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THE EUROPEAN UNION**

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INFORMATION NOTE

from:	General Secretariat of the Council
to:	Permanent Representatives Committee / Council
Subject:	Draft Regulation of the European Parliament and of the Council amending the Protocol on the Statute of the Court of Justice of the European Union and Annex I thereto – Outcome of the European Parliament's proceedings (Strasbourg, 9 to 12 December 2013)

I. INTRODUCTION

The Rapporteur, Ms Alexandra THEIN (ALDE-DE), presented a report consisting of one amendment (amendment 1) to the proposal for a Regulation, on behalf of the Committee on Legal Affairs.

II. DEBATE

No debate took place.

III. VOTE

When it voted on 12 December 2013, the Parliament adopted the single amendment (amendment 1) the text of which is annexed to this note.

The vote on the legislative resolution was postponed to a later session, thereby not closing the first reading, in order to keep the possibility open to start negotiations between the Council and the Parliament in view of a first reading agreement.

The matter was then referred back to the Committee on Legal Affairs, pursuant to Rule 57(2) of the European Parliament's Rules of Procedure.

Court of Justice of the European Union: number of judges at the General Court *I**

Amendments adopted by the European Parliament on 12 December 2013 on the draft regulation of the European Parliament and of the Council amending the Protocol on the Statute of the Court of Justice of the European Union by increasing the number of Judges at the General Court (02074/2011 – C7-0126/2012 – 2011/0901B(COD))¹

(Ordinary legislative procedure: first reading)

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the draft by the Court of Justice

Regulation of the European Parliament and of the Council amending the *Protocol on the Statute of the Court of Justice of the European Union by increasing the number of Judges at the General Court*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular the second subparagraph of Article 19(2) thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 254 and the second paragraph of Article 281 thereof,

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

Having regard to the request of the Court of Justice,

¹ The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0252/2013).

Having regard to the opinion of the Commission,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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- (5) As a consequence of the progressive expansion of its jurisdiction since its creation, the number of cases before the General Court is now constantly increasing.
- (6) The number of cases brought before the General Court ***has been steadily increasing over the years***, resulting ***over time*** in ***an*** increase in the number of cases pending before that court and an increase in the duration of proceedings.
- (7) That increase in the duration of proceedings does not appear to be acceptable from the point of view of litigants, particularly in the light of the requirements set out in Article 47 of the Charter of Fundamental Rights of the European Union and in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- (8) The situation in which the General Court finds itself has structural causes relating to the increase in the number and variety of legislative and regulatory acts of the institutions, bodies, offices and agencies of the European Union, as well as to the volume and complexity of the cases brought before the General Court, particularly in the areas of competition and State aid.
- (9) Consequently, the necessary measures should be taken to address this situation, and the possibility, provided for by the Treaties, of increasing the number of Judges of the General Court is such as to enable both the volume of pending cases and the excessive duration of proceedings before the General Court to be reduced within a short time.
- (9a) ***Those measures should also provide a permanent solution to the question of judges' Member States of origin, since the current arrangement, under which judges are appointed per Member State, cannot apply where there are more judges than Member States.***

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■ .

- (9b) *Pursuant to Article 19(2) of the Treaty on European Union, the General Court includes at least one judge per Member State. As that already ensures an appropriate geographical balance and representation of national legal systems, additional judges should be appointed exclusively on the basis of their professional and personal suitability, taking into account their knowledge of the legal systems of the European Union and of the Member States. However, there should be no more than two Judges for any Member State,*

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HAVE ADOPTED THIS REGULATION:

Article 1

Protocol No 3 on the Statute of the Court of Justice of the European Union *is* amended as follows:

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- (6a) *In Article 47, the first paragraph is replaced by the following:*

‘Article 9a, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the General Court and its members.’;

- (7) ■ Article 48 *is* replaced by the *following*:

‘In the General Court, there shall be one Judge per Member State and 12 additional Judges. There shall be no more than two Judges for any Member State.

All Judges shall have the same status and the same rights and obligations.

When, every three years, the Judges are partially replaced, one half of them shall be replaced, alternately, if there is an even number of Judges; and, on an alternating basis, if there is an uneven number of Judges, an even number of Judges and an uneven number of Judges, i.e. that number minus one, shall be replaced.’;

- (7a) *The following Article is inserted:*

‘Article 48a

In respect of the Judges to be appointed per Member State, the right of nomination shall lie with the government of the Member State in question.'

(7b) *The following Article is inserted:*

'Article 48b

- 1. The additional Judges shall be appointed regardless of nominees' Member States of origin.*
- 2. During a procedure to appoint one or more of the 12 additional Judges, all Member State governments may submit nominations. Furthermore, Judges retiring from the General Court may nominate themselves in a written submission to the chair of the panel referred to in Article 255 of the Treaty on the Functioning of the European Union.*
- 3. During a procedure to appoint one or more of the 12 additional Judges, the panel referred to in Article 255 of the Treaty on the Functioning of the European Union shall give an opinion on nominees' suitability to perform the duties of Judge of the General Court. The panel shall append to its opinion on candidates' suitability a list of candidates having the most suitable high-level experience, by order of merit. That list shall contain the names of at least twice as many nominees as there are Judges to be appointed by common accord of the governments of the Member States, provided that there is a sufficient number of suitable nominees.'*

Article 3

- 1. This Regulation shall enter into force on the first day of the month following that of its publication in the Official Journal of the European Union.*
- 2. The 12 additional Judges appointed on the basis, and following the entry into force, of this Regulation shall take up their duties immediately once they have taken the oath.*

The term of office of six of them, chosen by lot, shall end six years after the first partial replacement of the General Court following the entry into force of this Regulation. The

term of the other six judges shall end six years after the second partial replacement of the General Court following the entry into force of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., ...

For the European Parliament

For the Council

The President

The President