

AMENDMENTS 001-011

by the Committee on Legal Affairs

Recommendation for second reading**António Marinho e Pinto****A8-0296/2015**

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

Council position (09375/1/2015 – C8-0166/2015 – 2011/0901B(COD))

Amendment 1**Council position****Recital 1***Council position*

(1) As a consequence of the progressive expansion of its jurisdiction since its creation, the number of cases 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. ***This has*** an impact on the duration of proceedings.

Amendment

(1) As a consequence of the progressive expansion of its jurisdiction since its creation, the number of cases before the General Court has ***increased*** over the years, resulting over time in an increase in the number of cases pending before that Court. ***Unless suitable measures of both a procedural and an organisational nature are taken, including increasing the number of Judges at that Court, it is possible that this would have*** an impact on the duration of proceedings.

Amendment 2**Council position****Recital 3***Council position*

(3) The situation in which the General Court finds itself has ***structural*** causes

Amendment

(3) The situation in which the General Court finds itself has causes relating,

relating, inter alia, to the increase in the number and variety of legal acts of the institutions, bodies, offices and agencies of the 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.

inter alia, to the increase in the number and variety of legal acts of the institutions, bodies, offices and agencies of the Union, to the volume and complexity of the cases brought before the General Court, particularly in the areas of competition, State aid *and intellectual property, and to the fact that relevant specialised courts have not been established as provided for in Article 257 TFUE.*

Amendment 3

Council position

Recital 5

Council position

(5) Taking into account the *likely* evolution of the workload of the General Court, the number of Judges should be fixed at 56 at the end of a three-stage process, it being understood that at no point of time can there be more than two Judges sitting at the General Court appointed upon a proposal by the same Member State.

Amendment

(5) Taking into account the evolution of the workload of the General Court, the number of Judges should be fixed at 56 at the end of a three-stage process, *that is to say two Judges who are each appointed upon a proposal by each of the Member States*, it being understood that at no point of time can there be more than two Judges sitting at the General Court appointed upon proposal by the same Member State.

Amendment 4

Council position

Recital 5 a (new)

Council position

Amendment

(5a) The appointment of additional Judges should be based on their independence, impartiality and expertise, taking account of their professional and personal suitability and their knowledge of the legal systems of the European Union and of the Member States, and should ensure, furthermore, gender balance in the overall composition of the Court.

Amendment 5

Council position Recital 7

Council position

(7) In September 2016, first instance jurisdiction in Union civil service cases, and the seven posts of the Judges sitting at the European Union Civil Service Tribunal, should be transferred to the General Court, on the basis of a future legislative request by the Court of Justice.

Amendment

(7) As the Court of Justice has already announced, a second legislative proposal will be presented to determine all of the detailed arrangements for the transfer of the European Union Civil Service Tribunal, including its seven posts of Judge and its staff and resources.

Amendment 6

Council position Recital 8 a (new)

Council position

Amendment

(8a) Partial replacements in the General Court should be organised in such a way that the governments of Member States gradually begin to nominate two Judges for the same partial replacement. In order, therefore, to ensure a balance between women and men within that Court [joint declaration of... *], the governments of the Member States should aim to choose one woman and one man, provided that the conditions and procedures laid down by the Treaty are respected. Article 19 (2) of the Treaty on European Union provides that the Court of Justice is to include at least one Judge per Member State. Since this system already ensures there is a definite geographical balance, additional Judges should be appointed primarily on the basis of their professional and personal skills, and in the light of their knowledge of the legal systems of the European Union and its Member States; only then should account be taken of their nationality.

** OJ: please insert the date of entry into force of this Regulation.*

Amendment 7

Council position

Recital 9 a (new)

Council position

Amendment

(9a) Nineteen legal secretaries should be appointed so that every Judge can have an additional legal secretary (taking into account the nine secretaries appointed in 2014), this being an arrangement already existing within the Court of Justice.

Amendment 8

Council position

Article 1 – point 2 a (new)

Protocol No 3

Article 48

Council position

Amendment

(2a) The following paragraph is added to Article 48:

‘In 2019, prior to the replacement of the General Court confirming the decision to allocate nine additional Judges to it, an impact study shall be carried out to determine whether it is necessary to allocate those nine Judges to that Court, in the light of the workload.’

Amendment 9

Council position

Article 1 – point 2 b (new)

Protocol No 3

Article 48 a (new)

Council position

Amendment

(2b) The following Article is inserted:

‘Article 48a

Nominations from a Member State shall

only be admissible if they concern either one candidate of each sex where two nominations are to be made at the same time upon the proposal of that Member State, or a candidate of the opposite sex to that of any Judge continuing to sit in the General Court where the nomination for the second judge's post upon the proposal of that Member State is not made at the same time as that for the first judge's post.'

Justification

See paragraph 15 of the Report on women in political decision-making (2011/2295(INI)) (PIETIKÄINEN), adopted in plenary 3.2.2012, that '[c]alls on the Member States to promote positive actions, including binding legislative measures, with a view to ensuring parity in all governing bodies and public appointments and to develop tools for gender monitoring of nominations and elections;'

Amendment 10

Council position Article 2

Council position

The term of office of the additional Judges of the General Court to be appointed pursuant to Article 48 of Protocol No 3 on the Statute of the Court of Justice of the European Union shall be as follows:

(a) The term of office of six of the twelve additional Judges to be appointed as from ...⁴, shall end on 31 August 2016. Those six Judges shall be chosen *by lot*. The term of office of the other six Judges shall end on 31 August 2019;

(b) The term of office of three of the seven additional Judges to be appointed as from 1 September 2016 shall end on 31 August 2019. Those three Judges shall be chosen *by lot*. The term of office of the other four Judges shall end on 31 August 2022;

Amendment

The term of office of the additional Judges of the General Court to be appointed pursuant to Article 48 of Protocol No 3 on the Statute of the Court of Justice of the European Union shall be as follows:

(a) The term of office of six of the twelve additional Judges to be appointed as from ...^{*}, shall end on 31 August 2016. Those six Judges shall be chosen *in such a way that the governments of six Member States nominate two Judges each for the partial replacement of the General Court in 2016*. The term of office of the other six Judges shall end on 31 August 2019;

(b) The term of office of three of the seven additional Judges to be appointed as from 1 September 2016 shall end on 31 August 2019. Those three Judges shall be chosen *in such a way that the governments of three Member States nominate two Judges each for the partial replacement of the General Court in 2019*.

(c) The term of office of four of the nine additional Judges to be appointed as from 1 September 2019 shall end on 31 August 2022. Those four Judges shall be chosen *by lot*. The term of office of the other five Judges shall end on 31 August 2025.

⁴ OJ: insert "1 September 2015", or the date of entry into force of this Regulation if that date is after 1 September 2015.

Amendment 11

Council position Article 2 a (new)

Council position

The term of office of the other four Judges shall end on 31 August 2022;

(c) The term of office of four of the nine additional Judges to be appointed as from 1 September 2019 shall end on 31 August 2022. Those four Judges shall be chosen *in such a way that the governments of four Member States nominate two Judges each for the partial replacement of the General Court in 2022*. The term of office of the other five Judges shall end on 31 August 2025.

* JO: please insert the date of entry into force of this Regulation.

Amendment

Article 2a

1. By ..., the Court of Justice shall draw up a report, using an external consultant, for the European Parliament, the Council and the Commission on the functioning of the General Court.*

In particular, that report shall focus on the efficiency of the General Court, the necessity and effectiveness of the increase in the number of its judges to 56, the use and effectiveness of resources and the further establishment of specialised chambers and/or other structural changes.

The Court of Justice shall submit legislative proposals to amend its Statute accordingly.

2. By ..., the Court of Justice shall draw up a report for Parliament, the Council and the Commission on possible changes to the distribution of competence for preliminary rulings under Article 267 of*

the Treaty on the Functioning of the European Union. The report shall be accompanied, where appropriate, by legislative proposals.

** OJ: please insert the date: five years after the entry into force of this Regulation.*

*** OJ: please insert the date: two years after the entry into force of this Regulation.*