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Institution Series: Court of Justice

Author

Sonja Planitzer

Editor European Affairs

The Court of Justice of the European Communities (“the Court” or ECJ) is the judicial institution of the European Union (EU). It was originally established under the European Coal and Steel Community in 1952 and is based in Luxembourg. The Court upholds the Treaties of the EU and ensures that EU legislation is interpreted, applied and enforced in the same way in all member states. In addition, the Court has the power to settle legal disputes between EU member states, EU institutions, businesses and individuals.

The ECJ's Work

The Court has an enormous workload, and it hears cases year round. In 2004, the Court concluded 665 cases, a significant increase from the 494 cases brought to a close during the previous year. The four most common types of case heard at the Court are:

- References for a preliminary ruling, in which a national court may request the ECJ's assistance in ruling on the application of EU laws, when a decision cannot be reached at the national level.
- Actions for failure to fulfil an obligation, in which an EU member state or the European Commission (“the Commission”) may commence proceedings to force another member state to comply with EU law.
- Actions for annulment, in which an EU member state, the Commission, the Council of the EU (the “Council”) or the European Parliament may request the annulment of an EU law that conflicts with the EU Treaties. Private individuals with the proper legal representation may also initiate annulment proceedings before the Court, if the law in question directly impacts them.
- Actions for failure to act, in which EU member states, European Community institutions and (under certain conditions) individuals or businesses may lodge a complaint about the failure of the European Parliament, the Council or the Commission to render a decision as required by the EU Treaties.

Who Works in the Court?

The Court is comprised of one judge per member state, so that all 25 of the EU's national legal systems are represented. For the sake of efficiency, however, the Court usually sits as a “Grand Chamber” of just 13 judges or in chambers of 5 or 3 judges. In addition, there are eight advocates general, who must present publicly and impartially reasoned opinions on the cases brought before the Court. France, Germany, Italy, Spain and the United Kingdom each appoint one advocate general; the others are appointed on a six-year, rotating basis from the remaining EU member states. Judges and advocates general must either be eligible to serve in their highest national courts or must be qualified academic lawyers. While serving on the ECJ, judges and advocates general may not hold any other office of an administrative or political nature nor engage in any other occupation, paid or unpaid.

The Organisation of the Court

Prior to 1989, the Court primarily ruled on cases regarding the application of EU law. In 1989, the Court incorporated a “Court of First Instance,” with the power to hear a broader range of cases, including cases involving competition law, breach of commercial policy or social policy and disputes concerning EU staff regulations. The Court of First Instance helps the Court to cope with its large number of cases and offers citizens better legal protection. Decisions of the Court of First Instance may be appealed to the ECJ. Recently, a new judicial body, the “European Civil Service Tribunal,” was created under the Court of First Instance to adjudicate disputes between the EU and its civil service.

Court Procedures

All cases are submitted to the ECJ's registry, and a specific judge and advocate general are assigned to each case. The procedure that follows is comprised of two stages: first a written, then an oral phase.

During the first stage, all the parties involved submit written statements, and the judge assigned to the case draws up a report summarising these statements and the legal background to the case.

Then comes the second stage – the public hearing. Depending on the importance and complexity of the case, this hearing can take place before a chamber of three, five or 13 judges, or before the full Court. At the hearing, the parties' lawyers put their case before the judges and the advocate general, who can question them. The advocate general then gives his or her opinion, after which the judges deliberate and deliver their judgement.

Since 2003, advocates general are required to give an opinion on a case only if the Court determines that the case raises a new point of law. The Court is not required to follow the advocate general's opinion.

Can I Take a Case to the Court?

Perhaps surprisingly, private individuals are also allowed to bring proceedings to the Court to have an EU law annulled, if the law affects them directly. The individual must have legal representation, but does not need to go through the national courts before bringing proceedings to the ECJ. However, there is a stiff penalty if the court decides against the complainant. Individuals who lose their case may be liable to pay the costs of both sides. On the other hand, if they win, the EU pays the costs, and the law will be declared null and void throughout the European Union.

How Can I Get Information About the Judgments of the ECJ?

Judgments of the Court are decided by a majority rule and pronounced at a public hearing. Dissenting opinions are not expressed. Decisions are published on the day of delivery. You can view all the ECJ's judgments on the ECJ's website at: <http://europa.eu.int/cj/de/content/juris/index.htm>

The EU Law

The European Union is based on the rule of law. Therefore, its actions are governed by treaties, which are agreed on voluntarily and democratically by all member states. All of the ECJ's rulings are guided by these treaties. The most important treaties are:

- Treaty of Nice – signed on 26 February 2001, entered into force on 1 February 2003. It dealt mostly with reforming EU institutions so that the EU could function efficiently after its enlargement to 25 member states.
- Treaty of Amsterdam – signed on 2 October 1997, entered into force on 1 May 1999. It amended and renumbered the EU and EC Treaties, and it provided consolidated versions of the EU and EC Treaties. This treaty also changed the articles of the Treaty on European Union.
- Treaty of the “European Union” – signed in Maastricht on 7 February 1992, entered into force on 1 November 1993. The so-called “Maastricht Treaty” changed the name of the European Economic Community (EEC) to simply “the European Community” and introduced new forms of co-operation between the member state governments – for example, in the areas of defence and “justice and home affairs.”
- Treaty of Rome – signed on 25 March 1957, entered into force on 1 January 1958. It established the EEC. The Treaty establishing the European Atomic Energy Community (Euratom) was signed at the same time, and the two treaties are therefore jointly known as the “Treaties of Rome.”
- Treaty establishing the European Coal and Steel Community – signed in Paris on 18 April 1951, entered into force on 23 July 1952. It expired on 23 July 2002.

These treaties form the EU's primary law, from which secondary laws are derived. Secondary laws include three types of legislation:

- Regulations, which become directly part of the national law of the member states, with no further legal action required by the member states.
- Directives, which must be implemented by member states' national laws.
- Decisions, which address a specific problem and may apply only to specified states.

The Fight for a Simplified EU Law

In October last year, the European Commission initiated a plan to modernise EU legislation and cut unnecessary red tape and over-regulation. It presented a three-year programme to simplify the existing thousands of pages of EU legislation adopted since 1957. The Commission will repeal, codify, recast or modify 222 basic legislations (all-in-all more than 1,400 related legal acts) within the next three years. The most heavily regulated sectors, such as cars, waste and construction will be reviewed first, followed by other sectors, such as foodstuffs, cosmetics, pharmaceuticals and service. Commission President José Manuel Barroso said, “Simpler EU legislation is one of the main elements of our better regulation programme. It will boost the competitiveness of our companies.”

Announcement from Luxembourg

On March 16th and 17th, the Forum Europa Foundation hosted an international seminar in Luxembourg on the subject "Border regions: simple meeting places or areas of cutting edge integration?" This was the second seminar in a five-part series of conferences under the heading "Europe tomorrow: crisis or prosperity?" The series is being organised by the Forum Europa e.V. in Saarbrücken, the Neuchatel based Maison de l'Europe transjurassienne and the Netzwerk Müllerhaus (Müllerhaus Network) in Lenzburg.

Among those represented at the seminar were four of the so-called first wave of border regions: Euregio Maas-Rhein, the combined area known as Saar – Lor – Lux - Rheinland-Pfalz - Wallonie, the REGIO PAMINA (on the Franco-German border) and the International Bodenseekonferenz (regions around Lake Constance). Experts discussed a diverse range of key topics including: cross border cooperation in healthcare, the many facets of cross border commuting, young people, education and the question of sustainability as a factor in successful regional development.

In the "Announcement from Luxembourg", the participating border regions agreed among other things to continue to promote cross-border cooperation and further develop inter-regional exchanges. At the same time, they underlined the importance of cooperation with EU institutions. A Europe of regions is also a Europe of border regions which should get together and exchange views on their experiences of cooperation. And of course, it was pointed out that cross border cooperation needs a certain level of funding if it is to work properly. Most importantly, though, it needs "the strong political will of all those involved". The first priority therefore is to remove the barriers in people's heads.

Green Light for EU Services Directive

Following the example of the EU Parliament, European heads of state and government leaders have now reached a compromise on the Services . At the EU start of year summit, central and east European States endorsed the view of other EU States and unexpectedly voted in favour of a limited free market in the provision of services. Previously these countries had insisted on an immediate and complete opening of borders for the provision of services within the EU.

In particular, the current solution means that local health, safety and employment standards will be protected. At the beginning of April, the EU Commission will submit a revised proposal which is expected to receive rapid . The Services Directive will then contribute to promoting both competition and growth within the EU. The Directive covers not only traditional economic activities, but also the so-called essential social services such as old people's homes, facilities for the disabled, waste disposal, etc.

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