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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Draft Council conclusions on the report of the Court of Justice on the functioning of the General Court of the European Union

1. On 21 December 2020, the Court of Justice transmitted to the Council its report on the functioning of the General Court provided by Article 3(1) of Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council of 16 December 2015 amending Protocol No 3 on the Statute of the Court of Justice of the European Union, together with the observations of the General Court on the draft report and the two written contributions of external consultants (document 13902/20 + ADD 1 + ADD 2).
2. The representatives of the Court of Justice and of the General Court gave a presentation of the main findings and conclusions of the report to the Working Party on the Court of Justice at the informal videoconference of its members on 3 May 2021, which was followed by a discussion.
3. Subsequently, the Working Party on the Court of Justice agreed, by way of written consultations, on the draft conclusions as set out in the Annex to this note.
4. It is therefore suggested that, subject to confirmation by Coreper, the Council approve the draft conclusions as set out in the Annex as an A-item.

DRAFT
Council conclusions
on the report of the Court of Justice on the functioning of the General Court of the
European Union

THE COUNCIL OF THE EUROPEAN UNION

1. WELCOMES the report of the Court of Justice of December 2020 foreseen by Article 3(1) of Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council of 16 December 2015 amending Protocol No 3 on the Statute of the Court of Justice of the European Union, which provides an in-depth assessment on the functioning of the General Court following the reform of the European Union's judicial architecture in 2015, the main objectives of which, as recalled in Recital 5 of that Regulation, were a reduction within a short time of both the volume of pending cases and the excessive duration of proceedings before the General Court.
2. RECALLS that this reform of the judicial architecture, consisting in doubling the number of judges at the General Court while dismantling the Civil Service Tribunal, has been accompanied by a substantial increase in the number of staff at the disposal of the General Court so as to allow it to reach and go beyond the overall output of the General Court and of the Civil Service Tribunal acting as first instance courts before 2016 while ensuring a high quality of its decisions.
3. RECOGNISES that while, notably due to the public health crisis in 2020 and the fact that the final phase of the reform was implemented only in September 2019, no definitive conclusions can be drawn with regard to the General Court's efficiency, the effectiveness of doubling the number of judges or the use and effectiveness of the additional resources, the report highlights certain positive trends towards the achievement of the objectives of the reform of 2015.
4. WELCOMES all the efforts put in place to improve the efficiency of the General Court after the reform despite the obstacles and difficult situation related to the Covid public health crisis.

5. ACKNOWLEDGES the progress as regards the length of proceedings, in particular in competition cases and intellectual property cases; ENCOURAGES, along the lines suggested by the Court of Justice in its report, the General Court to pursue its efforts to further reduce the length of proceedings, in particular in state aid and staff cases for which so far no tangible positive effects of the reform have been observed, including by a re-evaluation of internal deadlines, without prejudice to the quality of decisions ; AGREES with the Court of Justice that regular monitoring measures should be implemented to ensure steady and full balance between judges' workloads.
6. SUPPORTS the recommendation by the Court of Justice that the General Court should promptly identify, as soon as they are lodged at the Registry, actions which are bound to be rejected as manifestly inadmissible or unfounded and to ensure a more active management and review of the case file from the first exchange of pleadings; UNDERLINES however, in view of the need to respect the principles of due process, the adversarial principle and the right to be heard, the importance and the central function of oral hearings, which are particularly important for a first instance jurisdiction which needs to assess facts and evidence
7. SHARES the concern of the Court of Justice that, despite a substantial reduction in the average workload per judge-rapporteur and the fact that since 2016 the number of cases brought can be regarded as stable overall, the implementation of the reform has as yet not allowed the General Court to achieve a decrease of the number of pending cases, which remains at a high level. AGREES with the Court of Justice that, while this may be explained to a certain extent by the historically high number of stayed proceedings, by the increase of the working time spent by judges acting as sitting judges in extended formations of judgment in a drive for quality and by external factors, such as the partial renewal of the General Court in 2019 and the public health crisis in 2020, the General Court should deploy all its internal resources to remedy this situation as quickly as possible.

8. ACKNOWLEDGES that the General Court's new structure has enabled it to increase to a certain extent the number of cases referred to extended formations of chambers, which contributes to more thorough debates and a strengthening of the authority, quality and consistency of its case-law. INVITES therefore the General Court to make use of the resources at its disposal to refer more cases, especially in competition and state aids, to extended chambers of five judges or to the Grand Chamber where the legal difficulty or the importance of the case or other special circumstances so justify, along the lines suggested by the Court of Justice in its report.
9. WELCOMES that in 2019 the General Court introduced a system whereby staff cases and intellectual property cases are allocated respectively to a certain number of predetermined chambers, which thus specialise in these areas while also dealing with cases in the other areas.
10. CONCLUDES that the report of the Court of Justice has highlighted certain positive developments but also some points of attention on which further concrete efforts are needed in order to reap all benefits of the reform of the judicial architecture in 2015, in the interests of the parties and of citizens; INVITES therefore the Court of Justice of the European Union to provide regular updates, by appropriate means, on the progress made and the measures adopted so as to enable the Council to fully evaluate the extent to which the objectives of that reform were attained, including in particular when making proposals for amendments of the Statute of the Court of Justice of the European Union or of the Rules of Procedure of the General Court.
