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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 Protocol No 3 on the Statute of the Court of Justice of the European Union - Outcome of the European Parliament's first reading (Strasbourg, 26 to 29 February 2024)

I. INTRODUCTION

In accordance with the provisions of Articles 281 and 294 of the TFEU, a number of informal contacts have taken place between the Council, the European Parliament, the Court of Justice and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Chair of the Committee on Legal Affairs (JURI), Adrián VÁZQUEZ LÁZARA (Renew, ES), presented on behalf of JURI a compromise amendment (amendment number 2) to the requested amendment to Protocol No 3 on the Statute of the Court of Justice, for which Ilana CICUREL (Renew, FR) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 27 February 2024, the plenary adopted the compromise amendment (amendment number 2) to the requested amendment to Protocol No 3 on the Statute of the Court of Justice. It constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[1].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[1] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
(27.2.2024)

P9_TA(2024)0086

Amendments to Protocol No 3 on the Statute of the Court of Justice of the European Union

European Parliament legislative resolution of 27 February 2024 on the draft regulation of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union (07307/2022 – C9-0405/2022 – 2022/0906(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the request from the Court of Justice submitted to Parliament and the Council (07307/2022),

– having regard to Article 256(3) and Article 281, second paragraph, of the Treaty on the Functioning of the European Union, and Article 106a(1) of the Treaty establishing the European Atomic Energy Community, pursuant to which the draft act was submitted to Parliament (C9-0405/2022),

– having regard to Article 294(3) and (15) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the Commission (COM(2023)0135),

– having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rules 50 and 59 of its Rules of Procedure,

– having regard to the opinion of the Committee on Constitutional Affairs,

– having regard to the report of the Committee on Legal Affairs (A9-0278/2023),

1. Adopts its position at first reading hereinafter set out;

2. Instructs its President to forward its position to the Council, the Commission, the Court of Justice and the national parliaments.

P9_TC1-COD(2022)0906

Position of the European Parliament adopted at first reading on 27 February 2024 with a view to the adoption of Regulation (EU, Euratom) 2024/… of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 256(3) and Article 281, second paragraph, 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,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Commission[1],

Acting in accordance with the ordinary legislative procedure[2],

[1] ***Opinion of 14 March 2023 (COM(2023)0135).***

[2] ***Position of the European Parliament of 27 February 2024.***

Whereas:

(1) ***In accordance with Regulation (EU, Euratom) 2015/2422*** of the European Parliament and of the Council[3] ▌, the Court of Justice submitted***, on 14 December 2017,*** to the European Parliament, the Council and the Commission a report on possible changes to the distribution of jurisdiction to give preliminary rulings under Article 267 of the Treaty on the Functioning of the European Union ***(TFEU)***. ▌In that report, the Court of Justice took the view that there was no need, at that time, to propose changes as regards the manner of dealing with requests for a preliminary ruling under Article 267 ***TFEU.*** Nevertheless***, in that same report, it*** pointed out ▌that a subsequent transfer of jurisdiction to the General Court to give preliminary rulings in certain specific areas could not be ruled out if the number and complexity of requests for a preliminary ruling submitted to the Court of Justice were to be such that the proper administration of justice required it. Furthermore, such a transfer is in line with the intentions of the authors of the Treaty of Nice, who sought to strengthen the efficiency of the judicial system of the Union by providing for the possibility of the General Court being involved in dealing with those requests.

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[3] ***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 (OJ L 341, 24.12.2015, p. 14).***

(2) According to the statistics of the Court of Justice, both the number of pending preliminary ruling cases and the average time taken to deal with those cases are increasing. ***As requests for a preliminary ruling have to be dealt with expeditiously in order to enable national courts to guarantee the right to an effective remedy, the current situation should be addressed.*** That situation is attributable not only to the high number of requests for a preliminary ruling of which the Court of Justice is seised each year, but also to the great complexity and particularly sensitive nature of a growing number of questions put to that court. In order to allow the Court of Justice to continue to fulfil its mission ***of safeguarding and strengthening the unity and consistency of Union law, and to ensure that the decisions of the Court of Justice are of the highest quality***, it is necessary, in the interests of the proper administration of justice, to make use of the possibility provided for in Article 256(3), first subparagraph, ***TFEU*** and to transfer to the General Court jurisdiction to hear and determine questions referred for a preliminary ruling under Article 267 ***TFEU***, in specific areas laid down by the Statute ***of the Court of Justice of the European Union ('the Statute')***.

(3) The transfer to the General Court of part of the jurisdiction to give preliminary rulings should enable the Court of Justice to devote more time and resources to examining the most complex and sensitive requests for a preliminary ruling and, in that framework, to enhance the dialogue with national courts, inter alia by making greater use of the mechanism provided for in Article 101 of the Rules of Procedure of the Court of Justice, which allows it to request clarification from a referring court or tribunal within a time limit prescribed by the Court of Justice, in addition to the statements of case or written observations submitted by interested persons referred to in Article 23 of the Statute.

(4) In this context, and as the Court of Justice is increasingly required, in preliminary ruling cases, to rule on matters of a constitutional nature or related to human rights and the Charter of Fundamental Rights of the European Union ('the Charter'), the transparency and openness of the judicial process should be strengthened. To that end, and without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council[4], the Statute should be amended in order to provide that the statements of case or written observations submitted by an interested person referred to in Article 23 of the Statute should be published on the website of the Court of Justice of the European Union within a reasonable time after the closing of the case, unless that person raises objections to the publication of that person's own written submissions, in which case it will be mentioned on the same website that such an objection has been raised. Such a publication will increase accountability and build trust in the Union as well as in Union law.

[4] ***Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).***

(5) ***Following the reform of the Union's judicial framework as a result of Regulation (EU, Euratom) 2015/2422,*** the General Court is currently in a position to be able to deal with the increase in workload that will follow from ***the*** transfer of jurisdiction ***to give preliminary rulings in some specific areas***. Nevertheless, since the workload of the General Court is closely related to developments in the Union's activity, care should be taken to ensure that the General Court remains capable of fully exercising its powers of review in respect of the institutions, bodies, offices and agencies of the Union ▌.

(6) For reasons of legal certainty, ***it is essential that*** the areas in which jurisdiction to give preliminary rulings is conferred on the General Court ▌ be clearly defined and sufficiently separable from other areas. Furthermore, ***it is also important that*** those areas be ones that have given rise to a substantial body of case-law of the Court of Justice which is capable of guiding the General Court in the exercise of its jurisdiction to give preliminary rulings.

(7) The specific areas ***should*** moreover be determined taking into account the need to relieve the Court of Justice from having to examine a sufficiently high number of preliminary ruling cases so as to have a real impact on its workload.

(8) ***It is on the basis of those criteria that the determination of the specific areas in which jurisdiction to give preliminary rulings is conferred on the General Court should be made. Having regard to the developing nature of Union law, that determination should be made by relying on the conventional manner of referring to those specific areas. In order to ensure that that determination can continue to be made in the future, with the necessary legal certainty, despite developments of Union law regarding those specific areas, it is important to take into account the matters typically covered by those specific areas at the time of adoption of this Regulation.***

(9) The common system of value added tax, excise duties, the Customs Code and the tariff classification of goods under the Combined Nomenclature meet ▌the ▌ criteria to be ***regarded*** as specific areas within the meaning of Article 256(3), first subparagraph, ***TFEU***. ***Those areas cover, at the time of adoption of this Regulation, matters such as the determination of the tax base for the assessment of value added tax or the conditions for the exemption from payment of that tax; the interpretation of the general arrangements for excise duty and of the framework relating to duties on alcohol, alcoholic beverages, tobacco, energy products and electricity; the elements on the basis of which import or export duties are applied in the context of the trade in goods, such as the common customs tariff, the origin and customs value of goods; import and export procedures, including the incurrence, determination and extinction of a customs debt; specific customs arrangements; the system of relief from customs duties, as well as the interpretation of specific tariff headings and the criteria for the classification of certain goods in the Combined Nomenclature laid down in Annex I to Council Regulation (EEC) No 2658/87[5]***.

[5] ***Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).***

(10) Compensation and assistance to passengers ***where transport services are delayed or cancelled or where passengers are denied boarding meet the criteria to be regarded as a specific area within the meaning of Article 256(3), first subparagraph, TFEU, and cover matters that are at the time of adoption of this Regulation regulated by Regulations (EC) No 261/2004[6], (EU) No 1177/2010[7], (EU) No 181/2011[8] and (EU) 2021/782[9] of the European Parliament and of the Council. The same criteria are also met in relation to*** the system for greenhouse gas emission allowance trading, ***at the time of adoption of this Regulation regulated by Directive 2003/87/EC of the European Parliament and of the Council[10] and by the acts adopted on the basis of that directive***.

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6 ***Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).***

7 ***Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1).***

8 ***Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).***

9 ***Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (OJ L 172, 17.5.2021, p. 1).***

10 ***Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).***

(11) Having regard to the substantive criterion applicable to the distribution between the Court of Justice and the General Court of jurisdiction to give preliminary rulings, it is ***important***, for reasons of legal certainty and expedition, that it not be the referring courts or tribunals themselves that decide the question as to which ***court*** has jurisdiction to hear and determine a request for a preliminary ruling. Every request for a preliminary ruling ***should*** therefore be submitted to ▌ the Court of Justice, which ***should*** determine, in accordance with detailed rules ▌ set out in its Rules of Procedure, whether the request falls exclusively within one or several specific defined areas laid down in the Statute and, accordingly, whether that request is to be ***transmitted to*** the General Court. ▌

(12) The Court of Justice should continue to adjudicate on requests for a preliminary ruling that, although connected to the specific areas in respect of which jurisdiction to give preliminary rulings is conferred on the General Court by this Regulation, also concern other areas, since Article 256(3), first subparagraph, TFEU does not provide any possibility of transferring to the General Court jurisdiction to give preliminary rulings in areas other than the specific areas.

(13) The right to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law is a fundamental right guaranteed by Article 47, second paragraph, of the Charter. Therefore, it should be clearly stated in the Statute itself that the Court of Justice will retain jurisdiction where the request for a preliminary ruling raises independent questions of interpretation of primary law, public international law, general principles of Union law or the Charter, having regard to their horizontal nature, even where the legal framework of the case in the main proceedings falls within one or more of the specific areas in respect of which jurisdiction to give preliminary rulings is conferred on the General Court by this Regulation.

(14) Following a preliminary analysis, and after hearing the Vice-President of the Court of Justice and the First Advocate General, the President of the Court of Justice should inform the Registry whether the request for a preliminary ruling should be transferred to the General Court or should be referred, for further analysis, to the general meeting in which all the Judges and Advocates General of the Court of Justice participate. In the interest of the proper and speedy administration of justice, the process of assessing whether the request should be transferred to the General Court should be carried out within a time frame that does not exceed what is strictly necessary, taking into account the nature, the length and the complexity of the case.

(15) In the interest of legal certainty and greater transparency of judicial proceedings, the Court of Justice or the General Court should briefly provide reasons, in its ruling on a preliminary reference, as to why it is competent to hear and determine a question referred for a preliminary ruling. In addition, the Court of Justice should publish and regularly update a list of examples illustrating the application of Article 50b of the Statute as inserted by this amending Regulation.

(16) The General Court will decide on issues of jurisdiction or admissibility raised explicitly or implicitly by the request for a preliminary ruling transferred to it.

(17) Article 54, second paragraph, of the Statute provides that, where the General Court finds that it does not have jurisdiction to hear and determine an action, it is to refer that action to the Court of Justice. The same obligation should apply if the General Court, while examining a request for a preliminary ruling submitted to it, finds that the request does not meet the criteria laid down in Article 50b, first paragraph, of the Statute as inserted by this amending Regulation.

(18) Furthermore, the General Court may, pursuant to Article 256(3), second subparagraph, TFEU, refer to the Court of Justice a case that falls within its jurisdiction but requires a decision of principle likely to affect the unity or consistency of Union law.

(19) In order to provide the national courts and the interested persons referred to in Article 23 of the Statute with the same guarantees as those provided by the Court of Justice, the General Court ***should*** adopt procedural rules equivalent to those applied by the Court of Justice when dealing with requests for a preliminary ruling, in particular as regards the designation of an Advocate General. ***The Judges of the General Court should elect from among their number the Members that are to perform the duties of Advocate General for a renewable period of three years. In the period during which those Members perform the duties of Advocate General, they should not sit as Judges in cases governed by Article 267 TFEU. Furthermore, in order to ensure his or her independence, the Advocate General designated to deal with a request for a preliminary ruling should belong to a chamber other than the one to which that request has been assigned.***

(20) Having regard to the specific features of preliminary ruling proceedings as compared with direct actions over which the General Court has jurisdiction, it is appropriate to ***assign*** requests for a preliminary ruling to chambers of the General Court designated for that purpose.

(21) In addition, in order to maintain, in particular, the consistency of preliminary rulings given by the General Court, and in the interests of the proper administration of justice, provision should be made for a chamber of the General Court of an intermediate size between the chambers of five Judges and the Grand Chamber. ***Given the increased responsibilities of the General Court, introduced as a result of this Regulation, a Member State or an institution of the Union that is a party to the proceedings should be able to request the convening of such a chamber of intermediate size when the General Court is seised pursuant to Article 267 TFEU.***

(22) According to the statistics of the Court of Justice a high number of appeals is brought against the decisions of the General Court. With a view to maintaining the efficiency of appeal proceedings and allowing the Court of Justice to focus on the appeals that raise important legal questions, ▌ the mechanism for the determination of whether an appeal is allowed to proceed ***should be extended***, whilst ensuring that the requirements inherent in effective judicial protection are met.

(23) The mechanism for the determination of whether an appeal is allowed to proceed ***should be extended*** to appeals whose subject matter is a decision of the General Court concerning the decision of an independent board of appeal of ***a*** body***, an office,*** or ***an*** agency of the Union which, on 1 May 2019, had such an independent board of appeal but to which Article 58a of the Statute ▌ does not yet refer. Such appeals concern cases which have already been considered twice, initially by an independent board of appeal, then by the General Court, with the result that the right to effective judicial protection is fully guaranteed.

(24) ▌ The mechanism for the determination of whether an appeal is allowed to proceed ***should also be extended*** to disputes relating to the performance of contracts containing an arbitration clause, within the meaning of Article 272 ***TFEU, which most frequently merely*** require the General Court ▌ to apply to the substance of the dispute the national law to which the arbitration clause refers***. Where the General Court is required to apply Union law to the substance of the dispute, appeals brought against the decisions of the General Court delivered in relation to such disputes should be allowed to proceed where they*** raise ▌ issues that are significant with regard to the unity, consistency or development of Union law.

(25) Article 23 of the Statute entitles the European Parliament, the Council and the European Central Bank to submit statements of case or written observations to the Court of Justice where they have adopted the act the validity or interpretation of which is in dispute. In its jurisdictional practice, the Court of Justice has nevertheless already permitted the European Parliament and the European Central Bank to take part in procedures concerning other requests for a preliminary ruling where they had a particular interest in the issues raised by the national court.

(26) Article 23 of the Statute should therefore be amended to provide that all decisions of the court or tribunal of a Member State which refer a case to the Court of Justice are to be notified to the European Parliament, the Council and the European Central Bank, so that they can assess whether they have such a particular interest and decide whether they wish to exercise their right to submit statements of case or written observations. Such amendment should be without prejudice to the right of other institutions, bodies, offices or agencies to submit statements of case or written observations where they have adopted the act the validity or interpretation of which is in dispute.

(27) This Regulation entails a significant change to the Union's judicial framework and therefore its implementation should be closely monitored. To that end, the Court of Justice should submit to the European Parliament, the Council and the Commission, in a timely manner, a report on the transfer to the General Court of jurisdiction for preliminary rulings in specific areas and on the extension of the mechanism for the determination of whether an appeal is allowed to proceed. The Court of Justice should, in particular, provide information that allows an assessment of the extent to which the stated objectives were achieved, having regard to the speed with which cases were dealt with and the efficiency of the examination of the most complex or sensitive appeals and requests for a preliminary ruling.

(28) The European Parliament and the Court of Justice have developed a constructive dialogue on the functioning of the judicial system of the Union, which proved particularly beneficial in the context of the present reform. That dialogue, to which experts may be invited whenever appropriate, should be pursued in a structured manner on a yearly basis, with due respect for the role and competences of each institution, in order to discuss the implementation of the reform of the Statute introduced by this Regulation and to reflect on further improvements.

(29) Public and stakeholders consultation is integral to well-informed decision-making and to improving the quality of law making. Before adopting a request or a proposal to amend provisions of Protocol No. 3 on the Statute pursuant to Article 281 TFEU, the Court of Justice or the Commission should conduct public consultations in an open and transparent way, ensuring that the modalities and time limits of those public consultations allow for the widest possible participation. The results of public and stakeholder consultations should be communicated without delay, as the case may be, to the Commission or to the Court of Justice, as well as to the European Parliament and to the Council, and made public.

(30) Protocol No 3 on the Statute of the Court of Justice of the European Union should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

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

(1) Article 23 is amended as follows:

(a) the first and the second paragraphs are replaced by the following:

'In the cases governed by Article 267 of the Treaty on the Functioning of the European Union, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court of Justice shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States, to the European Parliament, to the Council, to the Commission and to the European Central Bank, as well as to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute.

Within two months of this notification, the parties, the Member States, the Commission and, where they consider they have a particular interest in the issues raised by the request for a preliminary ruling, the European Parliament, the Council and the European Central Bank shall be entitled to submit statements of case or written observations to the Court of Justice. Where appropriate, the institution, body, office or agency which has adopted the act the validity or interpretation of which is in dispute shall also be entitled to submit statements of case or written observations.';

(b) the following paragraph is added:

'Statements of case or written observations submitted by an interested person pursuant to this Article shall be published on the website of the Court of Justice of the European Union within a reasonable time after the closing of the case, unless that person raises objections to the publication of that person's own written submissions.';

(2) the following Article is inserted:

'Article 49a

The General Court shall be assisted by one or more Advocates General in dealing with requests for a preliminary ruling transmitted to it in accordance with Article 50b.

The Judges of the General Court shall elect from among their number, in accordance with the Rules of Procedure of the General Court, the Members that are to perform the duties of Advocate General. In the period during which those Members perform the duties of Advocate General, they shall not sit as Judges in requests for a preliminary ruling.

For each request for a preliminary ruling, the Advocate General shall be selected from among the Judges elected to perform that duty who belong to a chamber other than the chamber to which the request in question has been assigned.

The Judges elected to perform the duties referred to in the second paragraph shall be elected for a term of three years. They may be re-elected once.';

(3) Article 50 is amended as follows:

(a) the second and third paragraphs are replaced by the following:

‘The General Court may also sit in a Grand Chamber, in a chamber of an intermediate size between the chambers of five Judges and the Grand Chamber, or be constituted by a single Judge.

The Rules of Procedure shall govern the composition of the chambers and the circumstances in which and conditions under which the General Court shall sit in its different formations.’;

(b) the following paragraph is added:

‘The General Court, where seised pursuant to Article 267 of the Treaty on the Functioning of the European Union, shall sit in a chamber of intermediate size when a Member State or an institution of the Union that is a party to the proceedings so requests.’;

▌

(4) the following Article is inserted ▌:

‘Article 50b

The General Court shall have jurisdiction to hear and determine requests for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union that come exclusively within one or several of the following specific areas:

(a) the common system of value added tax;

(b) excise duties;

(c) the Customs Code ▌;

(d) ***the tariff classification of goods under the Combined Nomenclature;***

(e) compensation and assistance to passengers ***in the event of denied boarding or of delay or cancellation of transport services***;

(f) the system for greenhouse gas emission allowance trading.

Notwithstanding the first paragraph, the Court of Justice shall retain jurisdiction to hear and determine requests for a preliminary ruling that raise independent questions relating to the interpretation of primary law, public international law, general principles of Union law or the Charter of Fundamental Rights of the European Union.

Every request for a preliminary ruling made under Article 267 of the Treaty on the Functioning of the European Union shall be submitted to the Court of Justice. After verifying, ***as quickly as possible and*** in accordance with the detailed rules set out in its Rules of Procedure, that the request for a preliminary ruling falls exclusively within one or more of the areas to which the first paragraph of this Article refers, the Court of Justice shall ***transfer*** that request to the General Court.

The requests for a preliminary ruling ***that*** the General Court ***hears and determines under Article 267 of the Treaty on the Functioning of the European Union*** shall be assigned ▌to chambers designated for that purpose▌ in accordance with the detailed rules set out in its Rules of Procedure.';

(5) in Article 54, the second paragraph is replaced by the following:

'Where the General Court finds that it does not have jurisdiction to hear and determine an action or a request for a preliminary ruling in respect of which the Court of Justice has jurisdiction, it shall refer that action or request to the Court of Justice. Likewise, where the Court of Justice finds that an action or a request for a preliminary ruling falls within the jurisdiction of the General Court, it shall refer that action or request to the General Court, whereupon that Court may not decline jurisdiction.';

▌

(6) Article 58a ▌ is replaced by the following:

'***Article 58a***

An appeal brought against a decision of the General Court concerning a decision of an independent board of appeal of one of the following ▌ bodies***, offices*** and agencies of the Union shall not proceed unless the Court of Justice first decides that it should be allowed to do so:

(a) the European Union Intellectual Property Office;

(b) the Community Plant Variety Office;

(c) the European Chemicals Agency;

(d) the European Union Aviation Safety Agency;

(e) the European Union Agency for the Cooperation of Energy Regulators;

(f) the Single Resolution Board;

(g) the European Banking Authority;

(h) the European Securities and Markets Authority;

(i) the European Insurance and Occupational Pensions Authority;

(j) the European Union Agency for Railways.

The procedure referred to in the first paragraph shall also apply to appeals brought against:

(a) decisions of the General Court concerning a decision of an independent board of appeal, set up after 1 May 2019 within any other ▌ body***, office*** or agency of the Union, which ***has to*** be seised before an action can be brought before the General Court;

(b) decisions of the General Court relating to the performance of a contract containing an arbitration clause, within the meaning of Article 272 of the Treaty on the Functioning of the European Union.

An appeal shall be allowed to proceed, wholly or in part, in accordance with the detailed rules set out in the Rules of Procedure, where it raises an issue that is significant with respect to the unity, consistency or development of Union law.

The decision as to whether the appeal should be allowed to proceed or not shall be reasoned, and it shall be published.';

(7) the following Article is inserted in Title V of the Statute:

'Article 62d

Before submitting a request or a proposal for the amendment of this Statute, the Court of Justice or the Commission, as appropriate, shall consult widely.'.

Article 2

1. Requests for a preliminary ruling made under Article 267 of the Treaty on the Functioning of the European Union and pending before the Court of Justice on the first day of the month following the date of entry into force of this Regulation shall be dealt with by the Court of Justice.

2. Appeals against decisions of the General Court concerning a decision of a board of appeal of one of the ▌ bodies***, offices*** or agencies of the Union referred to in Article 58a, first paragraph***, points*** (e) to (j), ***of the Statute,*** and ***against decisions*** referred to in ▌ Article 58a, second paragraph, ***point (b), of the Statute,*** of which the Court of Justice is seised on the date of entry into force of this Regulation, are not covered by the mechanism for the determination of whether an appeal is allowed to proceed.

Article 3

1. By ... [one year from the date of entry into force of this amending Regulation], the Court of Justice shall publish and regularly update a list of examples of the application of Article 50b of the Statute.

2. By ... [four years from the date of entry into force of this amending Regulation], the Court of Justice shall present a report to the European Parliament, the Council and the Commission on the implementation of the reform of the Statute introduced by this Regulation.

In that report, the Court shall set out at least:

(a) the number of requests for a preliminary ruling received under Article 267 TFEU;

(b) the number of requests for a preliminary ruling in each of the specific areas indicated in Article 50b, first paragraph, of the Statute;

(c) the number of requests for a preliminary ruling examined by the General Court and the specific areas referred to in Article 50b, first paragraph, of the Statute to which they related, and, where appropriate, the number of cases referred by the General Court to the Court of Justice as well as the number of decisions of the General Court that were subject to the review procedure laid down in Article 62 of the Statute;

(d) the number and nature of the requests for a preliminary ruling that were not transmitted to the General Court despite the fact that the legal framework of the case in the main proceedings came within one or several of the specific areas referred to in Article 50b, first paragraph, of the Statute;

(e) the average length of time spent on dealing with requests for preliminary rulings under Article 50b of the Statute at both the Court of Justice and the General Court, on the verification procedure laid down in Article 50b, third paragraph, of the Statute, and on the review procedure laid down in Article 62 of the Statute;

(f) the number and nature of the cases that were subject to the mechanism for the determination of whether an appeal is allowed to proceed;

(g) information allowing an assessment of the extent to which the objectives laid down in this Regulation were achieved, having regard to the speed with which cases were dealt with and the efficiency of the examination of the most complex or sensitive appeals and requests for a preliminary ruling, in particular through increased exchanges with referring courts or tribunals under Article 101 of the Rules of Procedure of the Court of Justice;

(h) information on the application of Article 23, fifth paragraph, of the Statute, in particular on the written submissions published and objections raised.

The report shall be accompanied, where appropriate, by a request for a legislative act to amend the Statute, in particular with a view to amending the list of specific areas laid down in Article 50b, first paragraph, of the Statute.

Article 4

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*.

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***