


Operation of the Community jurisdictions

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The Court of Justice

The Court of Justice is permanently in session.

At the present time, the Court may sit in chambers, in Grand Chamber or as a full Court [Article 221 of the Treaty establishing the European Community (EC), Article 137 of the Treaty establishing the European Atomic Energy Community (EAEC or Euratom) and Article 16 of the Statute of the Court].

It was initially the rule for the Court to sit as a full Court; it being exceptional for cases to be allocated to chambers. ‘The Court shall sit in plenary session. It may, however, set up chambers...’: Article 32 of the Treaty establishing the European Coal and Steel Community (ECSC), Article 165 of the Treaty establishing the European Economic Community (EEC) and Article 137 of the EAEC Treaty. Over the years this situation was gradually reversed, the successive versions of the Rules of Procedure making increasingly wide use of the provision for chambers to be formed. In the interests of efficiency, the Treaty of Nice abandoned the full Court rule, chambers becoming the ordinary formation.

The number of chambers and their composition have been modified over the years. The Founding Treaties provided for the possibility of forming chambers, each consisting of three or five judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases (Article 32 of the ECSC Treaty, Article 165 of the EEC Treaty and Article 137 of the EAEC Treaty). The Court of Justice of the ECSC formed two three-Judge chambers. The (single) Court of Justice of the European Communities likewise decided, sitting on 21 October 1958, to form two chambers each having three Judges.

Until 1979, the number of chambers was provided for in the Rules of Procedure. Since the modifications introduced on 12 September 1979, the Court has been free to regulate the number of chambers and their composition as it sees fit. In 1995, the Treaties were modified by the Act of Accession of Austria, Finland and Sweden to allow chambers of three, five or seven Judges to be formed.

Since the entry into force on 1 February 2003 of the Statute of the Court of Justice adopted at Nice, the formations of the Court have been the following:

- chambers of three or five Judges;
- a Grand Chamber composed initially of 11 Judges and, as from 1 May 2004, of 13 Judges;
- a plenary session composed of all the Judges.

The Judges elect from among their number the Presidents of the chambers of three Judges for a term of one year and the Presidents of the chambers of five Judges for a term of three years, renewable once. The chambers of three Judges and five Judges are, for each case, composed of the President of the chamber, the Judge-Rapporteur and the number of Judges required to attain the number of three and five Judges respectively. In cases assigned to chambers, the Presidents of the chambers exercise the powers of the President of the Court. Since October 2006, there have been four five-Judge chambers and four three-Judge chambers. The chambers are not specialised.

The Court decides which Judges shall be attached to the various chambers. Their composition is published in the Official Journal of the European Union.

For each case brought before the Grand Chamber (thirteen judges), it is composed of the President of the Court, the Presidents of the chambers of five Judges, the Judge-Rapporteur and other Judges designated in the manner provided for in the Rules of Procedure. The Grand Chamber’s composition thus varies depending on the cases brought before it. The Court sits as a Grand Chamber if a Member State or an institution of the Communities that is a party to the proceedings so requests, and where cases are particularly

complex or important.

The Court sits as a full Court where cases are brought before it, pursuant to the relevant provisions of the EC and EAEC Treaties, concerning compulsory retirement of the Ombudsman, of Members of the Commission and of Members of the Court of Auditors, as well as forfeiture of the right to a pension or of other benefits in its stead. In addition, the Court may decide, having consulted with the Advocate General, to refer cases of exceptional importance to the Court sitting in plenary session.

The Court deliberates in closed session. Decisions of the Court are valid only when an uneven number of its members is sitting in the deliberations. Decisions of the chambers of three or five Judges are valid only if three Judges are sitting. Decisions of the Grand Chamber are valid only if nine Judges are sitting. Decisions of the Court in plenary session are valid only if fifteen Judges are sitting.

The Court may choose to hold one or more sittings in a place other than that in which it has its seat.

The Court of First Instance

Adjudication in chambers has been the rule at the Court of First Instance from the outset, the Court sitting only exceptionally in plenary session (Article 2, fourth paragraph, of the Decision of 24 October 1988 establishing the Court).

The Court sits in chambers of three or five Judges and in a Grand Chamber composed of thirteen Judges. In certain cases governed by the Rules of Procedure, the Court may sit in plenary session or, since 1 July 1999, be constituted by a single Judge (Article 50 of the Statute of the Court of Justice, Article 10 and Article 11 of the Rules of Procedure of the Court of First Instance).

Whenever the legal difficulty or importance of the case or special circumstances so justify, a case may be referred to the Court of First Instance sitting in plenary session (assisted by an Advocate General), to the Grand Chamber or to a chamber composed of a different number of Judges (Article 14(1) of the Rules of Procedure of the Court of First Instance). Similarly, certain types of case assigned to a chamber composed of three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of those cases and to the absence of other special circumstances, they are suitable for being so heard and determined (Article 14(2) of the Rules of Procedure).

The Judges elect from amongst themselves the Presidents of the chambers of three Judges for a set period and the Presidents of the chambers of five Judges for a term of three years renewable once.

The Court of First Instance determines the assignment of Judges to the different chambers. The composition of the chambers is published in the Official Journal of the European Union. Since September 2007, the Court of First Instance has been composed of eight chambers, sitting with three Judges or, if the importance of the case so justifies, with five Judges ('extended composition').

The Court of First Instance deliberates in closed session. As with the Court of Justice, decisions of the Court of First Instance are valid only when an uneven number of its members is sitting in the deliberations. The quorum for the chambers of three and five Judges is three Judges, for the Grand Chamber nine Judges and for a plenary session fifteen Judges.

Like the Court of Justice, the Court of First Instance may choose to hold one or more sittings in a place other than that in which it has its seat.

The Civil Service Tribunal

As provided for in Article 4(2) to (4) of Annex I to the Statute of the Court, the Civil Service Tribunal sits in chambers of three Judges. It may, in certain cases determined by its rules of procedure, sit in plenary session

or in a chamber of five Judges or of a single Judge.

The President of the Civil Service Tribunal presides over the plenary session and the chamber of five Judges. The Presidents of the chambers of three Judges are designated for a term of three years. If the President of the Civil Service Tribunal is assigned to a chamber of three Judges, he presides over that chamber.

The jurisdiction of and quorum for the Tribunal in plenary session as well as the composition of the chambers and the assignment of cases to them are governed by the Rules of Procedure.

By a Decision of 30 November 2005, the Civil Service Tribunal sits in three chambers and in plenary session.

Until the entry into force of its Rules of Procedure (on 1 November 2007), the Civil Service Tribunal applied *mutatis mutandis* the Rules of Procedure of the Court of First Instance, with the exception of the provisions concerning Judges sitting alone (Article 3(4) of the Decision establishing the Tribunal).

In the Rules of Procedure of the Civil Service Tribunal, its formations and their jurisdictions are provided for in Articles 9 to 14 and the quorum required for its deliberations (five Judges for the plenary session, three Judges for the chambers) is specified in Article 24.