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The Court of Justice of the European Communities

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The Court of Justice of the European Communities (ECJ) is the judicial institution of the European Union. It was set up under the European Coal and Steel Community in 1952 and is based in Luxembourg and deals with disputes as well as upholding Treaties of the European Union.

The Court's Main Role

The ECJ ensures that the legislation of the European Union is interpreted and applied in the same way in all EU countries, so that the law is equal for everybody. It ensures, for example, that national courts do not give different rulings on the same issues. The Court also makes sure that EU member states and institutions do what the law requires. The Court has the power to settle legal disputes between EU member states, EU institutions, businesses and individuals.

In summary, the ECJ's jurisdiction includes:

' Ruling on references from national courts on how to interpret Community law

' Reviews of the legality of the actions of the Council, the European Parliament and the Commission

Infringement proceedings brought by the Commission against Member States, when they have failed to uphold Community law

' The submission of legal opinions on whether or not agreements between the Community and other states and international organisations are compatible with EC treaties

' Individual citizens can bring proceedings against EU institutions before the European Court.

Court Officials

The court is composed 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 rarely sits as the full court. It usually sits as a 'Grand Chamber' of just 13 judges or in chambers of five or three judges.

In addition, there are eight Advocate General whose role is to present publicly and impartially reasoned opinions on cases brought before the Court. France, Germany, Italy, Spain and the United Kingdom each appoint one Advocate General, the others being appointed on a rotation basis from the rest of the member states.

Judges and Advocates General on the ECJ must have the qualifications to be appointed to the highest national courts in their Member States or they may be jurisconsults (academic lawyers). Their independence must be beyond doubt. This means that once they are appointed, they may not hold any other office of an administrative or political nature and they may not engage in any occupation, paid or unpaid. Judges and Advocates General are appointed by joint agreement of the Governments to the Member States. They have a renewable term of six years.

Court Workload

Since its creation in 1952, right at the start of European integration with the creation of the European Coal and Steel Community, it has had many thousands of cases brought before it. It sits and hears cases throughout the year. In 2004, the Court concluded 665 cases, a significant increase on the 494 cases brought to a close the previous year.

Before 1989, it dealt with cases referred to it by the Commission, Member States or national courts, which needed a ruling on the applications of

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EU law. But in that year, it also became a “Court of First Instance” – in other words, it was empowered to hear certain categories of cases such as those on competition law, breach of commercial policy or social policy or disputes concerning EU staff regulations. The Court of First Instance helps the Court of Justice to cope with the large number of cases and it offers citizens a better legal protection. Decisions of the Court of First Instance may be appealed to the ECJ. The Court of Justice and the Court of First Instance each have a President chosen by their fellow judges to serve for a renewable term of three years.

A relatively new judicial body, the European Civil Service Tribunal has been set up to adjudicate in disputes between the European Union and its civil service. This tribunal is composed of seven judges and is attached to the Court of First Instance.

Legal Actions

The European Court of Justice upholds the Treaties and ensures that European law is interpreted and applied in the same way across the EU through various forms of legal action. The four most common types of case are:

- ' References for a preliminary ruling
- ' Actions for failure to fulfil an obligation
- ' Actions for annulment
- ' Actions for failure to act.

Procedures for Preliminary Ruling

To avoid differences of interpretation of EU law by national courts, the preliminary ruling procedure allows cooperation between national courts and the ECJ. If a case comes before a national court that involves an interpretation of an EU law and there is a doubt, it must refer the question to the ECJ. The ECJ will make a decision as to how the law should be interpreted or applied and will send that decision to the national court who must then apply that decision to the case before it.

Procedures for Failure to Fulfil an Obligation

The Commission or a Member State may commence proceedings at the ECJ to force a Member State to comply with EU law. If the ECJ decides that the Member State in question is at fault, the Member State must rectify the situation without delay.

Proceedings for Annulment

A Member State, the Commission, the Council of the European Union or the European Parliament may request the annulment or cancellation of an EU law. This may happen if an EU institution enacts a law that conflicts with EU Treaties. If the ECJ agrees that the disputed law is contrary to the Treaties, it will declare the law null and void. Also private individuals may bring proceedings for annulment to the court – see more below.

Actions for Failure to Act

The Treaty requires the European Parliament, the Council and the Commission to make certain decisions under certain circumstances. If they fail to do so, Member States, other Community institutions and (under certain conditions) individuals or companies can lodge a complaint with the Court so as to have this failure to act officially recorded.

Organisation of the Court's Work

Cases are submitted to the registry and a specific Judge and Advocates General are assigned to each case. The procedure that follows is in two stages: first a written and then an oral phase. At 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 thirteen 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 considers that this particular case raises a new point of law. Nor does the Court necessarily follow the Advocate General's opinion.

Private Individuals and the ECJ

Perhaps surprisingly, private individuals are also allowed to bring proceedings to the Court to have an EU law annulled if it affects them directly and individually. This can't be done lightly or frivolously, and the individual needs to have legal representation. They do not need to go through their national courts first to bring proceedings to the ECJ. However, there's a stiff penalty if the court decides against the complainant. If they lose the case, they may be liable to pay the costs of both sides. On the other hand, if they win, the EU pays costs and the law will be declared null and void throughout the European Union.

Information on ECJ Judgments

Judgements of the Court are decided by a majority and pronounced at a public hearing. Dissenting opinions are not expressed. Decisions are published on the day of delivery. You can get all the judgments of the ECJ at the following ECJ internet site:

<http://europa.eu.int/cj/de/content/juris/index.htm>

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