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# The Court of Justice

Composition, jurisdiction  
and procedures



To build Europe, certain States (now 27 in number) concluded treaties establishing first the European Communities and then the European Union, with institutions which adopt legal rules in specified areas. With the entry into force, on 1 December 2009, of the Treaty of Lisbon, the European Union was endowed with legal personality and replaced the European Community.

The Court of Justice of the European Union is the **judicial institution of the European Union**. It comprises 3 courts: the Court of Justice, the General Court and the Civil Service Tribunal. Its primary task is to review the legality of acts of the European Union's institutions and to ensure **the uniform interpretation and application of European Union law**.

## THE COMPOSITION OF THE COURT OF JUSTICE

The Court of Justice is composed of 27 Judges and 8 Advocates General. The Judges and Advocates General are appointed by common accord by the Governments of the Member States after consultation of a panel responsible for giving an opinion on the suitability of candidates to perform the duties in question. They are appointed for a renewable term of six years. They are chosen from among lawyers whose independence is beyond doubt and who possess the qualifications required for appointment, in their respective countries, to the highest judicial offices, or who are of recognised competence.

- The Judges of the Court elect from among themselves the *President of the Court* for a renewable term of three years. The President directs the Court's work and staff and presides at hearings and deliberations of the largest formations of the Court.
- The *Advocates General* assist the Court. They are responsible for presenting, with complete impartiality and independence, an 'Opinion' in the cases assigned to them.
- The *Registrar* is the institution's Secretary General and manages its departments under the authority of the President of the Court.

The Court may sit as a full court, in a Grand Chamber of 13 Judges or in Chambers of three or five Judges. The Court sits as a full court in the particular cases prescribed by the Court's Statute (proceedings to dismiss the European Ombudsman or a Member of the European Commission who has failed to fulfil his or her obligations, etc.) and where the Court considers that a case is of exceptional importance. It sits in a Grand Chamber when a Member State or an Institution which is a party to the proceedings so requests, and in particularly complex or important cases. Other cases are heard by Chambers of three or five Judges. The Presidents of the Chambers of five Judges are elected for three years, and those of the Chambers of three Judges for one year.

To enable it properly to fulfil its task, the Court has been given clearly defined jurisdiction, which it exercises on references for preliminary rulings and in various categories of proceedings.

### THE VARIOUS TYPES OF PROCEEDINGS

#### ■ REFERENCES FOR PRELIMINARY RULINGS

The Court of Justice cooperates closely with all the courts of the Member States, which are the ordinary courts in matters of European Union law. To ensure the effective and uniform application of European Union legislation and to prevent divergent interpretations, the national courts may, and sometimes must, refer to the Court of Justice to clarify the interpretation of European Union law, so that they may ascertain, for example, whether their national legislation complies with that law. A reference for a preliminary ruling may also concern the review of the validity of an act adopted by the European Union's institutions.

The Court of Justice's reply is not merely an opinion, but takes the form of a judgment or reasoned order. The court which made the reference to the Court of Justice is, in deciding the dispute before it, bound by the interpretation given. The Court of Justice's judgment likewise binds other national courts before which the same problem is raised.

It is thus through references for preliminary rulings that any European citizen can seek clarification of the European Union's rules which affect him. Although such a reference can be made only by a national court, all the parties to the proceedings before that court, the Member States and the European Union's institutions may take part in the proceedings before the Court of Justice. In that way, a number of important principles of European Union law have been established on the basis of questions referred for preliminary rulings, sometimes by national courts of first instance.

#### ■ ACTIONS FOR FAILURE TO FULFIL OBLIGATIONS

These actions enable the Court of Justice to determine whether Member States have fulfilled their obligations under European Union law. Before bringing the case before the Court of Justice, the Commission conducts an administrative stage in which the Member State concerned is given the opportunity to reply to the complaints against it. If, at the conclusion of that stage, the Member State has not put an end to the infringement, an action may be brought before the Court of Justice.

The action may be brought either by the Commission – as is usually the case – or by a Member State. If the Court of Justice finds that an obligation has not been fulfilled, the State in question must put an end to the infringement without delay. If, after a further action is brought by the Commission, the Court of Justice finds that the Member State concerned has not complied with its judgment, it may impose on it a fixed or periodic



financial penalty. In addition, in cases of failure to inform the Commission of measures transposing directives adopted by a legislative procedure the Court of Justice may impose a financial penalty, on the Commission's proposal, at the stage of the first judgment establishing a failure to fulfil obligations.

#### ■ ACTIONS FOR ANNULMENT

By an action for annulment, the applicant seeks the annulment of a measure (in particular a regulation, directive or decision) adopted by an institution, body, office or agency of the European Union. The Court of Justice has exclusive jurisdiction over actions between the institutions and those brought by a Member State against the European Parliament and/or against the Council (apart from Council measures in respect of State aid, dumping and implementing powers). The General Court has jurisdiction, at first instance, in all other actions of this type and, particularly, in actions brought by individuals and those brought by Member States against acts of the Commission.

#### ■ ACTIONS FOR FAILURE TO ACT

These actions enable review of the lawfulness of failure to act by a European Union institution, body, office or agency. However, such an action may be brought only after the institution concerned has been called on to act. Where the failure to act is held to be unlawful, it is for the institution, body, office or agency concerned to put an end to the failure by the adoption of appropriate measures. Jurisdiction to deter-



mine actions for failure to act is shared between the Court of Justice and the General Court according to the same criteria as for actions for annulment.

#### ■ APPEALS

Appeals limited to points of law may be brought before the Court of Justice against judgments and orders of the General Court. If the appeal is admissible and well founded, the Court of Justice sets aside the General Court's decision. Where the state of the proceedings so permits, the Court of Justice may itself decide the case. Otherwise, it must refer the case back to the General Court, which is bound by the decision given on the appeal.

#### ■ REVIEWS

Decisions of the General Court on appeals against decisions of the European Union Civil Service Tribunal may, in exceptional circumstances, be reviewed by the Court of Justice where there is a serious risk of the unity or consistency of European Union law being affected. └

Whatever the type of case, there is, as a general rule, a written stage and an oral stage, which is public. However, a distinction must be drawn between, on the one hand, references for preliminary rulings and, on the other, other actions, known as 'direct actions'.

### ■ COMMENCEMENT OF PROCEEDINGS BEFORE THE COURT AND THE WRITTEN PROCEDURE

#### ■ in references for preliminary rulings

The national court submits questions to the Court of Justice about the interpretation or validity of a provision of European Union law, generally in the form of a judicial decision in accordance with the national procedural rules. When that request has been translated by the Court's translation service into all the languages of the European Union, the Registry notifies it to the parties to the national proceedings, and also to all the Member States and institutions of the European Union. A notice is published in the *Official Journal of the European Union* stating, inter alia, the names of the parties to the proceedings and the content of the questions. The parties, the Member States and the institutions have two months within which to submit any written observations to the Court of Justice.

#### ■ in direct actions

An action before the Court must be brought by application addressed to its Registry. The Registrar publishes a notice of the action in the *Official Journal of the European Union*, setting out the applicant's claims and arguments. At the same time, the application is served on the party sued, who has one month within which to lodge a defence. The applicant may lodge a reply and the defendant a rejoinder, the time allowed being one month in each case. The time-limits for lodging these documents must be complied with unless an extension is granted by the President.

In both types of action, a Judge-Rapporteur and an Advocate General, responsible for monitoring the progress of the case, are appointed by the President and the First Advocate General respectively.

### ■ PREPARATORY INQUIRIES AND THE REPORT FOR THE HEARING

In all cases, once the written procedure is closed, the parties are asked to state, within three weeks, whether and why they wish a hearing for oral argument to be held. The Court decides, after reading the report of the Judge-Rapporteur and hearing the views of the Advocate General, whether any particular preparatory inquiries are needed, to what type of formation the case should be assigned, and whether a hearing should be held for oral argument, for which the President will fix the date. The Judge-Rapporteur summarises, in a Report for the Hearing, the facts alleged and the

arguments of the parties and any interveners. The Report is made public in the language of the case at the hearing.

### ■ THE HEARING AND THE ADVOCATE GENERAL'S OPINION

The case is argued at a public hearing, before the formation to which it was assigned and the Advocate General. The Judges and the Advocate General may put to the parties any questions they consider appropriate. Some weeks later, the Advocate General delivers his or her Opinion before the Court of Justice, again in open court. He or she analyses in detail the legal aspects of the case and suggests completely independently to the Court the response which he or she considers should be given to the problem raised. This marks the end of the oral procedure. If the Court decides that the case raises no new question of law, it may decide, after hearing the Advocate General, to give judgment without an Opinion.

### ■ JUDGMENTS

The Judges deliberate on the basis of a draft judgment drawn up by the Judge- Rapporteur. Each Judge of the formation concerned may propose changes. Decisions of the Court of Justice are taken by majority and no record is made public of any dissenting opinions. Judgments are signed by all the Judges who took part in the deliberation and their operative part is pronounced in open court. Judgments and the Opinions of the Advocates General are available on the Court's internet site on the day they are delivered. They are, in most cases, subsequently published in the *Reports of Cases before the Court of Justice and the General Court (ECR)*.

### ■ SPECIAL FORMS OF PROCEDURE

#### ■ The simplified procedure

Where a question referred for a preliminary ruling is identical to a question upon which the Court has already been requested to rule, or where the answer to the question admits of no reasonable doubt or may be deduced from existing case-law, the Court may, after hearing the Advocate General, give its decision on that question by reasoned order, referring in particular to the previous judgment relating to that question or the case-law.

#### ■ The expedited procedure

The expedited procedure enables the Court of Justice to give its rulings quickly in very urgent cases by greatly abridging the time-limits. On application by one of the parties, the President of the Court decides, after hearing the other parties, whether the particular urgency of the case requires recourse to the expedited procedure. An accelerated procedure can also be used for references for preliminary rulings. In that case, the application is made by the national court seeking the preliminary ruling.







### ■ The urgent preliminary ruling procedure (PPU)

The procedure enables the Court of Justice to deal far more quickly (in two to three months) with the most sensitive issues relating to the area of freedom, security and justice (police and judicial cooperation in civil and criminal matters, as well as policies on border checks, visas, asylum and immigration). PPU cases are referred to a specially designated Chamber of five Judges and the written procedure is, in practice, essentially conducted electronically.

### ■ Applications for interim measures

Applications for interim measures seek suspension of the operation of measures which an institution, body, office or agency has adopted and which form the subject-matter of an action, or any other interim order necessary to prevent serious and irreparable damage to a party.

## ■ THE COSTS OF PROCEEDINGS

There are no court fees for proceedings before the Court of Justice. On the other hand, the Court does not meet the fees and expenses of the lawyer entitled to practise before a court of a Member State by whom parties must be represented. However, a party unable to meet all or part of the costs of the proceedings may, without having to instruct a lawyer, apply for legal aid. The application must be accompanied by all necessary evidence establishing the need.

## ■ LANGUAGE ARRANGEMENTS

In direct actions, the language used in the application (which may be one of the 23 official languages of the European Union) will be the 'language of the case', that is to say the language in which the proceedings will be conducted. With references for preliminary rulings, the language of the case is that of the national court which made the reference to the Court of Justice. Oral proceedings at hearings are interpreted simultaneously as required, into various official languages of the European Union. The Judges deliberate, without interpreters, in a common language which, traditionally, is French.

# DIAGRAM OF THE PROCEDURE BEFORE THE COURT OF JUSTICE ]

DIRECT ACTIONS AND APPEALS		REFERENCES FOR A PRELIMINARY RULING
<b>WRITTEN PROCEDURE</b>		
<p>APPLICATION</p> <p>SERVICE OF THE APPLICATION ON THE DEFENDANT BY THE REGISTRY</p> <p><b>NOTICE OF THE ACTION IN THE OFFICIAL JOURNAL OF THE EUROPEAN UNION (SERIES C)</b></p> <p>[INTERIM MEASURES] [INTERVENTION]</p> <p>DEFENCE/RESPONSE [OBJECTION TO ADMISSIBILITY]</p> <p>[REPLY AND REJOINDER]</p>	<p>DESIGNATION OF JUDGE-RAPPORTEUR AND ADVOCATE GENERAL</p>	<p>NATIONAL COURT'S DECISION TO MAKE A REFERENCE</p> <p>TRANSLATION INTO THE OTHER OFFICIAL LANGUAGES OF THE EUROPEAN UNION</p> <p><b>NOTICE OF THE QUESTIONS REFERRED FOR A PRELIMINARY RULING IN THE OFFICIAL JOURNAL OF THE EUROPEAN UNION (SERIES C)</b></p> <p>NOTIFICATION TO THE PARTIES TO THE PROCEEDINGS, THE MEMBER STATES, THE INSTITUTIONS OF THE EUROPEAN UNION, THE EEA STATES AND THE EFTA SURVEILLANCE AUTHORITY</p> <p>WRITTEN OBSERVATIONS OF THE PARTIES, STATES AND INSTITUTIONS</p>

THE JUDGE-RAPPORTEUR DRAWS UP THE PRELIMINARY REPORT

CONSIDERATION OF THE CASE, IN A GENERAL MEETING, BY ALL OF THE JUDGES AND ADVOCATES GENERAL

ASSIGNMENT OF THE CASE TO A FORMATION

[MEASURES OF INQUIRY]

## ORAL PROCEDURE

[HEARING; **REPORT FOR THE HEARING**]

[**OPINION** OF THE ADVOCATE GENERAL]

DELIBERATION BY THE JUDGES

**JUDGMENT**

Optional steps in the procedure are indicated in brackets.

Cases disposed of by order do not include all the steps indicated above.

Words in bold indicate a public document.

Court of Justice of the European Union > [www.curia.europa.eu](http://www.curia.europa.eu)

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Photos: G. Fessy © CJEU

December 2010 edition

doi:10.2862/38701



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L-2925 Luxembourg  
Press and Information

[www.curia.europa.eu](http://www.curia.europa.eu)



Publications Office

ISBN 978-92-829-1014-6



9 789282 910146