Council of the European Union

Brussels, 16 March 2026
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NOTE

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

Delegations will find attached a letter dated 12 March 2026 from Mr Koen Lenaerts, President of the Court of Justice of the European Union, to Ms Marilena Raouna, President of the Council of the European Union, transmitting draft amendments to the Rules of Procedure of the Court of Justice.

**COURT OF JUSTICE
OF THE
EUROPEAN UNION**

President

Luxembourg, 12 March 2026

Ms Marilena Raouna
Deputy Minister for European Affairs
President of the Council of the
European Union
Rue de la Loi, 175
B-1048 Brussels

Madam President,

With reference to the sixth paragraph of Article 253 of the Treaty on the Functioning of the European Union and Article 106a of the Treaty establishing the European Atomic Energy Community, I have the honour to submit, for the Council's approval, the enclosed draft amendments to the Rules of Procedure of the Court of Justice.

The purpose of the draft amendments is, first, to clarify the scope of the derogation provided for in Article 38(4) of the Rules of Procedure, in order to dispel any uncertainty concerning the possibility, for Member States, of using their official language in procedures before the Court, and to simplify or remove certain procedural requirements laid down in other provisions of those rules which appear to have become unnecessary and which impact the length of proceedings before the Court.

The draft amendments seek, second, to take into account the experience gained during the triennial renewals of the composition of the Court, characterised by the simultaneous departure of several Judges and the need to finalise, in good time, a large number of decisions before said departure, and to ensure a smoother management of cases by providing, for instance, that the President of the formation of the Court may certify with his or her signature that a Judge did indeed take part in the deliberations, when the decision is to be handed down after that Judge's departure from the Court.

The text of the draft amendments is enclosed in all the official languages and includes an explanatory statement, to which I would direct your attention.

Yours faithfully,

Koen Lenaerts

DRAFT AMENDMENTS TO THE RULES OF PROCEDURE OF THE COURT OF JUSTICE

Explanatory statement

These draft amendments to the Rules of Procedure of the Court of Justice are made pursuant to the sixth paragraph of Article 253 of the Treaty on the Functioning of the European Union. Their objective is threefold.

First, they aim to clarify the scope of the derogation provided for in Article 38(4) of the Rules of Procedure concerning the possibility, for Member States, of using their official language in certain procedures. It is proposed to amend that article so as to provide for such a possibility to apply not only in the three situations currently referred to, but also to all cases in which Member States take part and to any request or application which they may submit, or action or appeal which they may bring, regardless of the legal basis thereof. That amendment would also extend, mutatis mutandis*, to Article 38(5) concerning the possibility, for States, other than the Member States, which are parties to the EEA Agreement, and also for the EFTA Surveillance Authority, of using one of the official languages mentioned in Article 36 of the Rules of Procedure in the context of their participation in procedures before the Court.*

The present draft amendments also seek to streamline, simplify or remove certain procedural requirements laid down in the Rules of Procedure, either because they have become redundant or because of the time they take and their impact, as a result, on the length of proceedings. Examples include the obligation to draw up minutes of hearings during which Opinions are read or judgments are delivered, when these are now broadcast live and remain available on the website of the Court, or the need to make an order in circumstances such as the opening of the oral part of the procedure or the approval of confidential treatment in the context of an appeal, where confidential treatment of the same data was previously approved at first instance vis-à-vis one or more parties.

For these reasons, it is therefore proposed to amend Articles 83, 84 and 190 of the Rules of Procedure with a view to having the obligation to draw up minutes limited to hearings of oral argument and the need to make an order reserved for situations where that is fully justified, for instance, where the oral part of the procedure is to be reopened or where a party applies to the Court for confidential treatment in respect of new material or vis-à-vis other parties to the proceedings.

Finally, the draft amendments seek to draw lessons from past experience, in particular, during the triennial renewals of the composition of the Court. Due to the provision in the Rules of Procedure requiring the original of a judgment to be signed by all the Judges who

took part in the deliberations, the simultaneous departure of several members requires the Court to conclude deliberations in a large number of cases at an earlier date, sufficiently in advance of the actual renewal of the composition of the Court to allow for the translation of the judgments in the cases concerned, and for the signature and delivery of those judgments before the actual departure of the Judges whose term of office is due to expire. The requirement laid down in Article 88(2) of the Rules of Procedure therefore has the effect that the Court's deliberations are, for several months, focused on cases involving those Judges whose term of office is due to expire – to the detriment of other cases that are ready for judgment to be given – and then, during the weeks preceding the renewal, the bulk of the workload falls on those Judges who are to remain in office, since the Judges whose term of office is due to expire will simply no longer have the time to sign the original version of the judgments in the cases in which they will have taken part.

For this reason, in the interests of the proper administration of justice, it is proposed to amend the above provision – and, by analogy, Article 200, concerning Opinions of the Court – so as to enable the Judges whose term of office is due to expire to take part in deliberations until the end of their term of office and so as to make provision, in that situation, for the President of the formation of the Court to certify that those Judges did indeed take part in the deliberations of the formation of the Court.

Similarly – and in order to ensure a more balanced distribution of the workload between all the Judges and a smoother management of appeals that are covered by Article 58a of the Statute – it is proposed to amend Article 170b(2) of the Rules of Procedure so as to change the date to be taken into account for the purpose of establishing the composition of the Chamber determining whether appeals may proceed. In addition to the Vice-President and the Judge-Rapporteur, the third member of the formation of the Court would be the President of the Chamber of three Judges to which the Judge-Rapporteur is attached at the time of his or her designation as Judge-Rapporteur, not at the – earlier – date on which the request that the appeal be allowed to proceed is made.

The reasons for this amendment – and for the other proposed amendments – are provided in more detail below. For ease of reading, the specific amendments to the wording of the existing provisions are highlighted.

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AMENDMENTS TO 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, in view of questions raised concerning the situations in which Member States are entitled to use their official language in procedures before the Court, it is necessary to clarify the scope of the derogation provided for in Article 38(4) of the Rules of Procedure and to specify that the possibility, for Member States, of using their official language applies to all cases in which they take part and to all requests, applications or actions brought before the Court, including appeals brought under Articles 56 or 57 of the Protocol on the Statute of the Court of Justice of the European Union,

Whereas, moreover, certain procedural requirements laid down in the Rules of Procedure should be streamlined or removed, either because they have become redundant as a result of recent technological developments or because of the workload they entail and their impact on the length of proceedings,

Whereas, to that end, the obligation to draw up minutes should be limited to hearings of oral argument, and a distinction should be drawn between the procedural requirements for the reopening of the oral part of the procedure and the less onerous procedural requirements applicable to the opening of the oral part,

Whereas it is also appropriate to draw on the Court’s case-law on confidentiality and to relieve the Court of the obligation to make an order where, in the context of an appeal, the same confidential treatment as that approved by the General Court at first instance is sought by a party to the proceedings vis-à-vis another party,

Whereas account should also be taken of the experience gained by the Court following the death of a Judge or the simultaneous departure of several Judges, and provision should be made for the President of the formation of the Court to certify that a Judge who is no longer in a position to sign the original of the judgment or of the Opinion of the Court did take part in the deliberations of that formation,

Whereas, finally, it is appropriate to facilitate the management of cases which are subject to the mechanism whereby the Court determines whether an appeal should be allowed to proceed and to ensure a more balanced distribution of the workload between all the Judges by changing the date to be taken into account for the purpose of establishing the composition of

the Chamber determining whether appeals may proceed, this being established by reference to the date on which a Judge is designated as Judge-Rapporteur, and not by reference to the date on which the request that the appeal be allowed to proceed is made,

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

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The Rules of Procedure of the Court of Justice of 25 September 2012 [1] are hereby amended as follows:

(1) Article 38(4) is replaced by the following:

'Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when taking part in preliminary ruling proceedings, when intervening in a case or procedure before the Court or when submitting a request or an application to the Court or bringing an action or an appeal before it. 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.'

While Member States have always been entitled to use their official language before the courts that constitute the Court of Justice of the European Union, Article 38(4) of the current Rules of Procedure only partially reflects this, since it refers only to three situations relating, respectively, to the participation of Member States in preliminary ruling proceedings, to their intervention in cases before the Court and to actions for failure to fulfil obligations under Article 259 of the Treaty on the Functioning of the European Union.

The appeals covered by Articles 56 and 57 of the Statute are not mentioned in that provision, nor are the requests and applications covered by Chapter 9 of Title IV of the Rules of Procedure, relating to direct actions, or the Member States' participation in review procedures or procedures for an Opinion covered by Titles VI and VII of the Rules of Procedure, respectively. However, there is no doubt that the Member States are entitled to use their own language in such procedures.

[1] OJ L 265, 29 September 2012, p. 1, with corrigenda (OJ L, 2024/90475, 5.8.2024, and OJ L, 2024/90553, 6.9.2024), as amended on 18 June 2013 (OJ L 173, 26.6.2013, p. 65), on 19 July 2016 (OJ L 217, 12.8.2016, p. 69), on 9 April 2019 (OJ L 111, 25.4.2019, p. 73), on 26 November 2019 (OJ L 316, 6.12.2019, p. 103) and on 2 July 2024 (OJ L, 2024/2094, 12.8.2024).

This follows from the wording of Article 37(2) of the Rules of Procedure, which expressly refers to the derogation provided for in Article 38(4) and (5) before determining the language of the case applicable to appeals, to reviews and to requests and applications covered by Chapter 9 of Title IV, as well as from the second and third paragraphs of Article 56 of the Statute. The latter article states that, with the exception of disputes between the European Union and its servants, Member States may bring an appeal against a final decision, even if they did not intervene in the proceedings before the General Court, and that, in such cases, those States are to be in the same position as States which intervened at first instance. This implies that, like Member States intervening at first instance, which may use their official language pursuant to Article 46(4) of the Rules of Procedure of the General Court, States which were not a party to the proceedings before that court and which bring an appeal before the Court of Justice may also use their official language.

In order to dispel any remaining uncertainty on that point, it is proposed to amend Article 38(4) of the Rules of Procedure in order to fill that gap, and expressly provide that Member States may use their official language not only in the three situations mentioned above, but also when they take part in a procedure before the Court – such as the procedure for an Opinion or the review procedure – or when they submit a request or an application to the Court or bring an action or an appeal before it.

(2) Article 38(5) is replaced by the following:

'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 taking part in preliminary ruling proceedings, when intervening in a case or procedure before the Court or when submitting a request or an application to the Court or bringing an appeal before it. 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.'

The draft amendment in the preceding paragraph applies, mutatis mutandis, *to States, other than the Member States, which are parties to the EEA Agreement, and also to the EFTA Surveillance Authority. In so far as those States and that authority can take part in proceedings before the Court in situations other than the two currently set out in Article 38(5), it is necessary to add to the wording of that article the provision that those States and that Authority may use one of the languages mentioned in Article 36, other than the language of the case, not only when taking part in preliminary ruling proceedings or when intervening in a case before the Court, but also when taking part in a procedure such as, for instance, the review procedure under Article 195 of the Rules of Procedure, or when submitting a request or an application under Chapter 9 of Title IV of the rules or bringing an appeal.*

(3) Article 83 is replaced by the following:

‘*Article 83 Opening or reopening of the oral part of the procedure*

The Court may at any time, after hearing the Advocate General, decide to open the oral part of the procedure or order the reopening of that part, in particular if it considers that it lacks sufficient information or where a party 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 Court, or where the case must be decided on the basis of an argument which has not been debated between the parties or the interested persons referred to in Article 23 of the Statute.’

Article 83 of the Rules of Procedure provides that the Court may order the opening or reopening of the oral part of the procedure and, in that context, gives three examples of specific situations that may lead to the opening or reopening of the oral part. Without affecting either the principle of the opening or reopening of the oral part of the procedure or the circumstances that may lead to such an event, this amendment aims to simplify the Court's modus operandi when opening the oral part of the procedure.

While it is undeniable that an order is certainly useful in the case of a reopening of the oral part of the procedure where a hearing of oral argument has already taken place and/or an Opinion has been delivered, the use of an order seems excessive where the oral part of the procedure has not yet been opened and there has been no hearing or Opinion. In such cases, the decision to open the oral part of the procedure may take the form of a simple decision, communicated to the parties by letter from the Registry, accompanied, as the case may be, by questions to be answered in writing or orally.

It does not appear necessary, however, to change the current practice with regard to the reopening of the oral part of the procedure. Where the Court takes the view that this part should be reopened, it must specify the reasons for doing so, in order to enable the parties or interested persons referred to in Article 23 of the Statute fully to understand the scope of the reopening and to prepare themselves in the best possible way for the new hearing of oral argument. In such cases, an order appears to be the most appropriate means of setting out the reasons for reopening the oral part of the procedure and the issues to be examined in that context.

(4) Article 84 is replaced by the following:

‘*Article 84 Minutes of hearings of oral argument*

1. The Registrar shall draw up minutes of every hearing of oral argument. The minutes shall be signed by the President and by the Registrar. They shall constitute an official record.

2. The parties and interested persons referred to in Article 23 of the Statute may inspect the minutes at the Registry and obtain copies.'

While, until recently, the drawing-up by the Registry of minutes of each hearing or sitting was an important procedural step, providing an official record of the fact that it had taken place as well as of its purpose and conduct, that step has now lost much of its relevance, as the reading of Opinions and the delivery of judgments are broadcast live on the website of the Court of Justice, where they remain available. After the Opinion has been read and the judgment has been delivered, those documents are, moreover, added to the case file and served on the parties or interested persons referred to in Article 23 of the Statute.

In those circumstances, it is proposed that the obligation to draw up minutes be limited to hearings of oral argument, and to amend the wording of Article 84(1) of the Rules of Procedure accordingly. This proposed amendment does not concern all language versions. In certain languages, the current version of Article 84(1) is already limited to hearings of oral argument.

(5) Article 88 is replaced by the following:

'*Article 88 Delivery and service of the judgment*

1. The judgment shall be delivered in open court.

2. The original of the judgment shall be signed by the President, by the Judges who took part in the deliberations and by the Registrar. Where the original can no longer be signed by a Judge who took part in the deliberations, either due to his state of health or death, or due to his resignation or the expiry of his term of office, the President shall certify that that Judge took part in the deliberations.

3. The signed original of the judgment shall be sealed and deposited at the Registry. Certified copies of the judgment shall be served on the parties and, where applicable, the referring court or tribunal, the interested persons referred to in Article 23 of the Statute and the General Court.'

As indicated in the explanatory statement introducing the present draft amendments, the triennial renewal of the composition of the Court is an event liable to disrupt the proper functioning of the Court in so far as it requires the Court to close a large number of cases within a relatively short period of time in order to comply with the requirements of Article 17 of the Statute, according to which decisions of the Court are valid only if they are taken by a

minimum number of judges – which differs according to the size of the relevant formation of the Court – and of Article 88(2) of the Rules of Procedure of the Court, which specifies that the original of the judgment is to be signed by the President, by the Judges who took part in the deliberations and by the Registrar.

While the rule as to quorum laid down in Article 17 of the Statute does not give rise to any difficulties, the same cannot be said of the requirement laid down in Article 88(2) of the Rules of Procedure of the Court. Since the original of the judgment can be signed only when it is available in the language of the case, the deliberations of the Judges must necessarily be arranged in sufficient time before the date of the partial renewal of the composition of the Court to allow that original to be signed before the actual departure of the Judges whose term of office is due to expire. The greater the number of those Judges, the higher the number of cases on which the Court must deliberate within a relatively short period of time, and the greater the pressure on those Judges and on the services, in particular the translation service, with all the risks that working under pressure entails.

In addition to the above disadvantages, it should be noted that the requirement laid down in Article 88(2) of the Rules of Procedure also has an impact on the handling of other cases, since the need to give absolute priority to cases in which Judges whose term of office is due to expire are taking part automatically has the effect of delaying the handling of other cases brought before the Court, even though some of them may be ready for judgment to be given.

Finally, it should be emphasised that the difficulties identified above are further exacerbated when decisions as to the extension of the Judges' term of office are slow to come. As long as there is uncertainty as to the renewal of the term of office of those Judges, their cases will be given priority by the Court, particularly when the Judges act as Judge-Rapporteur, in order to avoid those cases having to be dealt with ab initio *in the event that the Judges' term of office is not renewed. This approach is dictated by a concern for the proper administration of justice and is intended to safeguard the rights of the parties to the proceedings, but it has the effect of further increasing the pressure and the number of cases to be dealt with as a matter of priority and, consequently, the number of cases whose examination has to be postponed.*

For all these reasons, and in order to further ease the workload of the members throughout their term of office and to ensure the timely examination of all cases brought before the Court, it is proposed to amend the wording of Article 88(2) of the Rules of Procedure slightly and to split it into two separate paragraphs. Paragraph 2 would deal specifically with the signature, while aspects relating to the affixing of the seal, the retention of the original judgment at the Registry and service of a certified copy of that judgment on all relevant recipients would be covered by the new paragraph 3.

With regard to the signature itself, the requirement for all members who took part in the deliberations to sign would still be maintained as a rule, but the text would be amended to provide that, if it is no longer physically possible for a Judge who took part in the deliberations to sign a judgment, for example because the deliberations in that case were

concluded shortly before the partial renewal of the composition of the Court and the judgment is still being translated when that Judge departs, that Judge's signature will be replaced by the certification, by the President of the formation of the Court, that the Judge took part in the deliberations.

The same rule would apply, by analogy, to the rarer situations in which a Judge who took part in the deliberations is no longer in a position to sign the original of the judgment, either because of his or her resignation or because of his or her state of health or death. Here too, it would be contrary to the requirements of the proper administration of justice to cancel the delivery of the judgment and restart the proceedings ab initio *solely because a member of the formation of the Court was not in a position to place his or her signature on the original of the judgment in question. It is therefore proposed that, in this case too, the President should certify that the Judge in question did indeed take part in the deliberations.*

For the sake of completeness, it should finally be noted that if it is the President himself or herself who is no longer in a position to sign the judgment because of his or her departure from the Court, it is the Judge who replaces the President, in accordance with the ordinary rules contained in Articles 13 and 30 of the Rules of Procedure, respectively, who will perform that certification function.

(6) Article 170b(2) is replaced by the following:

'2. The decision on that request shall be taken, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, by a Chamber specially established for that purpose, presided over by the Vice-President of the Court and including also the Judge-Rapporteur and the President of the Chamber of three Judges to which the Judge-Rapporteur is attached at the time of his designation as Judge-Rapporteur.'

The proposed amendment aims to remedy a practical problem that arises every three years, when the composition of the Court is partially renewed.

In its current version, Article 170b(2) of the Rules of Procedure provides for the examination of appeals covered by Article 58a of the Statute to be assigned to the Vice-President of the Court, the Judge who has been designated to act as Judge-Rapporteur and the President of the Chamber of three Judges to which the Judge-Rapporteur is attached on the date on which the request that the appeal be allowed to proceed is made. The problem that arises in practice lies precisely in that reference date. Since a partial renewal is characterised by the departure of one or more Judges from the Court and since the Judges replacing them cannot, by definition, be assigned to a Chamber before taking up their duties, the number of Judges who may be designated as Judge-Rapporteur to deal with appeals lodged before the date of the partial renewal of the composition of the Court is fairly limited, since only Judges whose term of office is not due to expire and who do not hold the office of Vice-President or President of a Chamber of three Judges may be designated as Judge-Rapporteur in those cases.

The problem of the composition of the Chamber determining whether appeals may proceed may become even more acute when the Judge designated before the partial renewal to act as Judge-Rapporteur is elected, after that renewal, to the office of Vice-President of the Court or President of a Chamber of three Judges. In order to comply with the wording of Article 170b, the case will thus inevitably have to be reassigned to another Judge-Rapporteur.

In order to simplify the management of these cases and to ensure a more balanced distribution of the workload among all Judges, and in particular among newly appointed Judges, it is therefore proposed to amend the reference date mentioned above and to provide that the decision on the request that the appeal be allowed to proceed is to be taken by a chamber composed of the Vice-President, the Judge-Rapporteur and the President of the Chamber of three Judges to which that Judge is attached at the time of his or her designation as Judge-Rapporteur, and not at the earlier date on which the request that the appeal be allowed to proceed is made. This amendment would allow such requests to be decided more quickly, without it being necessary to reassign the case to another Judge-Rapporteur.

(7) The following paragraph is added to Article 190:

‘4. Where, in proceedings concerning an appeal against a decision of the General Court, a party applies for confidential treatment, vis-à-vis an intervener before the General Court, of material produced before the Court of Justice which has already been treated as confidential vis-à-vis that intervener in the proceedings at first instance, the same confidential treatment shall be maintained for the purposes of the proceedings before the Court of Justice.’

The purpose of this amendment is to streamline the handling of applications for confidentiality submitted in the context of an appeal. When such applications are brought before it in the context of an appeal, the Court is required to seek the parties' observations on the application and then rule on it by order, even if the other parties to the proceedings have not raised any objections to the application. Furthermore, it is clear from the Court's established case-law that, when the General Court treats certain material in the case file as confidential vis-à-vis an intervener, the same confidential treatment will always be approved by the Court of Justice vis-à-vis that intervener if a similar application is made in the context of an appeal.

It is therefore proposed to codify that case-law by inserting a specific provision in that regard in the Rules of Procedure, which would relieve the Court of the need to make an order in such cases and thus help to speed up the handling of the case.

(8) Article 200 is replaced by the following:

‘*Article 200 Delivery and service of the Opinion*

1. The Opinion shall be delivered in open court.

2. The original of the Opinion shall be signed by the President, by the Judges who took part in the deliberations and by the Registrar. Where the original can no longer be signed by a Judge who took part in the deliberations, either due to his state of health or death, or due to his resignation or the expiry of his term of office, the President shall certify that that Judge took part in the deliberations.

3. The signed original of the Opinion shall be sealed and deposited at the Registry. Certified copies of the Opinion shall be served on all the Member States and on the institutions referred to in Article 196(1).'

The purpose of this amendment is twofold.

First, it follows on from the amendment made to Article 88(2) of the Rules of Procedure and aims to take into account the specific situations in which it is no longer physically possible to obtain all the signatures of the Judges who took part in the deliberations.

Second, it is intended to bring the wording of this article in line with that of Article 88, by referring to the sealing of the Opinion and its being deposited at the Registry, and to supplement the title of the article so that it reflects the content thereof and the service of the Opinion on Member States and on the institutions referred to in Article 196.

Article 2

These amendments to the Rules of Procedure, which are 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.

Done at Luxembourg, …