

The Court of Justice:

composition, jurisdiction and procedures



For the purpose of European construction, the Member States (now 27 in number) concluded treaties creating first the European Communities and then a European Union, with institutions which adopt laws in specified areas.

The Court of Justice of the European Communities is the **Community judicial institution**. It comprises three courts: the Court of Justice, the Court of First Instance and the Civil Service Tribunal, whose essential tasks are to examine the legality of Community acts and to ensure **the uniform interpretation and application of Community 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 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 one of themselves as *President of the Court* for a renewable term of three years. The President directs the work and staff of the Court and presides at hearings and deliberations of the full Court or the Grand Chamber.
- 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 3 or 5 judges. The Court sits as a full court in the particular cases prescribed by the Statute of the Court (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.

JURISDICTION

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 with all the courts of the Member States, which are the ordinary courts in matters of Community law. To ensure the effective and uniform application of Community legislation and to prevent divergent interpretations, the national courts may, and sometimes must, refer to the Court of Justice and ask it to clarify a point concerning the interpretation of Community law, so that they may ascertain, for example, whether their national legislation complies with that law. A reference for a preliminary ruling may also seek the review of the validity of an act of Community law.

The Court of Justice's reply is not merely an opinion, but takes the form of a judgment or reasoned order. The national court to which it is addressed 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 Community 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 institutions may take part in the proceedings before the Court of Justice. In that way, several important principles of Community law have been established by preliminary rulings, sometimes in reply to questions referred by national courts of first instance.

■ Actions for failure to fulfil obligations

These actions enable the Court of Justice to determine whether a Member State has fulfilled its obligations under Community law. Before bringing the case before the Court of Justice, the Commission conducts a preliminary procedure in which the Member State is given the opportunity to reply to the complaints against it. If that procedure does not result in the Member State terminating the failure, an action for infringement of Community law may be brought before the Court of Justice.

The action may be brought by the Commission — as, in practice, is usually the case — or by a Member State. If the Court finds that an obligation has not been fulfilled, the State must bring the failure to an end 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.

■ Actions for annulment

By an action for annulment, the applicant seeks the annulment of a measure (regulation, directive or decision) adopted by an institution. The Court of Justice has exclusive jurisdiction over actions 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) or brought by one Community institution against another. The Court of First Instance has jurisdiction, at first instance, in all other actions of this type and particularly in actions brought by individuals.



■ Actions for failure to act

These actions enable the lawfulness of Community institutions' failures to act to be reviewed. 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 concerned to put an end to the failure by appropriate measures. Jurisdiction to hear actions for failure to act is shared between the Court of Justice and the Court of First Instance according to the same criteria as for actions for annulment.

■ Appeals

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

■ Reviews

Decisions of the Court of First Instance on appeals against decisions of the European Union Civil Service Tribunal may, in exceptional circumstances, be reviewed by the Court of Justice.

PROCEDURE

Whatever the type of case, there is always a written stage and usually an oral stage, which takes place in open court. However, a distinction must be drawn between, first, references for preliminary rulings and, second, other actions, known as 'direct actions'.

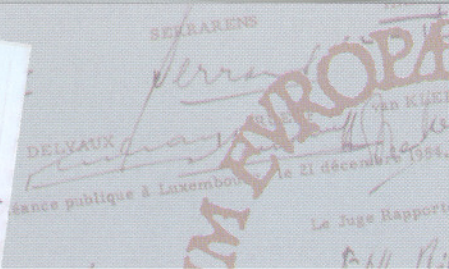
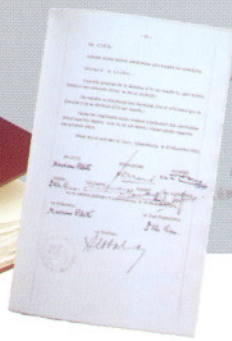
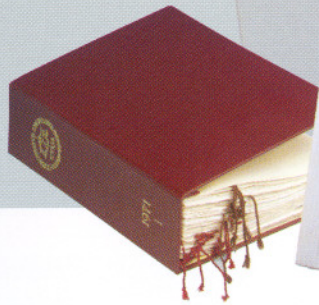
■ Commencement of proceedings before the Court and the written procedure

■ In references for preliminary rulings

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

■ In direct actions

An action before the Court must be brought by application addressed to the 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 proceedings, once the written procedure is closed, the parties are asked to state, within one month, whether and why they wish a hearing to be held. The Court decides, after reading the report of the Judge-Rapporteur and hearing the views of the Advocate General, whether any preparatory inquiries are needed, what type of formation the case should be assigned to, 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 public hearing and the Advocate General's opinion

The case is argued at a public hearing, before the bench 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 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 of Justice the response which he or she considers should be given to the problem raised. This marks the end of the oral procedure. If it is decided that the case raises no new question of law, the Court 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 pronounced or delivered. They are, in most cases, subsequently published in the *European Court Reports*.



■ Special forms of procedure

■ Reasoned orders

Where a question referred for a preliminary ruling is identical to a question on which the Court of Justice has already been called on 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 by reasoned order, citing in particular a previous judgment relating to that question or the relevant case-law.

■ The expedited procedure

The expedited procedure enables the Court of Justice to give its rulings quickly in very urgent cases by reducing the time-limits and omitting certain steps in the procedure. On application by one of the parties, the President of the Court may decide, after hearing the other parties, whether the particular urgency of the case requires the use of the expedited procedure. Such a 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.

■ Applications for interim measures

Applications for interim measures seek suspension of the operation of measures which an institution 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 practice before a court of a Member State by whom the 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.

■ The linguistic regime

In all 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. Regarding 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.

Procedure before the Court of Justice

Direct actions and appeals

References for a preliminary ruling

Written procedure

Application	[Application for legal aid]	National court's decision to make a reference
Service of the application on the defendant by the Registry	Assignment of Judge-Rapporteur and Advocate General	Translation into the other official languages of the European Union
Notice of the action in the Official Journal of the European Union (Series C)		Notice of the questions referred for a preliminary ruling in the Official Journal of the European Union (Series C)
[Interim measures]		Notification to the parties to the proceedings, the Member States, the Community institutions, the EEA States and to the EFTA Surveillance Authority
[Intervention]		
Defence/Response		Written observations of the parties, the States and the institutions
[Objection to admissibility]		
[Reply and Rejoinder]		

The Judge-Rapporteur draws up the preliminary report

General meeting of the Judges and the 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 Communities: www.curia.europa.eu
Case-law: www.curia.europa.eu/en/content/juris/index.htm
Press Releases: www.curia.europa.eu/en/actu/communiqués/index.htm
Portal of the European Union Institutions: www.europa.eu
Access to European Union Law: www.eur-lex.europa.eu

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Press and Information

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