

Court of Justice of the EU

European judiciary system - EU law enforcement

EU level

1. The Court of Justice (ECJ)
2. General Court (formerly the Court of First Instance)
- ~~3. The Civil Service Tribunal
(does not exist anymore)~~

National level

1. National Courts (!)

Court of Justice – its main functions

1. Enforcement of the Union law (mostly against MS) and settlement of disputes (between MS and the EU or between the EU institutions)
2. Constitutional review of EU acts
3. Ensuring the uniform interpretation and application of the EU law
4. It does not:
 1. Solve disputes between individuals and states
 2. Solve disputes between individuals
 3. Review decisions of national courts

The Court of Justice

- *Art. 19 TEU: the Court of Justice ... It shall ensure that in the interpretation and application of the Treaties the law is observed.*
- May act as a civil, constitutional or administrative court

The composition of the ECJ

- Luxembourg
- 27 J + 11 AG
- 6 yrs term, renewable, no retirement age
- Staggered system of appointment (14/14 and 5/6)
- conditions:
 - Independence
 - Qualification or recognized competence
- President of the Court
- The Registrar

ECJ – chambers, etc.

- 3 - 5 – 15 - plenary session
- Judge-Rapporteur

Independence of judges

- Oath
- Ban on side jobs
- Full secrecy of deliberations
- No concurring or dissenting judgments

Advocates General

- 11 AG
- Opinion on the case (2nd opinion which is delivered first 😊)
- Function?

General Court

- The General Court has jurisdiction to hear actions brought by:
 - **natural or legal persons** against acts of the institutions,
 - **the Member States against the Commission;**
 - the Member States against the Council relating to acts adopted in the field of *State aid*, '*dumping*' and acts by which it exercises *implementing powers*;
 - **seeking compensation for damage** caused by the institutions of EU;
 - based on contracts made by EU which expressly give jurisdiction to the General Court;
 - relating to **EU trade marks**;
 - appeals, limited to points of law, against the decisions of the European Union Civil Service Tribunal;
 - brought against decisions of the Community Plant Variety Office or of the European Chemicals Agency.

Types of proceedings

- References for preliminary rulings
- Action for failure to fulfill obligations
- Actions for annulment
- Actions for failure to act

Art. 267 SFEU (ex 234 TEC)

- The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:
 - (a) the interpretation of the Treaties;
 - (b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union;
- Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.
- Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.
- If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay.

CILFIT case

- Does the third paragraph of Article 177 of the EEC Treaty, which provides that where any question of the same kind as those listed in the first paragraph of that article is raised in a case pending before a national court or tribunal against whose decisions there is no judicial remedy under national law that court or tribunal must bring the matter before the Court of Justice, lay down an obligation so to submit the case which precludes the national court from determining whether the question raised is justified or does it, and if so within what limits, make that obligation conditional on the prior finding of a reasonable interpretative doubt?