



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 three courts — the [Court of Justice](#) proper, the [General Court](#) and the [Civil Service Tribunal](#) — and offers various means of redress, as laid down in Article 19 TEU, Articles 251-281 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 European Union 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): opportunity for the state to submit its observations, 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).

Role of the Court:

- confirming that the state has failed to fulfil its obligations, in which case the state is required to take the necessary measures to comply with the Court's judgment;
- if the Commission considers that the Member State concerned has not taken such measures, it may (after a preliminary procedure, as provided for above) propose to the Court of Justice that it impose a lump sum or penalty payment on the Member State in question, the amount being determined by the Court on the basis of a Commission proposal (Article 260).

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

Subject: cases where the institutions have adopted acts that are contrary to European Union law (annulment: Article 263) or, in infringement of European Union law, have failed to act (failure to act: Article 265).

Referral: actions may be brought by the Member States, the institutions themselves or any natural or legal person if it relates to a decision 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).

3. Other direct proceedings

Actions against Commission decisions imposing penalties on firms (Article 261).

Actions for compensation for damages caused by the institutions or their servants (Article 268).

Actions by EU officials and servants against their institutions (Article 270) — competence currently devolved to the Civil Service Tribunal (see below).

Actions relating to contracts concluded by the EU (Article 272).

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

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.

C. Responsibility at second instance

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

The Court also has the jurisdiction to review decisions made by judicial panels (see below, Civil Service Tribunal) or by the General Court on preliminary issues. The review procedure is an exceptional procedure, limited to cases where there is a serious risk of the unity or consistency of Community law being affected.

If the Court's ruling might affect the decision on the proceedings that were the subject of the decision at first instance, it is not, however, an appeal 'in the interest of the law'.

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 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 ([2.1.2](#)).

B. 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 legislation to be adopted 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

[\(1.3.9\)](#)

A. Jurisdiction of the General Court (Article 256)

The General Court has jurisdiction to hear at first instance actions in the following areas, 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 European Union (‘the Statute’)).

- actions for annulment or for failure to act brought against the institutions (Articles 263 and 265);
- actions for the reparation of damage caused by the institutions (Article 268) ;disputes concerning contracts concluded by or on behalf of the Union, whether that contract be governed by public or private law (Article 272).

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

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. Responsibility at first and last instance

The General Court has the jurisdiction to give preliminary rulings (Article 267) in the areas laid down by the Statute. However, these decisions may exceptionally be subject to review by the Court of Justice ‘where there is a serious risk of the unity or consistency of Community law being affected’. The review does not have suspensory effect.

It is not, however, an appeal in the interest of the law if the ruling of the Court of Justice is likely to have an impact on the decision on the proceedings that were the subject of the General Court’s ruling:

- in cases of reviews of decisions of the General Court ruling on the decisions of specialised courts (see below), the Court of Justice refers the matter to the General Court, which is bound by the points of law laid down by the Court of Justice. However, the Court of Justice itself decides the case if the decision on the proceedings is based on the same evidence as that brought before the General Court, taking into account the review by the Court of Justice; in cases of reviews of decisions of the General Court on preliminary issues, if the Court of Justice finds that there is a serious risk of the unity or consistency of EU law being

affected, its answer to the question referred replaces that of the General Court (Article 256; Article 62 of the Statute’).

C. Responsibility for appeals

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

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

[\(1.3.9\)](#)

In order to relieve the Court of some of its proceedings, Article 257 has foreseen the possibility of establishing special jurisdictions to hear certain categories of actions ‘in certain specific areas’ at first instance. In accordance with this provision, Council Decision 2004/752/EC, Euratom of 2 November 2004 has established the European Union Civil Service Tribunal, attached to the General Court. The Tribunal has jurisdiction to hear and determine disputes between the European Union and its servants pursuant to Article 270, for the approximately 35 000 staff of the ‘EU institutions (it hears some 120 cases a year). These disputes concern not only questions to do with working relations in the strict sense (pay, career progress, recruitment, disciplinary measures, etc.), but also the social security system (sickness, old age, invalidity, accidents at work, etc.).

The Tribunal also has jurisdiction in disputes between all bodies or agencies and their staff in respect of which jurisdiction is conferred on the Court of Justice of the European Union (for example, disputes between Europol, the Office for Harmonisation in the Internal Market (OHIM) or the European Investment Bank and their staff).

It may not hear and determine cases between national administrations and their employees.

Decisions given by the Tribunal may, within two months, be subject to an appeal, limited to questions of law, to the General Court.

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