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*Committee on Legal Affairs*

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**2011/0901(COD)**

12.1.2012

# **AMENDMENTS**

## **14 - 24**

**Draft report**  
**Diana Wallis**  
(PE475.771v01-00)

on the draft regulation of the European Parliament and of the Council  
amending the Statute of the Court of Justice of the European Union

Draft regulation  
(02074/2011 – C7-0090/2011 – 2011/0901(COD))

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PE478.661v01-00

**EN**

*United in diversity*

**EN**



**Amendment 14**  
**Paulo Rangel**

**Draft regulation**  
**Recital 9 a (new)**

*Draft by the Court of Justice*

*Amendment*

***(9a) Once the number of Judges of the General Court has been increased, the question of their appointment will naturally arise. Regarding the system for appointing Judges, Member States should agree on rules offering every guarantee as regards the independence, impartiality, competence and suitability of the persons appointed, and ensuring a balanced composition of the General Court on as broad a geographical basis as possible from among nationals of the Member States.***

Or. pt

**Amendment 15**  
**Marielle Gallo**

**Draft regulation**  
**Recital 9 a (new)**

*Draft by the Court of Justice*

*Amendment*

***(9a) To ensure an appropriate balance between Member States as regards the additional Judges of the Court, Declaration 38 attached to the final act of the Intergovernmental Conference which adopted the Lisbon Treaty should be used as a guide. The additional Judges should include one from among the nationals of each of the six most populated Member States. The six other additional Judges should be appointed from among the nationals of the other Member States,***

*according to a rotation based on equality between them.*

Or. fr

*Justification*

*To meet the need both for stability and for an appropriate balance between Member States, the method adopted to increase the number of advocates general at the Court of Justice, which appears in Declaration 38 attached to the final act of the intergovernmental conference which adopted the Lisbon Treaty could be used as a model.*

**Amendment 16**  
**Paulo Rangel**

**Draft regulation**  
**Recital 9 b (new)**

*Draft by the Court of Justice*

*Amendment*

*(9b) To enable the General Court to operate more efficiently and ensure that proceedings can be dealt with and adjudicated on within a reasonable time, the General Court may set up specialised Chambers where this is warranted by the number of proceedings in a given field.*

Or. pt

**Amendment 17**  
**Paulo Rangel**

**Draft regulation**  
**Recital 9 c (new)**

*Draft by the Court of Justice*

*Amendment*

*(9c) As regards the internal organisation of the General Court, the office of Vice-President should, following the approach adopted for the Court of Justice, be established for the purpose of assisting*

*the President.*

Or. pt

**Amendment 18**  
**Paulo Rangel**

**Draft regulation**  
**Recital 9 d (new)**

*Draft by the Court of Justice*

*Amendment*

***(9d) In proceedings before the Court of Justice, a Judge should be permitted to announce, during the Court's deliberations, that he intends to deliver a dissenting opinion as to the judgment or the reasons on which it is based, to be published together with the judgment. That possibility exists in several national and international courts, and their reputation and authority have not been undermined as a result. On the contrary, this is a solution which helps to advance judicial practice, offers guarantees of greater transparency, and serves to strengthen the democratic legitimacy of the courts, as it is particularly important to do in this instance, given that the judicial system concerned is one with a strong case law component.***

Or. pt

**Amendment 19**  
**Paulo Rangel**

**Draft regulation**  
**Recital 10**

*Draft by the Court of Justice*

*Amendment*

(10) In order to enable the specialised courts to continue to function satisfactorily

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in the absence of a Judge who, while not suffering from disablement deemed to be total, is prevented from participating in judicial business for an extended period of time, provision should be made for the possibility of attaching temporary Judges to those courts.

in the absence of a Judge who, while not suffering from disablement deemed to be total, is prevented from participating in judicial business for an extended period of time, provision should be made for the possibility of attaching temporary Judges to those courts. ***The appointment of temporary Judges should offer every guarantee as regards the independence, impartiality, competence and suitability of the persons appointed, and ensure a balanced composition on as broad a geographical basis as possible from among nationals of the Member States.***

Or. pt

**Amendment 20**  
**Antonio López-Istúriz White**

**Draft regulation**  
**Recital 10 a (new)**

*Draft by the Court of Justice*

*Amendment*

***(10a) The rotation system for the appointment of Judges to the General Court should guarantee the stability of the composition of the General Court and the efficient and smooth operation of the institution, ensuring as far as possible an adequate representation of the different weight of the Member States' judicial systems.***

Or. en

*Justification*

*The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255 TFEU. As a consequence it is a political decision to be adopted by*

*Members States and neither the Council or the EP have a role established by the Treaties. To include an annex in the Regulation establishing a rotating system is legally against the provisions of art. 253TFEU. Nevertheless, the system that might be fixed by consensus by the Member States should ensure that it is efficient and the stability of the Court in order to avoid disruption in its normal functioning. Additionally, including in the regulation an obligation on the notification of the renewal of Members 18 months in advance is against art. 255 TFEU. It may affect the independence of the judges in office and it might not be realistic, considering the internal rules of each Member State in order to decide to renew or to find a new candidate. Nevertheless, the rotation system that might be agreed by the Member States should ensure the stability of the composition and the efficient functioning of the General Court as it is explained in the explanatory memorandum of the draft report from the rapporteur. It also should guarantee an adequate representation of the weight of the different judicial systems of the Member States of the EU.*

**Amendment 21**  
**Tadeusz Zwiefka**

**Draft regulation**

**Article 1 – point -1 (new)**

Protocol on the Statute of the Court of Justice of the European Union

Article 9 – paragraph 2 a (new)

*Draft by the Court of Justice*

*Amendment*

***-1. The following paragraph shall be added to Article 9:***

***'The Court of Justice shall include at least one Judge but not more than two Judges per Member State'***

Or. en

**Amendment 23**  
**Marielle Gallo**

**Draft regulation**

**Article 1 – point 2**

Protocol on the Statute of the Court of Justice of the European Union

Article 16 – paragraph 2

*Draft by the Court of Justice*

*Amendment*

2. Article 16, second paragraph, shall be

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replaced by the following:

'The Grand Chamber shall consist of 15 Judges. It shall be presided over by the President of the Court. The Vice-President and other Judges *designated in accordance with the conditions laid down in the Rules of Procedure* shall also form part of the Grand Chamber.

replaced by the following:

'The Grand Chamber shall consist of 15 Judges. It shall be presided over by the President of the Court. The Vice-President, *the Presidents of chambers of five Judges except for one of them* and other Judges shall also form part of the Grand Chamber. *The rules governing the appointment of Judges belonging to the two latter categories as Judges of the Grand Chamber shall be laid down in the Rules of Procedure.*'

Or. fr

### *Justification*

*La participation systématique du président de la Cour et des présidents de chambre à cinq juges permet d'assurer la cohérence, tant horizontale que verticale (cohérence de la jurisprudence de la grande chambre d'une affaire à l'autre et cohérence de la jurisprudence des chambres à cinq par rapport à la celle de la grande chambre), de la jurisprudence de la Cour au sein de ses différentes formations de jugement. Si une participation plus large des autres juges aux affaires renvoyées en grande chambre peut être envisagée cela ne doit pas se faire au détriment de la cohérence de la jurisprudence de la Cour. Aussi, il convient d'associer le plus largement possible les présidents de chambre à cinq juges aux travaux de la grande chambre. Plutôt que de viser un nombre fixe de présidents de chambre à cinq juges, il convient de privilégier une rédaction anticipant la création éventuelle par la Cour de justice d'une cinquième chambre à cinq juges à l'avenir. Cette rédaction permet de garantir une présence suffisamment fréquente de tous les présidents de chambres à cinq juges au sein de la grande chambre afin de garantir une stabilité suffisante de la composition de cette formation de jugement, favorisant ainsi la cohérence de la jurisprudence.*

## **Amendment 22** **Paulo Rangel**

### **Draft regulation**

#### **Article 1 – point 4 a (new)**

Protocol on the Statute of the Court of Justice of the European Union

Article 35 – paragraph 1 a (new)

*Draft by the Court of Justice*

*Amendment*

***4a. In Article 35 the following subparagraph is added:***



*'Where a Judge has declared, in the deliberations of the Court of Justice, that he disagrees with the judgment to be delivered or the reasons on which that judgment is based, he shall be entitled to deliver a dissenting opinion. That opinion shall be published together with the judgment. Implementing rules relating to the admissibility, and the detailed procedure for the delivery, of such opinions shall be laid down in the Rules of Procedure.'*

Or. pt

**Amendment 24**  
**Tadeusz Zwiefka**

**Draft regulation**  
**Article 1 – point 7 a (new)**

*Draft by the Court of Justice*

*Amendment*

**7a. The following Article 48a shall be inserted:**

**'Article 48a**

***The Council shall draw up an asymmetrical rotation list for the appointment of the Judges. At all times, there shall be two Judges from each of the six most populous Member States. The rotation list shall determine when each of the remaining Member States is entitled to nominate a second Judge.'***

Or. en