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Editorial note

Daniel Sarmiento*

ON THE ROAD TO A CONSTITUTIONAL COURT OF THE EUROPEAN UNION: THE COURT OF JUSTICE AFTER THE TRANSFER OF THE PRELIMINARY REFERENCE JURISDICTION TO THE GENERAL COURT

On 30 November 2022, the Court of Justice of the European Union referred to the Council, the European Parliament, and the European Commission a proposal of reform of the Statute, triggering for the first time ever the decentralising clause provided in Article 256(3) of the Treaty on the Functioning of the European Union (TFEU). According to this provision, ‘the General Court shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 267, in specific areas laid down by the Statute’. Following several frustrated attempts in which the Court of Justice voiced its concerns about the timeliness of making use of this provision, the transfer of the preliminary reference jurisdiction in specific areas to the General Court materialised into a genuine proposal in late 2022.

The transfer is, as Article 256(3) TFEU openly states, circumscribed to ‘specific areas’. The Treaties therefore preclude a transfer *in totum* of the preliminary reference jurisdiction, thus preserving this remedy to its original court, at least to a degree that should not denaturalise the role assigned by the Treaties to the Court of Justice. There shall be no transfer to the General Court of the entirety of the preliminary reference procedure, and the current reform of the Statute is good proof of this. The first transfer will only concern five specific areas which can hardly be seen as an ambitious array of sectors now in the hands of the General Court. On the contrary, the reform proves that Article 256(3) TFEU has been used as a means to arrange certain housekeeping matters within the Institution, mostly in the wake of the General Court’s enlargement, a reform that has not been seen as a success by most commentators.¹ All in all, the first transfer of the preliminary reference jurisdiction to the General Court could simply be characterised as a modest and low-profile initiative aimed at alleviating the Court of Justice’s docket, increasing the workload of an overstuffed General Court, and promoting specialised

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¹ See, *inter alia*, A Alemanno and L Pech, ‘Thinking Justice Outside the Docket: A Critical Assessment of the Reform of the EU’s Court System’ (2017) 54 *Common Market Law Review* 129; F Dehousse, ‘The Reform of the EU Courts (II) – Abandoning the Management Approach by Doubling the General Court’ (2016) *Egmont – Royal Institute for International Relations*, Paper 83.

chambers and Advocates General in very technical areas of Union law.

However, this portrayal of the reform is too limited in scope and it does not do justice to its genuine and long-term implications. In this editorial I will outline some of the consequences that this initiative will entail, particularly for the Court of Justice and for its role as a constitutional court within the European legal space. Paradoxically, the jurisdiction that will see its role most deeply transformed in the long term will not be the General Court, but the Court of Justice. The transfer of the preliminary reference procedure in 'specific areas' will pave the way for a new understanding of the Union judiciary, in which the General Court will carry the burden of dealing with the day-to-day judicial activity, leaving limited questions concerning constitutional principles to the Court of Justice. This is already a common feature in the case of direct actions, but it will be maximised once the preliminary reference jurisdiction lands on the General Court as well. The result will be the confirmation of the Court of Justice's role as an adjudicator handling cases on points of constitutional principle, setting a common criterion on issues that require a determination on crucial constitutional tensions affecting the protection of fundamental rights, Union competences, and legal bases. In sum, the reform paves the way for a new role for the Court of Justice, now firmly headed on the road to becoming a constitutional court for the Union. Whether that is desirable or not in the current context and for today's Union is a matter that will be addressed in this editorial comment.

The reform

The 2022 reform comprises two main amendments to the current rulebook of the Court of Justice of the European Union. First, a transfer of the preliminary reference jurisdiction in 'specific areas', and second, an increase in the number of dispute settlement bodies whose decisions, following a review in the General Court, trigger the filtering mechanism on appeals on points of law at the Court of Justice. Overall, the reform waives part of the burden carried by the Court of Justice in the past years, which has seen the number of cases increase steadily, at the same time that the General Court has gained further resources and workforce to deal with a larger docket. Of course, the protagonist of the reform is the transfer of the preliminary reference jurisdiction to the General Court in specific areas, and that will be the main focus of this section.²

The transfer of preliminary references to the General Court is circumscribed to specific areas, as required by Article 256(3) TFEU. The list is self-explanatory of the technical nature of these areas:

² S Iglesias Sánchez, 'Preliminary Rulings before the General Court: Crossing the Last Frontier of the Reform of the EU Judicial System?' (2022) EU Law Live Weekend Edition No 125, 15; C Amalitano, 'The Future of Preliminary Rulings in the EU Judicial System' (2022) EU Law Live Weekend Edition No 125; and D Petrić, 'The Preliminary Ruling Procedure 2.0' (2023) 8 European Papers 25.

- the common system of value added tax;
- excise duties;
- the Customs Code and the tariff classification of goods under the Combined Nomenclature;
- compensation and assistance to passengers;
- and the scheme for greenhouse gas emission allowance trading.

According to the proposal, the transfer mechanisms do not alter the original jurisdiction of the Court of Justice: references shall be made by national courts to the Court of Justice, and the communication will be first articulated between the national court and the Greffe of the Court of Justice, not the General Court. The Court of Justice itself will have the jurisdiction to filter the reference and decide on the transfer, a mechanism that requires an analysis of whether the preliminary ruling 'comes exclusively within one or within several of the areas' previously mentioned. Therefore, there is a substantive test that must be made by the Court of Justice, according to which the transfer will ensue following a decision on the 'exclusive' subject-matter falling upon one of the specific areas enumerated above. This design entails that a request for a preliminary ruling addressing several subject matters, among which one of the 'specific areas', will be reserved for the Court of Justice. For the transfer mechanism to come into play, the question for a preliminary ruling must be exclusively devoted to one or several of the 'specific areas', or substantially devoted to them.

In accordance with Article 256(3) TFEU, the General Court is not the sole jurisdiction to adjudicate on the matter. Two additional routes are available for the Court of Justice to hear the case, even when it is exclusively focused on the 'specific areas'. First, when the General Court comes to the conclusion that the case requires a decision of principle 'likely to affect the unity or consistency of Union law', in which case the matter will be referred back to the Court of Justice. Second, in situations in which, once again, 'the unity or consistency of Union law' is at stake, the Court of Justice, upon a proposal of the First Advocate General, may review the decision of the General Court. The review procedure was put in place during the tenure of the Civil Service Tribunal, and the Court of Justice had the chance of interpreting similar provisions to those of Article 256(3) TFEU and the Statute.

The General Court will be profoundly affected by this reform. First, a good number of its judges will temporarily leave the deliberation and assume the role of an Advocate General. This option, already introduced in Article 49, first paragraph, of the Statute at the time of the creation of the Court of First Instance, remained dormant throughout the years until it was awakened by the 2022 proposal. On top of this, the 'specific areas' will be assigned to specialised chambers, thus reinforcing the process of specialisation in the General Court which began in 2019, when the chambers were split into two major groups, assuming a division of tasks in the handling of staff cases and trademark litigation. This tendency

towards specialisation among the judges (and Advocates General) will be in stark contrast to the traditional approach in the Court of Justice, reluctant to assume any specialisation.

The reform in perspective

This straightforward reform appears to be fully in line with the options made available in the Nice Treaty and now present in Article 256(3) TFEU. The transfer of preliminary reference jurisdiction was envisaged as a tool to alleviate the Court of Justice from a growing docket, leaving it to focus on major points of principle. This option is also in line with the General Court's original mission, to provide a more specialised jurisdiction in cases which may merit more attention to factual matters or specific areas. In sum, the reform of 2022 seems like a consistent step forward in materialising the options made available back in 2001.

However, on a closer look, this reform hides much more relevant undercurrents, not all of them to be found in the provisions of the Nice Treaty.

First, the reasons underlying the 2022 reform are foreign to the rationale of Article 256(3) TFEU. Whilst in 2001 the transfer mechanism was envisaged as a means to alleviate the Court of Justice's docket, in 2022 the reasons justifying the reform are exactly the opposite: a means to provide further work to an overstuffed General Court. This feature results from the reform of 2015, by virtue of which the number of judges of the General Court was doubled, thus resulting in an overstuffed jurisdiction with hardly any substantial increase in incoming cases. It is certainly true that the Court of Justice is overworked, particularly with requests for preliminary rulings, but it is also evident that the docket has remained mostly stable throughout the last decade, never exceeding the threshold of one thousand new cases per year. The workload has not become unsustainable for the Court of Justice, but it is the overstaffing of the General Court that justifies the transfer of jurisdiction.

Second, the reform still leaves unanswered the key to its workability: how will the 'exclusivity' of jurisdiction operate? The reform states that the General Court shall hear cases when they refer 'exclusively' to one or several of the 'specific areas' enumerated above. However, this is far from clear, particularly when looking at the past case law and the highly relevant cases that the Court of Justice has rendered in some of these 'specific areas'. To give one example, *Akerberg Fransson* concerned VAT,³ and so did *Taricco*,⁴ whilst some major issues about the preliminary reference procedure have appeared in the course of cases on the Customs Code (see, for example, Advocate General Jacobs's Opinion in *Wiener*, on

³ Case C-617/10 *Akerberg Fransson* ECLI:EU:C:2012:340.

⁴ Case C-105/14 *Taricco and Others* ECLI:EU:C:2015:293.

the need for a filtering mechanism in Article 267 TFEU).⁵ When is the General Court to refer such cases and what is the threshold of 'principledness' that justifies referring the case back to the Court of Justice? The question is important, particularly for the national court making the reference. In some Member States, the Court of Justice is the 'judge established by law' and that raises issues of constitutional relevance.⁶ A national court needs to know if the reference was indeed adjudicated by the correct jurisdiction among the Union courts, or otherwise the ruling could be questioned in proceedings before the domestic constitutional court. This matter remains open and left to the discretion and good sense of the Court of Justice and the General Court in their day-to-day decision-making.

Third, by introducing a jurisdictional rule that leaves a margin of discretion to transfer a case to the General Court or to leave it within the remit of the Court of Justice, the reform paves the way to party disputes. The resulting judgment will satisfy one party and disappoint another, there will be winners and losers, but the procedure continues in the national court. The discretion in the triggering of the transfer will stimulate disagreements in the losing party as to the convenience of having transferred (or not) the case to the General Court. These disagreements can result in claims by the losing party to either have the judgment reviewed, something that is not available to the parties or to the referring court to request, unless the court makes a new preliminary reference questioning the findings of the first ruling. Alternatively, national grounds of review may be available, including potential remedies before the European Court of Human Rights. In sum, the reform introduces the risk of party litigation over the outcome of the preliminary reference procedure, but in ways that are unknown to date.

Fourth, the reform will deepen the process of specialisation in the General Court, confirming the existence of a specialised jurisdiction in areas such as staff cases, trademarks, and now the 'specific areas' enumerated above. The specialisation also reaches the profile of individual judges, inasmuch as a number of them will assume the task of Advocate General, and with a specialised profile as well. However, the specialisation through the preliminary reference procedure entails new implications, since the interlocutors of the General Court are not parties to the case, but the referring court. A new specialised court will be open for business, offering its interpretative services to national courts, many of which are also specialised in specific subject matters. Time will tell if this specialisation will prompt specialised national courts to rely more frequently on the preliminary reference procedure, knowing that its chambers are specialised and have a detailed know-how of common areas of adjudication.

⁵ Case C-338/95 *Wiener v Hauptzollamt Emmerich* ECLI:EU:C:1997:352, Opinion of Advocate General Jacobs.

⁶ See H Thiedemann, 'The Lawful Judge' (2003) 36 *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 228.

The same will apply to Advocates General, specialised in specific areas of the law, in contrast with the Advocates General of the Court of Justice, whose generalist profile will highlight the expertise of their counterparts in the General Court.

And fifth, the reform will not only entitle the General Court to interpret provisions on the 'specific areas' subject to a transfer. By granting jurisdiction to the General Court to rule in a preliminary reference procedure, the reform also empowers this court to interpret the procedural rules that govern this remedy, including points of law such as the interpretation of a 'jurisdiction', the implementation of admissibility and jurisdictional pleas, the scope and effects of its judgments, and many other matters that belong to the terrain of procedural law, not of the 'specific areas' on which the transfer is justified. The expansive task of the General Court will not stop in procedural matters only. If the questions referred for a preliminary ruling tackle incidental issues which are not strictly within the remit of the 'specific areas', the General Court is not precluded from ruling on those matters. Think, for example, of a reference on VAT in which there is a question of abuse of rights, or the principle of tax legality. In that situation, the General Court will rule on the interpretation of the relevant VAT rules, but also on the general principles which apply to the case. Therefore, the 'specific areas' are only a gateway for a broader array of subject matters in which the General Court will have to introduce itself to properly assist national courts requesting the interpretative support of the Union courts.

These are some of the far-reaching implications that the reform will bring about, particularly for the General Court. However, the consequences will be even more significant for the Court of Justice, the apparent passive beneficiary of the new framework. In contrast to what appearances might reveal, the Court of Justice will begin a major process of transformation as a result of this reform. It is not correct to characterise the transfer mechanism as a measure targeting mostly the General Court. On the contrary, the main protagonist in the long term is the Court of Justice, now ready to become a genuine constitutional court of the Union.

A new Court of Justice?

In principle, the reform will have a direct impact on the functioning of the Court of Justice, considering that, according to the Court's analysis in its 2022 proposal, 16% of its docket will be transferred to the General Court. This decrease in the activity of the Court of Justice will not result in lower productivity, but in more time to deal with some of the highly sensitive and complex matters that reach its doors. The fact that the Court of Justice has been dealing with highly technical matters, or with cases of scarce systemic impact, has raised concerns about its ability to properly address and devote its valuable time to other more sig-

nificant procedures. Even the cases that are resolved through a reasoned Order, or judgments in chambers of three judges with no Opinion of the Advocate General, will nevertheless require the full involvement of the Court's human and material resources, from the attention of its judges and legal secretaries, the translation machinery, the selection process and thematic profiling of the case, and many other steps along the way that require the Court's full involvement. The transfer of 16% of the docket (at least as calculated by the Court in 2022), mostly in cases holding a high degree of specialisation (and, in principle, low systemic impact), should facilitate the Court of Justice's investment of time and resources into more substantive matters.

However, this portrait is not entirely correct. The transfer of cases will not entail an immediate reduction of resources in those cases, because the Court of Justice will have the duty to examine each request for a preliminary ruling and decide on its 'transferability' to the General Court. This task will require the attention of a reduced number of players within the Court of Justice, but it will nevertheless demand a non negligible number of resources. Once the General Court rules on the matter, the review procedure will consume the First Advocate General's time, and the triggering of this procedure upon his or her proposal will also require a chamber of the Court of Justice to look into the matter. The review procedure proved to be a time-consuming mechanism when applied to staff cases during the tenure of the Civil Service Tribunal.⁷ Therefore, it is not foreseeable that the transfer of cases will immediately entail a loss of work and attention on the part of the Court of Justice.

This apparent paradox adds to another contradiction previously mentioned when referring to the aims of the reform and the objectives of the 2001 Nice amendments. Article 256(3) TFEU was introduced to alleviate the Court of Justice from a rising workload. However, the current reform does not aim at that goal, but rather to compensate for the General Court's overstaffing following the 2015 reform that doubled its size. On top of that, the current reform will not entail a major reduction of resources on the cases being transferred, because a considerable number of decisions will have to be made either before or after the transfer of a case to the General Court. As a result, one wonders what the true aims of this reform are as well as its long-term implications.

The only reasonable explanation underlying the current reform is the gradual transformation of the Court of Justice into a constitutional court, exclusively or mostly entrusted with the resolution of disputes of constitutional relevance. In a Union of twenty-seven and more Member States, assuming powers of a sovereign nature and undertaking tasks of high political sensitivity, the Court of Justice will struggle to continue to operate and adjudicate with the standard features it has held to date.

⁷ X Tracol, 'The New Rules of Procedure on the Review Procedure and the Application of General Principles in EU Civil Service Law and Litigation: Strack' (2014) 51 *Common Market Law Review* 993.

When seen from a broader angle, there is a subtle but consistent tendency in past reforms to prepare the Court of Justice to become a constitutional court of the Union. In Nice, with the imminence of enlargement in sight, decentralisation of jurisdiction was introduced into the Treaties. Although the way in which decentralisation worked in Nice was different to how it eventually materialised, the underlying rationale of the reform was to prepare the Court of Justice for an enlarged Union in which more powers would be granted to the General Court as well as to specialised tribunals, leaving the Court of Justice as an ultimate arbiter on matters constitutional. The reform of the General Court and the doubling of judges was a means to put into action a housekeeping measure, at a time when the rising duration of procedures was worryingly affecting the General Court, but we have now seen that the main consequences of the reform was to facilitate a future decision to transfer further competences from the Court of Justice. A filtering mechanism was introduced later in 2019, to reduce the number of appeals on points of law heard by the Court of Justice, a tool that was further reinforced in the 2022 reform.⁸ In this evolutive trend, the transfer of preliminary reference jurisdiction to the General Court confirms even further the growing role of the Court of Justice as a constitutional adjudicator.

The transfer of jurisdiction in preliminary reference procedures is not an endgame, but rather a starting point. Once the gates of the transfer have opened, further transfers will follow. It is reasonable to assume that, when the reform is put into effect and its consequences are visible, other 'specific areas' will be ready for a transfer to the General Court. Data protection and GDPR are possible candidates, once the Court of Justice has finished fleshing out the main contours of this new area of law; a similar fate could follow for trademark and intellectual property law, State Aid law, the Digital Markets Act, and the Digital Services Act, as well as Banking Union. These are all areas in which, after their main pillars are defined by the Court of Justice, could very well be assigned as part of future transfers to the General Court.

What would be left for the Court of Justice? For starters, the allocation of competences between the Member States and the Union would remain in the Court of Justice's remit, as well as the interpretation of the Charter of Fundamental Rights. Issues on the horizontal distribution of power among the Union's institutions and issues on the choice of legal bases would also remain outside the scope of any future transfer. The interpretation of free movement rules, as a backbone of the internal market, would stay within the Court of Justice's competences, as well as any other new area of law in which new legislation is introduced. In sum, the Court of Justice will remain busy, but focusing on issues which are akin to a constitutional jurisdiction, blending the features of a typical con-

⁸ C Oro, 'Filtering of Appeals on Points of Law Before the Court of Justice' in D Sarmiento, H Ruiz Fabri and B Hess (eds), *Yearbook on Procedural Law of the Court of Justice of the European Union First Edition – 2019*, MPILux Research Paper 2020 (2).

tinental constitutional court, together with some traits of common-law supreme courts with a generalist, but highly selective, jurisdiction.

The Court of Justice will nevertheless remain in charge of the review procedure and it will be entitled to filter any appeals brought to its attention. The potential to rule on any matters which may not be of constitutional relevance will be perfectly available to the Court of Justice, so its ability to rule on any point of law will remain. However, the reality of the future setting will probably confirm that the appetite of the Court of Justice for non-constitutional matters will be modest. The weight of the subjects it will have to handle will be sufficient to demand the Court's full attention. Once a constitutional court, always a constitutional court. The incentives to become once again an interpreter of 'ordinary points of law' will be close to zero.

This is, of course, an exercise in futurism. Nonetheless, it is an exercise that is not removed from how the future could eventually look. It is therefore appropriate to inquire as to whether such a future is in line with the Treaties, with the role traditionally assigned to the Court of Justice and with the task of ensuring uniformity and consistency in the Union's legal order.

First, a framework in which the Court of Justice becomes a constitutional adjudicator, leaving the bulk of the adjudicative task to the General Court, is far from the portrait of the judiciary system currently enshrined in the Treaties. Any reader that glances through the TEU and the TFEU will notice the pre-eminence of the Court of Justice and the modesty of the General Court's presence. It would be surprising for that reader to realise that the majority of judicial tasks are performed by the General Court and not the Court of Justice. It is true that the Court of Justice would be able to claim its jurisdiction and rule on practically any matter brought before the General Court. But in reality the system would be inverted and reversed from its original design. At some point, the reality of the Union's judiciary would have to be reflected in the Treaties in a clear and transparent way.

Second, by inflating the General Court and turning it into a massive adjudicating machine, some reflection should be made as to the need to streamline and adapt this jurisdiction to its new role. In terms of achieving optimal efficiency and legitimacy, it could be open to discussion if the centralised model of Union adjudication is the best way forward. In the 1990s, Joseph Weiler and Jean-Paul Jacqué proposed a territorial decentralised judicial system in which the tasks of the General Court would be split into several 'circuits', with the Court of Justice sitting at the apex, in line with the US model.⁹ This approach deserves careful attention, but it is proof of the existence of alternative models to the centralised role

⁹ J-P Jacqué and JHH Weiler, 'On the Road to European Union – A New Judicial Architecture: An Agenda for the Intergovernmental Conference' (1990) 27 *Common Market Law Review* 185.

played by the General Court, particularly in a highly diverse Union in which its number of Member States could reach the mid-thirties. Does the transformation of the Court of Justice into a constitutional court make the decentralisation of the General Court inevitable? To some extent, and as long as the Member States see the role of the Court of Justice increasing, it is likely that the decentralised ‘circuit’ model will become more and more attractive for a growing number of stakeholders.

Third, the expanding role of the Court of Justice as a constitutional adjudicator will also raise questions as to its relationship with national constitutional and supreme courts. How will these jurisdictions react to the Court of Justice’s new role in the European judicial landscape? Will the new role stimulate and facilitate relations, portraying the Court of Justice as a genuine constitutional jurisdiction with sufficient credentials to rule on the *kompetenz-kompetenz* question and trigger the trust of its counterparts? Or will it, on the contrary, promote even higher risks of rupture in a context in which constitutional courts will reject a new role that is nowhere to be found in the Treaties? In an environment of growing tensions, with a significant number of constitutional courts having rejected the primacy of Union law in the past years, the spontaneous reconfiguration of the Court of Justice into a new constitutional court could very well demand new checks and balances to convince national courts of the convenience of the new model. In that vein, the creation of a Mixed Chamber, in which members of the Court of Justice and of constitutional courts sit jointly to rule on points of competence, could be the way to balance things appropriately for all stakeholders.¹⁰

The previous points lead us to an almost inevitable conclusion: despite the fact that the trend towards a new framework has found recognition in primacy law, both in the Nice reforms and the successive reforms of the Statute, at some point it will be necessary to address Treaty reform from a more holistic perspective. Turning the General Court into the ‘ordinary court of Union law’, operating a territorial decentralisation of the Union’s judiciary, introducing a Mixed Chamber and, all in all, transforming the role of the Court of Justice into a constitutional adjudicator, is a sufficiently serious evolution that would deserve its proper reflection in the Treaties. And once the Treaties are open for reform, other measures affecting the Union’s judiciary could follow, including measures that are perceived as necessary and overdue. To name a few, the reappointment system of judges is an archaism that should be repealed once and for all, substituting it with longer mandates of nine or twelve years, in line with the practice of national constitutional courts. The Committee of Article 255 should either act jointly with parliamentary scrutiny, or it should be

¹⁰ JHH Weiler and D Sarmiento, ‘The EU Judiciary after Weiss: Proposing a New Mixed Chamber of the Court of Justice’ (*Verfassungsblog*, 2 June 2020) <<https://verfassungsblog.de/the-eu-judiciary-after-weiss/>> accessed 8 November 2023. See also the proposal of a Mixed Chamber but with no power to render binding rulings, in the French-German Report on institutional reform, ‘Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century’, 18 September 2023.

substituted by another procedure in which transparency is guaranteed. This should mostly affect the candidates to sit in the Court of Justice, whose constitutional tasks will rightly deserve a selection procedure of judges in line with the practice of the Member States. And of course, the issue of guaranteeing a judge for every Member State is also an archaic reminiscence that should be avoided. If the International Court of Justice is able to perform its tasks with a limited number of judges, so should the Court of Justice, particularly when the General Court is twice its size, or when future territorial circuits would provide close links with each Member State.

In sum, what started as an editorial comment on a modest reform apparently conceived to put into practice a very specific provision of the Nice Treaty has finished with a general consideration on the Court of Justice as a constitutional court and the long-term implications of the steps now being taken. The evolution of the argumentative line of this editorial comment shows that the 2022 reform is opening a door that could very well lead the Union's judiciary to a point of no return, triggering a process which would eventually require further Treaty reforms, the content of which could trigger other additional reforms, leading to the total mutation of the current court system. It is no wonder that the European Parliament refused to approach this reform as a standard and low-key measure.¹¹ In fact, this reform is the most relevant development in the history of the Institution since the creation of the Court of First Instance in 1989. It is therefore important that due consideration is given to its implications, with a clear view on the objectives and possible destinations, so that a modest reform does not lead to an uncertain and undesired point of arrival.



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¹¹ See the European Parliament's Report on the draft regulation of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union, 27 September 2023 (07307/2022 – C9-0405/2022 – 2022/0906(COD)).