



COMPETENCES OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

This fact sheet describes the competences of the Court of Justice of the European Union, which consists of two courts, the [Court of Justice](#) proper and the [General Court](#) and offers various means of redress, as laid down in Article 19 of the Treaty on European Union (TEU), Articles 251-281 of the Treaty on the Functioning of the European Union (TFEU), Article 136 Euratom, and Protocol No 3 annexed to the Treaties on the Statute of the Court of Justice of the European Union.

COURT OF JUSTICE

A. Direct proceedings against Member States or an institution, body, office or agency of the European Union.

The Court gives a ruling on the proceedings against the states or institutions that have not fulfilled their obligations under EU law.

1. Proceedings against a Member State for failure to fulfil an obligation

These actions are brought:

- Either by the Commission, after a preliminary procedure (Article 258 TFEU): opportunity for the state to submit its observations and reasoned opinion ([1.3.8](#));
- Or by a Member State against another Member State after it has brought the matter before the Commission (Article 259 TFEU).

Role of the Court:

- Confirming that the state has failed to fulfil its obligations, in which case the state is required to put an immediate end to the infringement.
- If, after a further action is brought by the Commission, the Court finds that the Member State concerned has not complied with its judgment, it may impose on it a financial penalty (a fixed lump sum and/or a periodic penalty payment), the amount being determined by the Court on the basis of a Commission proposal (Article 260 TFEU).

2. Proceedings against the EU institutions for annulment and for failure to act

Subject: cases where the applicant seeks the annulment of a measure supposedly contrary to EU law (annulment: Article 263 TFEU) or, in cases of infringement of EU law, where an institution, body, office or agency has failed to act (Article 265 TFEU).



Referral: actions may be brought by the Member States, the institutions themselves or any natural or legal person if the actions relate to a measure (in particular a regulation, directive or decision) adopted by an EU institution, body, office or agency and addressed to them.

Role of the Court: the Court declares the act void or declares that there has been a failure to act, in which case the institution at fault is required to take the necessary measures to comply with the Court's judgment (Article 266 TFEU).

3. Other direct proceedings

As the General Court has jurisdiction in all first instance actions referred to in Articles 263, 265, 268, 270 and 272 TFEU, only actions against Commission decisions imposing penalties on firms (Article 261) are to be brought to the Court of Justice, as well as those provided for in the Statute for the Court of Justice (Statute of the Court of Justice of the European Union, as amended by Regulation (EU, Euratom) No 741/2012 of 11 August 2012, by Regulation (EU, Euratom) 2015/2422 of 16 December 2015 and by Regulation (EU, Euratom) 2016/1192 of the European Parliament and of the Council of 6 July 2016 of the European Parliament and of the Council). Article 51 of the Statute of the Court of Justice provides that, by way of derogation from the rule laid down in Article 256(1) of the Treaty on the Functioning of the European Union, jurisdiction shall be reserved to the Court of Justice in the actions referred to in Articles 263 and 265 of the Treaty on the Functioning of the European Union when they are brought by a Member State against:

- An act of or failure to act by the European Parliament or the Council, or by those institutions acting jointly, except for:
 - decisions taken by the Council under the third subparagraph of Article 108(2) of the Treaty on the Functioning of the European Union;
 - acts of the Council adopted pursuant to a Council regulation concerning measures to protect trade within the meaning of Article 207 of the Treaty on the Functioning of the European Union;
 - acts of the Council by which the Council exercises implementing powers in accordance with the second paragraph of Article 291 of the Treaty on the Functioning of the European Union;
- An act of or failure to act by the Commission under the first paragraph of Article 331 of the Treaty on the Functioning of the European Union.

Jurisdiction shall also be reserved to the Court of Justice in the actions referred to in the same Articles when they are brought by an institution of the Union against an act of or failure to act by the European Parliament, the Council, both those institutions acting jointly, or the Commission, or brought by an institution of the Union against an act of or failure to act by the European Central Bank.

B. Indirect proceedings: question of validity raised before a national court or tribunal (Article 267 TFEU — preliminary rulings)

The national courts are normally responsible for applying EU law when a case so requires. However, when an issue relating to the interpretation of the law is raised



before a national court or tribunal, the court or tribunal may seek a preliminary ruling from the Court of Justice. If it is a court of last instance, it is compulsory to refer the matter to the Court. The national court submits the question(s) about the interpretation or validity of a provision of EU law, generally in the form of a judicial decision, in accordance with the national procedural rules. The Registry notifies the request to the parties to the national proceedings and also to the Member States and the institutions of the European Union. They have two months within which to submit any written observations to the Court of Justice.

C. Responsibility at second instance

The Court has the jurisdiction to review appeals limited to points of law in rulings and orders of the General Court. The appeals do not have suspensory effect.

If the appeal is considered admissible and well-founded, the Court of Justice sets aside the General Court's decision and decides the case itself, or else must refer the case back to the General Court, which is bound by the decision.

ACHIEVEMENTS

The Court of Justice has shown itself to be a very important factor — some would say even a driving force — in European integration.

A. In general

Its judgment of 5 February 1963 in the *Van Gend & Loos* case established the principle that Community law is directly applicable in the courts of the Member States. Similarly, its judgment of 15 July 1964 in the *Costa v ENEL* case was fundamental in defining Community law as an independent system taking precedence over national legal provisions. Other significant judgments concerning the protection of human rights include the judgment of 14 May 1974 in the *Nold* case, in which the Court stated that fundamental human rights are an integral part of the general principles of law that it upholds (4.1.1).

B. In specific matters

- Free movement of goods: judgment of 20 February 1979 in the *Cassis de Dijon* case, in which the Court ruled that any product legally manufactured and marketed in a Member State must in principle be allowed on the market of any other Member State.
- Free movement of persons: the *Bosman* judgment of 1995 stated that professional sport is an economic activity whose exercise may not be hindered by rules of football federations governing the transfer of players or restricting the number of nationals of other Member States.
- The external jurisdiction of the Community: the *AETR* judgment of 31 March 1971, in the *Commission v Council* case, which recognised the Community's right to conclude international agreements in spheres where Community regulations apply.
- In 1991, in *Francovich and Others*, the Court developed another fundamental concept: the liability of a Member State towards individuals for damage caused to



them by an infringement by that Member State owing to its failure to transpose a directive into national law or to do so in good time.

- Various judgments relating to social security (Defrenne case of 1976 for equal pay for men and women) and health and safety of workers (BECTU case of 2001).

One of the great merits of the Court has been its statement of the principle that the Treaties must not be interpreted rigidly but must be viewed in the light of the state of integration and of the objectives of the Treaties themselves. This principle has allowed legislation to be adopted in areas where there are no specific Treaty provisions, such as the fight against pollution: in the Commission v Council case of 13 September 2005, the Court authorised the European Union to take measures relating to criminal law where 'necessary' in order to achieve the objective pursued as regards environmental protection.

GENERAL COURT

(1.3.9)

A. Jurisdiction of the General Court (Article 256 TFEU)

As 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, the General Court has jurisdiction, at first instance, in all other actions of this type, particularly in actions brought by individuals and those brought by a Member State against the Commission.

The TFEU provides that the General Court has jurisdiction to hear at first instance actions referred to in Articles 263, 265, 268, 270 and 272 TFEU, particularly in the areas set out below, unless the actions are brought by Member States, EU institutions or the European Central Bank, in which case the Court of Justice has sole jurisdiction (Article 51 of the Statute of the Court of Justice of the EU):

- Actions for annulment of acts of the institutions, bodies, offices or agencies of the EU or for failure to act brought against the institutions by individuals or legal persons (Articles 263 and 265 TFEU);
- Actions brought by Member States against the Commission;
- Actions for the reparation of damage caused by the institutions or the bodies, offices or agencies of the EU or their staff (Article 268 TFEU);
- Disputes concerning contracts concluded by or on behalf of the Union which expressly give jurisdiction to the General Court (Article 272 TFEU);
- Actions relating to intellectual property brought against the European Union Intellectual Property Office and against the Community Plant Variety Office;
- Disputes between the Union and its servants, including disputes between all institutions and all bodies, offices or agencies, on the one hand, and their servants, on the other;
- Actions brought against decisions of the European Chemicals Agency.



The Statute may extend the General Court's jurisdiction to other areas.

In general, judgments given by the General Court at first instance may be subject to a right of appeal to the Court of Justice, but this is limited to points of law.

B. Preliminary rulings

The General Court has the jurisdiction to give preliminary rulings (Article 267 TFEU) in the areas laid down by the Statute (Article 256(3) TFEU). However, since no provisions have been introduced into the Statute in that regard, the Court of Justice currently has sole jurisdiction to give preliminary rulings.

C. Responsibility for appeals

Rulings made by the General Court, limited to points of law, may, within two months, be subject to an appeal to the Court of Justice.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

On 1 September 2016 disputes between the Union and its servants were transferred to the General Court ([1.3.9](#)), which meant the dissolution of the European Union Civil Service Tribunal created in 2004. Regulation (EU, Euratom) 2016/1192 of the European Parliament and of the Council of 6 July 2016 on the transfer to the General Court of jurisdiction at first instance in disputes between the European Union and its servants therefore repealed Council Decision 2004/752/EC, Euratom, establishing the European Union Civil Service Tribunal. Cases pending before the Civil Service Tribunal on 31 August 2016 were transferred on 1 September 2016 to the General Court, which continues to deal with those cases as it finds them at that date, the procedural steps taken by the former Civil Service Tribunal in those cases remaining applicable. In the event of a case being transferred to the General Court after the hearing, the oral part of the procedure would be reopened.

A transitional regime was introduced in respect of appeals under examination when jurisdiction was transferred on 1 September 2016, or brought after that date, against decisions of the Civil Service Tribunal. The General Court is to continue to have jurisdiction to hear and determine such appeals. Accordingly, Articles 9 to 12 of Annex I to the Statute of the Court must remain applicable to the proceedings concerned.

ROLE OF THE EUROPEAN PARLIAMENT

According to Article 257 TFEU, Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceedings brought in specific areas. Parliament and the Council are required to act by means of regulations either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.

According to Article 281 TFEU, the Statute of the Court of Justice of the European Union is laid down in a separate Protocol, and the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may amend this Statute.



Parliament is one of the institutions mentioned in Article 263 TFEU that may bring an action (as a party) before the Court.

Udo Bux
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