



THE COURT OF JUSTICE OF THE EUROPEAN UNION

The Court of Justice of the European Union is one of the EU's seven institutions. It consists of two courts of law: the [Court of Justice](#) proper and the [General Court](#). It is responsible for the jurisdiction of the European Union. The courts ensure the correct interpretation and application of primary and secondary Union law in the EU. They review the legality of acts of the Union institutions and decide whether Member States have fulfilled their obligations under primary and secondary law. The Court of Justice also provides interpretations of Union law when so requested by national judges.

COURT OF JUSTICE

A. Legal basis

- Article 19 of the Treaty on European Union (TEU), Articles 251 to 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 \(hereinafter 'the Statute'\)](#);
- [Regulation \(EU, Euratom\) 2015/2422 of the European Parliament and of the Council of 16 December 2015 amending Protocol No 3 on the Statute of the Court of Justice of the European Union](#);
- EU Budget (Section 4).

B. Composition and Statute

1. Membership

a. Number of members (Article 19 TEU and Article 252 TFEU)

One judge per Member State (28). The Court is assisted by eight advocates-general, whose number may be increased by the Council if the Court so requests. The Judges of the Court of Justice elect from among themselves a President and a Vice-President for a renewable term of three years.

b. Requirements (Article 253 TFEU and Article 19 TEU)

- The judges and advocates-general must possess the qualifications required for appointment to the highest judicial offices in their respective countries or be jurisconsults of recognised competence;
- Their independence must be beyond doubt.



c. Appointment procedure (Article 253 TFEU)

The judges and advocates-general are appointed by common accord of the governments of the Member States after consultation of a panel responsible for assessing candidates' suitability (Article 255 TFEU).

2. Characteristics of the office

a. Duration (Article 253 TFEU and Statute)

- Six years. Partial replacement every three years, half of the judges and of the advocates-general replaced alternately.

Retiring judges and advocates-general may be reappointed.

b. Privileges and immunities (Statute)

Judges and advocates-general are immune from legal proceedings. After they have ceased to hold office, they continue to enjoy immunity in respect of acts performed by them in their official capacity. They may be removed from office only by a unanimous decision of the Court.

c. Obligations (Statute)

Judges and advocates-general:

- Take an oath (swearing independence, impartiality and preservation of secrecy) before taking up their duties;
- May not hold any political or administrative office or engage in any other occupation;
- Give an undertaking that they will respect the obligations arising from their office.

C. Organisation and operation (Article 253 TFEU and Statute)

1. Institutional set-up

The Statute of the Court of Justice of the European Union must be laid down in a separate Protocol, annexed to the Treaties (Article 281 TFEU). The Court elects its President and a Vice-President from among its members for a renewable term of three years (Article 9a of Protocol No 3). The President directs the work of the Court and presides at hearings and deliberations of the full Court or the Grand Chamber. The Vice-President assists the President in the exercise of his duties and takes his place when necessary. The Court appoints its Registrar. The Registrar is the institution's secretary general and manages its departments under the authority of the President of the Court.

2. Operation

The Court establishes its Rules of Procedure, which require the approval of the Council, acting by a qualified majority. The Court may sit as a full Court with 28 judges, in a Grand Chamber of 15 judges or in chambers of three or five judges. The institution is financed from the EU Budget, where it has its own dedicated section (Section 4).

D. Achievements

The Court of Justice has shown itself to be a driving force of the European integration process.



1. General practice

Its judgment of 15 July 1964 in the *Costa/Enel* case was fundamental in defining European Community law as an independent system taking precedence over national legal provisions. Similarly, 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. 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 (4.1.2).

2. In specific matters

- Right of establishment: judgment of 8 April 1976 in the *Royer* case, in which the Court upheld the right of a national of a Member State to stay in any other Member State independently of any residence permit issued by the host country;
- 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;
- The external jurisdiction of the Community: AETR judgment of 31 March 1971, in the *Commission/Council* case, which recognised the Community's right to conclude international agreements in spheres where Community regulations apply;
- Recent judgments establishing an obligation to pay damages on Member States that have failed to transpose directives into national law or failed to do so in good time;
- Various judgments relating to social security and competition;
- Rulings on breaches of Community law by the Member States, which are vital for the smooth running of the common market.

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 the Community to legislate in areas where there are no specific Treaty provisions, such as the fight against pollution (in a judgment of 13 September 2005 (Case C-176/03), the Court in fact 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

A. Legal basis

Articles 254 to 257 TFEU, Article 40 Euratom, and Title IV of Protocol No 3 annexed to the Treaties on the Statute of the Court of Justice of the European Union.



B. Duration and Statute (Article 254 TFEU)

1. Membership

a. Number (Article 19 TEU, Article 254 TFEU)

Article 254 TFEU provides that the number of judges shall be determined by the Statute of the Court of Justice of the European Union. [Article 48 of Protocol No 3 on this Statute, as last amended by Regulation \(EU, Euratom\) 2016/1192 of 6 July 2016](#), provides that the General Court is to consist of 47 judges from 1 September 2016, and of two judges per Member State from 1 September 2019. Judges are appointed by common accord of the governments of the Member States after consultation of a panel responsible for giving an opinion on candidates' suitability to perform the duties of judge. Their term of office is six years, and is renewable. The judges may be called upon to perform the task of Advocate-General, as unlike the Court of Justice, the General Court does not have permanent advocates-general.

b. Requirements

Identical to those of the Court of Justice (Article 19 TEU).

c. Appointment procedure

Identical to that of the Court of Justice.

2. Characteristics of the office

Identical to those of the Court of Justice.

C. Organisation and operation

The judges appoint their President from among their number for a period of three years and their Registrar for a six-year term of office, although the Court uses the services of the Court of Justice for its administrative and linguistic requirements.

In agreement with the Court of Justice, the General Court establishes its Rules of Procedure. The Court sits in chambers of three or five judges. Its Rules of Procedure determine when the General Court sits as a full Court or in a Grand Chamber or is constituted by a single judge. More than 80% of the cases brought before the General Court are heard by a chamber of three judges. Parliament and the Council, acting under the ordinary legislative procedure (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), may establish specialised courts attached to the General Court to hear and determine at first instance certain categories of actions or proceedings brought in specific areas, e.g. the establishment of a new specialised court for trademarks, models and designs, which is currently under discussion.

THE FORMER EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Established in 2004, the European Union Civil Service Tribunal had been responsible for ruling on disputes between the EU institutions and their staff where these were not the responsibility of a national court. As part of an overall increase in the total number of judges of the Court of Justice, the Civil Service Tribunal was dissolved



on 1 September 2016 and integrated into the General Court by 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. Cases pending before the Civil Service Tribunal on 31 August 2016 were transferred to the General Court with effect from 1 September 2016. The General Court continues to deal with those cases as found at that date, with the procedural steps taken by the former Civil Service Tribunal remaining applicable.

ROLE OF THE EUROPEAN PARLIAMENT

As early as 1990, a Court ruling on a case brought by Parliament as part of the legislative procedure on the adoption of health measures to be taken following the Chernobyl nuclear accident granted Parliament the right to bring before the Court actions to have decisions declared void for the purpose of safeguarding its prerogatives under the legislative procedure.

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 proceeding 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 amended by Parliament and the Council, which act in accordance with the ordinary legislative procedure (in the form of a Regulation of the European Parliament and of the Council). An example of this participation on the part of the European Parliament is the [Court's own recent proposal](#) of 26 March 2018 to amend its Statute: it pertains to the possibility of certain changes to the division of jurisdiction between the Court of Justice and the General Court with regard to preliminary rulings.

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

With the entry into force of the Lisbon Treaty, candidates for the post of Judge and Advocate General are now first appraised by a panel of seven persons, one of whom is proposed by Parliament (Article 255 TFEU).

Udo Bux
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