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

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

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 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,

Having regard to the opinions of the European Commission[(1)],

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

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

Whereas:

(1) 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.

(2) At present, 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.

(3) The situation in which the General Court finds itself has causes 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, State aid and intellectual property.

(4) The option of setting up specialised courts as provided for in Article 257 of the Treaty on the Functioning of the European Union (TFEU) has not been taken up.

(5) Consequently, suitable measures of an organisational, structural and procedural nature, including, in particular, an increase in the number of Judges, should be taken to address this situation. Making use of the possibility provided for by the Treaties of increasing the number of Judges of the General Court would allow for a reduction within a short

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council. (See end of Document for details)*

time of both the volume of pending cases and the excessive duration of proceedings before the General Court.

(6) 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, two Judges being 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 a proposal by the same Member State.

(7) The panel provided for in Article 255 TFEU takes into account, in particular, independence, impartiality, expertise and the professional and personal suitability of the candidates.

(8) In order to rapidly reduce the backlog of pending cases, twelve additional Judges should take office upon entry into force of this Regulation.

(9) In September 2016, first instance jurisdiction in European Union civil service cases and the seven posts of the Judges sitting at the European Union Civil Service Tribunal ('Civil Service Tribunal') should be transferred to the General Court, on the basis of the legislative request already announced by the Court of Justice. That request will consider the modalities of the transfer of the seven posts of Judges of the Civil Service Tribunal, including staff and resources.

(10) In September 2019, the remaining nine Judges should take office. In order to ensure cost-effectiveness, this should not entail the recruitment of additional legal secretaries or other support staff. Internal re-organisation measures within the institution should make sure that efficient use is made of existing human resources, which should be equal for all Judges, without prejudice to the decisions taken by the General Court concerning its internal organisation.

(11) It is of high importance to ensure gender balance within the General Court. In order to achieve that objective, partial replacements in that 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 with the aim therefore of choosing one woman and one man, provided that the conditions and procedures laid down by the Treaties are respected.

(12) It is necessary to adapt accordingly the provisions of the Statute of the Court of Justice of the European Union on the partial replacement of Judges and Advocates-General that takes place every three years.

(13) As the Court of Justice of the European Union has already announced, it will, as a follow-up to the reform of the General Court, present yearly figures on its judicial activity and, if necessary, suggest appropriate measures. At the second and third stages of the enlargement of the General Court, an assessment of the situation of the General Court will take place which, if necessary, could lead to certain adjustments, notably in terms of administrative expenditure of the Court.

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

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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 hereby amended as follows:

(1) Article 9 is replaced by the following:

Article 9

When, every three years, the Judges are partially replaced, one half of the number of Judges shall be replaced. If the number of Judges is an uneven number, the number of Judges who shall be replaced shall alternately be the number which is the next above one half of the number of Judges and the number which is next below one half.

The first paragraph shall also apply when the Advocates-General are partially replaced, every three years..

(2) Article 48 is replaced by the following:

Article 48

The General Court shall consist of:

(a) 40 Judges as from 25 December 2015;

(b) 47 Judges as from 1 September 2016;

(c) two Judges per Member State as from 1 September 2019..

Article 2

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 25 December 2015 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 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 for the partial replacement of the General Court in 2019. 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 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.

Article 3

1 By 26 December 2020, 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.