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## MISSION REPORT

following the mission to the first meeting in the context of the annual constructive dialogue between the European Parliament and the Court of Justice of the European Union - Luxembourg, 20 March 2024

Committee on Legal Affairs

Members of the mission:

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## ***Introduction***

The Committee on Legal Affairs is competent for the organisation and statute of the Court of Justice of the European Union, the legal protection of Parliament's rights and prerogatives, including its involvement in actions before the Court of Justice of the European Union, the interpretation, application and monitoring of Union law and compliance of Union acts with primary law, notably the choice of legal bases and respect for the principles of subsidiarity and proportionality as well as the interpretation and application of international law, in so far as the European Union is affected.

The Committee on Legal Affairs and the Court of Justice of the European Union (the Court) have enjoyed regular working dialogue over the years. The last visit of JURI to the Court took place on 23 February 2022.

In the framework of the reform of the Statute of the Court, the Parliament and the Court, building on their regular dialogue on the functioning of the Union's judicial system, agreed to continue this as a constructive dialogue held on annual basis, with due respect for the role and powers of each Institution and, in particular, in full compliance with the principle of the separation of powers<sup>1</sup>. This constructive dialogue should be seen as the continuation and an institutionalisation of the regular meetings and long-standing cooperation between JURI and the Court in the past, regarding the implementation of the Statute of the Court, the legal protection of Parliament's rights and prerogatives as well as Parliament's involvement in actions before the Court. Both Institutions wished that such dialogue starts before the end of the current legislative term. In view of this and following approval by the Conference of Presidents and the Bureau, a delegation of JURI Members, accompanied by Parliament's Jurisconsult, went on a mission to the Court on 20 March 2024 in order to initiate this dialogue, to discuss the implementation of the reform of the Statute and to reflect on other matters of common interest.

## ***Summary account of the meeting***

The JURI delegation held a working session with Koen Lenaerts, President of the Court of Justice, and Court's delegation comprising eight Judges - of both the Court of Justice and the General Court - and Advocates-General (Lars Bay Larsen, Constantinos Lycourgos, Juliane Kokott, Siniša Rodin, Maria Lourdes Arastey Sahún, Marc van der Woude (President of the General Court), Savvas S. Pappasavvas and Stéphane Gervasoni) and the Registrars (Alfredo Calot Escobar for the Court of Justice and Vittorio Di Bucci for the General Court).

After an introduction by President Koen Lenaerts, the Round Table discussion started with a debate on the practical arrangements of the constructive annual dialogue between the Parliament and the Court, in relation to which both the Court and JURI expressed strong

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<sup>1</sup> Regulation (EU, Euratom) 2024/... of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union (not yet published in the OJ) recital 28 "The European Parliament and the Court of Justice have developed a constructive dialogue on the functioning of the judicial system of the Union, which proved particularly beneficial in the context of the present reform. That dialogue, to which experts may be invited whenever appropriate, should be pursued in a structured manner on a yearly basis, with due respect for the role and competences of each institution, in order to discuss the implementation of the reform of the Statute introduced by this Regulation and to reflect on further improvements."

commitment. The annual dialogue will consist of meetings to be held regularly and annually between JURI, as the sole competent committee in the European Parliament, and the Court in order to address and discuss issues of common interest. This was followed by a discussion on technical issues regarding actions brought by the Parliament before the Court or in which Parliament intervenes or submits observations, and on the developments expected to result from the reform of the Statute, and the amendment of its Article 23 in particular, which now provides that all requests for preliminary rulings will be notified to Parliament, the Council and the European Central Bank, so that they can assess whether they have a *particular interest* in the issues raised and decide whether they wish to exercise their right to submit statements of case or written observations. The Round Table also discussed the regulatory framework of the Union's mechanisms in relation to the rule of law and their relationship with the principle of the conferral and with the principle of the primacy of EU law. The question of possible injunctions at Union level was also discussed as was, finally, the preparation of the implementation of the reform of the Statute.

The exchanges on these issues continued during a lunch offered by the Court to the JURI delegation.

### ***Conclusions***

The inaugural annual constructive dialogue meeting demonstrated, once again, the importance and value of institutional cooperation between the European Parliament and the Court of Justice of the European Union. The Committee on Legal Affairs concludes that:

#### *Annual constructive dialogue*

- The establishment of an annual constructive dialogue constitutes for the European Parliament, through its Committee on Legal Affairs, an essential platform of communication with the Court that should ultimately aim at bringing justice closer to European citizens and building awareness of the characters and roles of the two respective Institutions in full respect for the role and powers of each Institution and, in particular, in full compliance with the principle of the separation of powers. As the competent committee in accordance with Annex VI to the Rules of Procedure for the matters to be discussed in this context, JURI should be the sole responsible committee in Parliament for this annual constructive dialogue with the Court.
- The Committee is to ensure that this annual constructive dialogue with the Court continues and is further developed in the future. To that end, the Committee suggests that practical arrangements facilitating the future regular meetings and representative participation of JURI Members in those meetings being held in Luxembourg or at common accord of the two Institutions at the two other working places of the European Parliament, are established by the European Parliament relevant bodies at the very beginning of the 10th parliamentary term by accommodating it within the framework of the relevant applicable rules.
- The constructive annual dialogue is established and pursued with due respect for the role and powers of each institution and in full compliance with the principle of the separation of powers. In view of this, the nature of the Court's institutional role requires that pending and expected cases are not discussed in that context. In case experts are invited, as foreseen in the recital 28 of the recent Regulation amending the Statute of the Court, such invitations should not be addressed to any national court or tribunal of

any instance, in order to respect the existing institutional structured dialogues between the Court and the national courts and systems and ensuring that they remain separate.

*Contentious matters (Rule 149 RoP) - technical issues regarding actions brought by the Parliament before the Court or in which Parliament intervenes or submits observations, and on the developments expected to result from the reform of the Statute*

- With regards to practical implications of the amendment of Article 23 of the Statute, which now provides that all requests for preliminary rulings will be notified to Parliament, the Council and the European Central Bank, so that they can assess whether they have a *particular interest* in the issues raised and decide whether they wish to exercise their right to submit statements of case or written observations, it should be recommended that in Parliament's submission of observations it is marked that the Parliament considers it having such *particular interest* with the understanding that the Court carries out no examination if that is the case leaving it to the sole appreciation of the submitting institution.
- It is to be noted that intervention of the Parliament in cases before the Court does not change the consideration concerning admissibility of the case on the side of the main applicant; in other words the intervention of the Parliament cannot be an argument towards admissibility; the conclusion being that if the case in which the Parliament may want to intervene may suffer from inadmissibility, a possibility of bringing a separate direct action by the Parliament may be considered instead. There is no possibility for the Parliament to take up on itself a role of quasi "amicus curiae".
- With regard to direct actions, it should be noted that since the Lisbon Treaty the Parliament is a privileged applicant on equal footing with the Council and Commission.