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THE EUROPEAN UNION**

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INST 139
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COVER NOTE

from: M. JAEGER, President of the General Court of the European Union
dated: 15 March 2013
to: E. GILMORE, President of the Council of the European Union and of the
Conference of the Representatives of the Governments of the Member States

Subject: Expiry of the term of office of 13 Judges of the General Court of the
European Union

Delegations will find attached a copy of the abovementioned letter.

Luxembourg, 12 March 2013

Mr Eamon Gilmore
President of the Council of the European Union
and of the Conference of the Representatives of
the Governments of the Member States

Re: Expiry of the term of office of thirteen Judges of the General Court of the European Union

Dear President,

By my letter of 23 May 2012 to the President-in-Office of the Council of the European Union and of the Conference of the Representatives of the Governments of the Member States, the attention of the Governments of the Member States was drawn to the disruption to judicial activity caused by the triennial replacement of Judges, and to the importance of ensuring that the Judges concerned be appointed at the earliest possible opportunity so as to minimise the effect on the efficiency of the Court and on the length of proceedings. From that aspect, it was pointed out that, given the additional, mandatory deadline imposed by the requisite consultation of the panel provided for in Article 255 TFEU, it would have been opportune for the proposals for appointment to have been submitted by the Governments of the Member States before 15 November 2012. It was also emphasised that stability in the composition of the Court has a significant impact on the proper functioning of the Court.

However, it appears that, to date, of the thirteen proposals for appointment that were expected, four are still outstanding. Since the term of office of the Members concerned is set to end on 31 August 2013, only the imminent submission of those proposals will prevent the General Court's capacity to deliver judgments from being further impaired. Indeed, in the absence of certainty as to the replacement of those Judges, hearings in the cases assigned to the Chambers to which those Judges are attached will either remain pending or require that those Judges be replaced, which accordingly increases the – already considerable – workload of other Judges taking their place. Such replacements also affect the normal business of the Chambers in which those other Judges ordinarily sit.

It must, moreover, be noted that, given the proposals for appointment already submitted and the anticipated departure of resigning Members, the General Court could see the arrival of at least four new Members in 2013 (not including the appointment of the Member required to be proposed by the Republic of Croatia). Taking into account the proposals for appointment not yet made, that number could rise to eight. That unprecedented rate of replacement of Members in office would represent a damaging element of discontinuity in dealing with cases. It is appropriate to mention in that regard that, in the light of the experience of previous financial years, the provision made in the 2013 budget for the costs associated with such replacements has been made only on the basis of five departing Members, for the institution as a whole.

I am extremely concerned about the impact of these matters on the productivity of the General Court (particularly in 2013), at a time when the Court is already making every effort to reduce the backlog of cases. I should therefore be grateful if, in your capacity as President of the Conference of the Representatives of the Governments of the Member States, you would bring this letter to the Member States' attention.

Yours faithfully,

Marc Jaeger