

THE COURT OF JUSTICE OF THE EUROPEAN UNION

The Court of Justice of the European Union (CJEU) 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 EU law in the EU. They review the legality of acts of the EU institutions and decide whether Member States have fulfilled their obligations under primary and secondary law. The Court of Justice also provides interpretations of EU 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 of the Euratom Treaty, and [Protocol No 3 annexed to the Treaties on the Statute of the Court of Justice of the European Union \('the Statute'\)](#);
- [Regulation \(EU, Euratom\) 2019/629 of the European Parliament and of the Council of 17 April 2019 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 (27). The Court is assisted by 11 advocates-general. 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 19 TEU and Article 253 TFEU)

- Judges and advocates-general must possess the qualifications required for appointment to the highest judicial offices in their respective countries or be recognised legal experts;
- Their independence must be beyond doubt.

c. Appointment procedure (Article 253 TFEU)

As the end of terms of office of judges and advocates-general approaches, the representatives of Member State governments proceed to the appointment of judges or advocates-general to the Court of Justice by common accord after consultation with a panel responsible for giving an opinion on prospective candidates' suitability (Article 255 TFEU).

2. Characteristics of the office

a. Duration (Article 253 TFEU and the Statute)

Six years. Partial replacement every three years, half of the judges and of the advocates-general are replaced alternately. Retiring judges and advocates-general may be reappointed.

b. Privileges and immunities (the 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 they performed in their official capacity. They may be removed from office only by a unanimous decision of the Court.

c. Obligations (the 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 the Statute)

1. Institutional set-up

The Statute 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 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 27 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 v ENEL* case was fundamental in defining Community law as an independent system taking precedence over national legal provisions, establishing the principle of the primacy of EU law^[1]. Similarly, its judgment

[1]Ziller J., *La primauté du droit de l'Union européenne*, European Parliament Directorate-General for Internal Policies, Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, May 2022.

of 5 February 1963 in the Van Gend & Loos case established the principle that Community law was 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: the European Agreement on Road Transport 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 on Member States to pay damages when they 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 EU law by the Member States, which are vital for the smooth running of the common market;
- Data protection: rulings on the 'Safe Harbour' agreement in [Schrems I](#) (2015) and on the EU-US Privacy Shield in [Schrems II](#) (2020), which invalidated the [Commission's adequacy decisions](#) on the United States so as to protect the fundamental principles of European law and ensure a strong set of data protection requirements.

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 EU 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 EU to take measures relating to criminal law where 'necessary' in order to achieve the objective pursued as regards environmental protection).

In 2022, 806 cases were brought before the Court of Justice, of which 546 concerned preliminary ruling proceedings, 37 direct actions and 209 appeals against decisions of the General Court. 808 cases were resolved, including 564 preliminary ruling proceedings, 36 direct actions and 196 appeals against decisions of the General Court. The Member States from which the most requests originated were Germany (98),

Italy (63), Bulgaria (43) and Spain (41). The average duration of proceedings was 16.4 months^[2]. 1 111 cases were pending as of 31 December 2022.

GENERAL COURT

A. Legal basis

Articles 254 to 257 TFEU, Article 40 of the Euratom Treaty, 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 and Article 254 TFEU)

Article 254 TFEU provides that the number of judges shall be determined by the Statute. [Article 48 of Protocol No 3 on this Statute, amended by Regulation \(EU, Euratom\) 2016/1192 of 6 July 2016](#), provides that the General Court shall consist of two judges per Member State (currently 54). Judges are appointed by common accord of the governments of the Member States after consultation with a panel responsible for giving an opinion on candidates' suitability to perform the duties of a 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). For appointment to the General Court, candidates must possess the abilities required for appointment to high judicial office.

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 General 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](#) (Article 254(5) TFEU). The General Court sits in chambers of three or five judges. 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.

According to the recent amendment of Protocol No 3 (Article 49a), the General Court shall, like the Court of Justice, be assisted by one or more advocates-general in dealing with requests for a preliminary ruling. Therefore, the judges of the General

[2][CJEU, Annual report 2022](#).

Court shall elect among them (an) advocate(s)-general for a term of three years (one re-election possible).

Recent amendments to its Rules of Procedure (April 2023) permit the use of videoconferencing during hearings (Article 107a Rules of Procedure). The amendments also introduce the concept of a 'pilot case' (Article 71a Rules of Procedure). If several cases raise the same issue of law and the necessary conditions are met, one of the cases may be identified as the pilot case and the others stayed.

Proceedings may primarily be brought before the General Court, at first instance, in direct actions brought by natural or legal persons, where they are concerned directly and individually, and by Member States against acts of the institutions, bodies, offices or agencies of the EU, and in direct actions seeking compensation for damage caused by the institutions or their staff. The decisions of the General Court may be subject to appeal, limited to points of law, before the Court of Justice. On average, around 30% of decisions by the General Court are challenged.

Parliament and the Council 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. To establish these courts, Parliament and the Council act under the ordinary legislative procedure.

In 2022, 904 cases were brought before the General Court, of which 858 were resolved. 792 of these cases concerned direct actions (270 on intellectual and industrial property, 76 on State aid and competition, 66 on the EU civil service, and 380 on other direct actions). A party that is unable to meet the costs of proceedings may apply for free legal aid (54 cases in 2022). The average duration of proceedings was 16.2 months. 1 474 cases were pending as of 31 December 2022^[3].

THE FORMER EUROPEAN UNION CIVIL SERVICE TRIBUNAL

The European Union Civil Service Tribunal (established in 2004) was 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 these 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 of Justice 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

[3]CJEU, Annual report 2022.

of Justice 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 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 with the Commission.

According to Article 281(2) 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 Parliament's participation is the [Court of Justice's own proposal of 30 November 2022](#) to amend its Statute.

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

According to Article 218(11) TFEU, Parliament can request an opinion from the Court of Justice as to whether a planned international agreement is compatible with the Treaties. Where the opinion of the Court of Justice is adverse, the planned agreement may not enter into force unless it is amended or the Treaties are revised. For example, in July 2019 Parliament asked for a legal opinion on whether the proposals for the accession by the EU to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) were compatible with the Treaties ([Opinion 1/19](#)).

With the entry into force of the Treaty of Lisbon, 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(2) TFEU and Rule 128 of Parliament's Rules of Procedure) by means of a plenary [resolution](#).

In accordance with Article 3(1) of Regulation (EU, Euratom) 2015/2422, on 21 December 2020 the Court of Justice submitted a [report on the functioning of the General Court](#), which was drawn up by an external consultant. In particular, Article 3(1) of Regulation (EU, Euratom) 2015/2422 required the report to focus on the efficiency of the General Court, the necessity and effectiveness of the increase to 56 judges, the use and effectiveness of resources, and the further establishment of specialised chambers and/or other structural changes.

On 19 September 2023 the JURI Committee adopted a [draft report](#) on a [proposal to amend Protocol No 3 on the Statute of the Court of Justice of the EU \(CJEU\)](#), aimed at transferring jurisdiction on preliminary rulings in a number of specific areas from the Court of Justice to the General Court and at extending the requirement to obtain permission to appeal in the case of appeals against certain General Court decisions. On 11 April 2024, the act was adopted by the Council, following Parliament's first reading. Within the agreed text are provisions concerning the election of permanent advocates-general for a term of three years by the General Court.

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