



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 July 2012

**Dossier interinstitutionnel:
2011/0901B (COD)**

12210/12

LIMITE

**COUR 40
JUR 374
INST 451**

PUBLIC

NOTE

from: Presidency
to: Friends of the Presidency Group (Reform of the Court of Justice of the European Union)

Subject: **Draft Regulation amending the Protocol on the Statute of the Court of Justice of the European Union and Annex I thereto**
– Working methods
– Questions for reflection

I. Introduction

1. On 20 June 2012, Coreper mandated¹ the Friends of the Presidency Group to take forward further reflections in the Council on those elements of the Court's request of 28 March 2011² linked to the proposed increase of the Judges of the General Court, with a view to working towards putting in place appropriate measures addressing delays that arise from the General Court's heavy workload before the General Court's partial renewal in September 2013.

¹ 11464/12

² 8787/11

II. Working methods

2. Given the need for a structural solution to deal with the important number of cases pending before the General Court and to reduce the duration of its proceedings, the Presidency aims at conducting discussions in the Friends of the Presidency Group with due speed, to allow the latter to report to Coreper on possible solutions by December 2012. At present, four meetings of the Friends of the Presidency Group are planned for the second semester of 2012, to which further meetings can be added, as needed.
3. Since the proposed amendments to the Statute of the Court of Justice originate from the Court of Justice of the European Union, it is important that the latter is closely associated with the work of the Friends of the Presidency Group. The Presidency intends to keep the Court of Justice of the European Union regularly informed of the progress of discussions in the Group and, where appropriate, it will invite the representatives of the Court of Justice of the European Union to take part in the meeting of the Friends of the Presidency Group. The Commission will take part, as usual, in the meetings of the Friends of the Presidency Group.
4. The Friends of the Presidency Group's mandate sets out as the starting point for its work the Court's request of 28 March 2011 on increasing the number of Judges of the General Court. In addition, the mandate also identifies as an issue for reflection possible measures to enhance the efficiency of the General Court, it being understood that the responsibility for putting in place measures affecting the internal organisation and working methods of the General Court lies mainly with the latter.
5. The Presidency notes that many of the issues raised by the Court's original proposal have been extensively discussed in the Working Party on Court of Justice and in Coreper. It stresses the importance of taking account of these discussions, and the reason why it was not possible to reach agreement on this element of the Court's request, in order to inform the reflections of the Friends of the Presidency Group and in identifying possible solutions.

III. Questions for reflection

6. Keeping in mind the timeline described above, the Presidency will invite delegations to focus reflections at the outset on a limited number of subjects, to which further issues could be added as discussions progress.

i) Number of additional Judges

7. In its request of 28 March 2011, the Court of Justice proposed an increase in the number of Judges of the General Court in order to provide a structural solution to the difficult situation the General Court faces today in dealing with the volume of cases lodged every year and in absorbing the accumulated backlog. The Court of Justice requested an increase by twelve of the Judges to the General Court. In its opinion, the Commission agreed with the Court's choice to increase the General Court's membership by twelve, pointing out that this would allow for the establishment of four additional chambers. The Presidency believes that further reflection on the specific number of additional Judges could bring a new perspective into discussions on the method for designating the additional Judges. This is also closely linked to the financial consequences of the proposed reform and to other measures taken by the General Court with the aim of enhancing its efficiency and shortening the time needed to treat cases pending before it.

➤ **Delegations are invited to consider whether a solution involving the addition of a different number of Judges (6, 9 or 15 additional Judges) could be further explored.**

ii) Selection of Judges

➤ **In the light of earlier discussions, delegations are invited to reflect further on how judges should be selected.**

In particular the Presidency would like to explore

- (a) the precedents provided by existing arrangements for the selection and appointment of judges and Advocates General at the Court and General Court;
 - (b) the role to be played by the Article 255 Committee (bearing in mind that under the TFEU the committee's opinion will be required on all nominations);
 - (c) the relevance of factors such as geographical balance, representation of legal systems, continuity in the composition of the General Court, specialised knowledge and other elements.
-