

Introduction

The Court of Justice of the European Union, formerly known as the European Court of Justice (ECJ), enforces EU law, which implements the provisions of EU treaties and initiatives. In areas covered by EU law, it is the highest court in the EU, outranking national supreme courts. Its judgements can affect both member states and individuals, and it is the referee between member states, institutions and individuals in disputes relating to EU law.

History

The ECJ was set up under the Treaty of Paris (1951) to implement the legal framework of the European Coal and Steel Community (ECSC). When the European Community was set up under the Treaty of Rome (1957), the ECJ became its court. When the European Union was created under the Maastricht Treaty (1992), the ECJ's powers were again expanded to cover the broader legal remit of the EU. The Lisbon Treaty (2007) again extended the ECJ's remit to include, among other areas, Justice and Home Affairs, as well as renaming it the 'Court of Justice of the European Union' (CJEU). The number of cases sent to the CJEU has grown dramatically since the institution was established. As a result, a Court of First Instance (CFI) was set up in 1989 to assist by dividing the workload. The Court of First Instance was renamed the 'General Court' in the Lisbon Treaty. In addition to this the Civil Service Tribunal was set up in 2005 to adjudicate in disputes between the EU and its civil service. All three Courts are based in Luxembourg.

Legal **precedents** established by the ECJ have played a large role in shaping the development of EU law. The case of *Van Gend en Loos vs. Nederlandse Administratie de Belastingen* (1963), in which the Court ruled that the protection of EU law applied to individuals as well as member states, created the principle of **direct effect**. The case of *Costa vs. ENEL* (1964) ruled that in the case of a clash between EU and national law, EU law is the higher authority, thus establishing the **supremacy** of the ECJ. The British *Factortame* case (1990) took this further when it was ruled that national courts could actually strike down Acts of Parliament that contravened EU law. The *Cassis de Dijon* case (1979) laid out the principle of mutual recognition of goods, which underpinned the creation of the single market. In all these cases it was the ECJ interpreting the EU treaties, rather than political arguments, which determined the scope of the EU project.

How does the European Court of Justice work?

The Court is made up of one judge from each member state, supported by eight Advocates-General, who deliver legal opinions on each case. All members of the Court are nominated by their national governments and serve for six-year terms. Cases are usually heard before chambers of three to five judges, with full **plenary sessions** only being held for exceptional cases. The Court has a President, currently Vassilios Skouris, who was elected by all the Court judges in 2003.

The Court's jurisdiction in EU law falls mainly in cases relating to the failure of a member state or EU body to fulfil its treaty obligations or the judicial review of laws passed by EU bodies and preliminary rulings on cases handed up by national courts. The General Court works alongside the ECJ, although it is an independent court. Its primary role is to hear all actions brought by individuals, while the ECJ focuses on institutional disputes and those between member states.

The court can act in three ways. First, it can bring about cases called 'infringement proceedings' against member states that fail to comply with EU legislation. Secondly, it can review legislative and executive acts passed by EU institutions to ensure their legality. Finally, many national courts hand cases up to the ECJ in what are known as preliminary rulings.

Facts and figures

- ❖ In 2014, the CJEU completed 719 cases.
- ❖ The 2015 budget for the CJEU is €357.06 mn

Arguments

For

- ❖ Without the ECJ there would be no way of enforcing the obligations of the European Treaties.
- ❖ It allows all European citizens and nations to have equal rights in areas of ECJ jurisdiction.
- ❖ Its rulings promote the process of EU integration and protect benefits such as the free movement of goods.

Against

- ❖ Law is one of the most fundamental aspects of national sovereignty and EU law should not be supreme over national law.
- ❖ The ECJ is a slow and cumbersome body that can hinder progress through the time it takes to deliberate cases.
- ❖ Imposing European standards on member states challenges a nation's traditional legal practices.

"The [European] Community constitutes a new legal order...the subjects of which comprise not only member states but also their nationals."

Ruling in Van Gend en Loos vs Nederlandse Administratie de Belastingen, 1963

"Primacy of EU law has existed since we joined the Union...[but] European law only takes precedence where member states have agreed Europe should have a competence."

Tony Blair, British Prime Minister, 2004

Technical Terms

- ❖ **Plenary Sessions:** sessions where the full court of judges sits to hear a case.
- ❖ **Dissenting Opinion:** US Supreme Court Justices issue judicial opinions that oppose the majority verdict. These can be used as precedent in future trials.
- ❖ **Direct Effect:** the principle that EU law creates rights for individuals that must be upheld by national courts.
- ❖ **Supremacy:** the principle that EU law is superior to national laws when the ECJ has jurisdiction.

Links

- ❖ http://curia.europa.eu/jcms/jcms/Jo2_6999/general-presentation
- ❖ http://europa.eu/institutions/inst/justice/index_en.htm