

Brussels, 26 March 2013

Re: Appointment of Judges to the EU Courts

Your Excellency,

I am writing to you from the Council of Bars and Law Societies of the European Union (CCBE), which through the national Bars and Law Societies of the Member States of the European Union represents some 1,000,000 European lawyers,

As you will be aware, the General Court of the EU is having great difficulty keeping pace with its workload leading to many cases taking 3, 4, or 5 years and sometimes even longer to be determined. It thereby risks failing to fulfil what many regard as its primary role, that of an Administrative Court for the EU, holding EU Institutions accountable for legal errors and illegal conduct.

This is bad for citizens in that justice delayed is justice denied. It is bad for Member States because excessive time is taken to deal with Member State challenges to the European Commission's decisions, for example in the field of agricultural expenditure. It is also bad for the EU Institutions themselves in that illegal practices within the Institutions persist pending judgment of the General Court, in the erroneous belief that the practices are lawful, as has been amply demonstrated in recent years in the field of sanctions. Moreover the inability of the General Court to give judgment within a reasonable time is undoubtedly having a chilling effect on the EU economy through the uncertainty for business.

A high turnover of judges in the General Court tends to lead to a significant reduction in the number of cases determined. This can be illustrated by the sharp decline in the number of cases closed by the EU Civil Service Tribunal in 2012 which is down from 166 in 2011 to 121 in 2012, a deterioration which the Court of Justice attributes to be "due to the change in the composition of the court in late 2011".¹ For the period from 1 October 2013, some Member States have already decided whether or not to renew their judges whilst other Member States have apparently yet to take that decision. However, it does appear clear that there is a serious risk of a substantial number of changes in the composition of the General Court in 2013 with the expiry of 13 mandates on 30 September of this year. These changes are to be added to the four other recently arrived judges at the General Court.

The CCBE has frequently emphasised the importance in the context of the General Court of experienced high quality judges being appointed and being allowed to remain there when they have proved both their competence and their commitment to an efficient General Court.²

In this context I would refer to the letter dated 13 June 2012 of Judge Jaeger, President of the General Court, asking Member States to re-appoint their judges or at least to give an early indication of their intentions in this regard, a request to which the CCBE respectfully lends its full support.

¹ <http://curia.europa.eu/jcms/upload/docs/application/pdf/2013-03/cp130023en.pdf>

² http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_221010_CCBE_Prel1_1289559728.pdf

The CCBE thus respectfully calls on Member States to act as follows:

- (1) First, where a sitting judge is of proven competence and is willing to continue as a member of the EU Courts, his or her mandate should be renewed and the judge should not be recalled for example to reflect the changing domestic political situation or other domestic compromises which have no place in a truly communautaire approach to justice in the EU;
- (2) Second, where a Member State decides not to renew a sitting judge for good reason, the decision in respect of his/her replacement should be taken following a transparent process and on the basis of merit in order to find the EU national best fitted to contribute to the crucial work of the EU Courts in supervising the operation of the rule of law in the EU.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'E. Tsouroulis', with a large, stylized initial 'E'.

Evangelos Tsouroulis
President