

# Soudní dvůr jako aktér evropské integrace

**EVS450 EU a LP**

Hubert Smekal  
([hsmekal@fss.muni.cz](mailto:hsmekal@fss.muni.cz))

12. března 2018



## Eric Stein (1981) AJIL

*“Tucked away in the fairyland Duchy of Luxemburg and blessed, until recently, with the benign neglect by the powers that be and the mass media, the Court of Justice of the European Communities has fashioned a constitutional framework for a federal-type structure in Europe.”*







Inauguration du Nouveau Palais en 2008

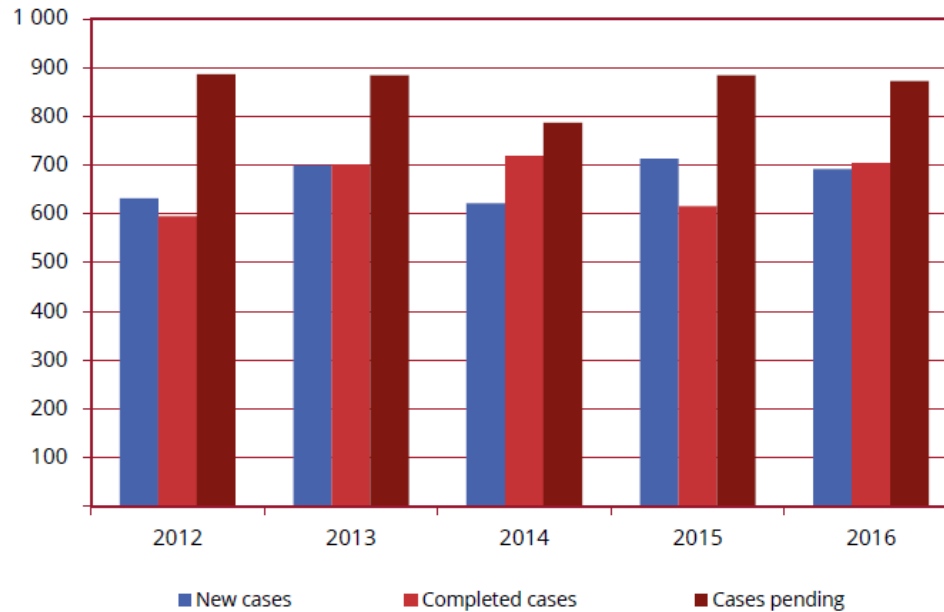
# SDEU

- SD
- Tribunál (*SPI* 1988)
- SVS (2004)
  
- Dnešní situace

# Annual Report 2016 – CJ

## I. GENERAL ACTIVITY OF THE COURT OF JUSTICE

### 1. NEW CASES, COMPLETED CASES, CASES PENDING (2012–16) <sup>1</sup>

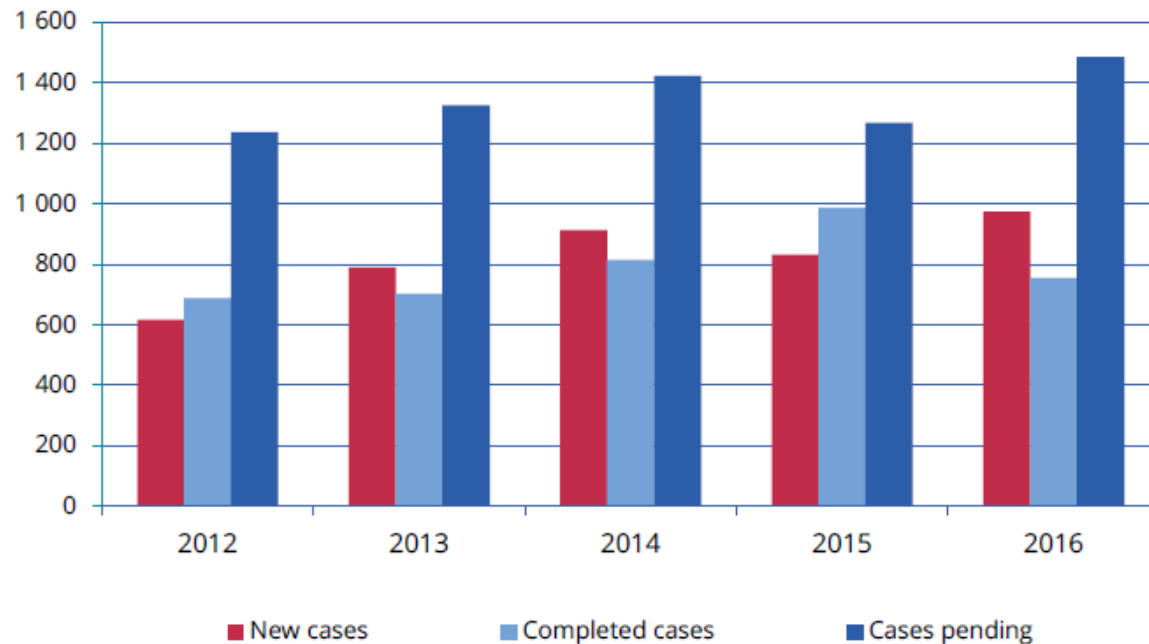


	2012	2013	2014	2015	2016
New cases	632	699	622	713	692
Completed cases	595	701	719	616	704
Cases pending	886	884	787	884	872

# Annual Report 2016 – General Court

## I. GENERAL ACTIVITY OF THE GENERAL COURT

### 1. NEW CASES, COMPLETED CASES, CASES PENDING (2012–16)<sup>1,2</sup>

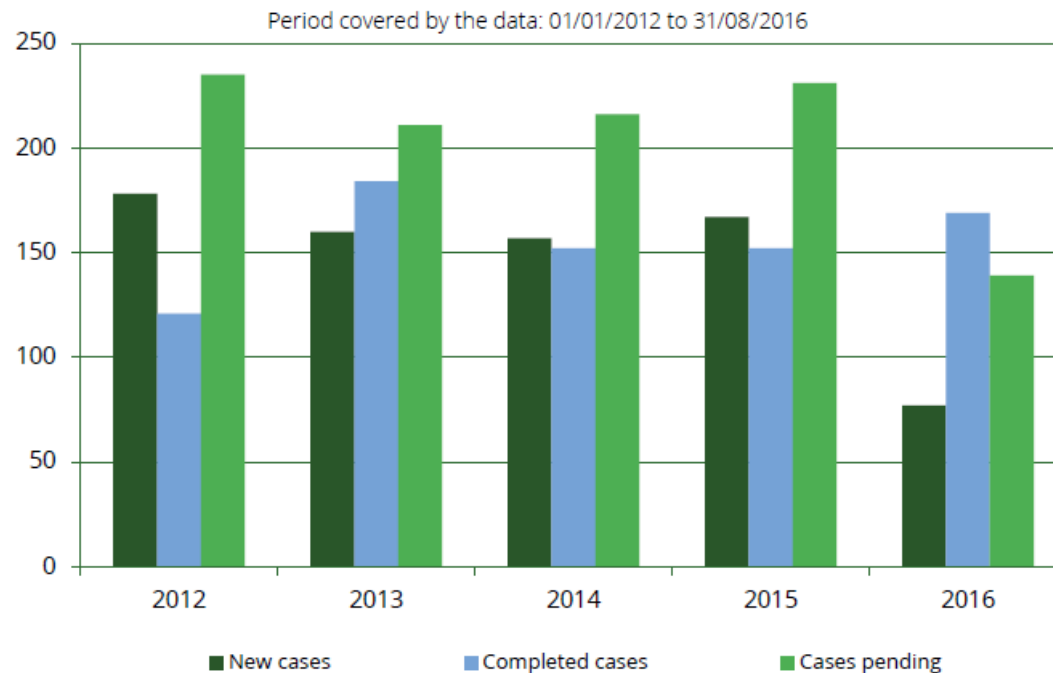


	2012	2013	2014	2015	2016
New cases	617	790	912	831	974
Completed cases	688	702	814	987	755
Cases pending	1 237	1 325	1 423	1 267	1 486

# Annual Report 2016 – CST

## I. GENERAL ACTIVITY OF THE CIVIL SERVICE TRIBUNAL

### 1. NEW CASES, COMPLETED CASES, CASES PENDING (JANUARY 2012 – AUGUST 2016)



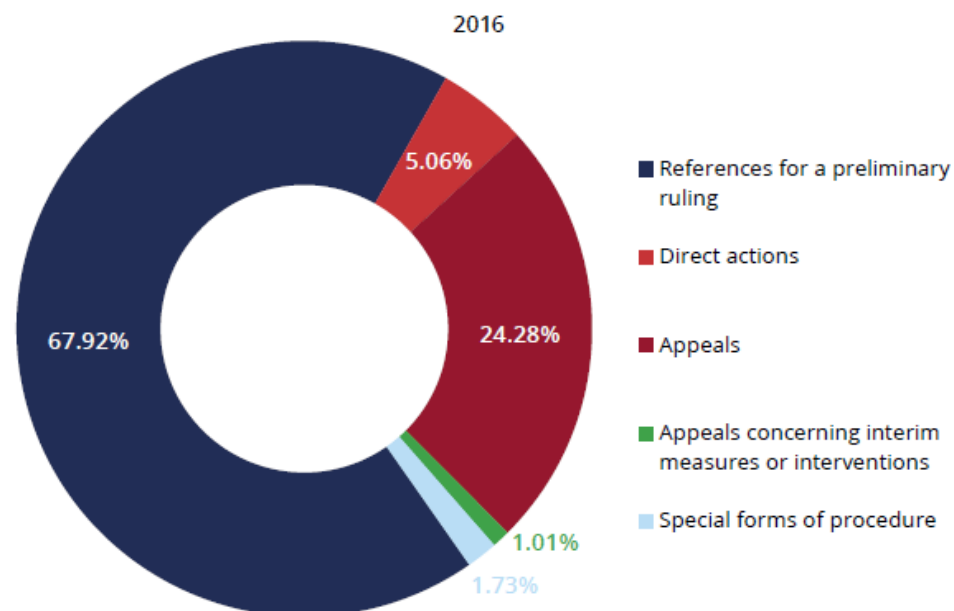
	2012	2013	2014	2015	2016
New cases	178	160	157	167	77
Completed cases	121	184	152	152	169 <sup>1</sup>
Cases pending	235	211	216	231	139 <sup>2</sup>



# **CJ (Annual Report 2016)**

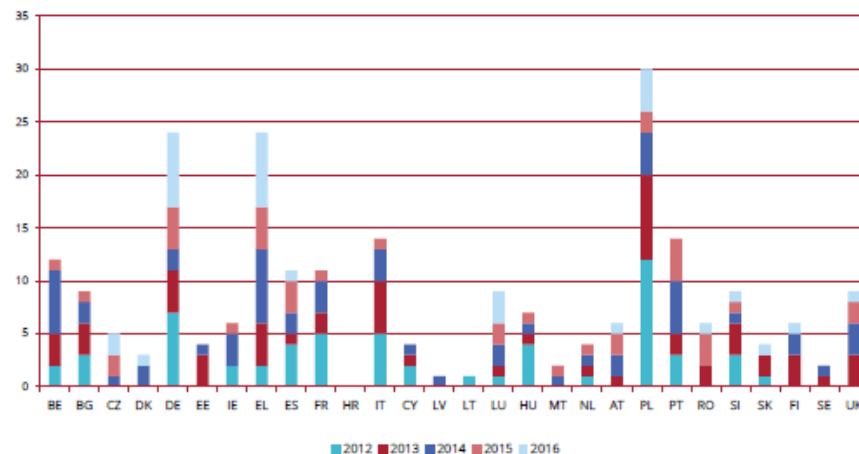
## II. NEW CASES

### 2. NATURE OF PROCEEDINGS (2012–16) <sup>1</sup>



	2012	2013	2014	2015	2016
References for a preliminary ruling	404	450	428	436	470
Direct actions	73	72	74	48	35
Appeals	136	161	111	206	168
Appeals concerning interim measures or interventions	3	5		9	7
Requests for an opinion	1	2	1	3	
Special forms of procedure <sup>2</sup>	15	9	8	11	12
<b>Total</b>	<b>632</b>	<b>699</b>	<b>622</b>	<b>713</b>	<b>692</b>
Applications for interim measures		1	3	2	3

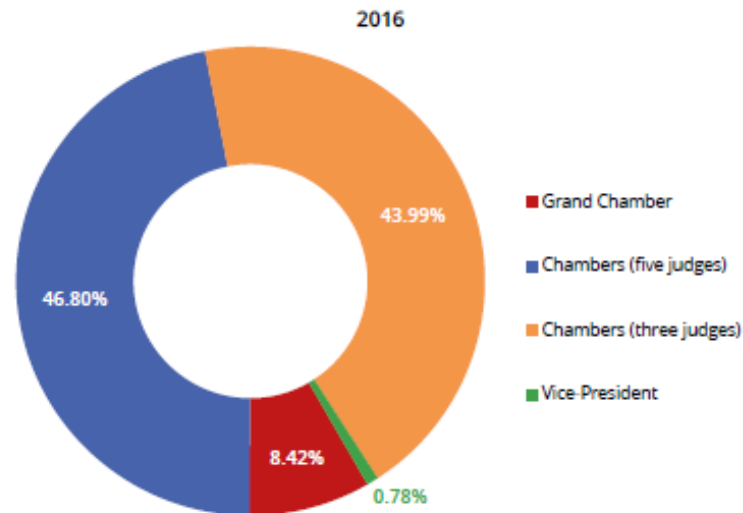
#### 4. ACTIONS FOR FAILURE OF A MEMBER STATE TO FULFIL ITS OBLIGATIONS (2012-16)<sup>1</sup>



	2012	2013	2014	2015	2016
Belgium	2	3	6	1	
Bulgaria	3	3	2	1	
Czech Republic			1	2	2
Denmark			2		1
Germany	7	4	2	4	7
Estonia		3	1		
Ireland	2		3	1	
Greece	2	4	7	4	7
Spain	4	1	2	3	1
France	5	2	3	1	
Croatia					
Italy	5	5	3	1	
Cyprus	2	1	1		
Latvia			1		
Lithuania	1				
Luxembourg	1	1	2	2	3
Hungary	4	1	1	1	
Malta			1	1	
Netherlands	1	1	1	1	
Austria		1	2	2	1
Poland	12	8	4	2	4
Portugal	3	2	5	4	
Romania		2		3	1
Slovenia	3	3	1	1	1
Slovakia	1	2			1
Finland		3	2		1
Sweden		1	1		
United Kingdom		3	3	2	1
<b>Total</b>	<b>58</b>	<b>54</b>	<b>57</b>	<b>37</b>	<b>31</b>

<sup>1</sup> The figures given (gross figures) represent the total number of cases, without account being taken of the joinder of cases on the ground of similarity (one case number = one case).

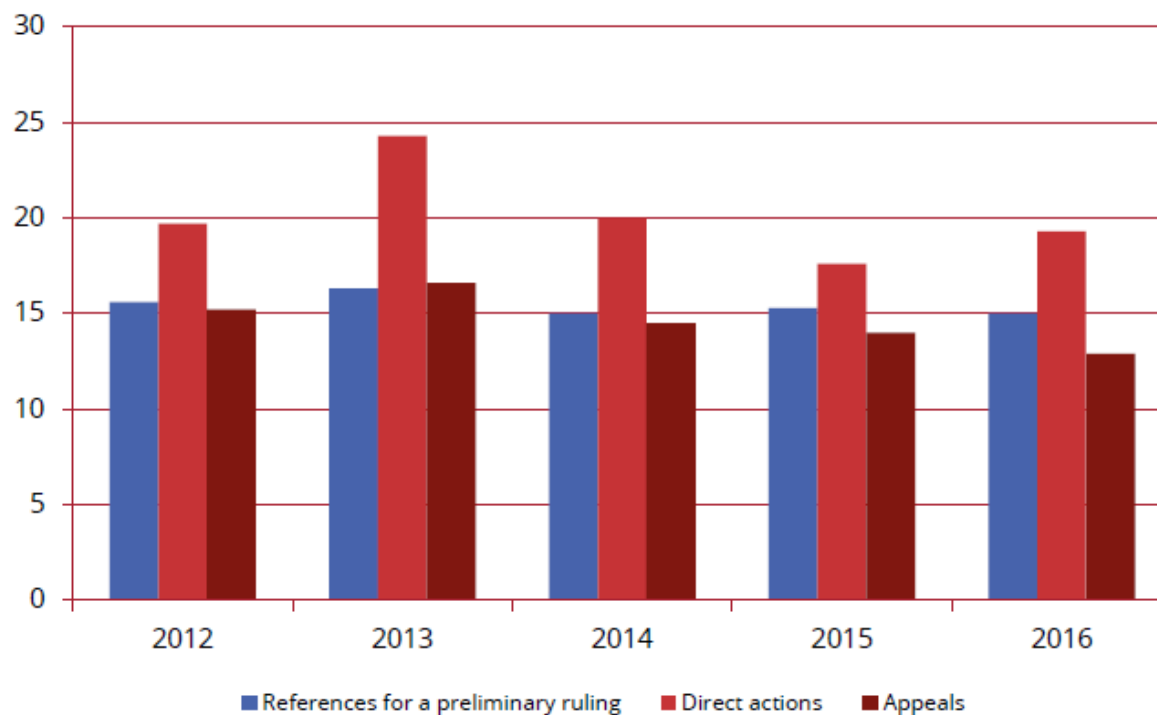
## 7. BENCH HEARING ACTION (2012-16) <sup>1</sup>



	2012			2013			2014			2015			2016		
	Judgments/ opinions	Orders <sup>2</sup>	Total	Judgments/ opinions	Orders <sup>2</sup>	Total	Judgments/ opinions	Orders <sup>2</sup>	Total	Judgments/ opinions	Orders <sup>2</sup>	Total	Judgments/ opinions	Orders <sup>2</sup>	Total
Full Court	1		1				1		1						
Grand Chamber	47		47	52		52	51	3	54	47		47	54		54
Chambers (five judges)	275	8	283	348	18	366	320	20	340	298	20	318	280	20	300
Chambers (three judges)	83	97	180	91	106	197	110	118	228	93	89	182	120	162	282
President		12	12												
Vice-President					5	5		1	1		7	7		5	5
<b>Total</b>	<b>406</b>	<b>117</b>	<b>523</b>	<b>491</b>	<b>129</b>	<b>620</b>	<b>482</b>	<b>142</b>	<b>624</b>	<b>438</b>	<b>116</b>	<b>554</b>	<b>454</b>	<b>187</b>	<b>641</b>

## 12. DURATION OF PROCEEDINGS IN MONTHS (2012–16) <sup>1</sup>

(JUDGMENTS AND ORDERS INVOLVING A JUDICIAL DETERMINATION)

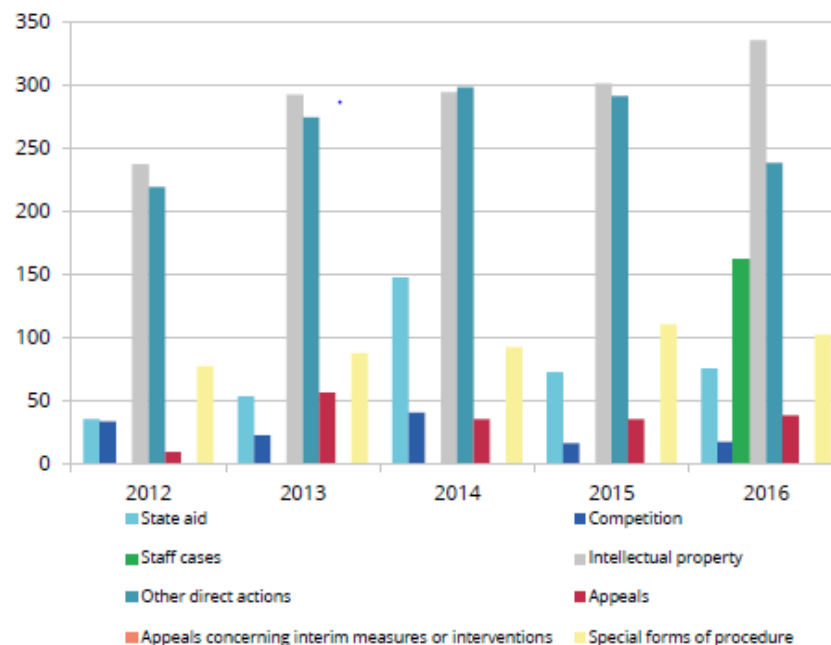


	2012	2013	2014	2015	2016
References for a preliminary ruling	15.6	16.3	15.0	15.3	15.0
Urgent preliminary ruling procedure	1.9	2.2	2.2	1.9	2.7
Direct actions	19.7	24.3	20.0	17.6	19.3
Appeals	15.2	16.6	14.5	14.0	12.9

# **General Court (Annual Report 2016)**

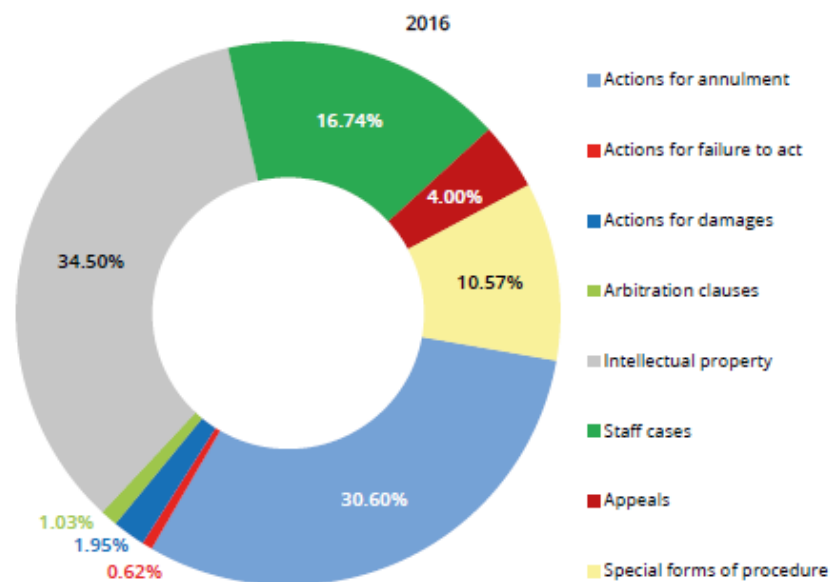
## II. NEW CASES

### 2. NATURE OF PROCEEDINGS (2012-16)



	2012	2013	2014	2015	2016
State aid	36	54	148	73	76
Competition	34	23	41	17	18
Staff cases					163
Intellectual property	238	293	295	302	336
Other direct actions	220	275	299	292	239
Appeals	10	57	36	36	39
Appeals concerning interim measures or interventions	1				
Special forms of procedure	78	88	93	111	103
<b>Total</b>	<b>617</b>	<b>790</b>	<b>912</b>	<b>831</b>	<b>974</b>

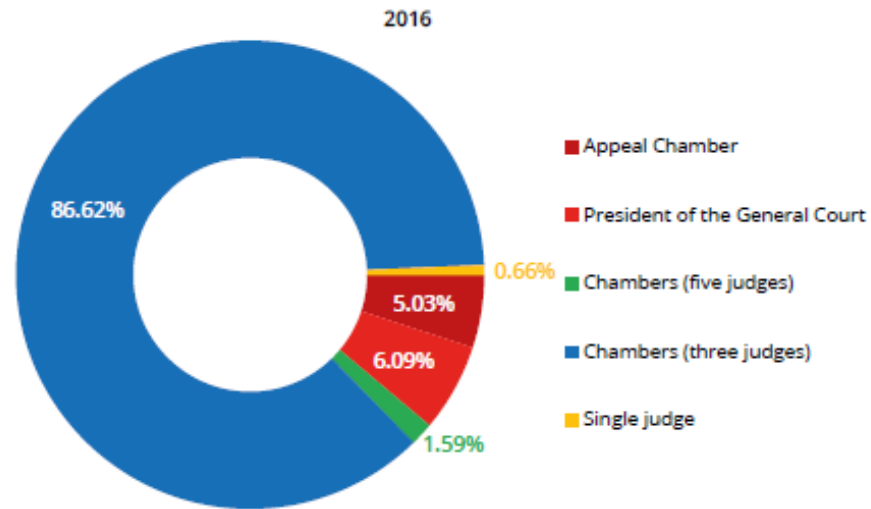
### 3. TYPE OF ACTION (2012-16)



	2012	2013	2014	2015	2016
Actions for annulment	257	319	423	332	298
Actions for failure to act	8	12	12	5	6
Actions for damages	17	15	39	30	19
Arbitration clauses	8	6	14	15	10
Intellectual property	238	293	295	302	336
Staff cases					163
Appeals	10	57	36	36	39
Appeals concerning interim measures or interventions	1				
Special forms of procedure	78	88	93	111	103
<b>Total</b>	<b>617</b>	<b>790</b>	<b>912</b>	<b>831</b>	<b>974</b>



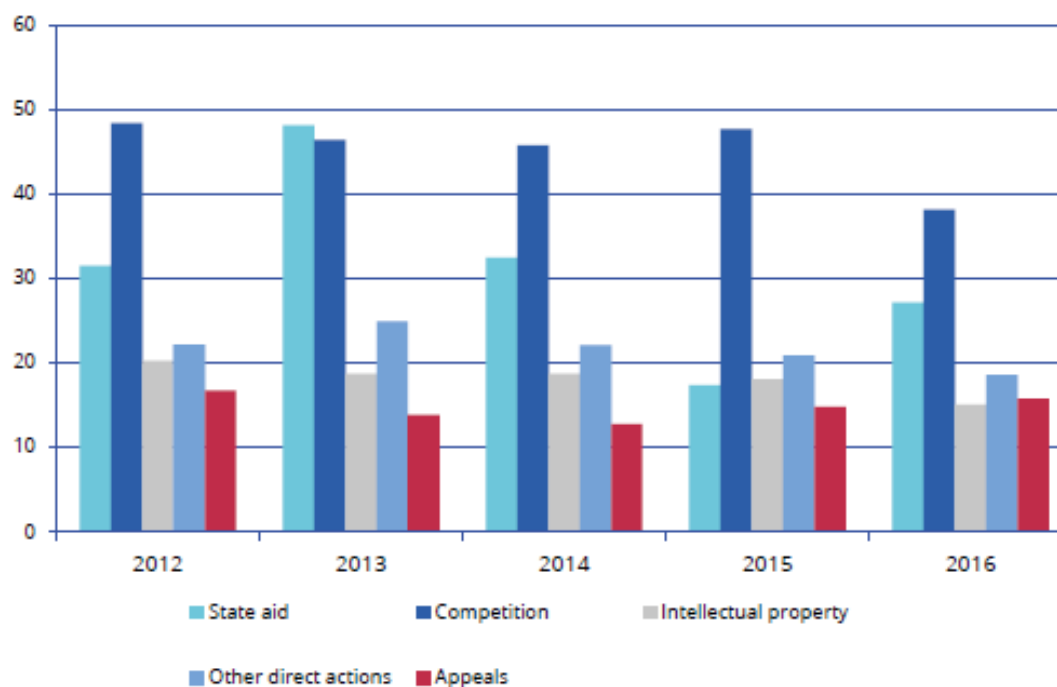
## 8. BENCH HEARING ACTION (2012-16)



	2012			2013			2014			2015			2016		
	Judgments	Orders	Total	Judgments	Orders	Total	Judgments	Orders	Total	Judgments	Orders	Total	Judgments	Orders	Total
Appeal Chamber	17	23	40	13	47	60	21	32	53	23	14	37	25	13	38
President of the General Court		47	47		38	38		46	46		44	44		46	46
Chambers (five judges)	9		9	7	1	8	9	7	16	8	3	11	10	2	12
Chambers (three judges)	328	264	592	378	218	596	398	301	699	538	348	886	408	246	654
Single judge										1	8	9	5		5
<b>Total</b>	<b>354</b>	<b>334</b>	<b>688</b>	<b>398</b>	<b>304</b>	<b>702</b>	<b>428</b>	<b>386</b>	<b>814</b>	<b>570</b>	<b>417</b>	<b>987</b>	<b>448</b>	<b>307</b>	<b>755</b>

## 9. DURATION OF PROCEEDINGS IN MONTHS (2012-16) <sup>1</sup>

(JUDGMENTS AND ORDERS)



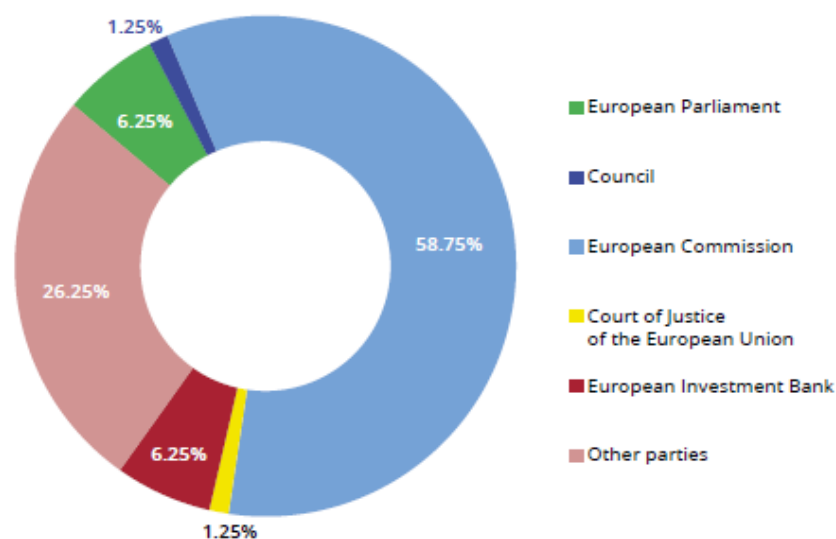
	2012	2013	2014	2015	2016
State aid	31.5	48.1	32.5	17.4	27.2
Competition	48.4	46.4	45.8	47.7	38.2
Intellectual property	20.3	18.7	18.7	18.1	15.1
Other direct actions	22.2	24.9	22.1	20.9	18.6
Appeals	16.8	13.9	12.8	14.8	15.8
<b>All cases</b>	<b>24.8</b>	<b>26.9</b>	<b>23.4</b>	<b>20.6</b>	<b>18.7</b>

# **CST (Annual Report 2016)**

## II. NEW CASES

### 2. PERCENTAGE OF THE NUMBER OF CASES PER PRINCIPAL DEFENDANT INSTITUTION

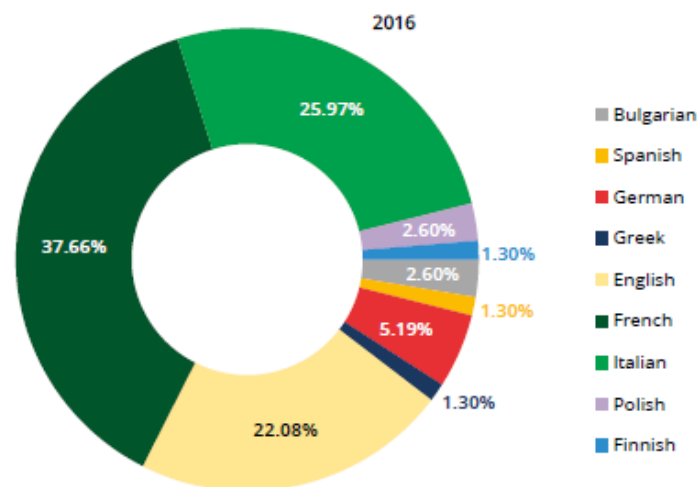
Percentage of number of new cases brought in 2016  
 Period covered by the data: 01/01/2012 to 31/08/2016



	2012	2013	2014	2015	2016
European Parliament	6.11%	5.66%	11.80%	8.38%	6.25%
Council	3.89%	3.77%	8.70%	5.99%	1.25%
European Commission	58.33%	49.69%	45.96%	52.69%	58.75%
Court of Justice of the European Union		0.63%		1.80%	1.25%
European Central Bank (ECB)	1.11%	1.89%	1.24%	2.40%	
Court of Auditors	2.22%	0.63%	1.24%	0.60%	
European Investment Bank (EIB)	4.44%	5.03%	1.24%	3.59%	6.25%
Other parties	23.89%	32.70%	29.81%	24.55%	26.25%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### 3. LANGUAGE OF THE CASE

Period covered by the data: 01/01/2012 to 31/08/2016

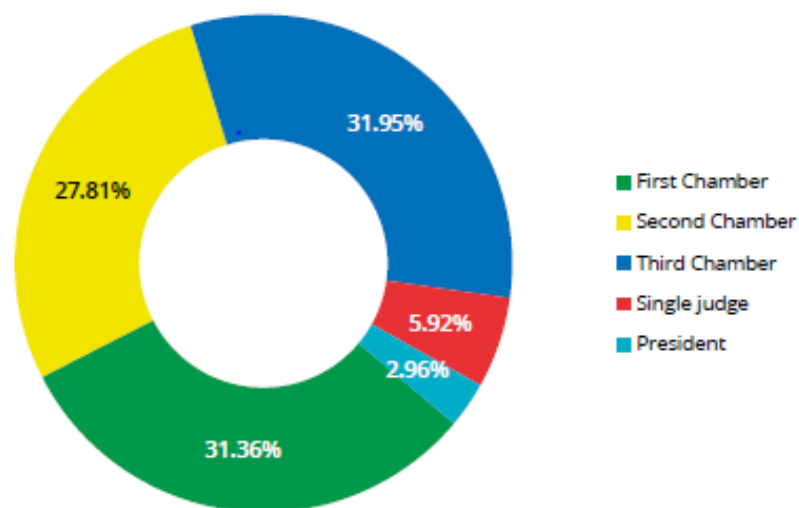


Language of the case	2012	2013	2014	2015	2016
Bulgarian	2				2
Spanish	3		2	5	1
German	5	2	9	7	4
Greek	1	4	2	1	1
English	14	26	23	20	17
French	108	95	113	122	29
Italian	35	21	8	8	20
Dutch	6	12		2	
Polish	2				2
Romanian	2				
Finnish					1
Swedish				2	
<b>Total</b>	<b>178</b>	<b>160</b>	<b>157</b>	<b>167</b>	<b>77</b>

### III. COMPLETED CASES

#### 4. JUDGMENTS AND ORDERS – BENCH HEARING ACTION

Period covered by the data: 01/01/2016 to 31/08/2016



	Judgments	Orders for removal from the register, following amicable settlement <sup>1</sup>	Other orders terminating proceedings	Total
Full court				
First Chamber	6		47	53
Second Chamber	18	1	28	47
Third Chamber	21	4	29	54
Single judge	7	3		10
President			5	5
<b>Total</b>	<b>52</b>	<b>8</b>	<b>109</b>	<b>169</b>

## 7. DURATION OF PROCEEDINGS IN MONTHS (2016)

Completed cases		Average duration	
		Duration of full procedure	Duration of procedure, not including duration of any stay of proceedings
Judgments	52	11.3	11.2
Orders	117	24.3	9.4
<b>Total</b>	<b>169</b>	<b>20.3</b>	<b>10.0</b>

The durations are expressed in months and tenths of months.

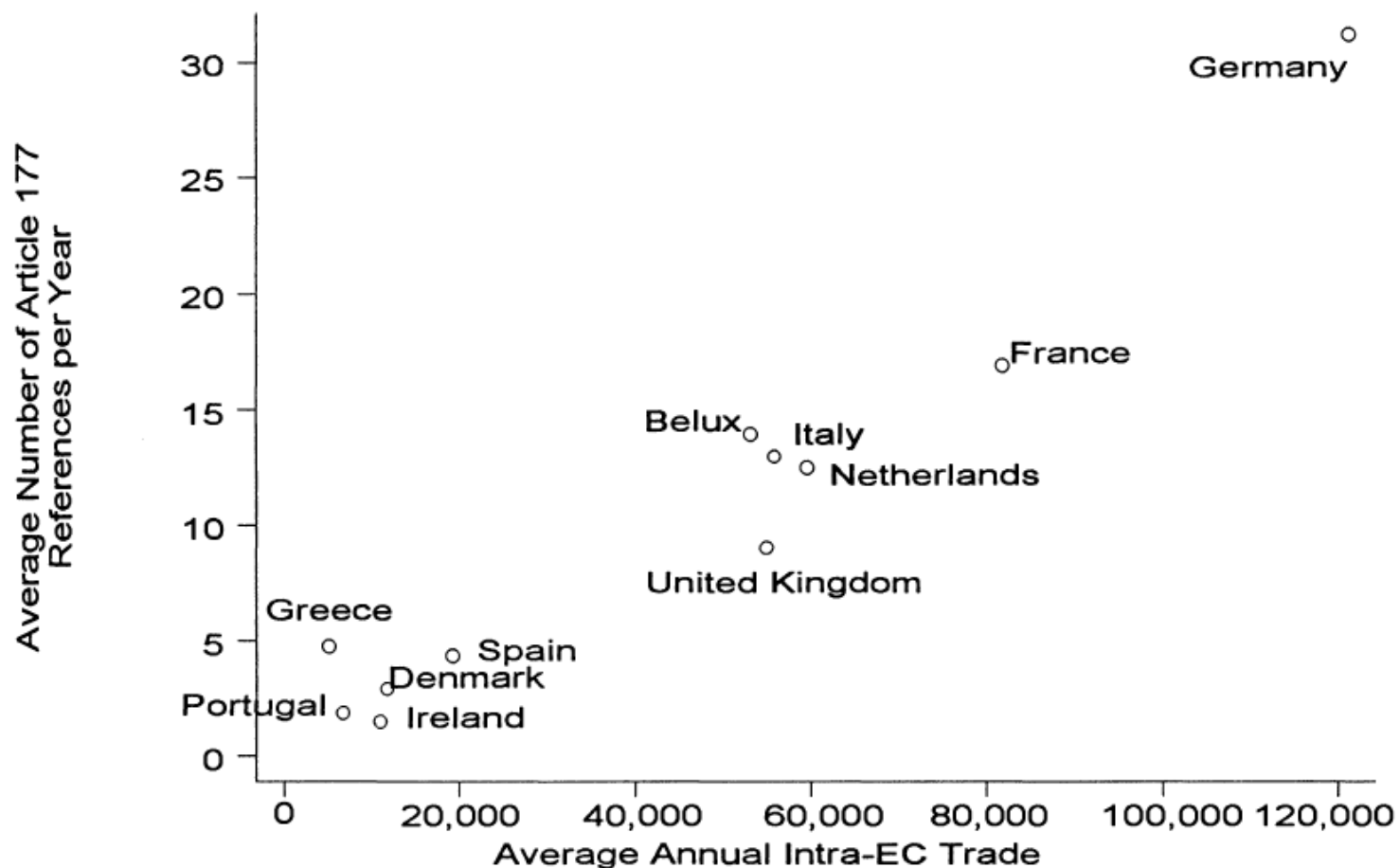
Issue and Case	Governments	Commission	Advocate General	Court
direct effect: <i>van Gend</i> 1963	no: Belg., Neth., Lux., Germany	yes	no (Roemer, German)	yes
supremacy: (1) <i>Costa v.</i> <i>ENEL</i> 1964	no: Italy	yes	yes (Lagrange, French)	yes
(2) <i>Simmenthal</i> 1978	no: Italy	yes	yes (Reischl, German)	yes
(3) human rights: <i>Internationale</i> <i>Handelsges.</i> 1966	unnecessary to decide: Germany, Neth.	yes	yes (Dutheillet de Lamothe, French)	yes
expanding direct effect: (1) <i>Lütticke</i> 1966	no: Belg., Neth., Germany	yes	yes (Gand, French)	yes
(2) <i>Reyners</i> 1974	no: Belg., Lux., Ire., UK yes: Germany, Neth.?	yes	yes (Mayras, French)	yes
(3) <i>Walrave</i> 1974	no position: UK	no	yes (Warner, British)	yes
(4) <i>Defrenne</i> 1976	no: UK, Ire.	yes on public empl., no on private	yes (Trabucchi, Italian)	yes
(5) <i>Franz Grad</i> 1970	no: Germany	yes	yes (Roemer, German)	yes
(6) <i>van Duyn</i> 1974	no: UK	yes	yes (Mayras, French)	yes
treaty-making power: <i>ERTA</i> 1970	no: Council	yes	no (Dutheillet de Lamothe, French)	yes



**TABLE 1.** *Average number of preliminary references by county and decade*

<i>Country</i>	<i>1970–79</i>	<i>1980–89</i>	<i>1990–98</i>
<i>France</i>	8.6	28.2	22.56
<i>Belgium</i>	7.8	14.7	18.22
<i>Netherlands</i>	10.8	18.5	17.33
<i>Germany</i>	27.5	34.6	47.44
<i>Italy</i>	8.4	12.4	34.11
<i>Luxembourg</i>	0.4	1.7	1.67
<i>Denmark</i>	0.86	2.5	4.89
<i>Ireland</i>	0.86	1.5	1.44
<i>Great Britain</i>	3.0	8.5	16.33
<i>Greece</i>	—	2.33	3.33
<i>Spain</i>	—	1.0	11.78
<i>Portugal</i>	—	0.2	2.78
<i>Finland</i>	—	—	2.5
<i>Sweden</i>	—	—	5.5
<i>Austria</i>	—	—	12.0

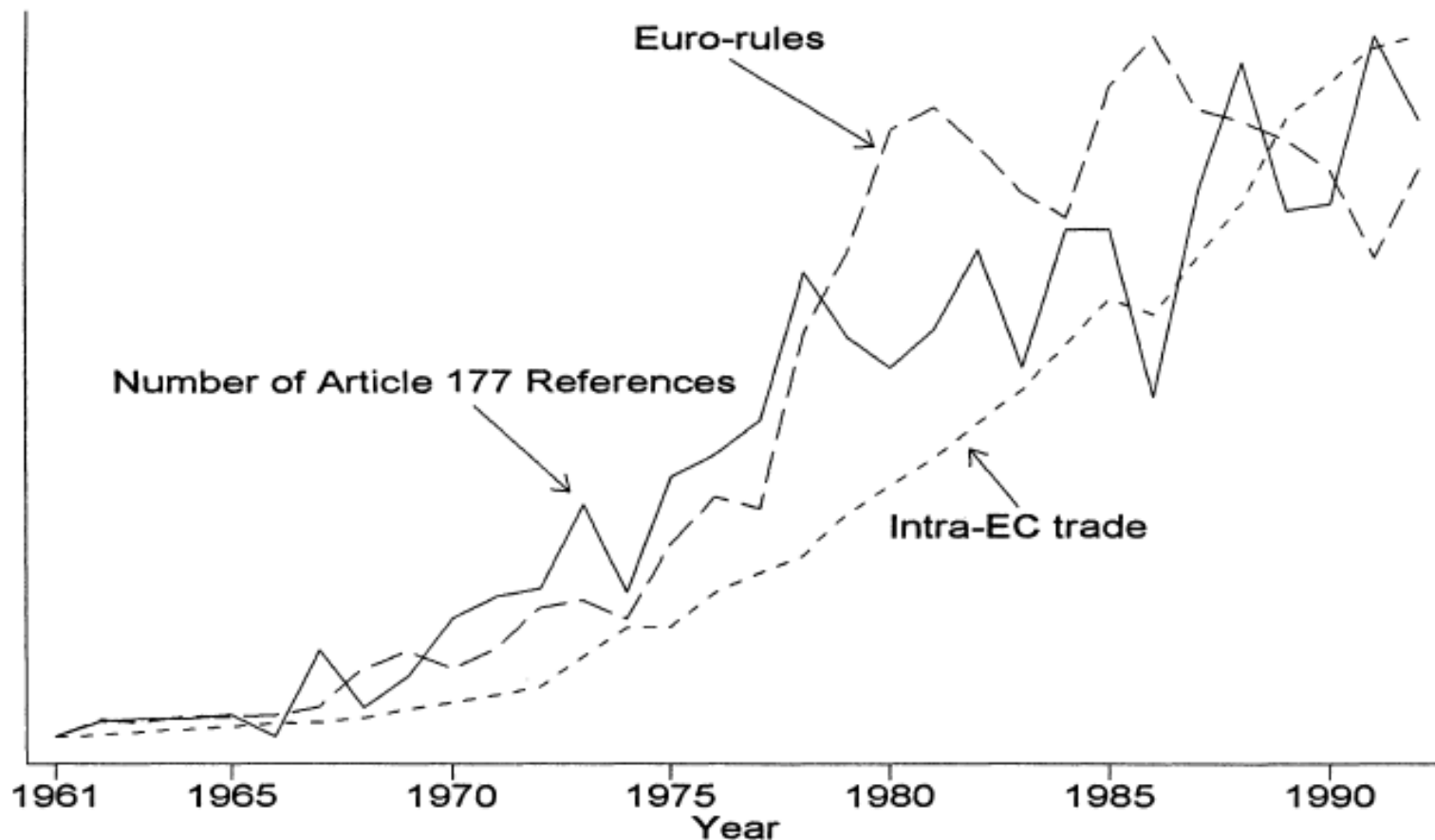
**FIGURE 2. Intra-EC Trade and Average Number of Article 177 References**



Source: Trade data are from *Eurostat: External Trade 1958–93*, Brussels: EC Publications, 1995. The source for article 177 references is data collected by the authors and the ECJ.

Note: For each member-state, the total number of Article 177 references was divided by the number of years in which that member-state has been making references to the ECJ. Belux is Belgium and Luxembourg combined. Trade figures are the annual average of intra-EC imports and exports for each member-state measured in Ecu (European currency unit), 1960–93. The regression equation is  $y = .2105 + .0002247(\text{Trade}) + e$ . Adjusted  $R^2 = .92$ ,  $n = 11$ , and the  $SEE = 2.46$ . The  $t$ -statistics are .178 for the constant and 10.8 for intra-EC trade.

**FIGURE 5. Annual Levels of Intra-EC Trade, Euro-rules, and Article 177 References**



*Note:* The Article 177 references are the yearly number for the EC as a whole, 1961–92. The Euro-rules are the annual number of directives and regulations promulgated by the EC. The intra-EC trade line plots levels of aggregate intra-EC trade for the EC as a whole. The graph has been rescaled since the variables are on different scales.