



## **Reform of the EU's Court System**

The Court of Justice of the European Union recently submitted its proposed reform of the EU's Court System which, after its approval in principle by the Council of the European Union, is currently being examined by the European Parliament. This reform proposal is of crucial importance because it aims to reinforce the efficiency of justice at EU level in a sustainable manner in the interest of EU citizens.

### **Context of the proposed reform: increase in cases lodged and excessive delays**

For several years, the General Court has faced a very challenging situation because of the increase of cases before it: the number of cases before it has increased from 398 in 2000 to 912 in 2014. This dramatic increase appears to be structural and is expected to continue.

In order to tackle this situation, several measures have been taken leading to significant improvements in efficiency as well as a remarkable performance regarding the number of cases completed. However, despite these efforts, it has not been possible for the General Court to moderate the rate of increase in the number of pending cases. It follows that in the present circumstances, the General Court is not able to cope, in a sustainable and efficient manner, with the number and increased complexity of cases that must be heard.

As a result of this growing structural imbalance, the length of time taken to process complex cases, such as economic cases, at the General Court has become particularly high. In this context, it is important to note that the excessive length of proceedings is also likely to lead to a breach of the right to have cases heard within a reasonable time, set out in Article 47 of the Charter of Fundamental Rights, and exposes the EU to an action for damages, the cost of which would have to be borne by the EU's budget. In one year there have already been **five actions for damages** brought before the General Court in which the total amount of damages claimed has amounted to **€6.8 million**.

### **The solution proposed by the Court**

In 2011, the Court asked for the number of judges at the General Court to be increased from 27 to 39. The proposal was welcomed by the Commission, agreed in principle by the Council and approved by the Parliament in the first reading. However the proposal failed to be approved due to a lack of agreement between Member States regarding the method for appointing the extra judges

In 2014, at the request of the Presidency of the Council, and in light of the worsening situation compared to 2011, the Court improved its proposal.

The current proposal aims to enhance the overall efficiency of the EU's court system and to provide **structural and sustainable solutions**.

It must be underlined that this proposal is the result of intensive discussions and debates between the three courts which make up the institution, during which the General Court stated its preference for the creation of a specialised court and the Civil Service Tribunal supported the proposed

solution. Considering that past experience (notably in relation to an increase in the number of *référéndaires* (qualified lawyers who assist judges in the drafting of judgments) and the creation of a specialised Tribunal) shows that no sustainable alternative exists, the Court of Justice, which represents the Institution presented the current proposal to European legislators.

### **What is the Court's proposal?**

The Court proposes creating 21 extra judges to reinforce the General Court in three steps, according to the following schedule:

- 2015: increase of 12 judges;
- 2016: upon renewal of the mandates of the General Court's members in September, there will be an additional 7 judges appointed through the merging of the Civil Service Tribunal with the General Court. This will bring the number of General Court judges to 47; and
- In 2019, at the next renewal of the mandates of the General Court's members, the number of judges will finally increase by nine, bringing the total number of judges to 56;

The three stage division is due to structural reasons (the need to monitor the constant development of cases brought before the General Court) and budgetary reasons (to allow the budgetary consequences of the proposed reform to be spread over several years).

It is important to note that this proposal not only meets the immediate needs of the General Court, but also seeks to strengthen the effectiveness of the European Court system as a whole in a sustainable manner.

Adopting this proposal would allow the General Court to **halt the increase in the number of pending cases** and begin disposing of its caseload. As a result it will reduce the length of proceedings before the General Court and thereby reduce the risk that the Union is found in breach of its duty to determine cases within a reasonable time

Furthermore, it will simplify the **judicial structure** of the Union, enhance its overall efficiency and promote consistency in its case law, since only one jurisdiction, the Court of Justice, will be responsible for ensuring uniform interpretation of the law by hearing all appeals.

The Court considers that this reform, will ensure a greater flexibility in handling disputes by allowing the General Court to assign, in the interests of the good administration of justice, a greater or lesser number of judges to one or more chambers according to the size and requirements of each case and the development of its caseload. Likewise, the reform aims to safeguard and improve the quality and serenity of justice in the name of EU citizens.

Finally, it must not be forgotten that the caseload of the Court of Justice is also constantly increasing. The reinforcement of the General Court would allow some competences of the Court potentially to be transferred from the Court of Justice to the General Court. This is the **only solution** found in the treaties to deal with an increase of the workload of the Court of Justice.

### **Cost of the Proposal**

Following requests by the budgetary and legislative authorities, the Court has agreed to a 25% reduction of the total cost of the reform.

Consequently, the total net cost of the reform, for all three phases, **amounts to €13.875m** per year, which represents about 0.01% of the EU budget (€135 billion). Compared to the cost of the reform that was proposed in 2011, it is worth noting that this represents an increase of €5 million net, or 23%, while the General Court's workload during the same period increased by 43%.

It is important to note in this context that, if a decision is not taken soon, the situation will rapidly worsen, to the detriment of EU citizens and the EU's budget. Indeed, given the size of the sums

involved, the risk to the proper functioning of the Internal Market due to the lack of a long-term solution would be significant. Fines imposed by the Commission that are contested before the General Court and recoveries ordered in State Aid cases amount to billions of euros. These are all blocked until a judgment is handed down and therefore are not being injected into the European economy.

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