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(OR. en)**

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**LIMITE**

**JUR 611  
COUR 35  
INST 318**

**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 2)/Council  
Subject: Draft amendments of the Rules of Procedure of the Court of Justice  
- Approval by the Council

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1. By letter dated 5 September 2019 and received by the Council on 6 September 2019, the President of the Court of Justice of the European Union transmitted draft amendments of the Rules of Procedure of the Court of Justice for approval by the Council in accordance with the sixth paragraph of Article 253 TFEU (document 12028/19). The purpose of these draft amendments is, first, to take account of the experience gained from the implementation of the Rules of Procedure by clarifying the scope of certain of their provisions or by supplementing or simplifying them, as appropriate. The purpose of the draft is, second, to amend specific provisions of the Rules of Procedure in order to take into account certain recent developments relating, in particular, to the method of designating the First Advocate General or the new regulatory framework for the protection of personal data in the European Union.
2. The Working Party on the Court of Justice examined the said draft amendments at its meeting on 20 September 2019.

3. Following this meeting, the Court of Justice submitted a revised draft of the amendments to its Rules of Procedure (document WK 10736/2019 of 2 October 2019), which was circulated to delegations. No further observations were received.
  
4. The Permanent Representatives Committee is therefore invited to recommend that the Council approve, as an A-item in one of its next meetings, the draft amendments to the Rules of Procedure of the Court of Justice resulting from the original draft of 5 September 2019 (document ST 12028/19) and its modifications by WK 10736/2019 of 2 October 2019 as they appear, in consolidated form, in the Annex to this note<sup>1</sup>.

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<sup>1</sup> Following the approval by the Council, the Court of Justice will adopt the amended Rules of Procedure under the sixth paragraph of Article 253 TFEU and have them published in the Official Journal.

## ANNEX

### AMENDMENTS OF THE RULES OF PROCEDURE OF THE COURT OF JUSTICE

THE COURT OF JUSTICE,

Having regard to the Treaty on the Functioning of the European Union, and in particular the sixth paragraph of Article 253 thereof,

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

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas experience gained from the implementation of the Rules of Procedure should be taken into account to clarify the scope of certain of their provisions or, as appropriate, to supplement or simplify them,

Whereas it is also necessary to amend the Rules of Procedure in order to take into account certain recent developments relating, in particular, to the method for designating the First Advocate General and the new regulatory framework for the protection of personal data in the European Union, which requires certain adjustments to be made to the standard rules for the service and publication of procedural documents,

With the approval of the Council given on ...,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

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#### *Article 1*

The Rules of Procedure of the Court of Justice of 25 September 2012<sup>1</sup> are hereby amended as follows:

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<sup>1</sup> OJ L 265, 29.9.2012, p. 1, as amended on 18 June 2013 (OJ L 173, 26.6.2013, p. 65), 19 July 2016 (OJ L 217, 12.8.2016, p. 69) and 9 April 2019 (OJ L 111, 25.4.2019, p. 73).

**1. The title of Chapter 2 of Title I is amended as follows:**

‘PRESIDENCY OF THE COURT, CONSTITUTION OF THE CHAMBERS AND ELECTION OF THE FIRST ADVOCATE GENERAL’

**2. Article 14 is replaced by the following:**

*‘Article 14 Election of the First Advocate General*

1. The Advocates General shall, immediately after the partial replacement provided for in the second paragraph of Article 253 TFEU, elect one of their number as First Advocate General for a term of three years.

2. If the office of the First Advocate General falls vacant before the normal date of expiry of the term thereof, he shall be replaced for the remainder of the term.

3. The elections provided for in this Article shall be by secret ballot. The Advocate General obtaining the votes of more than half of the Advocates General of the Court shall be elected. If no Advocate General obtains that majority, further ballots shall be held until that majority is attained.

4. The name of the First Advocate General elected in accordance with this Article shall be published in the *Official Journal of the European Union*.’

**3. Article 21(4) is replaced by the following:**

‘4. A notice shall be published in the *Official Journal of the European Union* indicating the date of registration of an application initiating proceedings, the names of the parties or, as the case may be, initials replacing a name, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments.

5. In the cases referred to in Title III of these Rules, the notice published in the *Official Journal of the European Union* shall indicate the date of lodging of a request for a preliminary ruling, the referring court or tribunal, the names of the parties to the main proceedings or, as the case may be, initials replacing a name, as well as the questions referred to the Court.’

**4. Article 37(3) is replaced by the following:**

‘3. 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 36 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.’

**5. Article 38(5) is replaced by the following:**

‘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 36, other than the language of the case, when they take part in preliminary ruling proceedings or intervene in a case before the 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.’

**6. Article 38(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 36 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.’

**7. Article 39 is replaced by the following:**

‘1. The Registrar shall arrange for procedural documents lodged during the written part of the procedure to be translated into the language of the case and, as the case may be, into another language mentioned in Article 36.’

2. The Registrar shall also ensure that what is said at the hearing is interpreted into the language of the case and into the other languages that are mentioned in Article 36 and are used by the parties present at the hearing or considered necessary for the efficient conduct of that hearing.’

**8. The following sentence is added to Article 57(7):**

‘Article 51 of these Rules shall not apply to the latter time limit.’

**9. In Article 89(1), point (h) is replaced by the following:**

‘(h) a description of the parties or of the interested persons referred to in Article 23 of the Statute who participated in the proceedings,’

**10. Article 95(2) is replaced by the following:**

‘2. At the request of the referring court or tribunal, of a party to the main proceedings or of its own motion, the Court may also render anonymous one or more persons or entities concerned by the case.’

**11. Article 119(4) is replaced by the following:**

‘4. If those documents are not lodged, the Registrar shall prescribe a reasonable time limit within which the party concerned is to produce them. If the party concerned fails to produce the required documents within the time limit prescribed, the President shall, after hearing the Judge-Rapporteur and the Advocate General, decide whether the non-compliance with that procedural requirement renders the application or written pleading formally inadmissible. If he considers it necessary, the President may refer that question to the Court of Justice.’

**12. Article 122(3) is replaced by the following:**

‘3. If an application does not comply with the requirements set out in paragraphs 1 or 2 of this Article, the Registrar shall prescribe a reasonable time limit within which the applicant is to produce the abovementioned documents. If the applicant fails to put the application in order, the President shall, after hearing the Judge-Rapporteur and the Advocate General, decide whether the non-compliance with these conditions renders the application formally inadmissible. If he considers it necessary, the President may refer that question to the Court of Justice.’

**13. Article 123 is replaced by the following:**

‘The application shall be served on the defendant. In cases where Article 119(4) or Article 122(3) applies, service shall be effected as soon as the application has been put in order or the President or the Court has declared it admissible notwithstanding the failure to observe the requirements set out in those two Articles.’

**14. Article 131 is replaced by the following:**

‘1. The application to intervene shall be served on the parties in order to obtain any written or oral observations they may wish to make on that application.

2. Where the application is submitted pursuant to the first paragraph of Article 40 of the Statute, the intervention shall be allowed by decision of the President and the intervener shall receive a copy of every procedural document served on the parties, unless the parties have, within 10 days after the service referred to in paragraph 1 has been effected, identified secret or confidential items or documents which, if communicated to the intervener, the parties claim would be prejudicial to them. In that case, the President shall decide on the application to intervene by order, after hearing the Judge-Rapporteur and the Advocate General, and the intervener shall receive a copy of every procedural document served on the parties, save, where applicable, for the secret or confidential items or documents excluded from such communication.

3. Where the application is submitted pursuant to the second paragraph of Article 40 of the Statute, the President shall decide on the application to intervene by order, after hearing the Judge-Rapporteur and the Advocate General, or shall refer the application to the Court. If the application to intervene is granted, the intervener shall receive a copy of every procedural document served on the parties, save, where applicable, for the secret or confidential items or documents excluded from such communication.

4. Where the application is submitted pursuant to the third paragraph of Article 40 of the Statute, the intervention shall be allowed by decision of the President and the intervener shall receive a copy of every procedural document served on the parties unless those parties have, within 10 days after the service referred to in paragraph 1 has been effected, put forward observations on the application to intervene or identified secret or confidential items or documents which, if communicated to the intervener, the parties claim would be prejudicial to them. In such cases, the President shall decide on the application to intervene by order, after hearing the Judge-Rapporteur and the Advocate General, and the intervener shall receive a copy of every procedural document served on the parties, save, where applicable, for the secret or confidential items or documents excluded from such communication.’

**15. The following Article is inserted after Article 159:**

*‘Article 159a*

*Manifestly inadmissible or manifestly unfounded requests and applications*

Where a request or an application referred to in this Chapter is, in whole or in part, manifestly inadmissible or manifestly unfounded, the Court may, having heard the Judge-Rapporteur and the Advocate General, at any time decide to dismiss it, in whole or in part, by reasoned order.’



**16. Article 167 is replaced by the following:**

‘1. An appeal shall be brought by lodging an application at the Registry of the Court of Justice or of the General Court. When that application is lodged at the Registry of the General Court, it shall be transmitted forthwith to the Registry of the Court of Justice.

2. As soon as it is informed of the existence of an appeal, the Registry of the General Court shall forthwith transmit to the Registry of the Court of Justice the file in the case at first instance and any procedural file of the Board of Appeal transmitted to the General Court pursuant to the provisions of the Rules of Procedure of the General Court concerning proceedings relating to intellectual property rights.’

**17. Article 168(4) is replaced by the following:**

‘4. If an appeal does not comply with paragraphs 1 to 3 of this Article, the Registrar shall prescribe a reasonable time limit within which the appellant is to put the appeal in order. If the appellant fails to put the appeal in order within the time limit prescribed, the President shall, after hearing the Judge-Rapporteur and the Advocate General, decide whether the non-compliance with that formal requirement renders the appeal formally inadmissible. If he considers it necessary, the President may refer that question to the Court of Justice.’

**18. Article 171(2) is replaced by the following:**

‘2. In a case where Article 168(4) of these Rules applies, service shall be effected as soon as the appeal has been put in order or the President or the Court of Justice has declared it admissible notwithstanding the failure to observe the formal requirements laid down by that Article.’

**19. Title VII shall be renamed as follows:**

‘Requests for opinions’

**20. Article 200 is replaced by the following:**

‘1. The Opinion, signed by the President, the Judges who took part in the deliberations and the Registrar, shall be delivered in open court.

2. It shall be served on all the Member States and on the institutions referred to in Article 196(1).’

**21. Article 205 is repealed.**

**22. Article 206(2) is replaced by the following:**

‘2. The request and annexes thereto shall be served on the **European Council** or on the Council, as appropriate, each of which shall have a non-extendible time limit of 10 days from such service to submit its written observations. Article 51 shall not apply to that time limit.’

*Article 2*

These amendments to the Rules of Procedure, authentic in the languages referred to in Article 36 of those Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the first day of the month following that of their publication.

The amendment referred to in Article 1(2) shall apply from the next partial replacement of Judges and Advocates General, provided for in the second paragraph of Article 253 of the Treaty on the Functioning of the European Union.

Done at Luxembourg, on ...