shall apply both to written documents and to oral statements. The Registrar shall arrange in each instance for translation into the language of the case.’

d) Paragraphs 6 and 7, currently in force, are renumbered and become paragraphs 7 and 8.

Reasons:

*The exceptions to the use of the language of the case in preliminary ruling proceedings, as set out in Article 38(4) to (6) of the Rules of Procedure of the Court of Justice, are added to this Article.*

25) Article 50 is amended as follows:

‘The provisions of this Title shall apply to direct actions within the meaning of Article 1, subject to the special provisions of Titles IV and V for proceedings governed by those Titles.’

Reasons:

*The addition to this Article follows on from the amendment of Article 1(2)(i), now Article 1(2)(j), of these Rules.*

26) Article 56a(4) is amended as follows:

‘4. If a procedural document is lodged via e-Curia before the supporting documents required for validation of the access account have been produced, those supporting documents must be received at the Registry of the General Court in paper format ~~at the Registry of the General Court~~ or by an electronic means of transmission used by the General Court within 10 days of the procedural document being lodged. This time limit may not be extended and Article 60 shall not apply. If the supporting documents are not received within the prescribed time limit, the Court shall declare the procedural document lodged via e-Curia to be inadmissible.’

Reasons:

*As part of the move towards digitalising procedures and drawing lessons from the experience gained during the public health crisis, the aim of this amendment is to make it easier to open an e-Curia account when a procedural document is lodged before the supporting documents required for the validation of the account have been sent (known as the ‘special procedure’ and intended for use in urgent situations), in particular by authorising the use of scanning in order to send supporting documents.*

27) Article 57(1) is amended as follows:

‘1. Without prejudice to Article 80(1), Article 148(9) and Article 178(2)~~and (3)~~, where the Statute or these Rules require a document to be served on a person the Registrar shall ensure that service is effected via e-Curia.’

Reasons:

*The amendment to this provision is intended to take account of the amendment to Article 178(2) and the deletion of Article 178(3).*

28) The second sentence of Article 68(4) is amended as follows:

‘The President may, however, on application by a party, exclude from such service~~order that~~ certain information from the case file which it is claimed is confidential~~—be excluded from such service.~~’

Reasons:

*The deletion of the words ‘order that’ in this provision makes it possible to proceed by way of simple decision, as is already the case with joinder in the absence of a request for confidential treatment (see Article 68(2) of these Rules). The way in which joinder is dealt with procedurally is therefore made easier, since a simple decision of the President of the Chamber is served on the parties concerned, replacing the adoption of an order, which involves, after the decision taken by the President of the Chamber, the preparation of a draft order for joinder by the Registry, its translation and then its approval by the President of the Chamber before the order is served.*

29) Article 86(1) is amended as follows:

‘1. Where a measure the annulment of which is sought is replaced or amended by another measure with the same subject matter, the applicant may, ~~before the oral part of~~



the procedure is closed, by no later than two weeks after service of a decision fixing the date of the hearing or before service of the decision of the General Court to rule without an oral part of the procedure, modify the application to take account of that new factor.'

Reasons:

*Almost 10 years after Article 86 was introduced in these Rules, the time has come to draw the first lessons from its implementation. While, overall, that provision has met its objectives of clarity, expediency and legal certainty, it has also caused difficulties in the management of proceedings where the statement of modification is lodged shortly before the hearing, giving rise to issues in terms of complying with the audi alterem partem rule, which has sometimes led to the hearing being adjourned and thus to expenses being incurred and organisational difficulties being encountered, or to the close of the oral part of the procedure being deferred. To avoid such issues, it is proposed to limit the period during which the applicant is able to lodge a statement of modification where a hearing has been organised. The amendment of the time limit for the applicant to modify his application during the course of proceedings thus takes account of four main considerations. First, it contributes to legal certainty by prescribing a clear and foreseeable period for lodging a statement of modification of the application. The possibility of modifying the application within two weeks after service of the decision fixing the date of the hearing allows the applicant to decide whether he intends to seek the annulment of the new measure by way of a new action or to submit any challenges in the case already pending by modifying the application. Secondly, this amendment meets the practical need to avoid modifications being made too close to the date of the hearing in order to ensure better compliance with the audi alterem partem rule vis-à-vis the defendant, who would be able to respond to the statement of modification before or, at the latest, during the hearing, and vis-à-vis the applicant himself, who would be able to reply to the defendant's response during the hearing. Thirdly, a modification made sufficiently in advance of the hearing will enable the General Court to examine the statement of modification, the defendant's response and, as the case may be, the statements of any interveners in order to ensure improved case-handling and to adapt the hearing depending on any new issues raised. Fourthly, this amendment of Article 86 reduces the risk of having to adjourn the hearing, which lengthens the time it takes to deal with a case and is likely to generate costs for the General Court and the parties. A minor amendment concerns the situation in which the General Court decides to rule without an oral part of the procedure: in this scenario, the modification will have to be made before that decision is served, which service allows the applicant to take cognisance of that decision, rather than before the decision itself is made. Furthermore, legal certainty justifies a transitional provision for the entry into force of the amendment of Article 86 (see the new Article 246(3)).*

30) The following is added to Article 87(2):

*'2. The preliminary report shall contain an analysis of the relevant issues of fact and of law raised by the action, proposals as to whether measures of organisation of procedure or measures of inquiry should be undertaken, whether there should be an oral part of the procedure and whether the case should be referred to the Grand Chamber, to the Intermediate Chamber, or to a Chamber sitting with a different number of Judges, and whether the case should be delegated to a single Judge.'*

Reasons:

*The purpose of amending this provision is to take account of the addition of the Intermediate Chamber among the possible formations of the General Court.*

31) Article 92(3) is amended as follows:

‘3. A measure of inquiry referred to in Article 91(b) may be ordered ~~only~~where:

- a) the party concerned by the measure either has not complied with a measure of organisation of procedure previously adopted to that end, or ~~where~~ expressly requests ~~it~~it~~ed by the party concerned by the measure and that party~~ explains the need for such a measure to be in the form of an order for a measure of inquiry;
- b) the adoption of a measure of organisation of procedure does not appear justified in the circumstances of the case.

The order prescribing the measure of inquiry may provide that inspection by the parties’ representatives of information and material obtained by the General Court in consequence of that order may take place only at the Registry and that no copies may be made.’

Reasons:

*The purpose of adding, under point (b), a new possibility for a measure of inquiry requesting information or the production of material is to allow such a measure to be adopted immediately in situations where it is clear from the circumstances of the case that its addressee is not going to comply with a measure of organisation of procedure requesting that information or material (a situation frequently encountered in competition law), in order to avoid the prior adoption of a measure of organisation of procedure (the situation referred to in point (a)) adding, to the length of the proceedings, the time it takes to adopt and respond to that measure of organisation of procedure.*

32) An Article 110a is added. The text is as follows:

‘Article 110a  
**Broadcasting of hearings**

1. Hearings of the General Court may be broadcast. Where the General Court intends to broadcast a hearing, the parties shall be so informed by the Registry when they are given notice to attend the hearing.
2. A party who considers that the hearing which he has been given notice to attend should not be broadcast shall inform the General Court of this as soon as possible, setting out in detail the circumstances that justify a decision not to broadcast the hearing.
3. The General Court shall decide on that request as soon as possible.
4. The General Court shall determine, by way of decision, the rules and arrangements for implementing the broadcasting of hearings. That decision shall be published in the *Official Journal of the European Union*.’



Reasons:

*This Article reproduces the content of the new Article 80a as set out in the draft amendments to the Rules of Procedure of the Court of Justice, with two adjustments. First, the body intending to broadcast a hearing – the formation of the Court seised of the case – is the same as that which decides whether a hearing should be broadcast even where a reasoned request has been made by a party objecting to the broadcasting. Secondly, in view of the fact that the General Court has not yet decided whether to broadcast its hearings and of the need to lay down the same procedures for the various formations of the Court which may be involved, broadcasting will not begin until after the General Court has laid down the rules and arrangements for its implementation in a decision to be published in the Official Journal of the European Union (see also the new Article 246(5)).*

33) Article 113 is amended as follows:

a) Paragraph 1 is amended as follows:

‘1. The General Court shall ~~order the reopening of~~ the oral part of the procedure when the conditions set out in Article 23(3) or Article 24(3) are satisfied.’;

b) The first subparagraph of paragraph 2 is amended as follows:

‘2. The General Court may ~~order the reopening of~~ the oral part of the procedure.’

Reasons:

*This replacement of orders by simple decisions to reopen the oral part of the procedure in direct actions is intended, as with the same replacement proposed for the joinder of cases (see Article 68 of these Rules), to facilitate and accelerate this potential stage of the proceedings. It should be noted that the grounds on which such orders are currently based are standardised and can be used in the same terms in the decisions whose adoption is proposed.*

34) Article 130(7) is amended as follows:

‘7. The General Court shall decide on the application as soon as possible by way of an order or, where special circumstances so justify, reserve, by way of decision, its decision on the application until it rules on the substance of the case. It shall refer the case to the Court of Justice if the case falls within the latter’s jurisdiction.’

Reasons:

*The purpose of this amendment is to make it clear that the General Court may henceforth reserve, by way of simple decision, its decision on pleas of inadmissibility or of lack of competence or on applications for a declaration that there is no need to adjudicate until it rules on the substance of the case, instead of having recourse to an order for joinder, which will facilitate the handling of proceedings. In that regard, see the statement of reasons relating to the amendment of Articles 68 and 113 of these Rules.*

35) Article 139 is amended as follows:

a) Point (b) is deleted;

- b) Point (c) becomes point (b) and is amended as follows:

‘(b) in the event of any repeated failure to comply with the requirements of these Rules or of the practice rules referred to in Article ~~224~~<sup>243</sup>, requiring regularisation to be sought, the Registrar shall request that the costs involved in the requisite processing thereof by the General Court be paid for by the party concerned on the Registry’s scale of charges ~~referred to in Article 37~~established by those practice rules.’

Reasons:

*See the statement of reasons relating to the proposed amendments to Articles 37 and 38 of these Rules, which mean that the Registry’s scale of charges is referred to for the first time in this provision.*

- 36) Article 162 is amended as follows:

- a) The following is added to paragraph 1:

‘1. The applications referred to in this Chapter, with the exception of those brought on the basis of Article 170, shall be assigned to the formation of the Court which delivered the decision to which the application relates.’

- b) Paragraph 2 is amended as follows:

‘2. If the quorum referred to in Articles 23 and 24 ~~can no longer be~~ is not attained, the application shall be assigned to another formation of the Court sitting with the same number of Judges to which the Judge-Rapporteur who dealt with the case to which the application relates is assigned, or, if the Judge-Rapporteur is prevented from acting, to a formation of the Court sitting with the same number of Judges which includes among its Members at least one of the Judges of the formation of the Court which delivered the decision to which the application relates. If the decision was delivered by a Judge ruling as a single Judge who is prevented from acting, the application shall be assigned to another Judge.’

- c) A paragraph 3 is added. The text is as follows:

‘3. Applications brought on the basis of Article 170 shall be assigned to a formation of the Court sitting with three Judges to which the Judge-Rapporteur who dealt with the case to which the application relates is assigned or, if the Judge-Rapporteur is prevented from acting, to a formation of the Court sitting with three Judges which includes among its Members at least one of the Judges of the formation of the Court which delivered the decision to which the application relates. If the decision was delivered by a Judge ruling as a single Judge, the application shall be assigned to that Judge and, if that Judge is prevented from acting, the application shall be assigned to another Judge.’

Reasons:

*The amendments and additions to this Article pursue two objectives.*

*First, the amendment of paragraph 1 and the addition of paragraph 3 are intended to exclude disputes concerning the costs to be recovered, governed by Article 170, from the application*

*of the principle that the composition of the Court hearing the main and ancillary claims must be the same. In that regard, the handling of those disputes, which essentially involves assessing the subject matter and nature of the dispute in the main proceedings, its importance from the point of view of European Union law and also the difficulties presented by the case, the amount of work which the contentious proceedings generated for the agents or counsel involved, and the economic interests which the dispute represented for the parties (see order of 26 January 2017, Nürburgring v EUIPO – Biedermann (Nordschleife), T-181/14 DEP, EU:T:2017:41, paragraph 11 and the case-law cited), does not require knowledge of the case such as to justify convening all of the Members of the original formation of the Court. Furthermore, the fact that there is no time limit for bringing disputes concerning the costs to be recovered means that it is sometimes difficult, in practice, to reconstitute the original formation of the Court. Lastly, the application of the current paragraph 2 in situations where some or all of the Judges of the original formation of the Court are no longer Members of the General Court when the application under Article 170 is assigned would lead to a Chamber composed of five Judges or the Grand Chamber being convened if those formations of the Court had ruled on the case in the main proceedings, despite the fact that the disputes in question can, in principle, be dealt with by Chambers composed of three Judges. For all of those reasons, it is proposed, as provided for by the Rules of Procedure of the Court of Justice (Article 145), to assign disputes concerning the costs to be recovered, other than those relating to decisions delivered by a single Judge, to Chambers composed of three Judges whose Members include the Judge-Rapporteur of the original case, without prejudice to the possibility of subsequently referring the dispute to a Chamber sitting with a larger number of Judges on the basis of Article 28 of these Rules.*

*Secondly, the amendment to paragraph 2 enshrines, in the interests of transparency, the practice according to which, where one or more of the Judges of the original formation of the Court are no longer Members of the General Court when the application referred to in Chapter XVII is assigned, that application is assigned to the formation of the Court to which the Judge-Rapporteur of the original case is attached. It also specifies that, if that Judge-Rapporteur is prevented from acting, in particular because he is no longer a Member of the General Court at the time of that assignment, the application is to be assigned to the formation of the Court which comprises as many Judges as possible who belonged to the original formation of the Court, echoing the principle of the assignment of ancillary claims to the formation which heard and determined the case to which the application relates, set out in paragraph 1.*

37) Article 178 is amended as follows:

a) Paragraph 1 is amended as follows:

‘The Registrar shall inform the defendant and all the parties to the proceedings before the Board of Appeal of the lodging of the application as provided for in Article 80(1). He shall arrange for service of the application after determining the language of the case in accordance with Article 45~~(3)~~(4) and, where appropriate, for service of the translation of the application into the language of the case.’

b) Paragraph 2 is deleted and replaced by the following text:

‘2. Where the address of another party to the proceedings before the Board of Appeal, given in accordance with Article 177(2), or, if that address has not been provided, the address of that other party given in the contested decision of the Board

of Appeal, corresponds to that of a holder of an account giving access to e-Curia, the application shall be served via e-Curia. Otherwise, the application shall be served in the form of a certified copy sent by registered post with a form for acknowledgement of receipt or by delivery of the copy against receipt at that address.’

- c) Paragraph 3 is deleted.
- d) Paragraphs 4 and 5 become paragraphs 3 and 4.

Reasons:

*The purpose of the amendments to this Article is twofold.*

*First, the wording has been simplified by deleting the current paragraph 2, which merely reproduces Article 80(1) of these Rules. Similarly, the reference to the institutions which appears in the current paragraph 3 has been deleted, since it corresponds to the general rules on the service of documents via e-Curia (see Article 57 of these Rules).*

*Secondly, the current paragraph 3, which becomes the new paragraph 2, has been amended to bring it into line with the current practice of serving applications in intellectual property cases on the other parties to the proceedings before the Board of Appeal. In order to make maximum use of the possibilities offered by the e-Curia application, where the address of that other party given in accordance with Article 177(2) of these Rules corresponds to that of the holder of an e-Curia account, service is to be made via that account. It is therefore only where that address does not correspond to that of the holder of an e-Curia account that it is necessary to make provision, in the new paragraph 2, for service of the application by registered post or delivery by hand.*

*The amendment of paragraph 1 follows on from the amendment of Article 45 of these Rules.*

- 38) Article 191, headed ‘Other provisions applicable’, is deleted.

Reasons:

*This deletion is necessitated by the amendment of Article 50 of these Rules.*

- 39) Title V, headed ‘Appeals against decisions of the Civil Service Tribunal’, is deleted and the current Title VI, headed ‘Procedures after a decision is set aside on appeal and the case is referred back to the General Court’, is renumbered and becomes Title V. The articles are renumbered as follows:

- a) Article 215, currently in force, is renumbered and becomes Article 191.
- b) Article 216, currently in force, is renumbered and becomes Article 192.
- c) Article 217, currently in force, is renumbered and becomes Article 193.
- d) Article 218, currently in force, is renumbered and becomes Article 194.
- e) Article 219, currently in force, is renumbered and becomes Article 195.

Reasons:

*The reason for this renumbering is the addition of the Title which is dedicated to references for a preliminary ruling after all of the Titles governing direct actions and, therefore, the moving of the Title relating to procedures in direct actions after a decision is set aside and the case is referred back by the Court of Justice (the former Title VI), following the other Titles regulating direct actions (Title III, which is dedicated to direct actions in general, and Title IV, which is dedicated to specific direct actions such as actions relating to intellectual property rights).*

40) The new Article 192(2) is amended as follows:

‘2. Where the Court of Justice sets aside a judgment delivered or an order made by the Grand Chamber or by the Intermediate Chamber of the General Court, the case shall be assigned to ~~that Chamber~~ a formation of the Court sitting with the same number of Judges.’

Reasons:

*This provision supplements the rules determining the formation of the General Court with jurisdiction to rule in a case referred back by the Court of Justice after a decision of the General Court is set aside, providing for the situation where that decision was given by the Intermediate Chamber. In that scenario, as with the others contemplated by this Article, the case referred back will be heard and determined by a formation of the General Court composed of the same number of Judges.*

41) In the new Article 194, the reference to ‘Article 217’ is replaced by a reference to ‘Article 193’.

42) A new Title VI, headed ‘References for a preliminary ruling’, is added after the new Title V. The text is as follows:

‘Chapter 1  
GENERAL PROVISIONS

Article 196  
**Scope**

The procedure shall be governed by the provisions of this Title in the cases covered by Article 50b of the Statute.

*This Article reproduces the text of Article 93 of the Rules of Procedure of the Court of Justice, adapting it to the scope of the jurisdiction of the General Court to give preliminary rulings.*

Article 197  
**Applicable provisions**

Subject to the special provisions of this Title, Articles 52 to 56, 58, 60 to 62, 67 and 75 shall apply to references for a preliminary ruling.



*This Article, which is not contained in the Rules of Procedure of the Court of Justice, has been inserted to take account of the fact that there are no provisions common to direct actions and references for a preliminary ruling in the Rules of Procedure of the General Court, making it necessary to refer to the relevant provisions of the Title which is dedicated to direct actions. From a technical perspective, its heading is based on that of the former Article 191 of these Rules governing disputes relating to intellectual property rights, while its content is based on that of the former Article 213 contained in the Title which is dedicated to appeals against decisions of the Civil Service Tribunal. From a substantive perspective, the decision has been taken, with a view to offering greater clarity and legibility to all users of the preliminary ruling procedure, national courts and tribunals and interested persons referred to in Article 23 of the Statute, to favour reproducing Articles from Title III which are dedicated to direct actions, adapting them to references for a preliminary ruling and, therefore, limiting the number of cross-references to Articles from that Title. As a result, Title VI contains a series of more than 40 Articles organised according to the chronology for dealing with a case, in the same way as the Articles which make up Title III governing direct actions and the order of the Articles in the corresponding Title of the Rules of Procedure of the Court of Justice. Article 197 refers only to those Articles contained in Title III relating to direct actions that can be applied without their drafting being adapted to references for a preliminary ruling, namely those relating to the representation of the parties, time limits, the order in which cases are dealt with and the length of written pleadings.*

## Article 198

### Service

1. The Registrar shall ensure that procedural documents and items, as well as decisions taken in the course of proceedings and included in the file in cases covered by this Title are served on the referring court or tribunal and the interested persons referred to in Article 23 of the Statute.
2. Service shall be effected via e-Curia, in accordance with the procedures laid down in Articles 56a and 57, where the addressee has an e-Curia account.
3. In the event that the addressee does not have an e-Curia account, service shall be effected either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against receipt, or by an electronic means of transmission used by the General Court, where the addressee has agreed that service is to be effected on him by such electronic means.

*All of the rules relating to the subject matter and addressees of service in preliminary ruling proceedings, whether contained in the Rules of Procedure of the Court of Justice or in its implementing provisions, have been brought together in this introductory Article. This Article is also intended to take account of the fact that the opening of an e-Curia account at the Court of Justice is not mandatory. Where no such account has been opened, the decision has been taken to leave the General Court a margin of discretion as to the method of service for the purposes of efficiency and expediting preliminary ruling proceedings, modelled on Article 48 of the Rules of Procedure of the Court of Justice and Article 56a(5) of the Rules of Procedure of the General Court, while specifying the possible methods of service for reasons of legal certainty. Taking into account the fact that fax machines have become obsolete and in the interests of technological neutrality and efficiency, it is proposed that reference be made to an 'electronic means of transmission used by the General Court'.*

## Chapter 2

## WRITTEN PART OF THE PROCEDURE

### Article 199

#### **Content of the request for a preliminary ruling**

In addition to the text of the questions referred for a preliminary ruling, the request for a preliminary ruling shall contain:

- (a) a summary of the subject matter of the dispute and the relevant findings of fact as determined by the referring court or tribunal, or, at least, an account of the facts on which the questions are based;
- (b) the tenor of any national provisions applicable in the case and, where appropriate, the relevant national case-law;
- (c) a statement of the reasons which prompted the referring court or tribunal to inquire about the interpretation or validity of certain provisions of European Union law, and the relationship between those provisions and the national legislation applicable to the main proceedings.

*This Article reproduces the text of Article 94 of the Rules of Procedure of the Court of Justice. Despite the fact that requests for a preliminary ruling will continue to be made only to the Court of Justice, an addition has been made to this Title in order to include, in the Rules of Procedure of the General Court, one of the main grounds for the orders of inadmissibility which the General Court will make pursuant to Article 225 of these Rules.*

### Article 200

#### **Notice in the Official Journal of the European Union**

A notice shall be published in the *Official Journal of the European Union* indicating the date of lodging of the request for a preliminary ruling, the referring court or tribunal, the questions referred and, subject to Article 201, the names of the parties to the main proceedings.

*This provision reproduces Article 21(5) of the Rules of Procedure of the Court of Justice, without, however, referring to the anonymity granted to the parties to the main proceedings, since the protection of personal data is governed more broadly by the following Article, to which reference is made.*

### Article 201

#### **Anonymisation and omission of data**

1. Where the referring court or tribunal has rendered anonymous the request for a preliminary ruling or has decided to omit data relating to natural persons or entities concerned by the main proceedings, whether parties or third parties to those proceedings, the General Court shall respect that anonymisation or omission in the proceedings pending before it.
2. At the request of the referring court or tribunal, of a party to the main proceedings or of its own motion, the General Court may also render anonymous the request for a preliminary ruling or decide to omit personal data relating to one or more natural



persons concerned by the main proceedings, whether parties or third parties to those proceedings.

*This Article reproduces the provisions of Article 95 of the Rules of Procedure of the Court of Justice, which is dedicated to anonymisation and the omission of data in preliminary ruling proceedings, in the new version contained in the draft amendments to the Rules of Procedure of the Court of Justice. Unlike Article 66 of these Rules, in which the term ‘anonymity’ was deleted from the amendment to that provision which entered into force on 1 April 2023, that concept has been reproduced in the present Article, in so far as the Court of Justice, unlike the General Court, uses that technique of omitting the full names of natural persons when dealing with its preliminary ruling cases, a technique which the General Court will therefore also adopt when dealing with such cases. In addition, unlike Article 66a of these Rules under which, in direct actions, data other than personal data of natural persons may be omitted upon reasoned application or by the General Court of its own motion, omitting those data will be possible only if the referring court or tribunal has also omitted those data, in accordance with the provision made in the Rules of Procedure of the Court of Justice.*

## Article 202

### **Participation in preliminary ruling proceedings**

1. Pursuant to Article 23 of the Statute, the following shall be authorised to submit observations:

(a) the parties to the main proceedings;

(b) the Member States;

(c) the European Commission;

(d) the European Parliament, the Council and the European Central Bank, where they consider that they have a particular interest in the questions raised by the request for a preliminary ruling;

(e) the institution which adopted the act the validity or interpretation of which is in dispute;

(f) the States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, where the question for a preliminary ruling concerns one of the fields of application of that Agreement;

(g) non-Member States which are parties to an agreement relating to a specific subject matter, concluded with the Council, where the agreement so provides and where the question referred for a preliminary ruling by a court or tribunal of a Member State falls within the scope of that agreement.

2. Non-participation in the written part of the procedure does not preclude participation in the oral part of the procedure.

3. Statements of case or written observations lodged under this Article shall be published on the website of the Court of Justice of the European Union after the close of the preliminary ruling proceedings unless any of the interested persons referred to in Article 23 of the Statute raises objections to the publication of that person’s statement of case or observations. Such objections, which need not state the reasons on which they are based and which cannot be challenged before the Court of Justice or the General

Court, must be communicated to the Registry, by separate document, within three months after the person concerned has been informed that no proposal to review the decision of the General Court has been made by the First Advocate General, or after service of the decision of the Court of Justice not to review the decision of the General Court, or after delivery of the judgment reviewing the latter decision. Where an objection is communicated, reference thereto shall be made on the above website and the statement of case or observations concerned shall not be published, even in part. If the interested person subsequently withdraws the objection to the publication of the statement of case or observations, that statement of case or those observations shall be published on the website as soon as that objection is withdrawn.

*This Article reproduces the wording of Article 96 of the Rules of Procedure of the Court of Justice, subject to certain technical adjustments and to the inclusion of the European Parliament, the Council and the European Central Bank following the amendment of the first and second paragraphs of Article 23 of the Statute. It is pointed out that that inclusion is without prejudice to the possibility for an institution, body, office or agency of the European Union to submit observations where the validity or interpretation of an act adopted by it is in dispute. This possibility derives from the new point (e) of Article 202(1) of these Rules, on the understanding that the bodies, offices and agencies of the European Union are included in the term 'institution' by virtue of the defined term in Article 1(2)(g) thereof. Paragraph 3 reproduces the text of the draft new paragraph 3 of Article 96 contained in the draft amendments to the Rules of Procedure of the Court of Justice, with the adjustments necessary to take account of the procedure for the review of preliminary rulings provided for by Article 256(3) TFEU. The three-month period open to each of the interested persons referred to in Article 23 of the Statute to object to the publication of that person's statement of case or observations thus runs from notification that no proposal for review has been made by the First Advocate General, or from service of the decision of the Court of Justice not to review the decision of the General Court, effected pursuant to Article 194(6) of the Rules of Procedure of the Court of Justice, or, where the Court of Justice decides to review the decision of the General Court, from the delivery of the judgment on the substance of the case after a decision to review, delivered pursuant to Article 195 of the Rules of Procedure of the Court of Justice.*

## Article 203

### **Parties to the main proceedings**

1. The parties to the main proceedings are those who are determined as such by the referring court or tribunal in accordance with national rules of procedure.
2. Where the referring court or tribunal informs the General Court that a new party has been admitted to the main proceedings, when the proceedings before the General Court are already pending, that party must accept the case as he finds it at the time when the General Court was so informed. That party shall receive a copy of every procedural document already served on the interested persons referred to in Article 23 of the Statute.
3. As regards the representation and attendance of the parties to the main proceedings, the General Court shall take account of the rules of procedure in force before the court or tribunal which made the reference. In the event of any doubt as to whether, under national law, a person may represent a party to the main proceedings or as to whether such a party may bring or defend court proceedings without a representative, the General Court may obtain information from the referring court or tribunal on the rules

of procedure applicable. Where, in accordance with the national rules of procedure applicable, the parties to the main proceedings are permitted to bring or defend court proceedings without being represented by a lawyer or are represented by a person authorised to represent them, the rules laid down in Section 2 of Chapter 1 of Title III shall apply.

*This Article reproduces the provisions of Article 97 of the Rules of Procedure of the Court of Justice and inserts, in paragraph 3, the possibility for a party to be self-represented or to be represented by a person authorised to do so who is not a lawyer or an agent, which does not exist in the current procedural rules of the General Court, drawing on the wording contained in Article 47(2) of the Rules of Procedure of the Court of Justice. It also specifies the subject matter of the clarifications which the General Court may request from the referring court or tribunal as regards the representation of the parties to the main proceedings in order to encompass all possible questions in that regard.*

#### Article 204

#### **Translation and service of the request for a preliminary ruling**

1. The request for a preliminary ruling transmitted by the Court of Justice to the General Court shall be served on the Member States in the original version, accompanied by a translation into the official language of the State to which they are being addressed. Where appropriate, on account of the length of the request, such a translation shall be replaced by the translation into the official language of the State to which it is addressed of a summary of that request, which will serve as a basis for the position to be adopted by that State. The summary shall include the full text of the question or questions referred for a preliminary ruling. That summary shall contain, in particular, in so far as that information appears in the request for a preliminary ruling, the subject matter of the main proceedings, the essential arguments of the parties to those proceedings, a succinct presentation of the reasons for the reference for a preliminary ruling and the case-law and the provisions of national law and European Union law relied on.

2. In the cases covered by the third paragraph of Article 23 of the Statute, the requests for a preliminary ruling shall be served on the States, other than the Member States, which are parties to the EEA Agreement and also on the EFTA Surveillance Authority in the original version, accompanied by a translation of the request, or where appropriate of a summary, into one of the languages referred to in Article 44, to be chosen by the addressee.

3. Where a non-Member State has the right to take part in preliminary ruling proceedings pursuant to the fourth paragraph of Article 23 of the Statute, the original version of the request for a preliminary ruling shall be served on it accompanied by a translation of the request, or where appropriate of a summary, into one of the languages referred to in Article 44, to be chosen by the non-Member State concerned.

*This Article reproduces the provisions of Article 98 of the Rules of Procedure of the Court of Justice, with the addition of the basis for the jurisdiction of the General Court to give preliminary rulings and the procedural steps which that jurisdiction entails. Reproducing Article 98(2) of the Rules of Procedure of the Court of Justice, relating to service on the States which are parties to the EEA Agreement and on the EFTA Surveillance Authority, is justified by the fact that certain specific areas in which the General Court will be called upon to give preliminary rulings come within the scope of the EEA Agreement. Article 98(3) of the Rules of Procedure of the Court of Justice, relating to the service on non-Member States of*

*the request for a preliminary ruling, has also been reproduced to take account of the service by the Court of Justice of requests for a preliminary ruling on the United Kingdom pursuant to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as well as the conclusion by the Council and non-Member States of agreements relating to a specific subject matter, as referred to in the fourth paragraph of Article 23 of the Statute, which come or may come within the specific areas in which the General Court has jurisdiction to give preliminary rulings, or the future conclusion of such agreements.*

#### Article 205

#### **Lodging of procedural documents**

1. The procedural documents provided for in this Title may be lodged at the Registry via e-Curia in accordance with the procedures laid down in Articles 56a and 72, where the author of such a document has an e-Curia account.
2. In the event that the author of the document does not have an e-Curia account, the procedural document, together with all annexes referred to therein and a schedule of those annexes, shall be lodged at the Registry in paper format. Where the procedural document is lodged by an interested person referred to in Article 23 of the Statute, the original of that procedural document must bear the handwritten signature of that interested person's representative or, if the national rules of procedure applicable to the main proceedings so permit, that of the party to those proceedings.
3. All procedural documents shall bear a date. In the calculation of procedural time limits, only the date and time of lodging of the original at the Registry shall be taken into account.
4. By way of derogation from the second sentence of paragraph 3, the date on and time at which a complete copy of the signed original of a procedural document, including the schedule of annexes referred to in paragraph 2, is received at the Registry by an electronic means of transmission used by the General Court shall be deemed to be the date and time of lodging for the purposes of compliance with the procedural time limits, provided that the original of the procedural document, accompanied by the required annexes, is lodged at the Registry no later than 10 days thereafter. Article 60 shall not apply to that 10-day time limit.
5. The institutions shall in addition produce, within time limits laid down by the General Court, translations of any procedural document into the other languages provided for by Article 1 of Council Regulation No 1.

*As with Article 198, which is dedicated to the service of documents, the purpose of this Article is to take account of the fact that it is not mandatory to open an e-Curia account at the Court of Justice in connection with preliminary ruling proceedings and of the possibility for procedural documents to be lodged using means other than e-Curia. To govern that situation, the rules laid down in Article 57 of the Rules of Procedure of the Court of Justice have essentially been reproduced, subject to the deletion of paragraph 2 thereof, which no longer meets a genuine need. As in Article 198 of these Rules, it is proposed that reference be made to an 'electronic means of transmission used by the General Court'.*

#### Chapter 3

#### **THE PRELIMINARY REPORT**

## Article 206

### **Preliminary report**

1. When the written part of the procedure is closed, the President shall fix a date on which the Judge-Rapporteur is to present a preliminary report to the General Court.
2. The preliminary report shall contain an analysis of the relevant questions raised by the request for a preliminary ruling, proposals as to whether the case should be referred to the Court of Justice pursuant to the second subparagraph of Article 256(3) TFEU, proposals as to whether measures of organisation of procedure, measures of inquiry or requests to the referring court or tribunal for clarification should be undertaken, and proposals as to whether the case should be referred to the Grand Chamber, to the Intermediate Chamber or to a formation of the Court sitting with a different number of Judges. It shall also contain the Judge-Rapporteur's proposals, if any, as to whether to dispense with a hearing and as to whether to dispense with an Opinion of the Advocate General pursuant to the fifth paragraph of Article 20 of the Statute.
3. The General Court shall decide, after hearing the Advocate General, what action to take on the proposals of the Judge-Rapporteur and, where appropriate, whether to open the oral part of the procedure.

*This Article adapts Article 87 of these Rules to preliminary ruling proceedings, drawing on Article 59 of the Rules of Procedure of the Court of Justice. In particular, it is appropriate to reproduce those proposals specifically relating to the jurisdiction of the General Court to give preliminary rulings which must be included in the preliminary reports drawn up in preliminary ruling cases and which replace or are additional to those provided for in Article 87(2) of these Rules, which governs the content of the preliminary report before the General Court in direct actions.*

## Chapter 4

### **MEASURES WHICH MAY BE ADOPTED BY THE GENERAL COURT**

## Article 207

### **Referrals to the Court of Justice**

1. If a request for a preliminary ruling is made directly to the General Court contrary to the third paragraph of Article 50b of the Statute, the Registrar of the General Court shall transmit it forthwith to the Registrar of the Court of Justice.
2. Decisions referring an action in the circumstances specified in the second paragraph of Article 54 of the Statute shall be made by the General Court, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, by way of a reasoned order from which no appeal shall lie.
3. The Chamber seised of the case may, at any stage of the proceedings, after hearing the Advocate General, propose to the plenum that the case be referred as provided for in the second subparagraph of Article 256(3) TFEU. The decision to refer the case shall be taken by the plenum.
4. The President of the General Court or the Vice-President of the General Court may also, after hearing the Advocate General, propose to the plenum that the case be referred as provided for in the preceding paragraph until the close of the oral part of the procedure and, if an Opinion has been delivered, not later than one week after delivery



of the Opinion, or before the decision to rule without an oral part of the procedure. The decision to refer the case shall be taken by the plenum.

*The three situations in which the General Court may be required to refer a request for a preliminary ruling to the Court of Justice are governed by this Article. The situations referred to, in the chronological order in which they might occur, comprise that arising under the new Article 50b of the Statute, that where a request is made directly to the General Court instead of first being made to the Court of Justice (paragraph 1), that provided for by the second paragraph of Article 54 of the Statute where a request has been transmitted to the General Court which, after analysis, would appear to come within the jurisdiction of the Court of Justice (paragraph 2) and, lastly, that provided for by the second subparagraph of Article 256(3) TFEU where a request calls for a decision of principle to be taken by the Court of Justice (paragraphs 3 and 4).*

*First, it is appropriate to make provision for the situation where a national court or tribunal does not observe the single point of entry ('one-stop shop') system and lodges the request for a preliminary ruling directly with the General Court: in this situation, provision should be made for the General Court to refer the request to the Court of Justice. The first paragraph of Article 54 of the Statute does not resolve this situation, since, even if the concept of 'procedural document' referred to in that provision is interpreted broadly so as to include requests for a preliminary ruling, that provision covers, as is clear from its wording, the situation where a document 'addressed to the Court of Justice' is lodged by mistake with the General Court and not the situation where the document is addressed 'by mistake' to the latter. As such a referral does not require the assessment by a formation of the General Court and in the interests of expediency, it is proposed to proceed by way of transmission between the Registries modelled on the first paragraph of Article 54 of the Statute.*

*Secondly, it cannot be ruled out that, even after the analysis carried out by the Court of Justice as part of the 'one-stop shop' system, certain aspects of a request for a preliminary ruling may come within areas other than the specific areas for which the General Court has responsibility, in particular where questions of interpretation of primary law arise in the course of proceedings. To govern that situation, the second paragraph of Article 54 of the Statute, which referred only to 'actions', has been supplemented by a reference to 'requests for a preliminary ruling' and thus requires the General Court to refer to the Court of Justice the relevant requests in respect of which it does not have jurisdiction. Paragraph 2 of this Article is intended to implement that new statutory provision, by providing for a reference by way of reasoned order, modelled on Article 127 of these Rules, which governs referrals to the Court of Justice on the grounds of lack of competence in direct actions.*

*Thirdly, in accordance with the second subparagraph of Article 256(3) TFEU, where the General Court considers that the case requires a decision of principle likely to affect the unity or consistency of Union law, it may refer the case to the Court of Justice for a ruling. Paragraph 3 of this Article specifies the procedures for such a referral, drawing on the wording of Article 28 of these Rules relating to referrals to a Chamber sitting with a different number of Judges. Although the purpose of the present referral is similar to that of orders referring a case for lack of competence or declining jurisdiction where cases are connected, governed, respectively, by Articles 127 and 128 of these Rules, the General Court has chosen to confer the power to refer a case to the Court of Justice on a body which is more formal than the formation of the General Court seised of the case, namely the plenum. As the plenum is not a formation of the General Court, the instrument by which a referral to the Court of Justice is decided will not be an order, an instrument which is already comprehensively*

*regulated by the procedural provisions of the General Court, but a decision, and there is a need to prescribe the procedures for adopting such a decision.*

*As in Article 28 of these Rules, Article 207(4) provides that the power of the Chamber seised of the case to propose that the case be referred shall be shared with the President and the Vice-President. The assessment in question, namely whether the case requires a decision of principle likely to affect the unity or consistency of Union law (referral of preliminary ruling proceedings to the Court of Justice), is not far removed from the assessment of the legal difficulty or importance of the case (referral to an extended composition of the General Court), particularly since the Vice-President will be called upon to participate in the adjudication of preliminary rulings and will also have the role of ensuring the consistency of the case-law in those proceedings. Unlike the Chamber seised of the case, which may propose a referral at any stage of the proceedings, the President or Vice-President may exercise their power to propose that a case be referred only until the close of the oral part of the procedure and, if an Opinion has been delivered, until one week after delivery of the Opinion, or before the decision to rule without an oral part of the procedure, in order to avoid any interference with ongoing deliberations.*

## Article 208

### **Joinder**

1. Two or more preliminary ruling cases concerning the same subject matter may at any time be joined, on account of the connection between them, for the purposes, alternatively or cumulatively, of the written or oral part of the procedure or of the decision which closes the proceedings.
2. A decision on whether cases should be joined shall be taken by the President after hearing the Advocate General.
3. Joined cases may be disjoined, in accordance with the provisions of paragraph 2.
4. The request for a preliminary ruling, accompanied by translations of the request or of a summary thereof, and any observations of the interested persons referred to in Article 23 of the Statute shall be served on the interested persons referred to in Article 23 of the Statute in the joined case, in accordance with the procedure laid down in Article 198.

*This Article introduces into these Rules the specific features of the joinder of preliminary ruling cases, as provided for in Article 54(2) of the Rules of Procedure of the Court of Justice (paragraph 2) or resulting from the practice of the Court of Justice (paragraph 4). Thus, in paragraph 2, which is dedicated to the taking of a decision on joinder, there is no reference to the prior consultation of the interested persons referred to in Article 23 of the Statute, which is precluded by Article 54(2) of the Rules of Procedure of the Court of Justice. The prior hearing of the Judge-Rapporteur and the possibility for the President of the Chamber to refer the decision to the Chamber, as set out in Article 54(2) of the Rules of Procedure of the Court of Justice, have likewise not been reproduced, since they derive from the general provisions of these Rules (Article 19(1) and (2)) and apply to all decisions taken by the President of the Chamber, including in preliminary ruling cases. A paragraph 4 has also been added, which does not appear in the Rules of Procedure of the Court of Justice. That addition is explained by the fact that the communication of procedural documents in the event of joinder is governed by Article 68 of these Rules in respect of direct actions, which has no equivalent in the Rules of Procedure of the Court of Justice, and that the rules on communication are*



*different for references for a preliminary ruling. The rules laid down in paragraph 4 reflect the practice of the Court of Justice.*

#### Article 209

##### **Stay and resumption of proceedings**

1. The proceedings may be stayed:
  - (a) in the circumstances specified in the third paragraph of Article 54 of the Statute, by order of the General Court, made after hearing the Advocate General;
  - (b) in all other cases, where the proper administration of justice so requires, by decision of the President, adopted after hearing the Advocate General.
2. The proceedings may be resumed by order or decision, following the same procedure.
3. The stay of proceedings shall take effect on the date indicated in the order or decision of stay or, in the absence of such indication, on the date of that order or decision.
4. While proceedings are stayed time shall cease to run for the interested persons referred to in Article 23 of the Statute for the purposes of procedural time limits.
5. Where the order or decision of stay does not fix the length of stay, it shall end on the date indicated in the order or decision of resumption or, in the absence of such indication, on the date of the order or decision of resumption.
6. From the date of the resumption of proceedings following a stay, the suspended procedural time limits shall be replaced by new time limits and time shall begin to run from the date of that resumption.

*This Article reproduces the provisions of Article 55 of the Rules of Procedure of the Court of Justice which are capable of applying to references for a preliminary ruling. In so doing, it specifies the two situations in which preliminary ruling proceedings may be stayed (paragraph 1), which correspond to two of the four grounds for a stay contemplated by Article 69 of these Rules relating to direct actions. To signal that link more clearly, a reference to the ‘proper administration of justice’ has been added (paragraph 1(b)), which appears in Article 69(d) of these Rules but not in Article 55 of the Rules of Procedure of the Court of Justice. In accordance with Article 55(1)(b) of the Rules of Procedure of the Court of Justice, the new Article 209 does not provide, where proceedings are stayed under paragraph 1(b), for a prior hearing of the interested persons referred to in Article 23 of the Statute, whereas the prior hearing of the main parties before the General Court is provided for in all cases of a stay of proceedings in direct actions (Article 70 of these Rules). Provision is also made in paragraph 1(a), tracking Article 55(1)(a) of the Rules of Procedure of the Court of Justice, for a decision on stay to be taken by way of an order in the specific situation of the stay provided for in the third paragraph of Article 54 of the Statute. However, like Article 208 of these Rules, this Article does not refer to the prior hearing of the Judge-Rapporteur, which is provided for generally by Article 19(1) of these Rules. Article 55(3) of the Rules of Procedure of the Court of Justice, relating to the service of orders and decisions of stay, is likewise not reproduced, having regard to Article 198 of these Rules, which makes general provision for the service of decisions adopted under this Title.*

#### Article 210

##### **Measures of organisation of procedure**

1. In addition to the measures which may be prescribed in accordance with Article 24 of the Statute, the interested persons referred to in Article 23 of the Statute may be invited to answer certain questions in writing or at the hearing. Where a hearing is organised, the General Court shall, in so far as possible, invite the participants in that hearing to concentrate in their oral pleadings on one or more specified issues.

2. The measures of organisation of procedure referred to in paragraph 1 shall be prescribed by the General Court after hearing the Advocate General.

3. The Judge-Rapporteur or the Advocate General may request the interested persons referred to in Article 23 of the Statute to submit within a specified time limit all such information relating to the facts, and all such documents or other particulars, as they may consider relevant. The Judge-Rapporteur or the Advocate General may also send to those interested persons questions to be answered at the hearing.

*The purpose of this Article is to specify the measures of organisation of procedure which may be adopted in preliminary ruling proceedings, modelled on Article 61 of the Rules of Procedure of the Court of Justice, which provides for a shorter list than that set out in Article 89(3) of these Rules. The last sentence of Article 61(1) of the Rules of Procedure of the Court of Justice, relating to the communication of written replies to the interested persons referred to in Article 23 of the Statute, is not, however, reproduced, taking into account Article 198 of these Rules, which makes general provision for the service of procedural documents and items under this Title. This Article is also intended to make the possibility, provided for only in the Court of Justice and not in the General Court, for the Judge-Rapporteur or the Advocate General to adopt certain measures of organisation of procedure (Article 62 of the Rules of Procedure of the Court of Justice) applicable in preliminary ruling proceedings.*

#### Article 211 **Measures of inquiry**

1. The General Court, after hearing the Advocate General, may adopt the measures of inquiry that it considers appropriate from among those provided for in Article 91(a), (b), (d), (e), and (f), in accordance with the procedure and rules for participation established in Article 92(1), (4), (5) and (6), and shall do so following the procedures set out in Articles 93 to 102.

2. The interested persons referred to in Article 23 of the Statute shall be entitled to attend the measures of inquiry and shall be involved in their implementation in accordance with the procedures provided for the parties in the provisions referred to in paragraph 1.

*The addition of this Article is explained by the fact that measures of inquiry, in so far as they are governed by the Title of the Rules of Procedure of the Court of Justice laying down common procedural provisions, may exceptionally be adopted in preliminary ruling proceedings.*

*This Article refers to the provisions of these Rules which correspond to those contained in the Rules of Procedure of the Court of Justice and specifies the role of the interested persons referred to in Article 23 of the Statute. No reference has therefore been made to the measure of inquiry provided for in Article 91(c) of these Rules, concerning a measure specific to direct actions, or to Article 92(2) and (3), since the prior hearing of the parties and the specific*

*conditions for the adoption of the measure of inquiry laid down in Article 91(b) are not provided for in the Rules of Procedure of the Court of Justice.*

#### Article 212

##### **Request for clarification**

Without prejudice to the measures of organisation of procedure and measures of inquiry provided for in these Rules, the General Court may, after hearing the Advocate General, request clarification from the referring court or tribunal within a time limit prescribed by the General Court.

*This Article reproduces the text of Article 101(1) of the Rules of Procedure of the Court of Justice. However, Article 101(2) of the Rules of Procedure of the Court of Justice, which provides for service of the replies of the referring court or tribunal, has not been reproduced, since general provision for service is made in Article 198 of these Rules.*

#### Chapter 5

### THE ORAL PART OF THE PROCEDURE

#### Article 213

##### **Hearing**

1. Any reasoned requests for a hearing shall be submitted within three weeks after service on the interested persons referred to in Article 23 of the Statute of notification of the close of the written part of the procedure. That time limit may be extended by the President.
2. On a proposal from the Judge-Rapporteur and after hearing the Advocate General, the General Court may decide not to hold a hearing if it considers, on reading the written pleadings or observations lodged during the written part of the procedure, that it has sufficient information to give a ruling.
3. The preceding paragraph shall not apply where a request for a hearing, stating reasons, has been submitted by an interested person referred to in Article 23 of the Statute who did not participate in the written part of the procedure.

*The addition of this Article is explained by the difference in the rules on holding a hearing before the General Court (for direct actions, the General Court must grant a reasoned request for a hearing) and the Court of Justice (save in exceptional circumstances, the Court of Justice is not required to grant a reasoned request for a hearing). It reproduces the wording of Article 76 of the Rules of Procedure of the Court of Justice.*

#### Article 214

##### **Joint hearing**

If the similarities between two or more preliminary ruling cases so permit, the General Court may decide to organise a joint hearing of those cases.

*This Article transposes the new regime for joint hearings provided for in Article 106a of these Rules to preliminary ruling cases, modelled on Article 77 of the Rules of Procedure of the Court of Justice, which specifies that the cases concerned must be of the same type; here the cases concerned must be references for a preliminary ruling.*

Article 215  
**Date of the hearing**

1. If the General Court decides to hold a hearing, the President shall fix the date of the hearing.
2. The President may, in exceptional circumstances, of his own motion or at the reasoned request of one of the interested persons referred to in Article 23 of the Statute, adjourn the hearing to another date.

*In the absence of a similar provision in the Rules of Procedure of the Court of Justice, the addition of this Article is explained by the need to confer on the President of the Chamber, in accordance with Article 19(1) of these Rules, the power to decide the date of the hearing. It draws on Article 107 of these Rules, subject to the reference to the interested persons referred to in Article 23 of the Statute.*

Article 216  
**Participation in a hearing by videoconference**

1. Where health, security or other serious reasons prevent the representative of an interested person referred to in Article 23 of the Statute or a party to the main proceedings who is permitted to bring or defend court proceedings without being represented by a lawyer from participating in a hearing in person, that representative or that party may be authorised to take part in the hearing by videoconference.
2. The request to participate in the hearing by videoconference shall be made by a separate document as soon as the reason for the impediment is known and shall state the precise nature of the impediment.
3. The President shall decide on the request as soon as possible.
4. The use of videoconferencing shall not be possible in the event of a decision by the General Court to hear a case *in camera* pursuant to Article 217.
5. The technical conditions to be satisfied by those wishing to participate in hearings by videoconference shall be laid down in the practice rules referred to in Article 243.

*The new Article 107a of these Rules, allowing the use of videoconferencing during hearings relating to direct actions, is transposed to preliminary ruling proceedings by providing that the grounds preventing participation in a hearing in person concern the representatives of the interested persons referred to in Article 23 of the Statute or the parties to the main proceedings who are authorised to bring or defend court proceedings without being represented by a lawyer, pursuant to Article 203(3) of these Rules.*

Article 217  
**Cases heard *in camera***

1. For serious reasons, the General Court may decide to hear a case *in camera*.
2. The oral proceedings in cases heard *in camera* shall not be published.

*This Article reproduces the corresponding provisions of these Rules (Article 109) and of the Rules of Procedure of the Court of Justice (Article 79), omitting the irrelevant elements*

*(request by, and prior hearing of, the parties, and examples of serious reasons unrelated to the specific areas in which the General Court has jurisdiction to give a preliminary ruling).*

#### Article 218

##### **Conduct of the hearing**

1. The oral proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.
2. The members of the formation of the Court and the Advocate General may in the course of the hearing put questions to the representatives of the interested persons referred to in Article 23 of the Statute and, in the circumstances referred to in Article 203(3) of these Rules, to the parties to the main proceedings.

*This provision reproduces Articles 78 and 80 of the Rules of Procedure of the Court of Justice, grouping them together as in Article 110 of these Rules. This means that all of the rules governing the conduct of the hearing can be set out in this Title, including, in particular, paragraph 1, reproducing the text of Article 78 of the Rules of Procedure of the Court of Justice, which is identical to that of Article 110(1) of these Rules, to which reference would otherwise simply have been made in Article 197 of these Rules, had there not been a need to adapt the drafting so that it applies to references for a preliminary ruling. Paragraph 2 of this new provision also takes account of the fact that, in preliminary ruling cases, unlike other cases brought before the General Court, a party may be self-represented (Article 203(3) of these Rules).*

#### Article 219

##### **Broadcasting of hearings**

1. Hearings of the General Court may be broadcast. Where the General Court intends to broadcast a hearing, the interested persons referred to in Article 23 of the Statute shall be so informed by the Registry when they are given notice to attend the hearing.
2. An interested person referred to in Article 23 of the Statute who considers that the hearing which he has been given notice to attend should not be broadcast shall inform the General Court of this as soon as possible, setting out in detail the circumstances that justify a decision not to broadcast the hearing.
3. The General Court shall decide on that request as soon as possible, after hearing the Advocate General.
4. The General Court shall determine, by way of decision, the rules and arrangements for implementing the broadcasting of hearings. That decision shall be published in the *Official Journal of the European Union*.

*This provision reproduces the content of the new Article 80a as set out in the draft amendments to the Rules of Procedure of the Court of Justice, with the adjustments inserted in the new Article 110a of these Rules concerning the broadcasting of hearings in respect of direct actions.*

#### Article 220

##### **Close of the hearing**



After the interested persons referred to in Article 23 of the Statute have presented oral argument, the President shall declare the hearing closed.

*This Article reproduces Article 81 of the Rules of Procedure of the Court of Justice. Its addition is intended to clarify the timing of the delivery of the Opinion of the Advocate General in the event that a hearing is held (see paragraph 1 of the following Article).*

#### Article 221

##### **Delivery of the Opinion of the Advocate General**

1. Where a hearing takes place, the Opinion of the Advocate General shall be delivered after the close of that hearing.
2. Where no hearing takes place, the Opinion of the Advocate General shall be delivered on the date announced by the Advocate General.
3. The President shall declare the oral part of the procedure closed after the Advocate General has delivered his Opinion.

*Paragraph 1 of this Article reproduces the text of Article 82(1) of the Rules of Procedure of the Court of Justice. A second paragraph has been added to govern the situation in which an Opinion has been delivered without a prior hearing, formalising the practice followed by the Court of Justice in that regard. Paragraph 3 reproduces Article 82(2) of the Rules of Procedure of the Court of Justice and Article 112(2) of these Rules.*

#### Article 222

##### **Opening or reopening of the oral part of the procedure**

The General Court may at any time, after hearing the Advocate General, order the opening or reopening of the oral part of the procedure, in particular if it considers that it lacks sufficient information, or where an interested person referred to in Article 23 of the Statute has, after the close of that part of the procedure, submitted a new fact which is of such a nature as to be a decisive factor for the decision of the General Court, or where the case must be decided on the basis of an argument which has not been debated between the interested persons referred to in Article 23 of the Statute.

*This Article adapts Article 113 of these Rules to preliminary rulings, drawing on the provisions of Article 83 of the Rules of Procedure of the Court of Justice applicable to references for a preliminary ruling. It thus reproduces the three situations envisaged, applying them to the interested persons referred to in Article 23 of the Statute, and adds, following the example of Article 83 of the Rules of Procedure of the Court of Justice, that both the opening and the reopening of the oral part of the procedure are covered. Contrary to what is envisaged in Article 113 of these Rules, as amended, for direct actions, it is provided that, in preliminary ruling cases, the oral part of the procedure is to be opened or reopened by way of an order in the same way as under Article 83 of the Rules of Procedure of the Court of Justice; an order which, in accordance with the practice of the Court of Justice, is to be made public because of the interest which it may have for the public and the interested persons referred to in Article 23 of the Statute.*

#### Article 223

##### **Minutes of the hearing**



1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar. They shall constitute an official record.
2. The interested persons referred to in Article 23 of the Statute may inspect the minutes at the Registry and obtain copies.

*Paragraph 1 of this Article is identical to Article 114(1) of these Rules and to Article 84(1) of the Rules of Procedure of the Court of Justice. Paragraph 2 reproduces the rule on access to the minutes on request, laid down in Article 84(2) of the Rules of Procedure of the Court of Justice, which differs from the automatic service on all parties provided for direct actions in Article 114(2) of these Rules.*

#### Article 224 **Recording of the hearing**

The President of the General Court may, on a duly substantiated request, authorise an interested person referred to in Article 23 of the Statute who has participated in the written part or the oral part of the proceedings to listen, on the General Court's premises, to the sound recording of the hearing in the language used by the speakers during that hearing.

*This Article merely reproduces Article 115 of these Rules and applies it to the interested persons referred to in Article 23 of the Statute (see also Article 85 of the Rules of Procedure of the Court of Justice).*

### Chapter 6 JUDGMENTS AND ORDERS

#### Article 225 **Clear lack of jurisdiction or manifest inadmissibility**

Where it is clear that the General Court has no jurisdiction to hear and determine a case or where a request is manifestly inadmissible, the General Court may, after hearing the Advocate General, at any time decide to give a decision by reasoned order without taking further steps in the proceedings.

*The cases of lack of jurisdiction and manifest inadmissibility provided for by Article 126 of these Rules are applied to references for a preliminary ruling by this Article, which is modelled on Article 53(2) of the Rules of Procedure of the Court of Justice.*

#### Article 226 **Reply by reasoned order**

Where a question referred to the General Court for a preliminary ruling is identical to a question on which the Court of Justice or the General Court has already ruled, where the reply to such a question may be clearly deduced from existing case-law or where the answer to the question referred for a preliminary ruling admits of no reasonable doubt, the General Court may at any time, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, decide to rule by reasoned order.

*This Article reproduces the wording of Article 99 of the Rules of Procedure of the Court of Justice.*

#### Article 227

### **Circumstances in which the General Court remains seised**

1. The General Court shall remain seised of a request for a preliminary ruling as long as it is not withdrawn by the court or tribunal which made that request. The withdrawal of a request may be taken into account until notice of the date of delivery of the judgment has been served on the interested persons referred to in Article 23 of the Statute.

2. However, the General Court may at any time declare, without prejudice to Article 207, that the conditions of its jurisdiction are no longer fulfilled.

*This Article reproduces Article 100 of the Rules of Procedure of the Court of Justice. Article 207, relating to references to the Court of Justice for a preliminary ruling under the second subparagraph of Article 256(3) TFEU, is also mentioned in order to distinguish the present case of lack of jurisdiction from that referred to in that provision.*

### **Article 228**

#### **Costs of the preliminary ruling proceedings**

It shall be for the referring court or tribunal to decide as to the costs of the preliminary ruling proceedings.

*This Article reproduces the wording of Article 102 of the Rules of Procedure of the Court of Justice.*

### **Article 229**

#### **Date of delivery of a judgment**

The interested persons referred to in Article 23 of the Statute shall be informed of the date of delivery of a judgment.

*This Article adapts Article 116 of these Rules to preliminary ruling proceedings by replacing the reference to ‘parties’ with a reference to ‘interested persons’ (see also Article 86 of the Rules of Procedure of the Court of Justice).*

### **Article 230**

#### **Content of a judgment**

A judgment shall contain:

- (a) a statement that it is the judgment of the General Court;
- (b) an indication as to the formation of the Court;
- (c) the date of delivery;
- (d) the names of the President and of the Judges who took part in the deliberations, with an indication as to the name of the Judge-Rapporteur;
- (e) the name of the Advocate General;
- (f) the name of the Registrar;
- (g) a description of the interested persons referred to in Article 23 of the Statute who participated in the proceedings;
- (h) the names of their representatives;

- (i) where applicable, the date of the hearing;
- (j) a statement that the Advocate General has been heard and, where applicable, the date of his Opinion;
- (k) a summary of the facts;
- (l) the grounds for the decision;
- (m) the operative part of the judgment.

*This Article adapts the content of Article 117 of these Rules to preliminary ruling proceedings, drawing on Article 87 of the Rules of Procedure of the Court of Justice.*

#### Article 231

##### **Delivery and service of the judgment**

1. The judgment shall be delivered in open court.
2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry. A copy of the judgment shall be served on the referring court or tribunal, the interested persons referred to in Article 23 of the Statute, and the Court of Justice.

*This Article adapts the content of Article 118 of these Rules to preliminary ruling proceedings, drawing on Article 88 of the Rules of Procedure of the Court of Justice. Service on the Court of Justice has been added owing to the possibility of a review of judgments given in preliminary ruling proceedings by the General Court (see, to that effect, the former Article 213(3) of the Rules of Procedure of the General Court).*

#### Article 232

##### **Content of an order**

1. An order shall contain:
  - (a) a statement that it is the order of the General Court or of the President, as the case may be;
  - (b) where applicable, an indication as to the formation of the Court;
  - (c) the date of its adoption;
  - (d) an indication as to the legal basis of the order;
  - (e) the names of the President and, where applicable, the Judges who took part in the deliberations, with an indication as to the name of the Judge-Rapporteur;
  - (f) the name of the Advocate General;
  - (g) the name of the Registrar;
  - (h) a description of the interested persons referred to in Article 23 of the Statute who participated in the proceedings;
  - (i) the names of their representatives;
  - (j) a statement that the Advocate General has been heard;
  - (k) the operative part of the order.

2. Where, in accordance with these Rules, an order must be reasoned, it shall in addition contain:

- (a) a summary of the facts;
- (b) the grounds for the decision.

*This Article adapts the content of Article 119 of these Rules to preliminary ruling proceedings, drawing on Article 89 of the Rules of Procedure of the Court of Justice.*

#### Article 233

##### **Signature and service of the order**

The original of the order, signed by the President and by the Registrar, shall be sealed and deposited at the Registry. A copy of the order shall be served on the referring court or tribunal, the interested persons referred to in Article 23 of the Statute, and the Court of Justice.

*This Article adapts the content of Article 120 of these Rules to preliminary ruling proceedings, drawing on Article 90 of the Rules of Procedure of the Court of Justice. Service on the Court of Justice has been added owing to the possibility of a review of orders given in preliminary ruling proceedings by the General Court (see, to that effect, the former Article 213(3) of the Rules of Procedure of the General Court).*

#### Article 234

##### **Effect of judgments and orders**

Judgments and orders shall take effect under the conditions laid down in the second paragraph of Article 62b of the Statute.

*This Article adapts the content of Article 121 of these Rules, relating to the binding nature of judgments and orders in direct actions, to preliminary ruling proceedings, referring to the provision of the Statute which governs review by the Court of Justice and specifies the rules on when decisions of the General Court ruling on requests for a preliminary ruling are to take effect.*

#### Article 235

##### **Rectification of judgments and orders**

1. Clerical mistakes, errors in calculation and obvious inaccuracies affecting judgments or orders may be rectified by the General Court, of its own motion or at the request of an interested person referred to in Article 23 of the Statute made within two weeks after delivery of the judgment or service of the order.
2. The General Court shall take its decision after hearing the Advocate General.
3. The original of the rectification order shall be annexed to the original of the rectified decision. A note of this order shall be made in the margin of the original of the rectified decision.

*This Article reproduces Article 103 of the Rules of Procedure of the Court of Justice, which lays down specific rules for the rectification of preliminary rulings.*

#### Article 236

##### **Interpretation of preliminary rulings**

1. Article 168, relating to the interpretation of judgments and orders, shall not apply to decisions given in reply to a request for a preliminary ruling.

2. It shall be for the national courts or tribunals to assess whether they consider that sufficient guidance is given by a preliminary ruling, or whether it appears to them that the submission of a further request for a preliminary ruling is required.

*Even though this Article excludes the application of a provision contained in the Title which is dedicated to direct actions, which provision is excluded by definition, it has been added in the present Rules based on Article 104 of the Rules of Procedure of the Court of Justice, which wished to make clear this exclusion of a provision governing only direct actions. While the new request for interpretation will concern a preliminary ruling given by the General Court, which might have justified it being submitted directly to the General Court, sending it via the 'one-stop shop' system was preferred in order to enable the Court of Justice to ascertain whether the new request remains within the limits set by the new Article 50b of the Statute.*

## Chapter 7

### EXPEDITED PRELIMINARY RULING PROCEDURE

#### Article 237

#### **Expedited procedure**

1. At the request of the referring court or tribunal or, exceptionally, of his own motion, the President may, where the nature of the case requires that it be dealt with within a short time, after hearing the Advocate General, decide that a reference for a preliminary ruling is to be determined pursuant to an expedited procedure derogating from the provisions of these Rules.

2. In that event, the President shall immediately fix the date for the hearing, which shall be communicated to the interested persons referred to in Article 23 of the Statute when the request for a preliminary ruling is served.

3. The interested persons referred to in the preceding paragraph may lodge statements of case or written observations within a time limit prescribed by the President, which shall not be less than 15 days. The President may request those interested persons to restrict the matters addressed in their statement of case or written observations to the essential points of law raised by the request for a preliminary ruling.

4. The statements of case or written observations, if any, shall be communicated to all the interested persons referred to in Article 23 of the Statute prior to the hearing.

5. The General Court shall rule after hearing the Advocate General.

*This Article reproduces the text of Article 105 of the Rules of Procedure of the Court of Justice, which lays down specific rules for dealing with a reference for a preliminary ruling under the expedited procedure. However, in so far as only Chambers designated for that purpose will rule on preliminary references submitted to the General Court, the power to decide whether a reference for a preliminary ruling should be determined pursuant to an expedited procedure has been conferred on the President of the Chamber designated for that purpose to which the case has been assigned and not on the President of the General Court who, unlike the President of the Court of Justice, should not in principle be called upon to participate in formations of the General Court giving preliminary rulings.*

## Article 238

### **Transmission of procedural documents**

1. The procedural documents referred to in the preceding Article shall be deemed to have been lodged on the transmission to the Registry, via e-Curia or by an electronic means of transmission used by the General Court, of a copy of the signed original and the items and documents relied on in support of it, together with the schedule referred to in Article 205(2). The original of the document and the annexes referred to above shall be sent to the Registry immediately if copies thereof have been communicated by an electronic means of transmission used by the General Court.
2. Where the preceding Article requires that a document be served on or communicated to a person, such service or communication shall be effected by transmission of a copy of the document via e-Curia or by an electronic means of transmission used by the General Court.

*This Article reproduces Article 106 of the Rules of Procedure of the Court of Justice, taking into account the rules relating to the service and lodging of procedural documents laid down in Articles 198 and 205 of these Rules.*

## Chapter 8 LEGAL AID

*The following Articles reproduce Articles 115 to 118 of the Rules of Procedure of the Court of Justice, which lay down rules for the granting of legal aid adapted to references for a preliminary ruling, reproducing all of the aspects attributable to the specific features of preliminary ruling proceedings (taking account of decisions of national courts or tribunals, date on which the request is lodged, costs being dealt with by the referring court or tribunal), while retaining, for reasons of consistency and expediency, certain rules governing applications for legal aid lodged in the context of direct actions governed by Articles 146 to 150 of these Rules (author of the decision and prior hearing of the person concerned before the withdrawal of the aid).*

## Article 239

### **Application for legal aid**

1. A party to the main proceedings who is wholly or in part unable to meet the costs of the proceedings before the General Court may at any time apply for legal aid.
2. The application for legal aid shall be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by a competent national authority attesting to his financial situation.
3. If the applicant has already obtained legal aid before the referring court or tribunal, he shall produce the decision of that court or tribunal and specify what is covered by the sums already granted.

## Article 240

### **Decision on the application for legal aid**

1. The decision on the application for legal aid shall be taken by the President by way of an order, after hearing the Advocate General.



2. Where the application for legal aid is refused in whole or in part, the order shall state the reasons on which it is based.

#### Article 241

##### **Sums to be advanced as legal aid**

Where legal aid is granted, the cashier of the General Court shall be responsible, where applicable within the limits set by the President, for costs involved in the assistance and representation of the applicant before the General Court. At the request of the applicant or his representative, an advance on those costs may be paid.

#### Article 242

##### **Withdrawal of legal aid**

1. If the circumstances which led to the grant of legal aid alter during the proceedings, the President may at any time, either of his own motion or on request, withdraw that legal aid, having heard the person concerned.

2. An order withdrawing legal aid shall contain a statement of reasons and no appeal shall lie from it.’

- 43) Article 224, currently in force, is renumbered and becomes Article 243.
- 44) In Articles 75, 107a and 189, the reference to ‘Article 224’ is replaced by a reference to ‘Article 243’.
- 45) Article 225, currently in force, is renumbered and becomes Article 244.
- 46) Article 226, currently in force, is renumbered and becomes Article 245.
- 47) Article 227, currently in force, is renumbered and becomes Article 246. It is amended as follows:
  - a) Paragraph 3 is deleted and replaced by the following text:

‘3. Article 86(1) shall apply only when the period referred to in Article 86(2) starts to run after XXXX.’<sup>3</sup>
  - b) Paragraph 4 is amended as follows:

‘~~The provisions of Article 45(4), Article 139(eb) and Article 181~~ shall apply only to actions brought before the General Court after the entry into force of these Rules’.
  - c) Paragraph 5 is deleted and replaced by the following text:

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<sup>3</sup> Date of entry into force of these amendments in accordance with Article 2 below.

‘The provisions of Article 110a and Article 219 shall apply only after the entry into force of the decision referred to, respectively, in Article 110a(4) and Article 219(4).’

d) Paragraph 6 is amended as follows:

‘6. The provisions of Article 115(1) and, Article 116(6), ~~Article 131 and Article 135(2)~~ of the Rules of Procedure of the General Court of 2 May 1991, as last amended on 19 June 2013, shall continue to apply to actions brought before the General Court before the entry into force of these Rules.’

e) Paragraph 7 is deleted.

#### Reasons:

*The transitional provisions of the Rules of Procedure of 4 March 2015 are amended so as to retain only those provisions that are still intended to apply, in the light of, inter alia, certain referrals back to the General Court after the Court of Justice has set aside a decision of the General Court on appeal in cases brought before 1 July 2015. The new paragraph 3 introduces a transitional rule concerning the amendment of Article 86(1) of these Rules in order to clarify the arrangements for applying the new provision to ongoing cases. In accordance with the reference in Article 2 below to the exact date on which these amendments will enter into force, that same date is also mentioned in paragraph 3 to facilitate the implementation of the transitional provision in question. The new paragraph 5 provides that the provisions of Articles 110a and 219 concerning the broadcasting of hearings will apply only after the entry into force of a decision determining the rules and arrangements for their implementation, which will be published in the Official Journal of the European Union. Given that there is no practice of broadcasting hearings of the General Court and having regard to the structure of the General Court and its method of operating, it is preferable for the General Court to lay down those rules and arrangements before the various formations of the General Court decide to broadcast certain hearings.*

#### Article 2

These amendments to the Rules of Procedure, authentic in the languages referred to in Article 44 of these Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on XXXX.<sup>4</sup>

Luxembourg, XXXX.

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<sup>4</sup> The date of entry into force of Regulation (EU, Euratom) 2024/XXXX of the European Parliament and of the Council of XXXX, amending Protocol No 3 on the Statute of the Court of Justice of the European Union, to enable all of the provisions relating to the partial transfer to the General Court of jurisdiction to give preliminary rulings to enter into force simultaneously.