Council of the European Union

Brussels, 10 June 2016
(OR. en)

9975/16

Interinstitutional File:
2015/0906 (COD)

CODEC 845
JUR 282
INST 254
COUR 32
PE 70

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the transfer to the General Court of the European Union of jurisdiction at first instance in disputes between the Union and its servants - Outcome of the European Parliament's first reading (Strasbourg, 6 June to 9 June 2016)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure [1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Ms Mady DELVAUX (S&D - LU) presented one compromise amendment (amendment 5) to the proposed Regulation, on behalf of the Committee on Legal Affairs. This amendment had been agreed during the informal contacts referred to above. One further amendment (amendment 6) was tabled which introduces a reference to gender balance in the legislative resolution.

[1] OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 9 June 2016, the plenary adopted the compromise amendment [amendment 5] to the proposed Regulation and amendment 6 on the legislative resolution.

The Court's proposal as thus amended and the legislative resolution constitute the Parliament's first-reading position [2], it 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.

---

[2] The text of the amendment adopted and the European Parliament's legislative resolution are set out in the Annex. The amendment is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol " ▌ " indicates deleted text.

ANNEX
(09.06.2016)

Transfer to the General Court of jurisdiction at first instance in EU civil service cases ***I

European Parliament legislative resolution of 9 June 2016 on the draft regulation of the European Parliament and of the Council on the transfer to the General Court of the European Union of jurisdiction at first instance in disputes between the Union and its servants (N8-0110/2015 – C8-0367/2015 – 2015/0906(COD))

1. (Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the request from the Court of Justice submitted to Parliament and the Council (N8-0110/2015),

– having regard to the second subparagraph of Article 19(2) of the Treaty on European Union, Article 256(1), the first and second paragraphs of Article 257 and the second paragraph of Article 281 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 (C8-0367/2015),

– having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

– having regard to Article 294(3) and (15) of the Treaty on the Functioning of the European Union and Article 256(1), the first and second paragraphs of Article 257 and the second paragraph of Article 281 of the Treaty on the Functioning of the European Union, and Article 106a(1) of the Treaty establishing the European Atomic Energy Community ,

– having regard to 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[3], and in particular recital 9 thereof,

– having regard to the opinion of the Commission (COM(2016)0081)[4],

– having regard to the undertaking given by the Council representative by letter of 18 May 2016 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 and 39 of its Rules of Procedure,

– having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Constitutional Affairs (A8-0167/2016),

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

---

[3] OJ L 341, 24.12.2015, p. 14.

[4] Not yet published in the Official Journal.

2. Recalls the importance of gender balance among the judges at the Court of Justice of the European Union;

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

P8_TC1-COD(2015)0906

Position of the European Parliament adopted at first reading on 9 June 2016 with a view to the adoption of Regulation (EU, Euratom) 2016/... of the European Parliament and of the Council on the transfer to the General Court of ▌ jurisdiction at first instance in disputes between the *European* Union and its servants

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(1), the first and second paragraphs of Article ***257,*** 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,

▌

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

Having regard to the opinion of the European Commission[5],

Acting in accordance with the ordinary legislative procedure[6],

[5] ***Opinion of 22 February 2016 (not yet published in the Official Journal).***

[6] Position of the European Parliament of 9 June 2016.

Whereas:

(1) Article 48 of Protocol No 3 on the Statute of the Court of Justice of the European Union, as amended by Regulation (EU, Euratom) 2015/***2422*** of the European Parliament and of the Council[7], provides that the General Court, consisting of 40 Judges as from ***25 December 2015, is to*** consist of 47 Judges as from 1 September 2016, and of two Judges per Member State as from 1 September 2019.

(2) ***As indicated in*** recital 9 ***of*** Regulation ***(EU, Euratom) 2015/2422, the increase*** by seven ***of*** the number of Judges of the General Court on 1 September 2016 ***should be accompanied by the transfer*** to the General Court ***of*** jurisdiction at first instance in disputes between the Union and its servants under Article 270 ***of the Treaty on the Functioning of the European Union (TFEU). This transfer of jurisdiction*** presupposes, in accordance with Article 256(1) TFEU, the dissolution of the European Union Civil Service Tribunal ***("Civil Service Tribunal").*** ▌

[7] ***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 of 24.12.2015, p. 14).***

(3) ***Accordingly, jurisdiction at first instance*** in disputes between all institutions, bodies, offices or agencies, on the one hand, and their servants, on the other, in respect of which jurisdiction is conferred on the Court of Justice of the European Union***, should be conferred on the General Court***.

(4) It is therefore necessary to repeal Council Decision 2004/752/EC, Euratom[8] and Regulation (EU, Euratom) No 979/2012 of the European Parliament and of the Council[9] as well as to amend Protocol No 3.

(5) The General Court should try ***European Union civil service cases taking into account*** the specific features of ▌ disputes ***in that field, including by*** examining the possibilities for amicable settlement ▌ at all stages of the procedure. ▌

(6) Furthermore, ▌ in order to ensure the efficient conduct of proceedings in the cases pending before the ▌ Civil Service Tribunal on the date of transfer, and to lay down the rules applicable to appeals under examination as at that date, or brought subsequently, against decisions of that Tribunal***, provision should be made for appropriate transitional arrangements concerning the transfer to the General Court of European Union civil service cases,***

HAVE ADOPTED THIS REGULATION:

---

8 ***Council Decision 2004/752/EC, Euratom of 2 November 2004 establishing the European Union Civil Service Tribunal (OJ L 333, 9.11.2004, p. 7).***

9 ***Regulation (EU, Euratom) No 979/2012 of the European Parliament and of the Council of 25 October 2012 relating to temporary Judges of the European Union Civil Service Tribunal (OJ L 303, 31.10.2012, p. 83).***

Article 1

Decision 2004/752/EC, Euratom ***and*** Regulation (EU, Euratom) No 979/2012 ***are repealed***.

Article 2

Protocol No 3 ▌ is amended as follows:

(1) The following article is inserted:

"*Article 50a*

1. The General Court shall exercise at first instance jurisdiction in disputes between the Union and its servants as referred to in Article 270 of the Treaty on the Functioning of the European Union, including disputes between all institutions, bodies, offices or agencies, on the one hand, and their servants, on the other, in respect of which jurisdiction is conferred on the Court of Justice of the European Union.

2. At all stages of the procedure, including the time when the application is filed, the General Court may examine the possibilities of an amicable settlement of the dispute and may try to facilitate such settlement.***".***

(2) ***Article 62c is replaced by the*** following ▌ :

"*Article 62c*

The provisions relating to the jurisdiction, composition, organisation and procedure of any specialised court established under Article 257 ***of the Treaty on the Functioning of the European Union*** shall be contained in an Annex to this Statute.***".***

(3) Annex I is deleted.

Article 3

Cases pending before the ▌ Civil Service Tribunal on 31 August 2016 shall be transferred to the General Court. The General Court shall continue dealing with those cases as it finds them at that date ***and in accordance with its Rules of Procedure***. In the event of a case being transferred to the General Court after the oral part of the procedure has been closed, that part of the procedure shall be reopened.

Article 4

Notwithstanding point (3) of Article 2 of this Regulation, Articles 9 to 12 of Annex I to Protocol No 3 ▌ shall continue to apply to the appeals against decisions of the ▌ Civil Service Tribunal of which the General Court is seised as at 31 August 2016 or which are brought after that date. If the General Court sets aside a decision of the ▌ Civil Service Tribunal but considers that the state of the proceedings does not permit a decision, it shall refer the case to a chamber other than that which ruled on the appeal.

Article 5

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*.

It shall apply from 1 September 2016.

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*