



ევროკავშირი
საქართველოსთვის
The European Union for Georgia



საქართველოს ინტელექტუალური
საკუთრების ცენტრი
საკპატენტი
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IP Enforcement Forum

The Court of Justice of the European Union

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EU Georgia project, funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)

www.eugipp.eu

The EU judicial system



Two levels of jurisdiction

1. **The Court of Justice (CJ):** Established in 1952 as Court of Justice of the European Coal and Steel Community.

2. **General Court:** Established in 1988 as Court of First Instance (since 2016 it also includes the **Civil Service Tribunal**, established in 2004 and disappeared in 2016).

→ since their establishment, more than 35,000 judgments and orders have been delivered.

Impact on EUIPO practice



Court of Justice of the European Union

MISSION:

- The Court:
 - reviews the **legality of the acts of the institutions** of the European Union;
 - ensures that the **Member States comply with their obligations** under the Treaties; and
 - **interprets European Union law** at the request of the national courts and tribunals.

Competences of the Court of Justice

- a) References for preliminary rulings (Euipo)
- b) Actions for breach of obligations against Member States
- c) Disputes between EU institutions
- d) Appeals against decisions of the General Court (Euipo)
- e) Opinions (namely on draft international agreements)

Competences of the General Court

- Actions for **annulment** or for **failure to act** brought by natural or legal persons against:
 - Institutions (e.g. a company against a Commission antitrust fine)
 - or against other bodies of the EU (e.g. agencies, like **EUIPO**).
- **Disputes** between the EU and its **officials** (subject to specific Staff Regulations)



CVRIA



- 📄 Press Releases
- ➔ e-Curia ?

THE COURT OF JUSTICE OF THE EUROPEAN UNION



New rules in the General Court from 1 December 2018



Mr Koen Lenaerts is re-elected President of the Court of Justice of the European Union



News

Search for a case

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Court of Justice of the EU

- Highest EU judicial authority
- 27 independent judges,
one from each EU country
- 11 Advocates General
- Ensures all EU laws are interpreted
and applied correctly and uniformly



Membership

The members: 27 judges (1 per MS) and 11 Advocates General

- ‘persons whose **independence is beyond doubts** and who possess the **qualifications required for appointment to the highest judicial offices** in their respective countries or who are **jurisconsults of recognised competence**’
- **appointed by common agreement of the MS governments** for a **6 year** mandate, renewable
- assisted by **référéndaires** (legal assistants)

The Advocate General at the ECJ

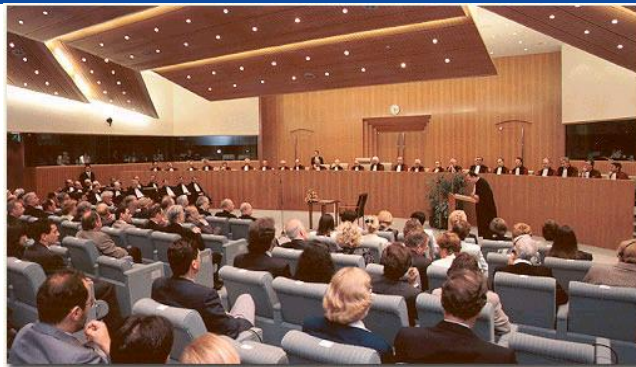
- **Opinion** on the case to be judged
- Art. 252 TFEU: ‘it shall be the duty of the Advocate general, acting with complete **impartiality** and **independence**, to make, in open court, reasoned submissions on cases brought before the Court of Justice, in order to **assist the Court ...**’
- Influence of the Opinion?



Organisation of the ECJ

Judges may sit:

- in **chambers** (3 or 5 judges)
- in '**grand chamber**' of 15 judges
- in **plenary** sessions



Procedures

- **Direct actions:**
 - Enforcement (258-260 TFEU Commission v. a Member State)
 - Action for annulment (Commission v. Council, European Parliament v. Commission...)
- **Preliminary references (interpretation of EU law + validity of acts of EU institutions (267 TFEU))**
- **Appeals: limited to points of law or distortion of the facts, against judgments of the General Court.**

Action for annulment

Article 263 TFEU (ex Article 230 TEC)

- The Court of Justice of the European Union shall **review the legality** of **legislative acts**, of **acts** of the Council, of the Commission and of the European Central Bank, and of acts of the European Parliament and of the European Council **intended to produce legal effects vis-à-vis third parties**.
- It shall also review the legality of acts of **bodies, offices or agencies** of the Union intended to produce **legal effects** vis-à-vis third parties.

Preliminary rulings

Article 267 TFUE

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;

Preliminary rulings

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 *[final, supreme]* **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 ECJ.

Languages

- Internal **working** language: **French**
- **Language of proceedings**: The language in which the question is referred to the Court (preliminary rulings); the language of the applicant or the language of the appealed judgment (appl. for annulment / appeals).
- **Member States** may plead and write in their **own language**.
- Ca. 1000 “*lawyer-linguists*”

The General Court

- 2 judges per Member state: 54 judges
- ‘persons of undoubted independence, who possess the ability required for appointment to judicial office’
- **Sit in 3-5 judges chambers + Grand Chamber (15 judges, justified by legal complexity or importance of the case).**

General Court's Competence

- Actions brought by **natural or legal persons** against **acts** of the institutions, bodies or agencies of the EU which **concern them directly**.
[a company against a fine imposed by the Commission]
- Actions relating to **intellectual property** brought against the **EUIPO** (European Union Intellectual Property Office) or against other offices in their field of action (European Medicines Agency, Plant Varieties Office...)
- Others (staff cases...)

Against the GC decisions...

Within two months, possibility to **appeal before the Court of Justice**, limited to:

- points of **law**
 - or **distortion of the facts**.
-
- (restricted in case of appeals on **Intellectual Property**: only allowed to proceed if they raise an issue that is significant with respect to the unity, consistency or development of European Union law





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THANK YOU

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