

European Court of Justice

The European Court of Justice (ECJ) enforces EU law. 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 number of cases sent to the ECJ has grown dramatically since the institution was established. As a result, a Court of First Instance (CFI) was set up in 1989 to help split the workload. The Courts are based in Luxembourg.

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 home 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 Vassilos Skouris, who is elected for a term of three years by all the Court judges. Unlike the United States Supreme Court, ECJ judges do not serve for life and there is no record of *dissenting opinions*.

The Court's jurisdiction in EU law falls mainly in the following categories of case: failure of a member state or EU body to fulfil its treaty obligations, judicial review of laws passed by EU bodies and preliminary rulings on cases handed up by national courts. The Court of First Instance 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 ECJ makes its rulings binding on nations and citizens via the principles of EU law known as *Direct Effect* and *Supremacy*. Through these it has gained powers that only nation states have previously had. For example, in *The Commission versus France* (1997), the ECJ ruled that member states have to instruct their national police forces to enforce EU law. In the French case this meant using the police to ensure the free movement of goods. Through such actions the ECJ subtly changes the relationship between nation states and the EU. In the majority of cases, such rulings favour giving powers to the EU. The proposed Reform Treaty would extent the ECJ's remit to include, among other controversial areas, Justice and Home Affairs.

Facts and Figures

- The workload of the ECJ has increased from 79 cases in 1970 to 574 in 2005.
- In 2005 the ECJ passed 136 judgements against Member States for failing to fulfil their obligations, including seven against the UK.

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 by the time it takes to deliberate cases.
- Imposing European standards on member states challenges a nation's traditional legal practices.

Quotes

'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/en/transitpage.htm>
- <http://www.bbc.co.uk/crime/law/ecj.shtml>
- http://europa.eu/institutions/inst/justice/index_en.htm