



COURT OF JUSTICE
OF THE EUROPEAN UNION



ANNUAL REPORT 2018

THE YEAR IN REVIEW

The Court of Justice of the European Union upholds European Union law for 500 million citizens

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ANNUAL REPORT 2018

The year in review


The Court of Justice of the European Union is one of seven European institutions.

It is the judicial authority of the European Union and its task is to ensure compliance with European law by overseeing the uniform interpretation and application of the Treaties. The institution contributes to the preservation of the values of the European Union and, through its case-law, works towards the building of Europe.

The Court of Justice of the European Union is made up of two courts: the Court of Justice and the General Court.

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‘The Court of Justice of the European Union continues to be a strong and stable pillar of the European project, working tirelessly to uphold and consolidate the fundamental values inherent in a Union governed by the rule of law, values which brook no concession or compromise.’



INTRODUCTION BY THE PRESIDENT

One hundred years ago, a devastated Europe was emerging from an especially deadly conflict. Today, more than 500 million citizens of all ages bear witness to an unprecedented historical journey which, step by step, has created a European Union that champions the fundamental values common to its Member States and ensures, through its institutions, peace, freedom, democracy, the rule of law and respect for human rights.

We must not lose sight of the extraordinary achievements of European integration, particularly at a time when Europe has to tackle the uncertainties arising from the United Kingdom's departure from the Union, the drama of the migration crisis and the tensions between Member States on the observance, by some of them, of the rule of law.

Against that backdrop, the Court of Justice of the European Union continues to be a strong and stable pillar of the European project, working tirelessly to uphold and consolidate the fundamental values inherent in a Union governed by the rule of law, values which brook no concession or compromise.

By delivering high-quality, clear, effective and transparent justice, the Court strives to help restore the confidence of all citizens — whether they be workers, consumers, traders, political decision-makers or public administrators — in European integration.

For the EU courts, 2018 was an exceptional year on a number of fronts. As regards judicial activity, it was a record-breaking year, with the highest numbers of cases brought and cases closed in the institution's history. It also saw the opening of the Judicial Network of the European Union, a fully fledged platform for exchanges between the Court of Justice and the constitutional and supreme courts of the Member States.

Lastly, the General Court has taken a decisive step towards digitalisation: from 1 December 2018, judicial documents have to be exchanged between the Court and parties' representatives exclusively by means of the e-Curia application. This application enables the two courts making up the institution to make the best use of the immediacy of paperless communications and save a considerable amount of paper, thus reducing the institution's carbon footprint.

In the following pages, you will find a clear and concise presentation of the judicial decisions that marked 2018 and of their impact on the everyday life of citizens of the Union. The most important events in the life of the institution are also mentioned and computer-generated graphics are used to illustrate key figures, enabling readers to become acquainted with the running of the Court and of the administrative organisation on which it relies in order to fulfil its task in the interests of European justice.

I hope you enjoy reading it!

Koen Lenaerts
President of the Court of Justice of the European Union



2018

A black pen with a silver clip and a silver band is lying diagonally on a light-colored wooden desk. In the top left corner, a portion of a dark, textured object, possibly a camera lens or a container, is visible. The right half of the image is covered by a solid red overlay.

2018 AT A GLANCE





A | THE YEAR IN PICTURES

January

1 January

Opening of the Judicial Network of the European Union

Launched in 2017 on the occasion of the 60th anniversary of the Treaties of Rome, the aim of the Judicial Network of the European Union is to strengthen judicial cooperation in the interests of high-quality European justice. A collaborative platform, available in all EU languages, is set up to pool the work of European and national courts in the performance of their duties.
(see page 58)



10 January

Proceedings brought before the Court of Justice in *Glawischnig-Piesczek*

The Supreme Court of Austria enquires whether a host provider, such as **Facebook**, may be required to block a hate message posted by a user of the social network and whether it is required to conduct investigations in order to block identically worded messages on its sites worldwide (C-18/18).



25 January

Judgment in *F*

An asylum seeker may not be subjected to a psychological test in order to determine his **sexual orientation**, since this would constitute a disproportionate interference with his private life (C-473/16).
(see page 27)



29 January

Proceedings brought before the Court of Justice in *CCOO*

The Audiencia Nacional (National High Court, Spain) asks the Court whether undertakings are required to have a system **to record the actual working time** of their staff members in order to check that working times are properly adhered to and to review overtime (C-55/18).



1 February

40th anniversary of the creation of the Court's interpretation department

In the beginning, the Court relied solely on the interpretation services of the European Parliament in order to provide simultaneous interpretation at its hearings. Since 1 February 1978, the Court has been equipped with its own unit of interpreters to ensure a high-quality service commensurate with its needs. The Court commemorates the 40th anniversary of the creation of its interpretation department at a ceremony in the Main Courtroom.



1 February

Proceedings brought before the Court of Justice in *Commission v Hungary*

The Commission considers that the conditions for the operation in Hungary of **foreign higher education institutions**, including those established outside the European Economic Area, are contrary to EU law (C-66/18).



14 February

Proceedings brought before the Court of Justice in *Commission v Italy*

The Commission complains that Italy infringed Directive 2011/7 EU on combating **late payment** in commercial transactions by failing to ensure that public authorities avoid exceeding the time limits of 30 or 60 calendar days for paying their trade debts (C-122/18).



21 February

Proceedings brought before the General Court in *Austria v Commission*

Austria challenges the Commission's decision authorising State aid by Hungary to support the development of two new **nuclear reactors** at Paks II nuclear power station, located in the centre of the country (T-101/18).



1 March

140th anniversary of the liberation of Bulgaria

In 1878, the signing of the San Stefano peace treaty enabled Bulgaria to cast off the shackles of five centuries of Ottoman rule and regain its place on the map of Europe. On 1 March, the Court commemorates this

140th anniversary in the presence of members of the courts and of the staff of the institution as well as guests.



14 March

Judgment in *TestBioTech v Commission*

The effects of **genetically modified organisms** (GMOs) on human or animal health may fall within the area of the environment. Accordingly, non-governmental organisations are entitled to participate in the decision-making process for the placing on the market of foodstuffs containing GMOs (T-33/16). (see page 33)



17 April

Judgment in *Krüsemann and Others*

An airline may not refuse to compensate passengers for the cancellation or long delay of a flight in the event of a **wildcat strike** by flight staff (C-195/17).



26 April

Judgment in *Messi*

Lionel Messi may register his trade mark '**MESSI**' for sports equipment and clothing. The football player's fame counteracts the similarities with the trade mark 'MASSI' (also for sports equipment) and precludes any likelihood of confusion (T-554/14). (see page 31)



28 April

20th anniversary of the judgments in *Kohll* and *Decker*

By these landmark judgments, the Court of Justice authorised the provision of medical care and the purchase of **medical products abroad** without prior authorisation from the patients' health insurance fund ([C-158/96 and C-120/95](#)).

(see the information brochure on [the Court of Justice and Healthcare](#))



20 to 23 May

Official visit to Sweden

A delegation from the Court of Justice travels to Sweden to meet with members of the Supreme Court, the Supreme Administrative Court, the Court of Appeal of Svea and the Administrative Court of Appeal of Stockholm, among others. (see page 51)



22 May

Proceedings brought before the General Court in *Amazon v Commission*

Amazon asks the General Court to annul the Commission's decision requiring Luxembourg to recover from **Amazon** illegal tax benefits of approximately € 280 million (T-318/18).



23 to 26 May

FIDE Congress

The XXVIII biennial congress of the International Federation of European Law (FIDE) is held in Estoril (Portugal). This year's event is structured around three main topics: the internal market and the digital economy; taxation, State aid and distortions of competition; and the external dimension of EU policies.
(see page 49)



29 May

Judgment in *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*

The requirement that the ritual slaughter of animals without stunning must be carried out in an approved slaughterhouse does not infringe **freedom of religion** (C-426/16).
(see page 27)



31 May

New Members of the Court of Auditors

On the occasion of the partial renewal of the Court of Auditors, Tony Murphy (Ireland), Eva Lindström (Sweden), Hannu Takkula (Finland) and Annemie Turtelboom (Belgium) give the solemn undertaking provided for in the Treaties.

The Members of the Court of Auditors undertake, at a formal sitting held before the Court of Justice of the European Union, to respect the obligations arising from their office.



5 June

Judgment in *Coman and Others*

Same-sex marriage lawfully concluded in one Member State must be recognised in the other Member States for the purpose of granting a derived right of residence to the spouse who is a national of a non-EU country. That obligation does not, however, require a Member State to provide for same-sex marriage in its national law (C-673/16). (see page 27)



14 June

Official handover of 'L'Erma — Ritratto del c.d. Pseudo Seneca'

The Court receives a sculpture from the Farnese collection, on loan from the National Archaeological Museum of Naples. This replica of a 2nd century B.C. Greek bronze prototype, made in the second half of the 2nd century A.D., purportedly depicts Seneca the Younger (4 B.C. to 65 A.D.). However, based on the most reliable current assumptions, it is actually a depiction of the Greek poet and farmer Hesiod. This sculpture replaces 'L'Erma di Socrate', which was loaned to the Court in February 2017 by the same museum.



10 July

Judgment in *Jehovan todistajat*

A religious community, such as the Jehovah's Witnesses, is responsible, jointly with its members who engage in preaching, for the processing of **personal data** collected in the context of door-to-door preaching (C-25/17). (see page 28)



13 September

Judgment in *Wind Tre*

Services that can incur fees and have been pre-loaded and pre-activated on SIM cards constitute an aggressive unfair commercial practice when the consumers are not informed of that fact in advance (C-54/17 and C-55/17). (see page 22)



2 October

Proceedings brought before the Court of Justice in *Commission v Poland*

The Commission considers that Polish legislation lowering the **retirement age of judges** of the Supreme Court and granting the President of Poland discretion to extend their mandate is contrary to EU law (C-619/18).



4 October

Study day on the challenges faced by modern legal libraries

High-level experts and representatives of different European libraries, the institutions, and constitutional and supreme courts meet to exchange views on the future of legal libraries. The Court's library, which has undergone a major modernisation, has considerably increased its use of information technology and of digital resources and continues to foster its links with other specialised libraries in order to provide a high-quality service to its users. (see page 50)



8 October**Partial renewal of the Members of the Court of Justice and entry into office of six new Members**

In the context of the three-yearly renewal of the Members of the Court of Justice, Alexander Arabadjiev (Bulgaria), Jean-Claude Bonichot (France), Thomas von Danwitz (Germany), Carl Gustav Fernlund (Sweden), Egils Levits (Latvia), Constantinos Lycourgos (Cyprus), Jiří Malenovský (Czech Republic), Alexandra Prechal (Netherlands), Yves Bot (France) and Maciej Szpunar (Poland) have their six-year term of office as judge or advocate general renewed.

Four new judges, Lucia Serena Rossi (Italy), Irmantas Jarukaitis (Lithuania), Peter George Xuereb (Malta) and Nuno José Cardoso da Silva Piçarra (Portugal), are appointed by the representatives of the Member States' governments meeting in the Council. Two new advocates general, Giovanni Pitruzzella (Italy) and Gerard Hogan (Ireland), are also appointed.

The six new Members are sworn in at a formal sitting before the Court of Justice.

**9 October****Proceedings brought before the General Court in *Google and Alphabet v Commission***

Google asks the General Court to annul the Commission's decision fining it € 4.34 billion for illegal practices concerning **Android mobile devices** designed to strengthen the dominant position of Google's search engine (T-604/18).

**7 November****100th anniversary of the independence of Poland**

On 11 November 1918, Poland regained its independence after being partitioned between the Russian empire, the Austro-Hungarian empire and Prussia. To mark this 100th anniversary of independence, the Court organises a conference on 'The challenges of democracy in Poland a century after the recovery of its independence', with the participation of the members of the courts and of the staff.



18 to 20 November

Meeting of Judges

This annual meeting brings together national judges from the 28 Member States and the Members of the Court for two days in order to exchange views on various topics of EU law and to strengthen cooperation between the courts of the Member States and the Court of Justice.
(see page 50)



3 December

Proceedings brought before the Court of Justice in *Deutsche Umwelthilfe*

The Administrative Court of Bavaria (Germany) asks the Court whether EU law permits detention to be imposed on State officials where a State disregards a final judgment requiring it to develop an **air quality** action plan (city of Munich) and the financial penalties imposed on the State have proved to be ineffective (C-752/18).



4 December

Opening of the exhibition 'The Palais of the Court of Justice of the European Union — Ten years'

In 2008, the Court took up residence in its new Palais, an emblematic building that embodies European justice. The new facilities comprised the new Palais, the Anneau, the Gallery and two Towers. To commemorate the 10th anniversary of the inauguration of the new buildings, the Court organises an exhibition looking back over the last decade at the milestones in the Court's lifetime as an institution, court and administrative body.



10 December

Judgment in *Wightman and Others*

The United Kingdom is free to revoke unilaterally the notification of its intention **to withdraw from the European Union** under Article 50 of the Treaty on European Union (TEU) (C-621/18).
(see page 39)

B | THE YEAR IN FIGURES - THE INSTITUTION IN 2018

2018 BUDGET

€410

million euros

Statistically, 2018 marks another year of unflagging judicial activity. This is apparent from the exceptional number of cases completed by the institution as a whole (1 769 compared with 1 594 in 2017 and 1 628 in 2016) and by each court individually (760 by the Court of Justice and 1 009 by the General Court). The 1 683 new cases brought overall (compared with 1 656 in 2017) also illustrate an upward trend.

This workload has also been reflected in the activity of the administrative departments which lend their support to the courts on a daily basis.

75

judges

11

advocates general

2 217

officials and other staff

39%

Men
872

61%

Women
1 345

from the 28 Member States

The **representation of women** in positions of **responsibility** within the administration places the Court above the average of the European institutions.

663

women occupying
administrator posts
(53%)

27

females occupying
management posts (37,5%)

21

middle management posts (37%)

6

senior management posts (40%)



The judicial year (all courts combined)

1 683

cases brought

1 769

cases completed

163 642

procedural documents entered
in the registers of the Registries

Average duration of proceedings



approximately

18

months

Court of Justice 15.7 months
General Court 20 months

Percentage of procedural documents lodged via e-Curia

Court of Justice 75%
General Court 85%

Number of e-Curia
accounts 5 657



2 727

judicial notices
published

in the
*Official Journal
of the European Union*

THE LANGUAGE DEPARTMENTS

As a multilingual judicial institution, the Court must be able to deal with a case irrespective of the official language of the European Union in which it has been brought. It then ensures that its case-law is disseminated in all those languages.

24


potential languages of the case, i.e. 552 possible language combinations

606

'lawyer-linguists' to translate written documents

23

language units



At the Court, translations are produced in accordance with mandatory language arrangements which make it possible to accommodate all of the 24 official languages of the European Union. The documents to be translated are all highly technical legal texts. That is why the Court's language service employs only 'lawyer-linguists' who have completed their education in law and who have a thorough knowledge of at least two languages other than their mother tongue.



1 215 000

pages produced by the translation department

Reduction of translation requirements in 2018

(internal economy measures)

565 000

pages

Number of pages to be translated

1 285 000



721

hearings and meetings with simultaneous translation



71

interpreters for hearings and meetings

THE INSTITUTIONAL YEAR



2 292

national judges received at the Court in the context of seminars, training courses, visits and traineeships



Around

20 000

visitors

- professionals
- journalists
- students
- citizens



79

formal events





JUDICIAL ACTIVITY

2



A | A LOOK BACK AT THE MOST IMPORTANT JUDGMENTS OF THE YEAR

Protection of consumers

The protection of consumers is one of the long-standing concerns of the European Union, which oversees the application of strict rules to ensure that they enjoy a high level of protection. The European Union also seeks to boost consumers' awareness of their rights so that they can make informed choices and defend their interests, particularly against unfair commercial practices.

The Court of Justice held that the sale of SIM cards on which **services that can incur fees have been pre-loaded and pre-activated** constitutes 'inertia selling' and is thus an aggressive unfair commercial practice vis-à-vis consumers when they have not been informed of that fact in advance.

→ [Judgment of 13 September 2018, Wind Tre and Vodafone Italia, Joined Cases C-54/17 and C-55/17](#)

The Court of Justice also found that the **reimbursement** by a national healthcare insurance system of a **medicinal product for a use not covered by its marketing authorisation** is not contrary to EU law. However, that medicinal product must still adhere to EU pharmaceutical rules. Thus, a medicinal product that is intended, in principle, for the treatment of certain cancers may be reimbursed when it is prescribed for the treatment of an eye disease more cheaply than another medicinal product intended for the same treatment.

→ [Judgment of 21 November 2018, Novartis Farma, C-29/17](#)

In a case brought by Dyson, a company manufacturing bagless vacuum cleaners, the General Court annulled the regulation on the **energy labelling of vacuum cleaners**. That regulation laid down a method for calculating the energy performance of vacuum cleaners based on an empty receptacle, which does not reflect conditions as close as possible to actual conditions of use.

→ [Judgment of 8 November 2018, Dyson, T-544/13 RENV](#)





Protection of workers

EU law protects workers in many ways. As regards fixed-term contracts, a framework agreement of European social partners lays down minimum measures designed to prevent the status of employees from being insecure. Furthermore, a directive regulates aspects of the organisation of working time, such as maximum working time and the right to paid annual leave of at least four weeks, which may be replaced by an allowance in lieu only at the end of the employment relationship.

In Italy, the **misuse of successive fixed-term contracts** is penalised by their automatic transformation into contracts of indefinite duration. However, that protection does not apply to employees of operatic and orchestral foundations. Ruling on a question concerning whether that exclusion was lawful, the Court of Justice pointed out that the framework agreement on fixed-term work does not require Member States to provide for such automatic transformation. Nevertheless, it precludes the exclusion of a specific sector from such a sanction where no other effective sanction for misuse is found to be present in that sector.

→ [Judgment of 25 October 2018, *Sciotto*, C-331/17](#)

The **stand-by time** that must be spent at home by a voluntary firefighter who is obliged to respond to calls from his employer within a short period must be regarded as working time. The obligation to remain physically present at the place determined by the employer and the requirement to reach the place of work within a short period very significantly restrict a worker's opportunities for other activities.

→ [Judgment of 21 February 2018, *Matzak*, C-518/15](#)

Concerning the **right to paid annual leave** guaranteed by EU law, the Court of Justice made clear that a worker cannot automatically lose that right because he did not apply for leave. On the other hand, if the worker deliberately and knowingly refrained from taking leave even though his employer actually gave him the opportunity to do so, he loses his right to paid annual leave as well as his right to an allowance in lieu if the employment relationship ends.

→ Judgments of 6 November 2018, *Kreuziger and Max-Planck-Gesellschaft zur Förderung der Wissenschaften*, C-619/16 and C-684/16

In addition, the Court of Justice reiterated that the heirs of a deceased worker may claim from the latter's former employer an **allowance in lieu of the paid annual leave not taken** by the worker. The deceased worker's right to that allowance may be passed on by inheritance to his heirs.

→ Judgment of 6 November 2018, *Bauer and Willmeroth*, joined Cases C-569/16 and C-570/16

Lastly, EU law provides that every worker is entitled to paid annual leave of at least four weeks, based on the premiss that the worker actually worked during the reference period. Accordingly, a provision of national law which does not include a **period of parental leave for the purpose of determining the duration of paid annual leave** to which a worker is entitled complies with EU law. A period of parental leave cannot be treated as a period of actual work.

→ Judgment of 4 October 2018, *Dicu*, C-12/17





Fundamental rights and the protection of personal data

The European Union is founded on a set of values and fundamental rights recognised and enshrined in the Treaties and in the Charter of Fundamental Rights of the European Union, which became legally binding in 2009. In particular, the principles of equal treatment and non-discrimination are intended to protect EU citizens against discrimination based on, inter alia, nationality, sex, race, disability, age, sexual orientation or religion. Over the years, the Court of Justice has delivered an ever-increasing number of judgments in this field, clarifying the scope of these fundamental rights. In 2018, it played an important role in combating discrimination on the grounds of religion and sexual orientation.

In Germany, an offer of employment by Protestant Work for Diaconate and Development (a religious organisation) stated that applicants had to belong to a Protestant church or a number of other Christian churches. A question having been submitted to it by the German Federal Court, the Court of Justice held that the **requirement of religious affiliation** for a post within a church or a religious organisation must be amenable to effective judicial review. That requirement must be necessary and objectively dictated, having regard to the ethos of the church or organisation, by the nature of the occupational activity concerned or the circumstances in which it is carried out, and must comply with the principle of proportionality.

→ [Judgment of 17 April 2018, *Egenberger*, C-414/16](#)

Similarly, the dismissal of a Catholic doctor from a managerial position by a Catholic hospital due to his remarriage after a divorce may constitute unlawful discrimination on grounds of religion. The requirement that a Catholic doctor in a managerial position respect the Catholic Church's notion of marriage as sacred and indissoluble does not appear to be a genuine, legitimate and justified occupational requirement, which is a matter for the national court to determine. The Court of Justice also made clear that the prohibition of all discrimination on grounds of religion is a mandatory general principle of law enshrined in the Charter of Fundamental Rights. In consequence, individuals may rely on that prohibition in a dispute covered by EU law.

→ [Judgment of 11 September 2018, *IR*, C-68/17](#)

Various Muslim associations and umbrella organisations of mosques sued the Flemish Region of Belgium following its announcement that, from 2015 onwards, all **animal slaughtering without stunning**, including during the Islamic Feast of Sacrifice, had to be carried out only in approved slaughterhouses. Against that background, the Court of Justice confirmed that, in the European Union, ritual slaughter without stunning may take place only in an approved slaughterhouse. That obligation does not infringe freedom of religion as it is intended solely to manage the freedom to practise ritual slaughter, taking into account the essential rules with regard to the protection of animal welfare and the health of consumers of meat.

→ [Judgment of 29 May 2018, *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*, C-426/16](#)

The directive on the exercise of the freedom of movement enjoyed by Union citizens and their family members allows the spouse of such a citizen who has exercised that freedom to join his husband in the Member State where the latter resides.

The Court of Justice held that the term ‘spouse’ within the meaning of the directive includes spouses of the same sex. Although Member States have the freedom whether or not to authorise same-sex marriage, they may not obstruct the freedom of residence of an EU citizen by refusing to grant his same-sex spouse, a national of a non-EU country, a derived right of residence in their territory. Thus, a Member State is under an obligation to **recognise a same-sex marriage** concluded in another Member State in accordance with the law of that State for the sole purpose of granting that residence right. However, that obligation does not require a Member State to provide for the institution of same-sex marriage in its national law.

→ [Judgment of 5 June 2018, *Coman and Others*, C-673/16](#)

Moreover, an asylum seeker may not be subjected to a psychological test in order to determine his **sexual orientation**. Even if the person concerned must formally consent to be subjected to such tests, that consent is not necessarily given freely, since it is imposed under the pressure of the circumstances in which the person finds himself. The use of a psychologist’s expert report is therefore a disproportionate and particularly serious interference with the asylum seeker’s private life, as it is intended to give an insight into the most intimate aspects of his life.

→ [Judgment of 25 January 2018, *F*, C-473/16](#)



In view of the increasing volume of personal data exchanged between public and private actors — including natural persons, associations and undertakings — the task of EU law is to establish a robust and coherent data protection framework, it being important to build confidence that will enable the digital economy to develop throughout the internal market. In 2018, the Court of Justice delivered several judgments concerning the responsibilities arising from the collection and processing of personal data.

Thus, the administrator of a **fan page hosted on Facebook** is responsible, jointly with Facebook, for the processing of personal data of visitors to its page.

→ Judgment of 5 June 2018,
Wirtschaftsakademie Schleswig-Holstein, C-210/16

Similarly, a religious community, such as the **Jehovah's Witnesses**, is responsible, jointly with its members who engage in preaching, for the processing of personal data collected in the course of door-to-door preaching.

→ Judgment of 10 July 2018, *Jehovan todistajat*, C-25/17





State aid and competition

Free competition is essential for the smooth functioning of the EU internal market. It stimulates economic performance and affords consumers a wider choice of higher-quality goods and services at more competitive prices. EU law ensures compliance with the rules of free and fair competition between undertakings within the internal market. For those purposes, State aid is in principle prohibited unless it is justified and does not distort competition in a manner contrary to the public interest.



In an Italian case, the Court of Justice annulled the Commission's decision not to order the **recovery of unlawful aid** granted by Italy. That aid consisted in an exemption from municipal tax on real property granted to non-commercial entities, such as ecclesiastical or religious institutions, carrying on educational or accommodation activities on the real property belonging to them. For the first time, the Court of Justice accepted that direct competitors of the recipients of State aid are entitled to apply to the EU courts for the annulment of such a decision.

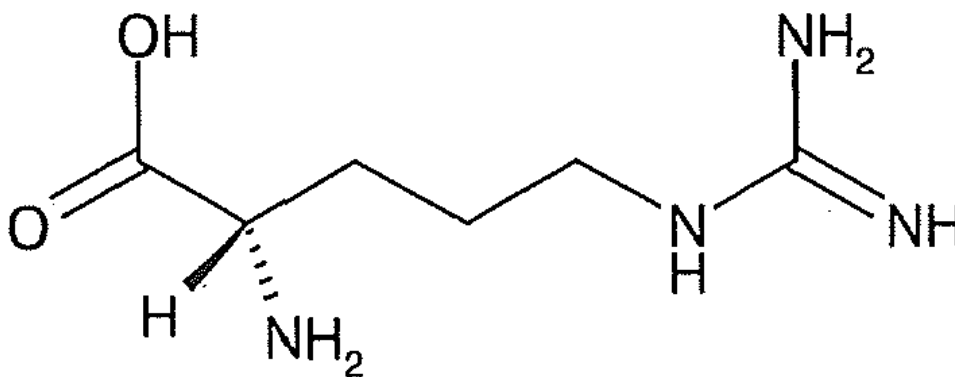
→ **Judgment of 6 November 2018,**
Scuola Elementare Maria Montessori and Others, joined Cases C-622/16 and others


The General Court annulled the Commission's decision not to raise objections to the **aid scheme establishing a capacity market** in the United Kingdom. Through that aid scheme, the UK intended to remunerate capacity providers that commit to provide electricity or reduce or delay their electricity consumption during times of system stress. The General Court found that the Commission should have had doubts in respect of certain aspects of the planned aid and should have initiated a formal investigation procedure in order better to assess its compatibility with the internal market.

→ **Judgment of 15 November 2018,**
Tempus Energy and Tempus Energy Technology v Commission, T-793/14

The General Court also annulled in part the Commission's decision finding the existence of **restrictive agreements and an abuse of a dominant position on the market for perindopril**, a medicinal product used to treat hypertension and heart failure. It confirmed, however, that certain patent settlement agreements may be restrictive of competition by object.

→ Judgments of 12 December 2018,
Biogaran and Others v Commission, T-677/14 and others





Copyright

Trade marks and copyright

The European Union has established a system for the protection of intellectual property rights incorporating reliable mechanisms for protecting trade marks, designs and literary and artistic works. The body of rules adopted by the EU, the application of and observance with which are ensured by the Court of Justice, contribute to innovation, competitiveness, job creation and research funding.

The General Court provided clarification on the scope of the **prohibition on registering trade marks on the ground that they are contrary to public policy and accepted principles of morality**. Thus, the registration of the trade mark 'La Mafia se sienta a la mesa' was refused, because the expression used is likely to shock or offend any reasonable person who, on EU territory, has average sensitivity and tolerance thresholds.

→ [Judgment of 15 March 2018, *La Mafia Franchises v EUIPO*, T-1/17](#)

The General Court held that the football player Lionel Messi may register his trade mark '**MESSI**' for sports equipment and clothing. Even though the trade mark 'MASSI', held by a Spanish company, also covers sports equipment, the football player's fame counteracts the visual and phonetic similarities between the two trade marks and precludes any likelihood of confusion.

→ [Judgment of 26 April 2018, *Messi Cuccittini v EUIPO*, T-554/14](#)

Concerning copyright, the Court of Justice declared that the taste of a food product (in this case the Dutch cheese 'Heksenkaas') cannot be protected by copyright. Such a taste cannot be classified as a 'work' because it cannot be identified with precision and objectivity.

→ [Judgment of 13 November 2018, *Levola Hengelo*, C-310/17](#)

Lastly, if a **photograph** is freely accessible on a website with the consent of the author, its posting on another website requires the author's consent to be obtained again. By posting on the internet for a second time, the photograph is made available to a new public.

→ [Judgment of 7 August 2018, Renckhoff, C-161/17](#)





Health and the environment

The EU's environmental standards are among the most stringent in the world: they aim to make the economy greener, protect biodiversity and natural habitats, and ensure a high level of health and quality of life in the European Union.

In the field of environmental protection, the General Court confirmed the validity of restrictions introduced in the European Union in 2013 affecting a number of **insecticides** because of the risks those substances pose to bees.

→ Judgments of 17 May 2018,
Bayer CropScience and Others v Commission, T-429/13 and others

On the other hand, it annulled in part the new regulation of the Commission of 2016 setting **limits on the emission of gaseous pollutants** (nitrogen oxide) for light passenger and commercial vehicles, limits that exceeded those laid down in the 'Euro 6' regulation.

→ Judgment of 13 December 2018,
Ville de Paris and Others v Commission, Joined Cases T-339/16 and others

The General Court also held that the effects of genetically modified organisms (GMOs) on human or animal health may fall within the area of the environment, so that, based on the regulation applying the Aarhus Convention of 1998 on environmental matters, non-governmental organisations are entitled to participate in the **decision-making process for the placing on the market of foodstuffs containing GMOs**. The General Court therefore annulled the Commission's decision rejecting an application submitted by such an organisation for a review of the marketing authorisation for foods, food ingredients and feed containing genetically modified soybeans.

→ Judgment of 14 March 2018, *TestBioTech v Commission*, T-33/16

In the same vein, the Court of Justice ruled that organisms obtained by **mutagenesis** (a set of techniques which make it possible to alter the genome of a living species without the insertion of foreign DNA) are GMOs. They must therefore be authorised following an assessment of the risks they pose to health and the environment and be subject to traceability, labelling and monitoring obligations.

→ [Judgment of 25 July 2018, *Confédération paysanne and Others*, C-528/16](#)

In addition, in a number of rulings, the Court of Justice found that Member States had failed to fulfil their obligations in environmental matters: the persistent exceedance in Poland of the limits on concentrations of **particulate matter in ambient air** (PM10); the **forest management** policy of Poland to combat the proliferation of beetles endangering the protected site of Białowieża Forest; and the authorisation given by Malta for the **capture of certain wild bird species**.

→ [Judgment of 22 February 2018, *Commission v Poland*, C-336/16](#)

→ [Judgment of 17 April 2018, *Commission v Poland*, C-441/17](#)

→ [Judgment of 21 June 2018, *Commission v Malta*, C-557/15](#)

Lastly, where Member States fail to implement a judgment of the Court of Justice finding that they have failed to fulfil their obligations under EU law, the Commission may bring a further action seeking the imposition of financial penalties.

Thus, Greece, Italy and Spain were fined for having delayed the implementation of EU law on the **collection and treatment of waste water**. Slovakia was also fined for its delay in implementing the rules on the landfill of waste.

→ [Judgment of 22 February 2018, *Commission v Greece*, C-328/16](#)

→ [Judgment of 31 May 2018, *Commission v Italy*, C-251/17](#)

→ [Judgment of 25 July 2018, *Commission v Spain*, C-205/17](#)

→ [Judgment of 4 July 2018, *Commission v Slovakia*, C-626/16](#)





Provision of nuclear energy

In the context of the continued discussions on the risks inherent in the generation of nuclear energy, a number of EU Member States have declared that they are prepared to do without this type of energy. Others, by contrast, have decided to pursue the nuclear route and are making significant investments, particularly in the construction of new reactors. Since State expenditure of this kind is liable to affect competition in the energy market, the Commission has adopted several decisions on its compatibility with EU law, the validity of which has been the subject of assessment by the General Court. The Court of Justice, in addition to having jurisdiction to hear appeals against judgments of the General Court, has considered questions referred to it for a preliminary ruling concerning the nuclear sector.

In 2014, the Commission approved aid that the United Kingdom planned to grant to the Hinkley Point nuclear power plant, located on the UK coast, for the purpose of creating new capacity for the **generation of nuclear energy**. Austria sought the annulment of that decision before the General Court. The General Court dismissed the action, pointing out that each Member State has the right to choose the energy source it prefers and that the development of nuclear energy may be an objective of public interest justifying the grant of aid, even though that objective is not shared by all of the Member States.

→ [Judgment of 12 July 2018, *Austria v Commission*, T-356/15](#)

With a view to ensuring the reliability and security of the Slovak energy network following the cessation of two units at the Jaslovské Bohunice nuclear power plant, a specific charge was imposed by that Member State on the export of electricity generated in Slovakia, including export to the Member States. Ruling on a question referred to it by a Slovak court, the Court of Justice held that Member States may not impose a **charge on the export of electricity** generated in their own territory, even if the aim of that charge is to ensure the security of supply in that territory.

→ [Judgment of 6 December 2018, *FENS*, C-305/17](#)



The euro area

The financial crisis of 2008 resulted in the adoption at European level of a plethora of banking and financial rules. In the interests of greater clarity in the levels of own funds of credit institutions, the European legislature introduced a new assessment instrument, the leverage ratio. It is distinctive because it is not calculated on the basis of the level of risk of the investments (exposure) of credit institutions and, in principle, is intended to take account of all their investments.

Six French credit institutions under the direct supervision of the European Central Bank (ECB) asked for a derogation to be applied to them so as to exclude from the calculation of the **leverage ratio** exposure linked to savings accounts transferred to a French public institution. Following the ECB's refusal to apply the derogation, the credit institutions brought proceedings before the General Court. The General Court found that the ECB had committed errors of law and manifest errors of assessment in the exercise of its discretion and annulled the ECB's decisions.

→ Judgments of 13 July 2018,
Banque Postale and Others v ECB, T-733/16 and others



Foreign policy and restrictive measures

‘Restrictive measures’ are an EU foreign policy instrument which may take the form of an arms embargo, the freezing of funds, a prohibition on entering and travelling through the territory of the European Union, a ban on imports and exports, and so forth. They seek to uphold the values and security of the Union, to support democracy, the rule of law, human rights and the principles of international law, to prevent conflict and to preserve peace. They may target the governments of non-EU countries, companies, groups and organisations (such as terrorist groups), and natural persons with the aim of bringing about a change of policy or behaviour.

In the context of the crisis in Ukraine and in response to Russia’s actions to destabilise the situation in that country, the Council adopted restrictive measures against a number of Russian banks and oil and gas undertakings, such as Rosneft. With a view to increasing the cost of actions taken by Russia, those measures impose restrictions on certain financial transactions and on the export of certain sensitive goods and technologies, restrict access to the capital market and prohibit the provision of services required for certain oil transactions. The General Court confirmed those measures on the ground that their objective is consistent with the EU’s foreign policy and the interference with the freedom to conduct a business and the right to property of the undertakings concerned cannot be considered to be disproportionate.

→ Judgments of 13 September 2018,
Rosneft and Others v Council, T-715/14 and others

Furthermore, the General Court confirmed the renewal of the decision to freeze the funds of the former Egyptian President **Hosni Mubarak and members of his family** adopted in the wake of the political events which took place in Egypt from January 2011. The Council had sufficient information at its disposal with regard to the political and judicial context in Egypt and the judicial proceedings to which members of the Mubarak family were subject in order to renew the decision to freeze their funds.

→ Judgments of 22 November 2018, *Saleh Thabet and Mubarak and Others v Council*, T-274/16 and T-275/16

→ Judgment of 12 December 2018, *Mubarak v Council*, T-358/17

Lastly, the General Court ruled on the validity of restrictive measures against other natural persons and undertakings in connection with the democratic situation in **Ukraine, Syria, North Korea** and, again, **Egypt**.

→ Judgment of 22 March 2018, *Stavytskyi v Council*, T-242/16

→ Judgment of 26 April 2018, *Azarov v Council*, T-190/16

→ Judgment of 6 June 2018, *Lukash v Council*, T-210/16

→ Judgment of 6 June 2018, *Abruzov v Council*, T-258/17

→ Judgment of 11 July 2018, *Klyuyev v Council*, T-240/16

→ Judgment of 31 May 2018, *Kaddour v Council*, T-461/16

→ Judgment of 19 June 2018, *HX v Council*, T-408/16

→ Judgment of 14 March 2018, *Kim and Others v Council and Commission*, Joined Cases T-533/15 and T-264/16

→ Judgment of 27 September 2018, *Ezz and Others v Council*, T-288/15





Brexit

In 2018, the Court of Justice ruled on the reversibility of Brexit, the legality of the Council's decision relating to the opening of negotiations on the conditions for Brexit, and the execution of European arrest warrants issued by the UK authorities.

At the request of several members of the Scottish Parliament, the United Kingdom Parliament and the European Parliament, a Scottish court referred a question to the Court of Justice to determine whether, should the United Kingdom decide to remain in the European Union, that Member State could unilaterally revoke — that is to say, without the consent of the European Union or the other Member States — the notification of its intention to withdraw. The Court of Justice answered that question in the affirmative, so that such revocation would have the effect that the United Kingdom remains in the European Union under terms that are unchanged as regards its status as a Member State.

→ [Judgment of 10 December 2018, *Wightman and Others*, C-621/18](#)

In 2016, the United Kingdom issued two **European arrest warrants** against an individual for the purposes of prosecuting him for serious crimes. After his arrest in Ireland, the individual objected to his surrender to the United Kingdom arguing that, as a result of Brexit, he would be deprived of the fundamental rights that EU law guarantees to persons who are the subject of such warrants. Ruling on a question referred to it by an Irish court, the Court of Justice stated that in the absence of substantial grounds for believing that the person who is the subject of the arrest warrant is at risk of having those safeguards taken away from him after Brexit, the warrant issued by the UK authorities must be executed while the United Kingdom remains a member of the European Union.

→ [Judgment of 19 September 2018, *RO*, C-327/18 PPU](#)



Institutional law

EU law lays down rights and obligations not only for Member States, undertakings and individuals, but also for the institutions of the European Union. Those institutions are expected to function in accordance with specific legal rules, compliance with which is reviewed by the EU Courts. Irrespective of whether the point in issue is the process for adopting a legislative act or payments made out of the EU budget, the lawfulness of the acts of the institutions is vital if the public's confidence in their functioning and authority is to be maintained.

A Member of the European Parliament hired a **parliamentary assistant** between 2010 and 2016 and received almost € 300 000 in respect of that person's remuneration. Unable to demonstrate that the person she had hired had actually performed that work, the Parliament ordered the Member of the European Parliament to repay the amount received. The General Court confirmed the Parliament's decision on the ground that the Member of Parliament had not proven that her assistant had actually worked.

→ [Judgment of 19 June 2018, *Le Pen v Parliament*, T-86/17](#)

Under EU law, one million citizens from at least a quarter of all Member States may take the initiative of inviting the Commission to propose to the EU legislature that it adopt a legal act. Such a **European citizens' initiative**, entitled 'One of Us', was launched to bring an end to the financing, by the EU, of activities entailing the destruction of human embryos in the areas of research and public health. Although the initiative collected the one million signatures required in order to be valid, the Commission decided not to take any action. The authors of the initiative challenged that decision before the General Court. The General Court dismissed the action, finding that the decision was sufficiently reasoned and that a European citizens' initiative cannot require the Commission to submit a proposal for a legal act.

→ [Judgment of 23 April 2018, *One of Us and Others v Commission*, T-561/14](#)



Access to documents

Access to documents is an essential component of the policy of transparency implemented by the European institutions. Thus, all citizens and residents of the European Union enjoy a right of access to the documents of the Union's institutions, bodies, offices and agencies, subject to exceptions.

The General Court annulled a decision of the Parliament refusing access to documents containing information concerning the positions of the institutions on ongoing co-decision procedures. Having failed to demonstrate that full access to those documents could undermine its decision-making process, the Parliament must in principle grant access, on specific request, to documents relating to ongoing **trilogues** (informal tripartite meetings between the Parliament, the Council and the Commission on legislative proposals). Since the work of the trilogues is a decisive stage in the legislative process, it entails exemplary adherence to the right of access to documents.

→ [Judgment of 22 March 2018, *De Capitani v Parliament*, T-540/15](#)



B | KEY FIGURES CONCERNING JUDICIAL ACTIVITY COURT OF JUSTICE

The Court of Justice deals mainly with:

- **requests for a preliminary ruling**, when a national court is uncertain as to the interpretation or validity of an act adopted by the European Union. The national court stays the proceedings before it and refers the matter to the Court of Justice, which gives a ruling on the interpretation or the validity of the provisions in question. When the matter has been clarified by the Court of Justice's decision, the national court is then in a position to settle the dispute before it. In cases calling for a response within a very short time (for example, in relation to asylum, border control, child abduction, and so forth), an urgent **preliminary ruling procedure ('PPU')** may be used;
- **appeals**, against decisions made by the General Court, a remedy enabling the Court of Justice to set aside the decision of the General Court;
- **direct actions**, which mainly seek:
 - ♦ annulment of an EU act ('action for annulment') or
 - ♦ a declaration that a Member State has failed to fulfil its obligations under EU law ('**action for failure to fulfil obligations**'). If the Member State does not comply with the judgment finding that it has failed to fulfil its obligations, a second action, known as an action for '**twofold failure**' to fulfil obligations, may result in the Court imposing a financial penalty on it;
- requests for an **opinion** on the compatibility with the Treaties of an agreement which the European Union envisages concluding with a non-member State or an international organisation. The request may be submitted by a Member State or by a European institution (Parliament, Council or Commission).



849 Cases brought

Preliminary ruling proceedings

568 including **19** PPU

Member States from which the most requests originate

Germany	78	Italy	68	Spain	67
France	41	Belgium	40		

Direct actions

63

including

57	actions for failure to fulfil obligations and	2	actions for 'twofold failure' to fulfil obligations
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Appeals against decisions of the General Court

199

Applications for legal aid

6 A party who is unable to meet the costs of the proceedings may apply for free legal aid





760 Cases completed

Preliminary ruling proceedings

520 including **11** PPU Cases

Direct actions

60

including **30** failures to fulfil obligations found against **17** Member States

including **5** judgments on a 'twofold failure' to fulfil obligations

Appeals against decisions of the General Court

165

including **27** in which the decision adopted by the General Court was set aside

Average duration of proceedings



15.7 months

Urgent preliminary ruling procedures



3.1 months

Principal matters dealt with

- 15** Agriculture
- 74** Area of freedom, security and justice
- 41** Competition and State aid
- 19** Consumer protection
- 12** Customs Union
- 33** Environment
- 77** Freedoms of movement and establishment, and internal market
- 74** Intellectual and industrial property
- 42** Social law
- 58** Taxation
- 38** Transport





GENERAL COURT

Proceedings may be brought before the General Court, at first instance, in direct actions brought **by natural or legal persons (companies, associations, and so forth)** and **by Member States** against acts of the institutions, bodies, offices or agencies of the European Union, and in direct actions seeking compensation for damage caused by the institutions or their staff. A large part of the litigation before it is economic in nature: intellectual property (EU trade marks and designs), competition, State aid, and banking and financial supervision.

The General Court also has jurisdiction to adjudicate in civil service disputes between the European Union and its staff.

The decisions of the General Court may be the subject of an appeal, limited to points of law, before the Court of Justice.



834 Cases brought

Direct actions

732

including

70

involving State aid and competition (including 4 actions brought by the Member States)

301

concerning intellectual and industrial property

268

other direct actions (including 18 actions brought by the Member States)

93

relating to the civil service

Applications for legal aid

49



A party who is unable to meet the costs of the proceedings may apply for free legal aid.



1 009 Cases completed

Direct actions

893

including

123 involving State aid and competition

349 concerning intellectual and industrial property

110 relating to the civil service

434 other direct actions

appeals against decisions of the Civil Service Tribunal

9

including

7 in which the decision of the Civil Service Tribunal was set aside

The Civil Service Tribunal, established in 2004, ceased to operate on 31 August 2016 as part of the reform of the judicial structure of the European Union. Cases pending on that date were transferred to the General Court which, from 1 September 2016, is the court with jurisdiction to rule on civil service actions.

Average duration of proceedings



20 months

Decisions against which an appeal was brought before the Court of Justice

27%

1 333

Pending cases as of 31 December 2018

Principal matters dealt with

30 Access to documents

43 Agriculture

68 Competition

127 Economic and monetary policy

8 Environment

322 Intellectual and industrial property

22 Public procurement

60 Restrictive measures

162 Staff Regulations

219 State aid







A YEAR OF OPENNESS AND EXCHANGES

3



A | IMPORTANT EVENTS

The dialogue which the Court of Justice of the European Union maintains with national courts and European citizens is not confined to judicial proceedings, but is sustained each year by many exchanges.

In that regard, 2018 saw a large number of meetings and discussions, which help to disseminate and promote understanding of the law and case-law of the European Union.

13

April

FINAL OF THE 'EUROPEAN LAW MOOT COURT' COMPETITION



The European Law Moot Court Competition, which for almost 30 years has been organised by the European Law Moot Court Society, is a 'mock trial' competition designed to promote knowledge of EU law among law students. It is considered to be one of the most prestigious competitions in the world and the final is held each year at the Court, where teams of students from all the Member States of the European Union, and also from the United States, compete in pleadings which take place before a jury composed of Members of the Court of Justice and the General Court. The winner of the 2018 edition was the team fielded by the **College of Europe, Bruges** (Belgium). The prizes for 'best Advocate General' and 'best Commission Agent' were awarded respectively to Tycho Tijl Eggenhuizen, from the **University of Maastricht** (Netherlands), and Federica Velli, from the **University of The Hague** (Netherlands).

5
May

OPEN DAY
AT
THE INSTITUTION

On Europe Day, celebrated on 9 May in all the Member States to commemorate the declaration of the French minister Robert Schuman on 9 May 1950, the Court holds an Open Day. More than 180 volunteering officials of the Court participate actively in the event, welcoming, informing and guiding visitors through a multilingual explanatory tour in a warm and friendly atmosphere. The Open Day enables citizens to discover the institution, its role and its operation, as well as its architecture and the works of art on loan from the Member States which it houses and which are an expression of European artistic and cultural traditions. This year, the Open Day was organised jointly by the Court of Justice of the European Union and the European Investment Bank (EIB). The Court attracted more than **2 200 visitors**, who had the opportunity to participate in a question and answer session with President Lenaerts.



23
to
26
May

FIDE
CONGRESS

Established in 1961 by the national European law associations of the six founding Member States of the European Union (Belgium, France, Germany, Italy, Luxembourg and the Netherlands), the International Federation for European Law (FIDE) currently brings together the European law associations of each Member State, of candidate countries for accession to the EU, and of Norway and Switzerland. Its biennial congress is regarded as one of the most important and prestigious conferences on EU law. Attracting around 500 participants, it enables prominent figures from the academic world to meet with judges and advocates general of the Court of Justice and the General Court, judges of national supreme courts

and other courts, officials of the EU institutions and national ministries, as well as lawyers. This year, the XXVIII Congress, which was held in Estoril (Portugal), was structured around three main topics: the internal market and the digital economy; taxation, State aid and distortions of competition; and the external dimension of EU policies.



4

October

LIBRARY STUDY DAY

The Court's library is a point of reference for EU law. A study day brought together some one hundred high-level participants — from libraries of the member courts of the Judicial Network of the European Union, from European legal libraries and from other institutions and agencies — in order to discuss the challenges faced by modern legal libraries, particularly in relation to

digitalisation and developments in information technology. Thanks to this event, it was possible to lay the foundations to begin partnerships with other libraries so as to broaden the range of documentation available for consultation by users.



18

to

20

November

MEETING OF JUDGES



Every year, judges from various courts of the Member States meet at the Meeting of Judges organised by the Court to exchange views on various EU law topics. Established in 1968, this event is designed to strengthen the judicial dialogue which the Court maintains with national courts, in particular in the context of requests for a preliminary ruling, and also to promote the dissemination and uniform application of EU law, since the national courts are the first to apply it to the disputes before them. This year,

155 national judges attended the Meeting during which they exchanged views with the Members of the Court on the preliminary ruling procedure, the Charter of Fundamental Rights, asylum and immigration, judicial cooperation in civil matters, combating abuse (tax law, consumer law, posting of workers) and the latest developments in the General Court's case-law.

OFFICIAL VISITS

In the framework of the continuous institutional dialogue that exists between the Court, the other European institutions, international courts and the institutions and courts of the Member States of the European Union, in 2018 **the Court** received Ms Margrethe Vestager, European Commissioner for Competition, Ms Věra Jourová, European Commissioner for Justice, Consumers and Gender Equality, Mr Tiemo Wölken and Ms Monika Hohlmeier, Members of the European Parliament, and delegations from the European Federation of Energy Law Associations (EFELA), the European Court of Human Rights (ECHR) and the European Association of Supreme Court Bars.

The Court also received Mr Seamus Woulfe SC, Attorney General of Ireland, Mr Bruno Lasserre, Vice-President of the French Council of State, Mr Frédéric Van Leeuw, federal public prosecutor of the Kingdom of Belgium, and Mr François Molins, public prosecutor of Paris, as well as delegations of senior judges and lawyers from Poland, the Supreme Court of Finland, the Supreme Court of Ireland, and the Constitutional Court and Supreme Court of Croatia.

In addition, it welcomed delegations from the Flemish Parliament and the German-speaking Community of Belgium, the Berliner Abgeordnetenhausen (Parliament of Berlin), the Danish Statsrevisorerne (Committee of Public Accounts) and the Audit and Foreign Affairs Committees of the Parliament of Lithuania.

Lastly, the Court received various key figures from the Member States, including H.E. Mr Xavier Bettel (photo), Prime Minister and Minister of State of Luxembourg, H.E. Mr Andrej Plenković, Prime Minister of Croatia, Ms Katarina Barley (photo), Federal Minister for Justice and Consumer Protection of Germany,

Mr Dražen Bošnjaković, Minister for Justice of Croatia, and Ms Tsetska Tsacheva, Minister for Justice of Bulgaria.

In 2018, **the Court of Justice** visited the European Court of Human Rights in Strasbourg, the High Court of Justice of Luxembourg, the Sechser-Treffen (six-party meeting) of German-speaking constitutional courts in Karlsruhe (Germany), the Supreme Court of the United Kingdom and the French Council of State. In addition, it travelled to Sweden to meet with members of the Supreme Court, the Supreme Administrative Court, the Court of Appeal of Svea and the Administrative Court of Appeal of Stockholm. During that visit, the delegation from the Court of Justice also met with the Chancellor of Justice, the Minister for Justice and Home Affairs, the Minister for Foreign Affairs and the Minister for EU Affairs and Trade.

In 2018, **the General Court** received delegations from the European Court of Human Rights, the Scottish judiciary and the European Union Intellectual Property Office (EUIPO).

A delegation from the General Court also travelled to EUIPO in Alicante (Spain) for the annual 'IP Case Law Conference', which dealt with substantive and procedural issues in trade mark and design dispute resolution.



A CONTINUOUS DIALOGUE WITH LEGAL PROFESSIONALS

- Maintaining the judicial dialogue with national judges

More than

2 400

national
judges met

- national judges received in the context of the annual Meeting of Judges or of a 6- or 10-month placement in the chambers of a Member
- seminars held at the Court
- contributions intended for national judges in the context of European judicial associations or networks
- participation at the formal reopenings of national supreme and higher courts, and meetings with the Presidents or Vice-Presidents of European supreme courts

- Promoting the application and understanding of EU law

705



groups of visitors

who receive presentations on the
hearings they attend or on the
operation of the courts

including

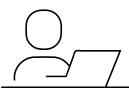
197



groups of legal professionals

that is to say **3 825** individuals

303



trainee
lawyers received

453

external
users



students, researchers and teachers
who have carried out research
in the institution's library

AN ENHANCED DIALOGUE WITH EUROPEAN CITIZENS



19 493

visitors

including **2 233** at the
Open Day



207

press releases

a total of **2 259** language
versions

Each press release is translated into several languages in order to facilitate the work of journalists in the Member States. Those press releases are available on the website curia.europa.eu/jcms/PressReleases



490

tweets sent via the Court's
Twitter accounts,

with over **61 500** followers

112 

requests for access
to administrative documents
and to the historical archives
of the institution

Around

43 000 

requests for information per year

A REGULAR OFFICIAL AND INSTITUTIONAL DIALOGUE



29

official visits



3

formal sittings





AN ADMINISTRATION AT THE SERVICE OF JUSTICE

4

A | THE CONSTANT PURSUIT OF EFFICIENCY



The Registrar of the Court of Justice, the Secretary-General of the institution, oversees the administrative departments under the authority of the President. He attests to the departments' commitment to supporting the institution's judicial activities.

THE INSTITUTION'S DEPARTMENTS: A PROJECT TO SUPPORT THE ACTIVITIES OF THE COURTS

2018 was characterised by a far-reaching reorganisation of the administrative structure of the institution [see box below], which made it possible to face a double challenge resulting, first, from the reduction in staff numbers imposed on the institutions, which led to a reduction of 6.5% of staff in the institution's departments in the period from 2013 to 2017 and, second, from the increase in workload of the courts and, as a consequence, of the departments supporting them.

This revised organisation has made it possible to create new interdepartmental synergies, to streamline workflows, and also to pool efforts in areas of common interest, in particular in a regulatory context which has required all of the departments to rethink in-depth their working methods (for example, following the entry into force of the new regulation on the protection of personal data and the new financial regulation applicable to the institutions).

The new administrative structure of the institution, in place since 1 January 2018, is based on three overarching objectives:

- to encourage the coordinated and efficient use of the institution's human and material resources, a task entrusted to the Directorate-General of Administration, which now encompasses the Directorates for Human Resources and Personnel Administration, Budget and Financial Affairs, and Buildings and Security;
- to ensure the balanced management, protection and promotion of legal multilingualism through the launch of a genuine 'Multilingualism Strategy' under the aegis of the new Directorate-General for Multilingualism, which brings together the interpretation and legal translation departments (see page 61);
- to secure the conservation, sharing and structured dissemination of information, from a twofold institutional and judicial perspective, under the authority of the new Directorate-General for Information (comprising the Library, Information Technology, and Communications Directorates).



These changes also prompted departments to reassess whether their services could better meet the expectations of courts, professionals and citizens in Europe. Careful consideration was given, in particular, to the outputs of the research and documentation department in support of the judicial activity, as well as the analysis, indexing and dissemination of case-law to legal practitioners in the academic world, among others. With a view, also, to providing the best response to the expectations of members of the judiciary and the parties' representatives, the institution continues to work towards paperless document flows in proceedings, particularly by means of the e-Curia application (see page 60). Finally, with a view to addressing the concerns of citizens optimally, the Court of Justice has amended its online publication policy of certain court documents in order to reinforce the protection of the personal data of the parties involved in cases concerning a request for a preliminary ruling.

Moreover, the departments are undergoing an extensive modernisation operation in respect of their technical tools, with a view to greater integration and greater inter-departmental cooperation. The simultaneous launch of the IT programme for integrated case management and the pilot project for an administrative documentary system are two key examples in the judicial sphere and the administrative sphere.

Finally, this revised organisation has taken place alongside **developments in the management of human resources**, which not only seeks to de-compartmentalise and share knowledge and information, but also to ensure greater equality in changing career paths. More managerial training courses are being offered, job shadowing between departments is being tested, more tasks are being delegated and more attention is being paid to the placing of women in management posts; these are all works in progress which reflect the project in which the officials and agents of the institution have been called on to participate.

In its constant pursuit of efficiency, the institution has not, however, merely rethought its administrative structure and the way in which its departments operate; it has also opted to strengthen cooperation with the outside world in order to promote the sharing of good practices and exchanges of views with its peers.

The creation of the **Judicial Network of the European Union (JNEU)** between the constitutional and supreme courts of the 28 Member States and the Court, alongside the launch of a collaborative platform between its members in January 2018, provides an excellent means for cooperation at the service of high-quality and swift justice. It affords the member courts of the Network the opportunity to explore new channels of cooperation between their counterpart departments, to facilitate monitoring activities and to pool work of common interest, such as legal research.

The work performed with **European legal libraries** on the initiative of the Court's Library Directorate, which hosted a major study day in October 2018 dedicated to the challenges faced by documentation departments and legal libraries, is another example of fruitful cooperation aimed at improving the quality of services provided to internal and external users alike and gestures towards other forms of future cooperation between the departments providing support to judicial activity.

The Court of Justice of the European Union thus extends the judicial dialogue provided for in the Treaties through an institutional and administrative dialogue, enabling it not only to consolidate its privileged ties with national courts, but also to reaffirm that European justice, including in its more operational aspects, is firmly rooted in the traditions and practices of the Member States.

Alfredo Calot Escobar
Registrar

JUDICIAL NETWORK OF THE EUROPEAN UNION

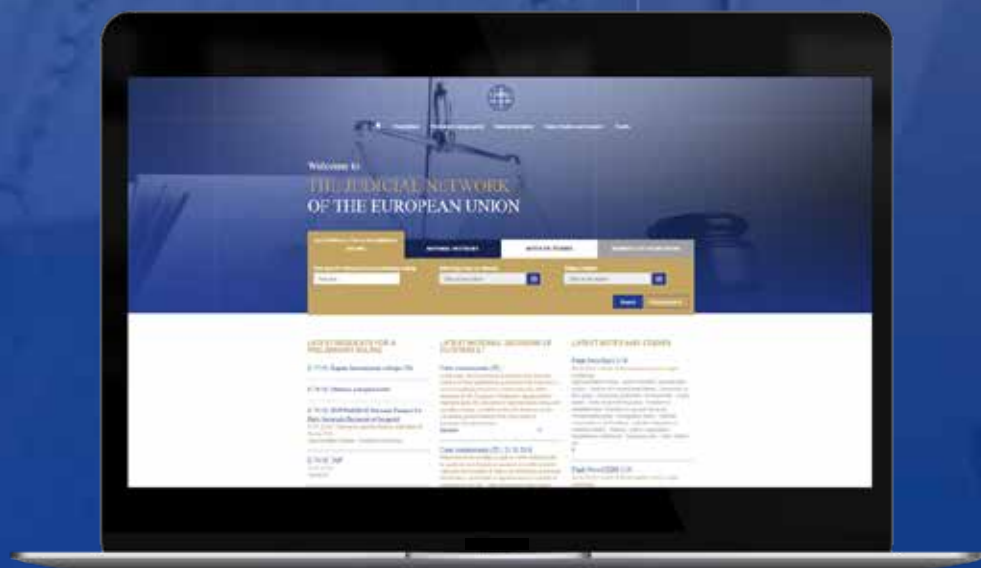
The Judicial Network of the European Union was created on the initiative of the President of the Court of Justice of the European Union and the Presidents of the constitutional and supreme courts of the 28 Member States, on the occasion of the 60th anniversary of the signature of the Treaties of Rome in 2017.

It reflects the common intention of 72 higher courts in the 28 Member States and of the Court of Justice of the European Union to strengthen cooperation between national judges — sitting in ordinary courts of EU law — and the judges of the Court of Justice of the European Union — which ensure the uniform interpretation of EU law — in a dialogue at the service of high-quality justice and the protection of the rights of European litigants.

The Network's first achievement, back in January 2018, less than one year after its launch, was the creation of a collaborative platform available in all EU languages, which pools the work carried out by the judges of the Court of Justice of the European Union and national judges in the course of their judicial activities.

Judges therefore have access to a tool enabling them to make their case-law and research and analysis work available to their counterparts, with a view to sharing knowledge and improving efficiency. The Network also addresses the desire to strengthen the understanding of national legal systems, from the standpoint of mutual enrichment in the interests of shared justice that is respectful of both European and national traditions.

The JNEU platform currently has more than 2 000 users in the constitutional and supreme courts of the Member States. Building on this success and given the wealth of documentation on the site, the Court now plans to give the general public and, in consequence, legal professionals as a whole, access to all documents likely to be of interest to their activities. This will be completed by the end of 2019.





THE PROTECTION OF PERSONAL DATA IN REQUESTS FOR A PRELIMINARY RULING

At a time when technological advancement, big data and the proliferation of the internet pose numerous challenges for the protection of personal data, 2018 was marked, at national and European level, by the entry into force of a new regulatory framework which gives more protection to citizens by enshrining, in particular, some of the principles originally established by the Court of Justice in its case-law.

In support of these developments, the Court of Justice adopted new guidelines in 2018 enhancing the protection of individuals in the context of publications relating to preliminary rulings to which they are a party. The Court of Justice decided to replace the name of natural persons involved in such cases by neutral initials, both in the name of the case itself and in the documents posted on the internet (case calendar, Opinions, judgments, press releases, and so forth). The Court also endeavours to remove any wording likely to permit identification of those persons. These guidelines apply, in principle, to all requests for a preliminary ruling submitted after 1 July 2018, unless the specific features of the case warrant a different approach.

In order to ensure, at the same time, compliance with the open courts principle, these measures do not affect either the usual handling of cases before the Court or the course of the procedure (particularly as regards hearings).

The Court thus contributes, together with the Member States which have already made changes to their legal systems, to the increased protection of individuals' personal data in the context of the judicial documents it publishes on the internet.



'E-CURIA': A MODERN, EFFICIENT AND ENVIRONMENTALLY FRIENDLY APPLICATION FOR THE EXCHANGE OF JUDICIAL DOCUMENTS

e-Curia is an internet-based platform common to the Court of Justice and the General Court. It enables procedural documents to be lodged and served by electronic means. Since its launch in 2011, e-Curia has been hugely successful: the number of account holders with access to it and the percentage of documents lodged using it has steadily risen. From 1 December 2018, 100% of documents are lodged before the General Court via e-Curia.

Positive feedback from users (lawyers and agents), efficiency gains resulting from the immediacy of electronic exchanges and no longer having to deal with mixed formats (paper and digital) motivated the General Court to continue the process of making its procedures paperless.

Thus, thanks to the amendments to its Rules of Procedure adopted in July 2018 and the adoption of a new decision on the lodging and service of procedural documents, e-Curia is now — and has been since 1 December 2018 — the only method used by the General Court for exchanging judicial documents with the parties.

All parties (applicants, defendants and interveners) and all types of procedures, including emergency procedures, are concerned. Some exceptions continue to exist in accordance with the principle of access to the courts, in particular where it is technically impossible to use the application or where an applicant who is not represented by a lawyer applies for legal aid.

This important reform for the General Court should be beneficial both for the administration of justice — by helping to streamline the handling of cases — and for the parties and the environment.

The e-Curia application is free for users and allows them to send documents 24 hours a day, 7 days a week. It means that documents no longer need to be transported to Luxembourg in paper form together with several sets of certified copies, making it possible to reduce CO2 emissions into our environment (see page 64-65).



The 'Multilingualism Strategy' has already had a tangible output in the form of an artistic production, filmed in 2018, on multilingualism at the Court, which presents the work of lawyer-linguists and interpreters at hearings as well as what happens at working meetings and legal workshops, and so forth. The production — which is projected on several screens, each displaying a thematic segment — was inaugurated in January 2019 at the 'Haus der Kulturen der Welt' ('World Culture House') in Berlin and was followed by a conference-discussion.

The 'Multilingualism Strategy' will be a permanent fixture and one of the actions planned for 2019 is a project on multilingualism and its functioning at the Court.

While 2019 is set to be a year rich in developments for multilingualism, particularly technological developments, this strategy will serve to remind national institutions and citizens across the Union that multilingualism is more than an ideal or a necessity; multilingualism is, first and foremost, an asset for a European Union with a wealth of cultural and legal diversity and, above all, the means by which it maintains the closest possible contact with its citizens.

Direct effect or direct application

EU law applies in the territory of the Member States: their authorities are responsible for ensuring that it is correctly applied. Consequently, if a dispute involves a provision of EU law, not only is the national court able to apply that provision itself, but it is required to do so automatically to protect the rights that citizens and undertakings enjoy under EU law.

Primacy

The Member States have decided to share some of their competences at EU level. In the event of a conflict between national law and EU law, the latter must prevail and the contrary national legislation must be disapplied.



THE COURT ON TWITTER

The Court of Justice of the European Union has been present on Twitter since April 2013. Thanks to the two accounts managed by the Communications Directorate, it is able to disseminate its judicial activity more quickly and to a wider audience. Whereas the number of followers of those accounts (one each in French and English) stood at 42 000 in 2017, the figure rose beyond 60 000 (61 548 to be precise) at the end of 2018. This 45% increase on last year is due to a more active communication policy on social networks.

While the Court's previous use of Twitter was confined to issuing press releases, it now uses tweets to inform its followers about developments in cases attracting significant media attention, by announcing the dates on which cases were lodged as well as when hearings are to be held and judgments delivered. The tweets posted also cover other topics of interest, for instance major events at the Court such as formal hearings or official visits.

The features available on this social network enable photos, videos and links to press releases or relevant case-related documents to be included alongside the tweeted information. This makes the dissemination of content more dynamic and attractive to followers, thereby encouraging them to retweet.

In 2018, no fewer than 490 tweets were sent, compared to 350 last year.

This new dynamic and active approach on Twitter makes it possible for the institution to communicate almost in real time and helps improve the general public's awareness of the case-law of the Court and its implications.

For European citizens, following the information published on the Court's two accounts enables them not only to keep up to date with the judicial activity of the EU courts, but also to play a part in its dissemination.



AN ENVIRONMENTALLY FRIENDLY INSTITUTION

The Court of Justice of the European Union has for several years been pursuing an ambitious environment as policy, designed to meet the highest standards of sustainable development and environmental conservation.

Underpinning the management of the institution's building projects, and the day-to-day management of the resources and tools at its disposal, is the constant commitment to respecting the environment, as shown by the Court's EMAS registration (Eco-Management and Audit Scheme) on 15 December 2016.

The EMAS certification, established by an EU regulation and granted to organisations that satisfy strict conditions relating to their environmental policies and their efforts in relation to the protection of the environment and sustainable development, is therefore a clear recognition of the Court's ecological commitment and of the high environmental performance achieved.



The environmental indicators for water, waste, paper and electricity match those for 2017. Variations are quantified by reference to 2015, the reference year.

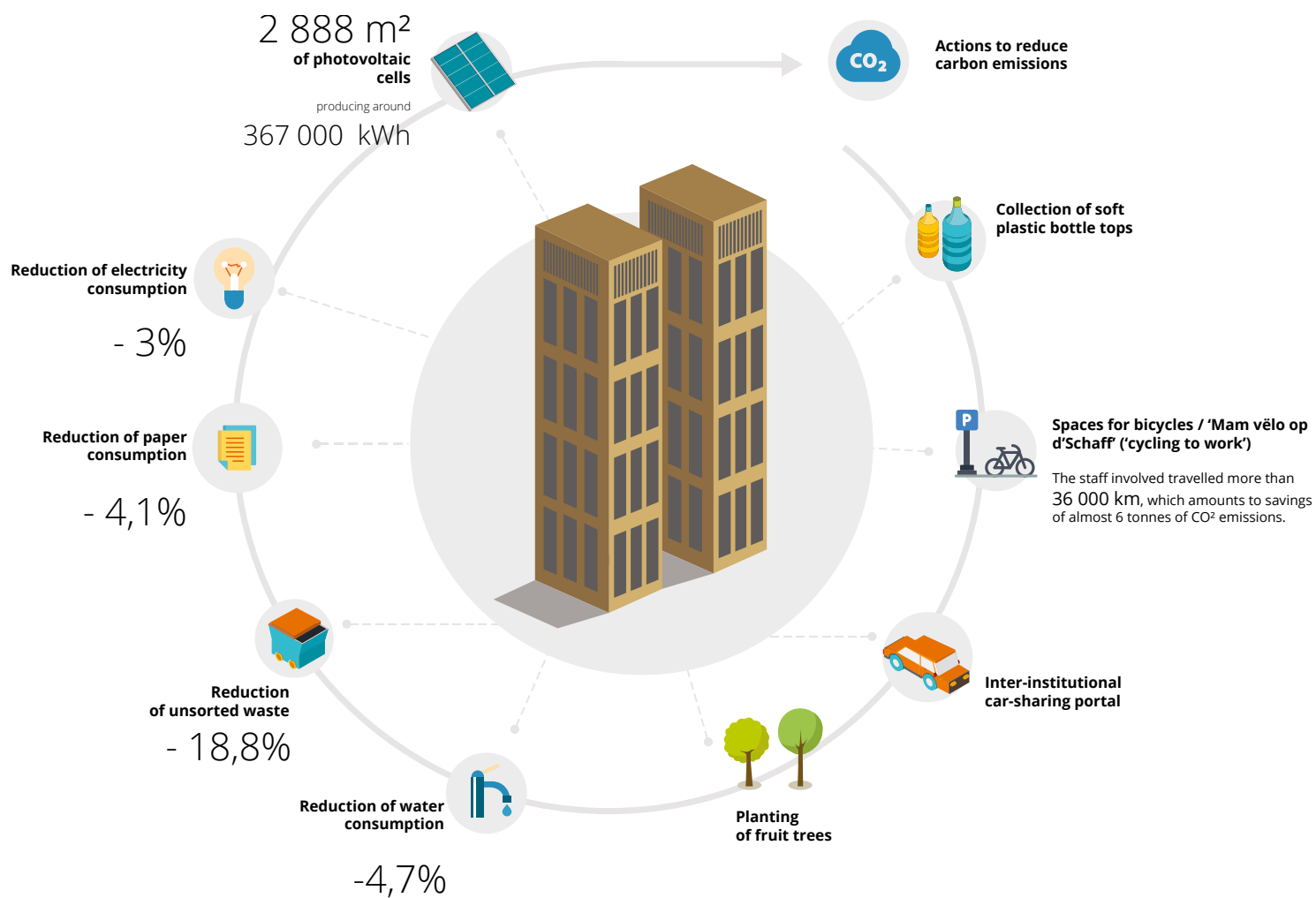


The fact that the 'e-Curia' application (see page 60) is now — and has been since 1 December 2018 — the exclusive method for exchanging judicial documents between the parties' representatives and the General Court will have a positive environmental impact. For example, if the 823 076 pages of procedural documents submitted to the General Court by e-Curia in 2018 had been lodged in paper form together with the relevant sets of certified copies (3 mandatory copies for the General Court and as many additional copies as parties to the proceedings), more than 4 million pages of documents would have been generated, corresponding to more than 10 tonnes of paper, which, moreover, would have had to be physically transported to Luxembourg.



Equivalent to the annual electricity needs of 66 families

The Court has set itself the objective of reducing the proportion of recoverable waste in the unsorted waste category by 10% over the period 2016-2018.







LOOKING AHEAD

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A YEAR FULL OF CHALLENGES AND NEW HORIZONS

In its constant pursuit of productivity gains, the Court of Justice of the European Union has shown in recent years that it is possible to set realistic targets for reducing procedural time limits at the same time as delivering justice the quality of which is recognised across the board.

In 2019, this exercise will enter a new phase with the establishment of a preliminary admissibility mechanism for appeals, applicable to some categories of cases, which will make for a more effective review of the application of the law while allowing the Court to focus on cases raising important legal issues.

Moreover, the next few months will see the spotlight being shone on the General Court of the European Union, which will celebrate its 30th anniversary in 2019. The decision to create the General Court was taken by the Council in October 1988, although it was not until 25 September 1989 that its first judges took up office. The celebration of this anniversary will provide an opportunity to retrace the history of a court which plays an essential role in ensuring compliance with EU law and, in particular, in the regulation of economic authorities and the EU market.



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STAY
CONNECTED!

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curia.europa.eu

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