



EUROPEAN COMMISSION

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Dear Lord Boswell,

The Commission would like to thank the House of Lords for the follow-up report on the workload of the Court of Justice of the European Union which it has submitted to the Commission for comments.

The Commission welcomes the report as it contains valuable information about the workload of the Court of Justice of the European Union and, moreover, provides useful suggestions on how to solve the workload problems.

The Commission was invited to comment in particular on paragraphs 43, 47, 55, 59, 67, 68 and 71 of the report, which concern the workload of the Court of Justice and the appointment of additional judges to the General Court respectively. In what follows, the Commission will therefore focus on these issues.

Workload of the Court of Justice

The Commission acknowledges that there is a continuing increase in the number of pending cases before the Court of Justice. This development should be examined closely so as to be able to deal with any detrimental effects on the workload of the Court should these arise.

At the same time, and in line with the view of the House of Lords, the Commission is of the opinion that it is too early to tell to what extent the amendments to the Statute of the Court of Justice of the European Union which, together with changes to the Rules of Procedure of the Court, only entered into force last year, will lead to a decrease in the number of pending cases. The Commission will therefore be closely following the effects of these changes in the coming period.

The Commission agrees with the House of Lords that one cannot yet draw any definite conclusions about the impact of the entry into force of the Lisbon Treaty on the workload of the Court of Justice. Given that the Court's jurisdiction to issue preliminary rulings in the area of Freedom, Security and Justice will only come into full effect as of December 2014, the precise impact of the Lisbon Treaty on the workload of the Court of Justice will only become apparent in the coming years.

*Lord BOSWELL
Chairman of the European Union Select Committee
House of Lords
Palace of Westminster
UK – LONDON SW1A 0PW*

The General Court and the increase in the number of judges

The Commission subscribes to the view of the House of Lords that little can be inferred from the decrease in the number of new cases brought before the General Court in 2012. Looking over a longer period of time, the workload of the General Court is clearly rising.

An increase in the number of judges would appear to be the most appropriate solution to the problem of the General Court's workload and, in fact, is the only one that is currently being discussed following the Court's proposal of 28 March 2011. As the House of Lords notes, an increase in the number of judges could be decided by the adoption of an amendment to Article 48 of the Statute of the Court of Justice of the European Union, which requires the use of the ordinary legislative procedure, and does not require unanimity in the Council. Following long discussions within the Council and Parliament, the Commission is pleased to see that an overwhelming majority both amongst the Member States and within the European Parliament support the idea of additional judges.

As stated by the House of Lords, a report containing a draft legislative resolution on the increase of judges is currently being discussed in the JURI Committee of the European Parliament. This report supports the proposal of the Court for an increase in the number of judges at the General Court by 12, as a result of which the total number of judges would become 39. The draft report of the JURI Committee also contains a number of interesting ideas as regards a possible designation mechanism for the additional judges at the General Court. Although the Commission largely supports these ideas, it also wishes to recall that according to Article 254 TFEU judges shall be appointed by common accord of the governments of the Member States. Consequently, the only element of reform that can be put in place via an amendment to the Statute of the Court is the number of judges, provided that the General Court has, in line with Article 19(2) TEU, at least one judge per Member State. Other modalities concerning the appointment of additional judges should be put in place on the basis of informal arrangements among the Member States.

The Commission agrees with the House of Lords that an increase in the number of judges should be preferred over the creation of specialised courts. Nonetheless, an additional change, which should be pursued in parallel with an increase in the number of judges, is the establishment of specialised chambers within the General Court itself. Such specialised chambers would enhance the flexibility of the Court, allowing it to deal with cases more efficiently and rapidly.

The Commission hopes that these comments address the issues of particular interest to the House of Lords and looks forward to continuing our political dialogue in the future.

Yours faithfully,



Maroš Šefčovič
Vice-President