



COURT OF JUSTICE
OF THE EUROPEAN UNION

THE YEAR IN REVIEW

ANNUAL REPORT 2020



The Court of Justice of the European Union: upholding European Union law.



Annual Report 2020

The year in review

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

It is the judicial institution of the European Union and its task is to ensure compliance with EU law by overseeing the uniform interpretation and application of the Treaties and reviewing the lawfulness of measures adopted by the EU institutions, bodies, offices and agencies.

The Institution helps to preserve 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 deployment, in record time, of innovative technological solutions ensured the normal functioning – as far as possible – of the courts and allowed European justice to continue to be served.'

...despite the difficulties that everyone has faced in their personal and professional lives, I am proud to see that the resilience and determination shown by all members of staff have allowed the Court of Justice and the General Court to continue to deal with cases efficiently and guarantee the quality of their decisions, in the interests of litigants.'

Introduction by the President

In Europe, as in the rest of the world, the past year has been deeply marked by the Covid-19 pandemic which has disrupted our private and social lives, as well as our working habits. Thanks to crisis plans previously put in place by the Court, together with the remarkable resilience and commitment on the part of the Institution's Members and staff, this unforeseen situation has been managed effectively.

The deployment, in record time, of innovative technological solutions ensured the normal functioning – as far as possible – of the courts and allowed European justice to continue to be served.

Appropriate measures have been taken by the Institution to protect its staff, prevent the spread of the virus within its buildings, and maintain close-to-normal working conditions. Following the forced suspension of hearings from mid-March to late May, the Institution was able to guarantee the resumption of proceedings, whilst ensuring that all involved were protected.

The statistics for the year are a reflection of the very limited consequences of the health crisis. Owing to the downturn in the activity of national courts during the first few months of the pandemic, the number of cases brought did not match the record set in 2019, but is close to that for 2018 and 2017. The number of cases completed is only slightly lower, mainly due to the various measures put in place to compensate for the fact that it was not possible to hold hearings for over two months, as well as the travel restrictions imposed since hearings resumed. It is also worth noting that, in spite of the critical context in 2020, the level of activity of both courts was similar to that seen in 2017 and higher than in 2016.

Fundamentally, the most significant case-law of the year, set out in this Review, is bursting with important judgments, in particular in the field of fundamental freedoms and the very principles of the rule of law. Those judgments are a testament to the key role played by the EU Courts within the European institutional system, in respect of both economic actors and citizens.

Another emotional event marked 2020: the effective withdrawal, at midnight on 31 January, of the United Kingdom from the European Union, bringing an end to a destiny shared for over 47 years. For the Institution, Brexit led to the departure of its British Members, although it did not affect the situation of British staff members in post.

Taking stock of 2020, and despite the difficulties that everyone has faced in their personal and professional lives, I am proud to see that the resilience and determination shown by all members of staff have allowed the Court of Justice and the General Court to continue to deal with cases efficiently and guarantee the quality of their decisions, in the interests of litigants. The measures and developments put in place to achieve that result serve as both lessons and assets on which the Institution can rely in future, in line with its objective of constant improvement in the public service of European justice.



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





1

2020 at a glance

A | The year in pictures

B | The year in figures



A | The year in pictures

January



13 JANUARY

The von der Leyen Commission is sworn in

At a formal sitting before the Court of Justice, President Ursula von der Leyen and new members of the European Commission give the solemn undertaking prescribed by the Treaties in the presence of his Royal Highness Grand Duke Henri of Luxembourg, the President of the Chamber of Deputies of the Grand Duchy of Luxembourg, Fernand Etgen, and the Prime Minister of the Grand Duchy of Luxembourg, Xavier Bettel. In his address, Koen Lenaerts, President of the Court of Justice, observes that the solemn undertaking is established practice and is a symbol of the legal union which characterises the European Union.



17 JANUARY

Proceedings brought before the General Court in *Junqueras i Vies and Others v Parliament*

The General Court must give rulings, in several cases concerning the European Parliament elections in 2019, on the actions brought by Catalan elected officials including Mr Puigdemont i Casamajó and Mr Junqueras i Vies ([T-100/20](#), [T-115/20](#), [T-613/20](#)).



27 JANUARY

Meeting with the CCBE

A delegation from the Council of Bars and Law Societies of Europe (CCBE) meets Members of the Court of Justice and the General Court to exchange views on issues of common interest concerning, in particular, the procedural aspects of the functioning of the EU Courts. The CCBE represents the bars and law societies of 45 countries (more than 1 million European lawyers).



29 JANUARY

The Herm of Herodotus and Thucydides is installed at the Court

The Court welcomes the arrival of a **two-faced sculpture** representing the two Greek historians Herodotus and Thucydides looking in opposite directions. A marble reproduction of the original bronze which dates from the end of the 4th century BCE, the Herm is part of the Farnese collection and on loan from the National Archaeological Museum, Naples. Herodotus is regarded as the first historian to employ a method of systematic investigation, while Thucydides is considered the first to conduct comprehensive, reason-based historical research.



31 JANUARY

The United Kingdom withdraws from the European Union

47 years after its accession to the European Union, **the withdrawal of the United Kingdom** takes effect at midnight. **The Court of Justice continues to have jurisdiction** in any proceedings brought by or against the UK and give preliminary rulings on requests from UK courts and tribunals made before the end of the transition period, set for the end of 2020.

February



6 FEBRUARY

Farewell ceremony

A farewell ceremony is held at the General Court to mark the departure, following Brexit, of **Ian Stewart Forrester**, Member of the General Court from 2015 to 2020.



12 FEBRUARY

Farewell ceremony

A farewell ceremony is held at the Court of Justice to mark the departure, following Brexit, of **Christopher Vajda**, Member of the Court of Justice from 2012 to 2020.



13 FEBRUARY

Two new Members of the European Court of Auditors and the European Ombudsman are sworn in

At a formal sitting of the Court of Justice, the new Members of the Court of Auditors, **François-Roger Cazala** (France) and **Joëlle Elvinger** (Luxembourg), and the European Ombudsman, **Emily O'Reilly** (Ireland), on the occasion of the renewal of her mandate, give their solemn undertaking to perform their duties in complete independence in the general interests of the European Union.

March



16 MARCH

Together apart

In order to contribute to the fight against the spread of Covid-19 and protect its staff, the Court introduces **generalised remote working**. With the exception of persons required to perform essential tasks, the Institution's buildings are closed to visitors and staff.



16 MARCH

Proceedings brought before the Court of Justice in *Lufthansa*

The Court is asked to verify whether the Directive on the use of the **personal data of air passengers contained in the passenger name record (PNR)** for, inter alia, the prevention and detection of terrorist offences is compatible with the Charter of Fundamental Rights of the European Union ([C-148/20](#), [C-149/20](#) and [C-150/20](#)).



23 MARCH

A new Advocate General takes office

Jean Richard de la Tour (France) is appointed Advocate General at the Court of Justice to replace Advocate General Yves Bot. In the light of the health crisis, the ceremony at which the formal oath is taken is held remotely, via videoconference, in the presence of the President, the First Advocate General and the Registrar of the Court of Justice.



24 MARCH

Proceedings brought before the General Court in *Tartu Agro v Commission*

The Estonian agrifood company Tartu Agro seeks the annulment of the Commission's decision finding that Estonia unlawfully granted **State aid** to Tartu Agro in the form of a rent of agricultural land at a rate below the market price. In parallel, an interim order **suspends repayment of the aid on account of the Covid-19 health crisis**. Tartu Agro relies on the financial implications of the pandemic and the risk, in the event of repayment of the aid, of having to cease operations which would have consequences for the food security of the Member State in question ([T-150/20](#)).



26 MARCH

First judgments delivered under lockdown

As of this date, in the light of the health crisis, the weekly delivery of judgments of the Court of Justice and the General Court, and Opinions of the Advocates General, takes place at a **single hearing** before the General Court and the Court of Justice.

April



2 APRIL

Judgment in *Coty Germany v Amazon*

The mere **storage on Amazon-Marketplace** of goods which infringe trade mark rights does not constitute an infringement by Amazon of those trade mark rights ([C-567/18](#)).

→ [\(see p. 51\)](#)



23 APRIL

Judgment in *NH v Associazione Avvocatura per i diritti LGBTI*

Homophobic statements constitute discrimination in employment and occupation when they are made by someone who appears to have a decisive influence on an employer's recruitment policy. An association has the right to bring legal proceedings in order to claim damages even if no injured party can be identified ([C-507/18](#)).

→ [\(see p. 28\)](#)

May



1 MAY



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

This is the first in a long series of actions brought by Ryanair against Commission decisions approving aid granted by several Member States to certain airlines **in the context of the Covid-19 pandemic** ([T-238/20](#)).



9 MAY



Europe Day on social media

On the anniversary of the Schuman Declaration, the **Court celebrates Europe Day virtually** on social media via **Twitter and LinkedIn**. The Court answers questions from citizens and invites them to learn more about its activities by watching [videos explaining the Court's role and case-law available on its YouTube channel](#).



25 MAY



The courtrooms reopen their doors

Hearings resume before the Court of Justice and the General Court. Some members of staff return to the Institution's premises **in order to carry out tasks that cannot be performed remotely**. The strictest health measures ensure the proper conduct of hearings.



25 MAY

First hearing
of the Court
of Justice via
videoconference

The Court of Justice holds its first hearing **with parties participating remotely** via videoconference.

June



24 JUNE

Proceedings brought
before the Court
of Justice in
Commission v Spain

An action for failure to fulfil obligations is brought against Spain with regard to national rules on **the liability of the State for breaches of EU law** which, according to the Commission, infringe the principles of equivalence and effectiveness ([C-278/20](#)).



30 JUNE

First hearing
of the General Court
via videoconference

The General Court holds its first hearing **with parties participating remotely** via videoconference.



July



15 JULY

|||||

Fresh proceedings brought before the Court of Justice in *Facebook v Ireland*

The Court must examine whether consumer protection associations are entitled to bring proceedings for **breaches of rules on the protection of personal data** by platforms such as Facebook ([C-319/20](#)).



22 JULY

|||||

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

By its action for failure to fulfil obligations, the Commission challenges Austria's **indexation of family benefits** applied to EU nationals working in Austria whose children live in another Member State where the cost of living is lower ([C-328/20](#)).

August



6 AUGUST

|||||

Opinion in XC

A hearing was held on 16 July 2020 in the context of an urgent preliminary ruling procedure (PPU) concerning the **multiple European arrest warrants issued by a Member State in respect of the same person**. The Opinion was delivered on 6 August and the judgment followed on 24 September, that is to say four and a half months after the proceedings were brought ([C-195/20](#)).



14 AUGUST

Proceedings brought before the General Court in *Daimler AG v Commission*

The General Court must rule on the Commission Implementing Decision concerning the provisional calculation of the **average specific emissions of CO₂** and specific emissions targets for manufacturers of passenger cars and light commercial vehicles for 2018 ([T-509/20](#)).

September



10 SEPTEMBER

A new Advocate General takes office at the Court of Justice

Athanasiros Rantos (Greece), appointed Advocate General at the Court of Justice to replace Advocate General Eleanor Sharpston (United Kingdom), takes his formal oath at a public hearing of the Court of Justice.



25 SEPTEMBER

Proceedings brought before the Court of Justice in *Commission v Ireland and Others*

Appeal brought against the judgment of the General Court of 15 July 2020 (Joined Cases T-778/16 and T-892/16) which annulled the Commission's decision concerning State aid (**tax ruling**) granted by Ireland in favour of **Apple** ([C-465/20](#)).



28 SEPTEMBER

Members of the European Public Prosecutor's Office are sworn in

In order to mark solemnly the official commencement of the activities of the European Public Prosecutor's Office, an inauguration ceremony is held at the Court of Justice. European Chief Prosecutor, **Laura Codruța Kövesi** (Romania) and the **prosecutors appointed by the Member States** give the solemn undertaking to comply with the obligations arising from their duties.

October



6 OCTOBER

Two new judges take office at the Court of Justice

A formal sitting takes place on the occasion of the taking of the oath and entry into office of judges **Ineta Ziemele** (Latvia), who replaces Egils Levits, and **Jan Passer** (Czech Republic), who replaces Jiří Malenovský.



19 OCTOBER

Official visit to Germany

A delegation from the Court of Justice travels to Karlsruhe (Germany) on an official visit at the invitation of the **Bundesverfassungsgericht** (Federal Constitutional Court).



23 OCTOBER

Proceedings brought before the Court of Justice in *Lithuania v Council and Parliament*

The first in a series of actions brought by Member States against several provisions of the rules of the '**Mobility Package**' on the reform of the road transport sector ([C-541/20](#)).



25 OCTOBER

European Day of Justice

The European Day of Justice has been celebrated since 2003 to enable European citizens better to understand their rights and be better informed on the functioning of judicial systems (justice, mediation and enforcement of court rulings, etc.) and to bring justice closer to citizens. For the European Day of Justice 2020, the Council of Europe has organised and supported a series of virtual events. The Court of Justice participates by informing citizens about the main characteristics of its work and the contributions made by the preliminary ruling procedure to their everyday lives, on social media via Twitter and LinkedIn.



30 OCTOBER

The Court's two Twitter accounts pass the 100 000 follower mark

The Court of Justice has had an online presence on Twitter since 2013 with two accounts (one in French and one in English) to share information quickly and concisely concerning **proceedings, judgments and opinions of interest, as well as events organised within the Institution**. This year, the two accounts pass the milestone of 100 000 followers (compared to 81 552 in 2019).



November



18 NOVEMBER

Judgment in *Lietuvos geležinkeliai v Commission*

The General Court upholds the Commission's decision finding that the **national railway company of Lithuania abused its dominant position** on the Lithuanian rail freight market ([T-814/17](#)).

→ [\(see p.47\)](#)

December



2 DECEMBER

Request for an opinion

Belgium asks the Court of Justice for an opinion on the compatibility of the **Draft for a modernised Energy Charter Treaty**, with the EU Treaties in particular with regard to dispute settlement. ([Opinion 1/20](#)).



4 DECEMBER

68th anniversary of the creation of the Court of Justice

The Court celebrates the event **on social media**, via Twitter and LinkedIn, offering citizens a look back at the most important judgments delivered in 2020.



16 DECEMBER

Judgment in *International Skating Union v Commission*

The rules of the International Skating Union (ISU) providing for severe penalties for athletes taking part in speed skating events not recognised by it are **contrary to EU competition law** ([T-93/18](#)).

→ [\(see p. 47\)](#)



17 DECEMBER

Judgment in *Centraal Israëlitisch Consistorie van België and Others*

In order to promote animal welfare in the context of ritual slaughter, Member States may, without infringing fundamental rights enshrined in the Charter, require a **reversible stunning procedure** which cannot result in the animal's death ([C-336/19](#)).

→ [\(see p. 29\)](#)



22 DECEMBER

Report by the Court of Justice on the functioning of the General Court

As part of the **monitoring of the reform of the judicial architecture of the Union**, the [Court of Justice presents its report](#) to the European Parliament, the Council and the Commission on the functioning of the General Court. The report focuses on the efficiency of the General Court, the necessity and effectiveness of the increase to 54 judges, the optimum use and effectiveness of resources and the further establishment of specialised chambers.

B | The year in figures



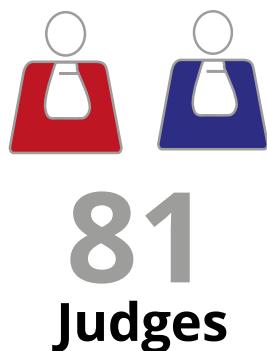
In 2020, the Court of Justice of the European Union managed to maintain a high level of activity in a context marked by working from home and travel restrictions which made it impossible to hold hearings between 16 March and 25 May 2020. Since then, and in line with strict health measures, the courtrooms opened their doors to legal representatives and to the public, in the interest of the sound administration of justice and in accordance with the principle of public access to hearings.

Lockdown measures and restrictions intended to slow down the pandemic which were adopted by most Member States did, however, have a certain impact on social and economic activity and on that of the courts of the Member States, leading to a drop in the number of cases lodged. With **1 582 cases brought overall** before the two courts of the European Union, that figure is lower than the record number of cases seen in the previous year (1 905) but similar to the figures for 2018 (1 683) and 2017 (1 656).

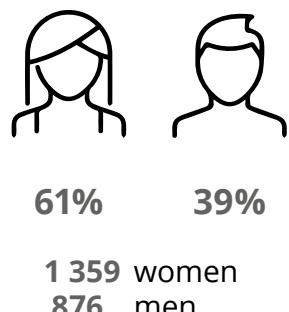
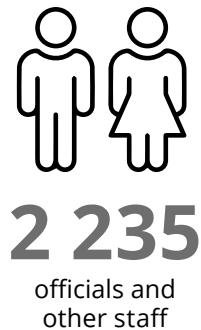
A similar trend can be seen as regards the number of **cases completed**. This stands at **1 540**, which is lower than that for 2019 and the record set in 2018, but represents a level of activity on a par with that seen in 2017 and greater than in 2016. The fact that both the Court of Justice and the General Court were prevented from holding hearings for over two months in 2020 must be taken into account so as to assess the figures fairly and accurately.

Lastly, **the average length of proceedings for cases completed before both courts stands at 15.4 months, the lowest level ever achieved**, which demonstrates the constant pursuit of the objective of improving efficiency in the management of proceedings.

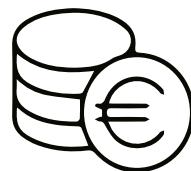
The Institution in 2020



from the
27
Member States



1 359 women
876 men



BUDGET
437
Million euros

The number of women in management positions within the Court is above the average for European institutions.

Women hold:
54% of administrator posts
41% of middle and senior management posts

The judicial year (all courts combined)



159 110
procedural documents
entered in the registers
of the Registries

15.4 months
Average length
of proceedings

15.4 months
Court of Justice

15.4 months
General Court

Percentage of
procedural documents
lodged via e-Curia

79%
Court of Justice

95%
General Court

7 378

Number of e-Curia
accounts
(an increase
of 12% compared to 2019)

2 568

judicial notices
published
in the *Official Journal
of the European Union*



e-Curia is an application of the Court of Justice of the European Union enabling the representatives of the parties in cases brought before the Court of Justice and the General Court and national courts, in the context of requests for a preliminary ruling of the Court of Justice, to send and receive procedural documents to and from the Registries purely by electronic means.

[Watch the video on YouTube](#)



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

552
possible language
combinations



601
lawyer-linguists
to translate written
documents

1 145 000

Workload

(number of pages to be translated)

1 170 000

Pages produced
by the legal translation service

480 000

pages

Economy measures adopted
by the Courts to reduce translation requirements

70

interpreters for hearings
and meetings

445

hearings and meetings with
simultaneous interpretation



At the Court, translations are produced in accordance with mandatory language arrangements covering all combinations 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.





2

Judicial activity

- A | A look back at the most important judgments of the year
- B | Key figures concerning judicial activity

A | A look back at the most important judgments of the year

A Union based on the value of the human person and on the rule of law



Why does the Court of Justice exist?

[Watch the video on YouTube](#)



2020 marked the 20th anniversary of the proclamation of the Charter of Fundamental Rights of the European Union (the Charter) which, like the Treaty on European Union, expressly refers to the rule of law, one of the values common to the Member States and on which the European Union is founded.

The Charter enshrines, *inter alia*, the dignity, freedom and equality before the law of all individuals as human beings, workers, citizens or parties to legal proceedings. The 54 articles of the Charter reflect a shift from a Europe of the Communities focused on economic interests to a Europe of the Union founded on the value of the human person.

In 2020, the Court of Justice has, on a number of occasions, interpreted the Charter and the principle of the rule of law, playing a crucial role in the defence of fundamental freedoms, the fight against discrimination and the fair administration of justice.

In a reference for a preliminary ruling from an Italian court, the Court of Justice interpreted the Directive on equal treatment in employment and occupation. That directive establishes, in that sphere, the general principle of non-discrimination enshrined in the Charter. Accordingly, the Court of Justice held that **homophobic statements** constitute **discrimination in employment and occupation** when they are made by someone who appears to have a decisive influence on an employer's recruitment policy. National law may provide that an association has the right to bring legal proceedings in order to claim damages even if no injured party can be identified.

→ [Judgment of 23 April 2020, Associazione Avvocatura per i diritti LGBTI, C-507/18](#)



Legislation passed by the Flemish Region (Belgium) imposed an obligation **to stun animals prior to slaughter**. With ritual slaughter being affected, Jewish and Muslim associations sought the annulment of that legislation. In a reference for a preliminary ruling by a Belgian court, the Court of Justice held that the legislation at issue, which does not preclude the use of reversible stunning which cannot result in the animal's death, and which does not hinder the putting into circulation of products of animal origin derived from animals which have undergone ritual slaughter, where those products originate outside the Flemish Region, allows a fair balance to be struck between freedom of religion, guaranteed by the Charter, and animal welfare, as set out in the TFEU (see section 'Consumer protection').

→ [Judgment of 17 December 2020,
Centraal Israëlitisch Consistorie van België and Others, C-336/19](#)

In the context of an action for failure to fulfil obligations, the Court of Justice held that the **restrictions imposed by Hungary on the financing of civil organisations by persons established outside that Member State** do not comply with EU law. In particular, those restrictions run contrary to the obligations on Member States not only in respect of the free movement of capital laid down in the Treaty on the Functioning of the European Union, but also with regard to provisions of the Charter on the right to **freedom of association, the right to respect for private and family life, and the right to the protection of personal data** (see section 'The protection of personal data').

→ [Judgment of 18 June 2020,
Commission v Hungary \(Transparency of associations\), C-78/18](#)

In another action for failure to fulfil obligations concerning Hungary, the Court of Justice analysed, in the light of the Charter, the **national law on higher education**. That law made the exercise, in Hungary, of teaching activities leading to a qualification by **higher education institutions situated outside the European Economic Area (EEA)** subject to the existence of an international treaty between Hungary and the third country in which the institution concerned had its seat and to the requirement that the institution carried out education activities in the State of origin. The Court of Justice pointed out that such conditions are **contrary to academic freedom, the freedom to found higher education institutions and the freedom to conduct a business**.

→ [Judgment of 6 October 2020,
Commission v Hungary \(Higher education\), C-66/18](#)

An urgent reference for a preliminary ruling before the Court of Justice concerned the **principle of equal treatment between nationals and citizens of the European Economic Area (EEA)**. The Court of Justice stated that the Charter applies when a Member State (in the present case, Croatia) is required to rule on an extradition request by a third State (Russia) concerning a **national of a State of the European Free Trade Association (EFTA), which is a party to the Agreement on the European Economic Area (EEA) (Iceland)**. Consequently, the Member State that receives an extradition request must verify that that national **will not be subject to the death penalty, torture, or other inhuman or degrading treatment or punishment in the third State making the extradition request**.

→ [Judgment of 2 April 2020,
Ruska Federacija, C-897/19 PPU](#)



In the context of two urgent references for a preliminary ruling relating to systemic or generalised deficiencies concerning judicial independence in Poland, the Court of Justice held that **the execution of a European arrest warrant (EAW) issued by a Polish judicial authority can be refused only if**, having regard to the individual situation of the person concerned, the nature of the offence in question and the factual context in which that EAW has been issued, there are substantial grounds for believing that that person will run a **real risk of breach of his or her right to a fair trial, guaranteed by the Charter**, once he or she is surrendered to those authorities.

→ Judgment of 17 December 2020,
Openbaar Ministerie, C-354/20 PPU and Others

The Court of Justice declared that two requests for a preliminary ruling concerning Polish legislation from 2017 establishing a disciplinary procedure regime for judges were inadmissible. However, it stated that **the fact that national judges made requests for a preliminary ruling which turned out to be inadmissible cannot lead to disciplinary proceedings being brought against them**. The Court observed that **provisions of national law which expose national judges to disciplinary proceedings as a result of the fact that they submitted a reference to the Court for a preliminary ruling cannot be permitted**. Not being exposed to disciplinary proceedings or measures for that reason also constitutes a guarantee essential to the independence of the judiciary.

→ Judgment of 26 March 2020,
Miasto Łowicz and Prokurator Generalny, C-558/18 and C 563/18





Asylum policy

An increase in migratory flows and the complexity of migration management have led the Court to rule on the compatibility of the legislation of some Member States on asylum procedures with the protective measures provided for by EU law. The Charter, the ‘Procedures’ Directive, the ‘Reception’ Directive, the ‘Returns’ Directive and the Dublin III Regulation impose a number of obligations on Member States, such as the guarantee of effective access to the asylum procedure.

The case-law of the Court of Justice in 2020 has continued to give specific responses to the definition of the conditions for implementing the applicable rules, by striking a balance between the right to asylum and the protection of public order and the legitimate interests of the Member States.

In the context of an urgent reference for a preliminary ruling brought by a Hungarian court, the Court of Justice held that the placing of asylum seekers or third-country nationals who are the subject of a return decision in the **Röszke transit zone at the Serbian-Hungarian border** must be classified as detention. If, following judicial review of the lawfulness of such detention, it is established that the persons concerned have been **detained for no valid reason, the court hearing the case must release them with immediate effect** or possibly adopt an alternative measure to detention.

→ Judgment of 14 May 2020,
FMS and Others, C-924/19 PPU and Others

Furthermore, the Court of Justice held that **Hungary had failed to fulfil its obligations** under EU law in the area of procedures for granting international protection and returning illegally staying third-country nationals. In particular, **restricting access to the international protection procedure, unlawfully detaining applicants** for that protection in transit zones and **moving** illegally staying third-country nationals **to a border area, without observing the guarantees** surrounding a return procedure, constitute infringements of EU law.

→ [Judgment of 17 December 2020,
Commission v Hungary, C-808/18](#)

In the context of three actions for failure to fulfil obligations brought by the Commission against **Poland, Hungary and the Czech Republic**, the Court of Justice held that, by **refusing to comply with the temporary mechanism for the relocation of applicants for international protection**, those three Member States had **failed to fulfil their obligations** under EU law. Those Member States can rely neither on the maintenance of law and order and the safeguarding of internal security, nor on the alleged malfunctioning of the relocation mechanism to avoid, in general terms, implementing that mechanism.

→ [Judgment of 2 April 2020,
Commission v Poland, Hungary and the Czech Republic, C-715/17 and Others](#)





Protection of personal data



The Court of Justice
in the Digital World

[Watch the video on YouTube](#)



The European Union has set out rules forming a solid and coherent foundation for the protection of personal data regardless of the context in which that data is collected (online shopping, bank loans, job searches, requests for information from public authorities). The rules apply equally to public and private persons and entities established within or outside the European Union, including undertakings that offer goods or services, such as Facebook or Amazon, whenever they request or re-use the personal data of EU citizens.

In 2020, the Court of Justice gave a number of rulings on the liability stemming from the collection and processing of personal data by national authorities, including intelligence services.

The Court of Justice **annulled** the Commission's decision on the adequacy of the mechanism for **protecting personal data transferred to the United States from the European Union ('Data Protection Shield')**. That decision followed on from the *Schrems judgment of 2015 (C-362/14)* by which the Court of Justice annulled the Commission's decision finding that the United States ensured an adequate level of protection of the personal data in question ('Safe Harbour'). In particular, the Court of Justice criticised the Commission for not limiting, in its new decision, the access to and use by US public authorities, including intelligence services, of such data to what is strictly necessary.

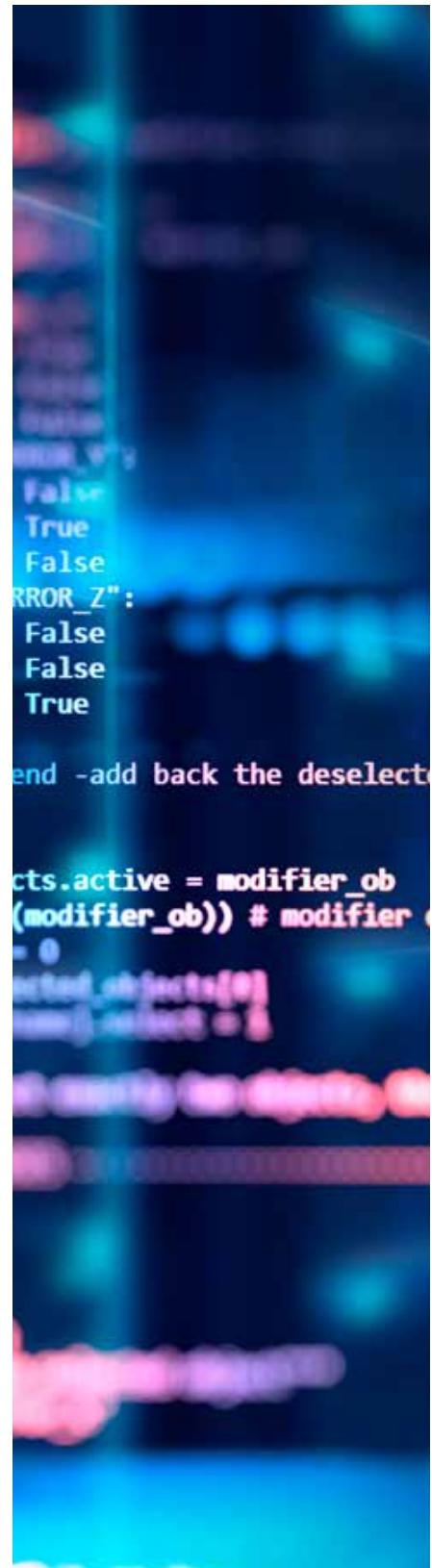
→ [Judgment of 16 July 2020,
Schrems and Facebook Ireland, C-311/18](#)

So far as concerns data processing, the Court of Justice confirmed that **EU law precludes**, in principle, national legislation requiring providers of electronic communications services to **forward users' traffic data and location data to a public authority or to retain such data in a general or indiscriminate way** for the purpose of combating criminal offences and crime. It stated, however, that **exceptions are possible** in situations where there are serious threats to national security or in order to combat serious crime or to prevent serious threats to public security.

→ [Judgments of 6 October 2020,
Privacy International and La Quadrature du Net and Others, C-623/17
and C-511/18 and Others](#)

Lastly, the Court of Justice found that **Hungary failed to fulfil its obligations** under EU law in having imposed restrictions on the financing of civil organisations by persons established outside that Member State. A Hungarian law imposes, subject to penalties, **obligations of registration, declaration and publication** on civil society organisations receiving support from abroad exceeding a certain threshold. The Court of Justice considered that such restrictions are discriminatory and run **contrary** to the free movement of capital and freedom of association, as well as the **principles of respect for private life** (see section 'A Union based on the value of the human person and on the rule of law') **and protection of personal data**.

→ [Judgment of 18 June 2020,
Commission v Hungary \(Transparency of associations\), C-78/18](#)





Consumer protection

Consumer protection is one of the major concerns of the European Union, which seeks to ensure the health and safety of consumers and oversees the application of rules protecting them, and to increase awareness of their rights, wherever they live, travel to or buy from in the European Union.

In 2020, the Court of Justice gave a number of rulings on the scope of consumer rights.



**The Court of Justice:
Guaranteeing the Rights
of EU Consumers**

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The Court of Justice interpreted, for the first time, the EU regulation enshrining 'internet neutrality' in two Hungarian cases concerning commercial practices granting **preferential tariffs ('zero tariffs')** for the use of certain 'favoured' applications and, at the same time, making the use of other applications subject to measures blocking or slowing down traffic. It held that the **requirements to protect** internet users' rights and to **treat** traffic in a non-discriminatory manner preclude such practices.

→ [**Judgment of 15 September 2020,
Telenor Magyarország Zrt, C-807/18 and C-39/19**](#)

In cases concerning furnished accommodation offered for rent on the **Airbnb** website, the Court of Justice held that **national legislation** making the repeated short-term letting of accommodation to a transient clientele which does not take up residence there **subject to authorisation** is consistent with EU law. The Court of Justice considered that **combating the long-term rental housing shortage** constitutes an overriding reason relating to the public interest justifying such legislation.

→ [**Judgment of 22 September 2020,
Cali Apartments, C-724/18 and Others**](#)

With regard to unfair terms in consumer contracts, the Court of Justice considered that the contractual term in **mortgage loan agreements** providing for the application of a variable interest rate based on a reference index applied by national savings banks is an **unfair term unless it is plain and intelligible**. If that term is found to be unfair, national courts may replace that index with other criteria provided for by law in order to protect the consumer from particularly unfavourable consequences, such as the annulment of the loan agreement.

→ [Judgment of 3 March 2020,
Gómez del Moral Guasch, C-125/18](#)

The Court of Justice also held that, whilst national legislation may provide for a **time limit for an action for reimbursement initiated by the consumer**, that time limit must not be less favourable than that concerning similar actions or **render impossible or excessively difficult the exercise of the consumer's rights**.

→ [Judgment of 9 July 2020,
Raiffeisen Bank, C-698/18 and Others](#)

So far as concerns **cosmetic product labelling**, the Court of Justice held that information as to the 'function' which must appear on the product's container and its packaging must inform consumers clearly as to that product's purpose and method of use. Information concerning the **particular precautions to be observed when using that product, its function and its ingredients may not appear in a company catalogue referred to by the symbol of a hand with an open book placed on the container or the packaging**.

→ [Judgment of 17 December 2020,
A.M. v E.M., C-667/19](#)

As for consumer and environmental protection, the Court of Justice held that a **car manufacturer cannot equip its vehicles with software capable of distorting the results of type-approval tests for emissions of gaseous pollutants**. Consumers who have suffered damage by purchasing unlawfully manipulated vehicles can bring **legal proceedings against the motor vehicle manufacturer before the courts of the Member State in which the vehicles were sold to them**. The damage suffered by the purchaser occurs in the Member State in which he or she purchases the vehicle for a price higher than its actual value.

→ [Judgment of 17 December 2020,
CLCV and Others, C-693/18](#)

→ [Judgment of 9 July 2020,
Verein für Konsumenteninformation, C-343/19](#)



Better consumer and environmental protection also follows from the judgment of the General Court rejecting the request of PlasticsEurope, an international association which represents and defends the interests of undertakings that manufacture and import plastic products, and upholding the decision of the European Chemicals Agency pursuant to which **bisphenol A is subject to authorisation as a substance with endocrine disrupting properties that may have serious effects on the environment.**

→ [Judgment of 16 December 2020,
PlasticsEurope, T-207/18](#)

Two judgments delivered in 2020 concern **meat consumption**. The Court of Justice held, in one of those judgments, that EU law does not preclude national legislation imposing an obligation **to stun animals prior to slaughter** (see section 'A Union based on the value of the human person and on the rule of law'). In the other judgment, the General Court **dismissed the action** brought by **two of the largest producers and distributors of meat and meat products in the world** seeking the annulment of the regulation prohibiting, for public health reasons, the export to the European Union of certain products of animal origin. In the circumstances of that case, the Brazilian authorities had not provided, in respect of certain national establishments, guarantees concerning compliance with public health rules required by EU law.

→ [Judgment of 17 December 2020,
Centraal Israëlitisch Consistorie van België, C-336/19](#)

→ [Judgment of 8 July 2020,
BRF and SHB Comercio e Industria de Alimentos, T-429/18](#)





Air transport

Over the past year, the Court of Justice had occasion to develop its case-law on air transport. A recurring theme is compensation for passengers in certain situations. The rights of consumers in this field were thus strengthened by the Court of Justice through its clarifications.



What has the Court of Justice done for me?

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The Court of Justice held that **passengers** whose flights have been cancelled or subject to a long delay **may demand payment of the compensation provided for under EU law in the national currency of their place of residence**. It considered that EU law prohibits the dismissal of an action brought for that purpose by such passengers on the sole ground that the claim was expressed in that national currency. The refusal to allow such a payment would be incompatible with the requirement to interpret broadly the rights of air passengers and with the principle of equal treatment of aggrieved passengers.

→ [Judgment of 3 September 2020,
Delfly, C-356/19](#)

A dispute between the air carrier TAP and a passenger arose concerning the compensation of that passenger for a delay in arrival of nearly 24 hours of a flight from Fortaleza (Brazil) to Oslo (Norway) via Lisbon (Portugal). The delay to the flight was caused by the fact that, on an earlier flight, the aircraft that operated the Lisbon-Oslo flight had been re-routed to disembark a passenger who had physically assaulted others. The Court of Justice held that **the unruly behaviour of an air passenger may exempt the carrier from its obligation to pay compensation** for the cancellation or long delay of the flight concerned or of a subsequent flight operated by that carrier using the same aircraft.

→ [Judgment of 11 June 2020,
Transportes Aéreos Portugueses, C-74/19](#)

A Kazakh passenger in Larnaca (Cyprus) was denied boarding of a flight operated by the Romanian air carrier Blue Air to Bucharest (Romania). The denied boarding was based on the allegedly inadequate nature of the passenger's travel documentation. In a reference for a preliminary ruling from a Cypriot court, the Court of Justice considered that it is not for the air carrier to decide definitively on the inadequate nature of such documentation and that, in the event of challenge by that passenger, it is for the competent court to assess whether his denied boarding was **reasonably justified** or not. If not, the passenger is entitled to compensation and assistance provided for by EU law.

→ [Judgment of 30 April 2020,
Blue Air, C-584/18](#)



The Italian Competition and Market Authority criticised Ryanair for having published on the internet prices for air services that did not indicate, from the first time that they were shown, certain fundamental elements. In answer to questions on this point, the Court of Justice held that **air carriers must indicate, from the first time their price offers are published on the internet and from the initial offer, the VAT on domestic flights, the fees charged for paying by credit card and the check-in fees payable where no method of checking-in free of charge is offered as an alternative**.

→ [Judgment of 23 April 2020,
Ryanair, C-28/19](#)

In answer to questions referred by the Court of Appeal, Helsinki (Finland), the Court of Justice considered that an **air passenger who has agreed to travel on an alternative flight**, where the air carrier of the re-routing flight is the same as that of the cancelled flight, **is entitled to compensation for a delay in the re-routing flight**.

→ [Judgment of 12 March 2020,
Finnair, C-832/18](#)



Workers and social security



The Court of Justice in the Workplace – protecting the rights of workers

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In order to facilitate the free movement of workers and their families, the European Union has coordinated the social security systems of the Member States. Whilst respecting the competences of each Member State to configure its own social security system, EU law, by virtue, in particular, of the principle of equal treatment, seeks to harmonise, as far as possible, the working and employment conditions for posted workers with those of workers employed by undertakings established in the host Member State. The objective pursued by EU law is to ensure better protection of the health and safety of workers.

Each year, the Court of Justice is called upon, on numerous occasions, to interpret EU law in this field. 2020 was no exception.

.....

Asked to give a preliminary ruling concerning family allowances paid by the Grand Duchy of Luxembourg, the Court of Justice decided that a **Member State granting a family allowance in respect of all children resident on the national territory** is not entitled to refuse to pay that allowance in respect of the child of the spouse of a frontier worker where there is no parent-child relationship with that worker but where that worker supports that child. That allowance constitutes a social advantage and a social security benefit and it is therefore **subject to the principle of equal treatment enjoyed by frontier workers and, indirectly, the members of their families.**

→ [Judgment of 2 April 2020,
Caisse pour l'avenir des enfants, C-802/18](#)

In proceedings between a German student residing in France and the Land Rhineland-Palatinate where she attends secondary school, the Court of Justice held that making the **reimbursement of school transport costs subject to residence in the Land concerned constitutes indirect discrimination** against cross-border workers and their families which, as a rule, is prohibited by EU law. In the case of school transport in the Land Rhineland-Palatinate, such a residence requirement is **not justified by an overriding reason in the public interest** relating to the organisation of the school system.

→ [Judgment of 2 April 2020,
Landkreis Südliche Weinstraße v PF and Others, C-830/18](#)

The Court of Justice **dismissed the actions brought by Hungary and Poland seeking annulment of the directive strengthening the rights of posted workers**. It stated that given, in particular, the changes in the internal market following the successive enlargements of the European Union, the EU legislature could undertake a reassessment of the interests of undertakings taking advantage of the freedom to provide services and the interests of their workers posted to a host Member State, in order to ensure that the freedom to provide services is exercised by those undertakings and undertakings established in the host Member State on a level playing field.

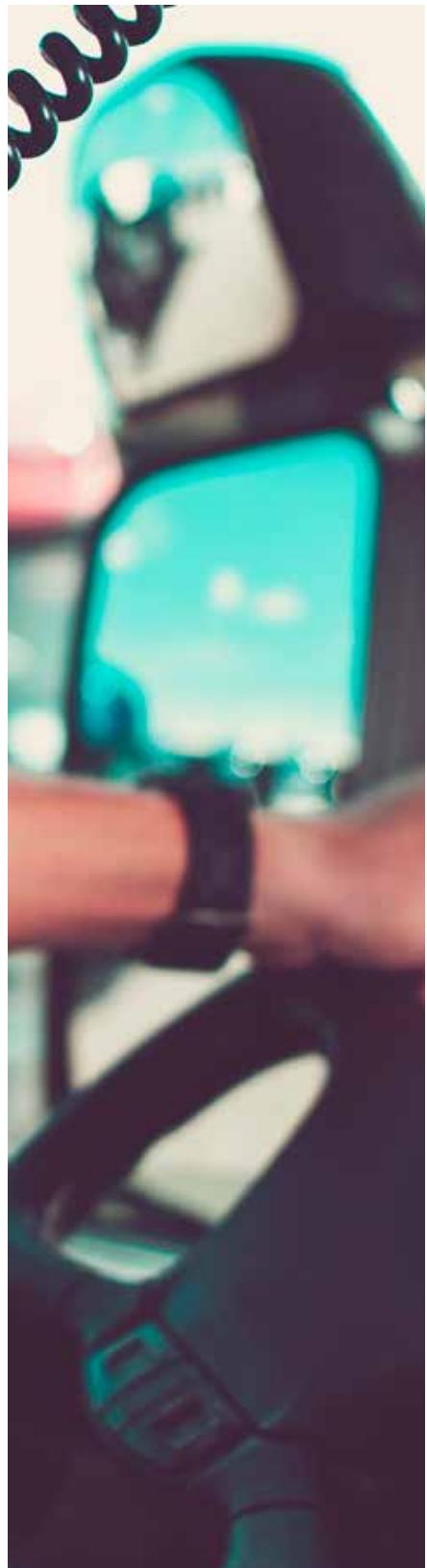
→ [Judgments of 8 December 2020,
Hungary and Poland v Parliament and Council, C-620 and 626/18](#)

In a case concerning a transport undertaking from the Netherlands using drivers coming from Germany and Hungary, the Court of Justice held that the directive concerning the posting of workers is, in principle, applicable to road transport, particularly international road transport. Consequently, the collective agreements of the host Member State apply to workers posted to the territory of that Member State. However, **the fact that a driver working in international road transport, who has been hired out by an undertaking established in the host Member State, receives the instructions relating to his or her tasks and starts or finishes them in the territory of that Member State, is not sufficient in itself to consider that that driver has been posted to the territory of that Member State**.

→ [Judgment of 1 December 2020,
Federatie Nederlandse Vakbeweging, C-815/18](#)

The Spanish airline **Vueling** was convicted, in criminal proceedings, on the basis of a **finding of social fraud in France due to the affiliation of its flying personnel**, posted to the Paris-Charles de Gaulle Airport at Roissy, **to the Spanish social security system rather than the French social security system**. According to the Court of Justice, the French civil courts, before which claims for compensation had been brought, cannot be bound by that definitive finding of fraud when, in breach of EU law, that finding has not been preceded by a **dialogue with the Spanish institution, allowing it to re-examine the documents available to it** and, where appropriate, declare to be invalid or withdraw the certificates attesting to the affiliation of workers to Spanish legislation.

→ [Judgment of 2 April 2020,
CRPNPAC and Vueling Airlines, C-370/17 and Others](#)





As regards the **entitlement to paid annual leave**, the Court of Justice stated that a **worker dismissed unlawfully then reinstated as an employee** is entitled to paid annual leave for the period between the two events even if, during that period, he or she has not actually worked. However, where, during that period, a worker has taken new employment, he or she will be able to claim the entitlement corresponding to the period during which he or she has been in that employment only from the new employer.

→ [Judgment of 25 June 2020,
Varhoven kasatsionen sad na Republika Bulgaria and Iccrea Banca, C-762/18 and Others](#)





State aid

Issues related to State aid raise complex, strategic questions in terms of the interpretation and application of the rules of EU law.

In 2020, the Court of Justice and the General Court gave judgment in a number of State aid cases relating to key sectors of the economy in the Member States. Those cases reflect the difficulties in applying State aid rules in areas such as taxation, energy policy, environmental protection or compulsory health insurance.

With regard to the question raised by Austria whether the aid granted by the United Kingdom for the **construction of Hinkley Point C nuclear power station could be approved** by the Commission on the ground that it facilitated the development of certain activities or of certain areas, the Court of Justice answered in the affirmative. It also observed that, subject to compliance with the rules of EU law on environmental protection, the United Kingdom was free to determine the composition of its own energy mix.

→ [Judgment of 22 September 2020,
Austria v Commission, C-594/18 P](#)

The Court of Justice was also called upon to review the lawfulness of the provision of State resources in favour of **two health insurance bodies operating under Slovak State supervision in the context of a compulsory health insurance scheme**. It found that, despite the existence of a certain amount of competition between public and private bodies in the context of the scheme, it pursued a **social objective and applied the principle of solidarity**. Consequently, it held, upholding the decision of the Commission, that the case of the two health insurance bodies in question **did not fall within the rules of EU law on State aid**.

→ [Judgment of 11 June 2020,
Commission and Slovakia v Dôvera zdravotná poisťovňa, C-262/18 P and Others](#)

Similarly, the Court of Justice examined the nature of the **subsidies that France had granted**, in the form of a reduction in employees' contributions, **to fishermen and fish farmers affected by the wreck of the tanker Erika and by the violent storms in 1999**. It found that the reduction related to charges covered by employees' contributions not employers' contributions. Consequently, the reduction **conferred no advantage on fisheries undertakings** and, therefore, EU State aid rules, which concern only undertakings, did not apply. The Court of Justice thus ruled that the Commission's decision ordering France to recover the subsidies was invalid in part.

→ Judgment of 17 September 2020,
Ministre de l'Agriculture et de l'Alimentation v Compagnie des pêches de Saint-Malo, C-212/19

By contrast, the Court of Justice **ordered Italy** to pay a lump sum of €7.5 million and a daily penalty payment of €80 000 **for failing to recover aid – of a total amount of approximately €13.7 million – unlawfully granted to the hotel industry in Sardinia**. Although, in 2008, the Commission ordered Italy to recover the aid and that, in 2012, the Court of Justice found that Italy had failed to fulfil its obligations in that regard, that Member State still did not comply with its obligation to recover the aid at issue. The Commission then brought a second action for failure to fulfil obligations to impose pecuniary penalties against Italy. That action was upheld by the Court of Justice.

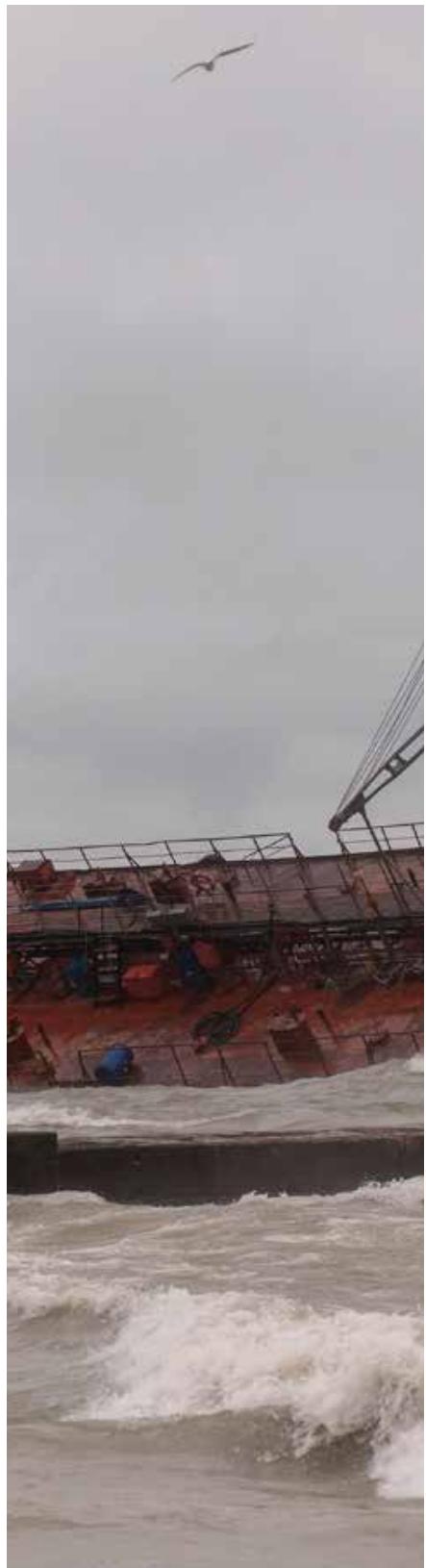
→ Judgment of 12 March 2020,
Commission v Italy, C-576/18

As for the General Court, it **annulled the decision taken by the Commission finding that the Irish tax rulings in favour of Apple constituted State aid**. According to the Commission, Ireland had granted Apple **€13 billion** in unlawful tax advantages, which therefore had to be recovered by the Member State from the recipient. However, the General Court considered that the Commission did not succeed in showing to the requisite legal standard that the tax rulings in question granted Apple a selective economic advantage and constituted State aid.

→ Judgment of 15 July 2020,
Ireland v Commission and Apple Sales International, T-778/16 and Others

Similarly, the General Court **annulled the Commission's decision finding aid measures implemented by the Autonomous Community of Valencia (Spain) in favour of the Spanish football clubs Valencia CF and Elche CF to be unlawful**. According to the Commission, the aid measures took the form of guarantees to associations linked to the football clubs in question intended to cover the bank loans taken out by those associations in order to participate in the increase in the capital of the club to which they were respectively linked. However, the General Court considered that the Commission's decision was vitiated by a number of errors concerning, in particular, the existence of comparable guarantees on the market.

→ Judgments of 12 March 2020,
Valencia Club de Fútbol and Elche Club de Fútbol, T-732/16 and T-901/16



By contrast, the General Court dismissed the action against the Commission decision declaring **illegal the aid from the Autonomous Region of Sardinia to several airlines serving Sardinia**. The aid at issue, seeking to improve the island's air service and promote it as a touristic destination, was made available to beneficiaries through the operators of the main Sardinian airports. The General Court confirmed that the aid had not been granted to those operators, but to the airlines concerned, which must therefore repay it.

→ [Judgments of 13 May 2020,
Volotea, Germanwings and easyJet, T-607/17, T-716/17 and T-8/18](#)

The General Court also **upheld the decision taken by the Commission according to which the Spanish tax system applicable to certain finance lease agreements entered into by shipyards with economic interest groupings (EIGs) constituted, as an investment vehicle for granting tax advantages**, a State aid scheme in favour of members of the EIGs in question. According to the Commission, that scheme, under which a shipping company acquires a vessel not directly from a shipyard but through an EIG, was partially **incompatible with the internal market**, in so far as it also allowed shipping companies to benefit from a 20-30% price reduction when purchasing ships constructed by Spanish shipyards.

→ [Judgment of 23 September 2020,
Spain v Commission, T-515/13 RENV and Others](#)

Lastly, the General Court upheld the Commission's decision by which it found that the **unlimited public guarantee granted by France to IFP Énergies nouvelles (IFPEN)**, a publicly owned establishment entrusted with research and development in the fields of energy, partially constituted **State aid**. The General Court considered that IFPEN and France were unable to rebut the presumption that the grant of such a guarantee conferred an economic advantage on IFPEN vis-à-vis its competitors.

→ [Judgment of 5 October 2020,
France v Commission and Others, T-479/11 RENV and Others](#)





Competition



The General Court – Ensuring EU Institutions Respect EU Law

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Free competition contributes to the improvement of the well-being of Union citizens by offering them a wider choice of higher quality goods and services at more competitive prices. To achieve this, EU rules seek to prevent restrictions and distortions of competition within the internal market. The most important standards in this area are enshrined in the Treaty on the Functioning of the European Union: they prohibit agreements likely to hinder free competition, as well as the abuse of a dominant position.

In 2020, the Court of Justice and the General Court interpreted and applied those rules in a number of cases concerning different sectors of the economy.

The General Court annulled in part the Commission's inspection decisions following suspicions of anticompetitive practices adopted by a number of French undertakings in the **distribution sector**. It considered that the Commission had failed to show that it had sufficiently strong evidence to suspect exchanges of information concerning the future commercial strategies of the undertakings.

→ [Judgments of 5 October 2020, Casino and Others, T-249/17 and Others](#)

The General Court confirmed the existence, established by the Commission, of a **cartel in the smart card chip sector** between several undertakings that had coordinated their pricing policy. The General Court ordered, however, that the fine imposed by the Commission, inter alia on Infineon, be **reduced** given the limited number of the anticompetitive contacts which Infineon had had with its competitors and the insufficient evidence concerning one of the anticompetitive contacts identified by the Commission.

→ [Judgment of 8 July 2020, Infineon Technologies, T-758/14 RENV](#)

For the first time, the General Court had occasion to review the lawfulness of rules adopted by an international sports federation. The General Court held that the rules of the **International Skating Union distorted free competition** by providing for penalties for **athletes taking part in speed skating events not recognised by it**. The General Court considered that the **restrictions deriving from the pre-authorisation system** provided for by the rules at issue **could not be justified by the objective of protecting the integrity of the sport.**

→ [Judgment of 16 December 2020,
International Skating Union, T-93/18](#)

The General Court upheld the Commission's decision finding that Lietuvos geležinkelai AB (LG), **the national railway company of Lithuania, abused its dominant position** on the Lithuanian rail freight market. LG had concluded a rail freight agreement with Orlen for the purpose of transporting oil products to Western Europe. Following a dispute with LG, Orlen wished to entrust the transport of its products to the national railway company of Latvia. By removing the track which ran from the place of departure of its goods, in Lithuania, to Latvia, LG prevented the rival Latvian company from concluding the agreement with Orlen. Such conduct was found to constitute abuse of a dominant position.

→ [Judgment of 18 November 2020,
Lietuvos geležinkelai AB, T-814/17](#)

In proceedings between a company operating a hotel in Germany and Booking.com BV, a company governed by Netherlands law operating an accommodation booking platform, the Court of Justice, in a reference for a preliminary ruling from a German court, held that a hotel **using the platform Booking.com may bring proceedings against Booking.com before a court of the Member State in which that hotel is established** in order to bring to an end a possible abuse of a dominant position. Booking.com claimed that the action against it should be brought before a court of the Member State in which it has its seat. The Court of Justice rejected that argument.

→ [Judgment of 24 November 2020,
Wikingerhof GmbH & Co. KG v Booking.com BV., C-59/19](#)

A dominant position on the **electronic communications and media markets** may pose a risk to pluralism of information. That finding was the basis of Italian legislation prohibiting undertakings holding a significant position in the electronic communications sector from acquiring a significant economic dimension in the media sector. In the context of the hostile acquisition campaign for shares in the Italian company Mediaset launched by the French company Vivendi and the proceedings that followed, the Court of Justice held, however, that such legislation constitutes a **prohibited impediment to the right of establishment when it does not have the aim of safeguarding pluralism of information.**

→ [Judgment of 3 September 2020,
Vivendi SA, C-719/1](#)



With regard to **concentrations between undertakings**, the General Court annulled the Commission's decision to block the proposed acquisition of Telefónica UK by Hutchinson 3G UK. It held that the Commission had not demonstrated that such an acquisition would establish a significant impediment to effective competition on the **UK mobile telephony market**. It also noted that the Commission had not demonstrated that such an operation would lead to an increase in prices for services and a reduction in their quality.

→ [Judgment of 28 May 2020,
CK Telecoms UK Investments, T-399/16](#)





The banking sector and taxation

EU rules relating to the internal market ('the single market') allow goods and services to be marketed freely within the European Union. In order to avoid, in particular, distortions of competition between undertakings, Member States have agreed to align their rules on the taxation of goods and services. Measures have also been adopted at EU level to coordinate economic policies and corporate and income tax rules to a certain extent, in order to ensure they are fair, efficient and conducive to growth. However, the amount of tax paid by individuals and the way in which the sums collected in respect of such taxes are spent falls within the scope of the competence of the Member States.

In a case concerning **Google Ireland**, the Court of Justice held that Hungarian legislation which imposes an obligation to submit a tax declaration on suppliers of advertising services established in another Member State for the purposes of their liability to the **Hungarian tax on advertising**, is compatible with EU law and, more specifically, the **principle of the freedom to provide services**. By contrast, it stated that the principle of the freedom to provide services and the principle of proportionality preclude Hungarian legislation which fines suppliers of services for non-compliance with the obligation to submit a tax declaration in a series of fines issued within several days capable of amounting to several million euros.

→ [Judgment of 3 March 2020,
Google Ireland, C-482/18](#)

In another Hungarian case, the Court of Justice held that the **special taxes levied in Hungary on the turnover of telecommunications operators and of undertakings in the retail trade sector** are compatible with EU law. Those undertakings, which are predominately owned by persons (natural or legal) of other Member States, achieve the highest turnover in the Hungarian markets concerned and therefore bear much of those special taxes. The Court of Justice nevertheless held that that fact reflects the economic reality of those markets and **does not constitute discrimination** against those undertakings.

→ **Judgments of 3 March 2020,
*Vodafone Magyarország and Tesco-Global Áruházak, C-75/18 and C-323/18***

In 2020, the General Court delivered its first four judgments concerning **decisions of the European Central Bank (ECB) imposing pecuniary penalties** as part of its prudential supervision of credit institutions. It **thus annulled in part three decisions** on the basis that inadequate reasons were given for those decisions. No details were provided of the methodology applied by the ECB in determining the amount of the penalties imposed.

→ **Judgments of 8 July 2020,
*VQ v ECB, T-203/18, T-576/18, T-577/18, T-578/18***





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Intellectual property

The Court of Justice and the General Court ensure the interpretation and application of EU rules adopted to protect and defend intellectual property (copyright, trade marks, design protection, patent rights) with a view to increasing business competitiveness.

Throughout 2020, the two courts of the European Union have intervened in this field on numerous occasions, clarifying the extent of liability for infringement of intellectual property rights and the conditions under which intellectual property is protected, with a special focus, with regard to trade marks, on the concepts of 'distinctive character' and 'likelihood of confusion'.

So far as concerns the liability of individuals and companies for infringements of the rights covered by an EU trade mark, the Court of Justice held that the **mere storage** by Amazon, on its online marketplace (Amazon-Marketplace), **of goods which infringe trade mark rights does not constitute an infringement** by Amazon **of those trade mark rights**. A company which, on behalf of a third-party seller of counterfeit goods, stores goods without being aware that they infringe trade mark rights does not itself use that trade mark unlawfully, so long as it does not pursue, like the seller, the aim of offering the goods for sale or putting them on the market.

→ Judgment of 2 April 2020,
Coty Germany, C-567/18 and Others

As for **distinctive character, which is essential for the validity of a mark**, the General Court pointed out that a shape, the registration of which as a **three-dimensional mark** has been applied for, is devoid of distinctive character where it does not **depart significantly from the norms and customs of the sector concerned**. In the case of a shoe lace, it stated that the novelty of its shape and the beauty of its design are not sufficient, on their own, to find that a distinctive character exists. The function of a trade mark is to **indicate the commercial origin of the product and thus to enable** consumers to identify certain goods as being associated with a certain undertaking.

→ [Judgment of 5 February 2020,
Hickies, T-573/18](#)

In the same vein, but in the case of a **figurative mark**, the General Court observed that the **pattern of a lion's head encircled by chains** constitutes a typical and familiar representation for **buttons** and **jewellery** and is therefore **devoid of distinctive character** in respect of those goods. By contrast, in another case, the General Court criticised EUIPO for failing to take account of certain evidence for the purposes of assessing the **distinctive character, acquired through use**, of a mark consisting of a **chequerboard pattern for bags and travelling bags**.

→ [Judgments of 5 February 2020,
Pierre Balmain, T-331/19 and T-332/19](#)

→ [Judgment of 10 June 2020,
Louis Vuitton Malletier, T-105/19](#)

A word mark is also devoid of distinctive character if it is limited to describing a characteristic of a product for which registration is sought. The General Court considered that the word mark **WAVE** for aquarium lights **may have distinctive character since the word 'wave' does not describe a characteristic of those lights**.

→ [Judgment of 23 September 2020,
Tetra GmbH, T-869/19](#)

It is precisely in the light of the **weak distinctiveness of two signs** representing a **horn to identify postal services**, that the General Court **excluded a likelihood of confusion** between them. The representation of a post horn, often on a yellow background, is traditionally used by national postal operators throughout the European Union. Therefore, the public will not associate the post horn or the colour yellow with a particular company but, more generally, with several national postal operators.

→ [Judgment of 11 November 2020,
Deutsche Post, T-25/20](#)



Again with regard to the likelihood of confusion between two marks, but this time in respect of sports equipment and clothing, the Court of Justice held that the **reputation of the footballer Lionel Messi is likely to counteract any likelihood of confusion** between his mark MESSI and the earlier mark MASSI belonging to a Spanish company.

→ [Judgment of 17 September 2020,
Messi, C-449/18 and Others](#)

In another case concerning the assessment of the likelihood of confusion, the General Court also pointed out that the **presence of the same word in two marks** (in this case, the word 'Teruel' in the marks AIRESANO BLACK EI IBERICO DE TERUEL and JAMON DE TERUEL CONSEJO REGULADOR DE LA DENOMINACION DE ORIGEN) **is not sufficient to create a likelihood of confusion**.

→ [Judgment of 28 May 2020,
Consejo Regulador, T-696/18](#)

As regards the criterion of similarity between two marks, the General Court found that the word mark LOTTOLAND, registered in respect of industrial services, has a **high degree of similarity** with the earlier figurative marks LOTTO, registered in respect of gambling games. However, it stated that there was no link between the two marks in the light, in particular, of the **different nature of the services covered by the marks at issue and of the relevant publics**. In the **absence of such a link**, the use of the mark LOTTOLAND **would not take unfair advantage of, and would also not be detrimental to, the distinctive character or the repute of the earlier marks**.

→ [Judgment of 11 November 2020,
Lottoland, T-820/19](#)

It sometimes happens that a dispute concerning distinctive signs is not between individuals or undertakings but Member States, as in the dispute concerning the use of the word '**Teran'** for a wine grape variety used in Slovenia and Croatia. After the accession of Slovenia to the European Union in 2004, that designation was recognised as a protected designation of origin (PDO). In 2017, a regulation established that the word 'Teran' could also be used, as from the accession of Croatia to the European Union in 2013, for **certain Croatian wines**. The General Court **dismissed Slovenia's action** for annulment of that regulation which enables the **PDOs to co-exist peacefully without infringing the principles of legal certainty and the protection of legitimate expectations**.

→ [Judgment of 9 September 2020,
Slovenia v Commission, T-626/17](#)





The functioning of the European institutions

It is for the two courts of the European Union to verify that acts (or failure to adopt certain acts) of the institutions, bodies, offices and agencies of the Union comply with EU law. Accordingly, the Court of Justice and the General Court are responsible for the judicial protection of the rights of individuals, where they are directly and individually concerned by decisions taken at EU level. By contrast, only the national courts are competent to review the lawfulness, in the light of national law, of acts of national authorities.

The Courts of the European Union have been seised, on several occasions, by Mr **Junqueras i Vies**, Vice-President of the Gobierno autonómico de Cataluña (Autonomous Government of Catalonia, Spain), concerning his election to the European Parliament in 2019. The Vice-President of the General Court, then the Vice-President of the Court of Justice in the context of appeal proceedings, dismissed the application made by Mr Junqueras i Vies for interim measures to protect his parliamentary immunity. In addition, the General Court declared the **action brought by Mr Junqueras i Vies, against the statement by the European Parliament that his seat was vacant, to be inadmissible**. The European Parliament has no competence to review decisions of the Spanish authorities declaring Mr Junqueras i Vies to be ineligible to hold office as a member of the European Parliament under national law and the resulting decision that the seat is vacant.

→ [Order of 3 March 2020, Junqueras i Vies, T-24/20 R](#)

→ [Order of 8 October 2020, Junqueras i Vies, C-201/20 P\(R\)](#)

→ [Order of 15 December 2020, Junqueras i Vies, T-24/20](#)

The General Court dismissed an action seeking a declaration that the European Council unlawfully refused to exclude the Czech Prime Minister, on the basis of an alleged conflict of interest, from the meetings of that institution concerning the adoption of the Multiannual Financial Framework of the European Union 2021/2027. The General Court considered that **the Member States alone are competent to determine, as between their Heads of State or Government respectively, which of those persons is to represent them at European Council meetings** and to establish the grounds which could lead to it being impossible for one of those persons to represent them at that institution's meetings.

→ [Order of 17 July 2020,
Wagenknecht, T-715/19](#)

Mr Shindler and other nationals of the United Kingdom are long-term residents of Italy and France. As a result, they were not allowed to participate in either the Brexit referendum or the parliamentary elections in 2017, which played a determining role in the maintenance of their status as Union citizens. They therefore brought an action for 'failure to act' against the Commission before the General Court on account of the Commission's 'unlawful failure to preserve European citizenship'. The General Court dismissed the action and held that the **Commission lacks the competence** to adopt a binding act intended to maintain, as from the withdrawal of the United Kingdom from the European Union, the European citizenship of certain nationals of the United Kingdom.

→ [Order of 14 July 2020,
Shindler, T-627/19](#)



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).



735

Cases brought

Preliminary
ruling
proceedings

556

including 9 PPUs

Main Member
States from which
the requests
originate

Germany	139
Austria	50
Italy	44
Poland	41
Belgium	36

37

Direct actions

including

18

actions for failure to fulfil
obligations and

2

actions for 'twofold
failure' to fulfil
obligations

131

Appeals against decisions of the General Court

1

Request for an Opinion

8

applications for legal aid

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



792

Cases completed

Preliminary ruling proceedings

534

including 9 PPUs

37

Direct actions

including

26

failures to fulfil obligations found against 14 Member States

3

judgments on a 'twofold failure' to fulfil obligations

204

Appeals against decisions of the General Court

including

40

in which the decision adopted by the General Court was set aside

15.4 months

Average length of proceedings

3.9 months

Urgent preliminary ruling procedures





1 045

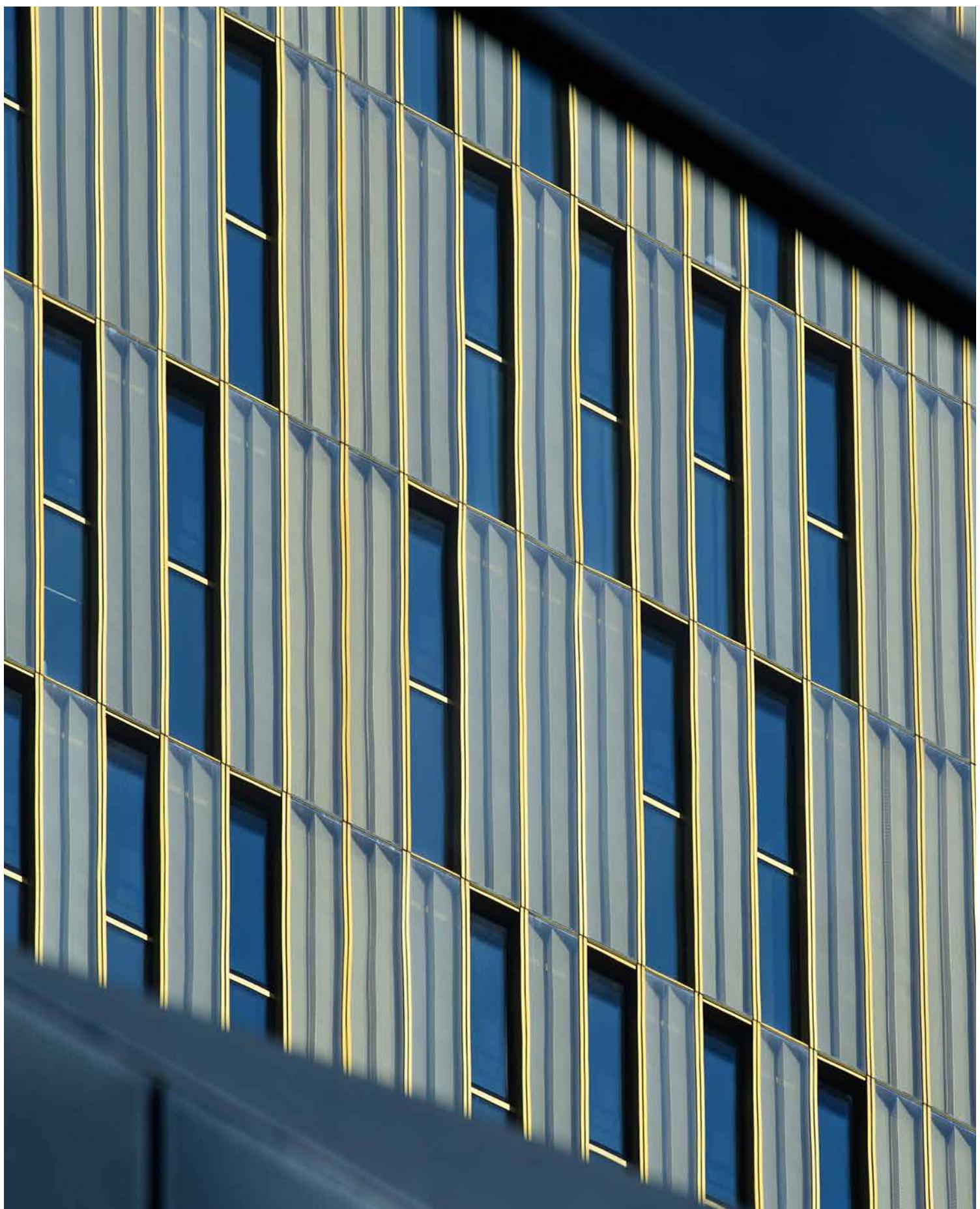
Cases pending

As at 31 December 2020

Principal subject-matters

Agriculture	26
Area of freedom, security and justice	119
Consumer protection	56
Customs Union	24
Environment	48
Freedoms of movement and establishment, and internal market	96
Intellectual and industrial property	27
Social law	56
State aid and competition	104
Taxation	95
Transport	86





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. In cases which have already been considered twice (by an independent board of appeal and then by the General Court), the Court of Justice will allow an appeal to proceed only if it raises an issue that is significant with respect to the unity, consistency or development of EU law.



847

Cases brought

729

Direct actions

including

69

State aid and competition cases (including **2** actions brought by the Member States)

282

Intellectual and industrial property cases

118

EU civil service cases

260

other direct actions (including **10** brought by the Member States)

75

Applications for legal aid

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



631
Direct actions
including
41
State aid and competition cases

237
Intellectual and industrial
property cases

79
EU civil service cases

274
other direct actions

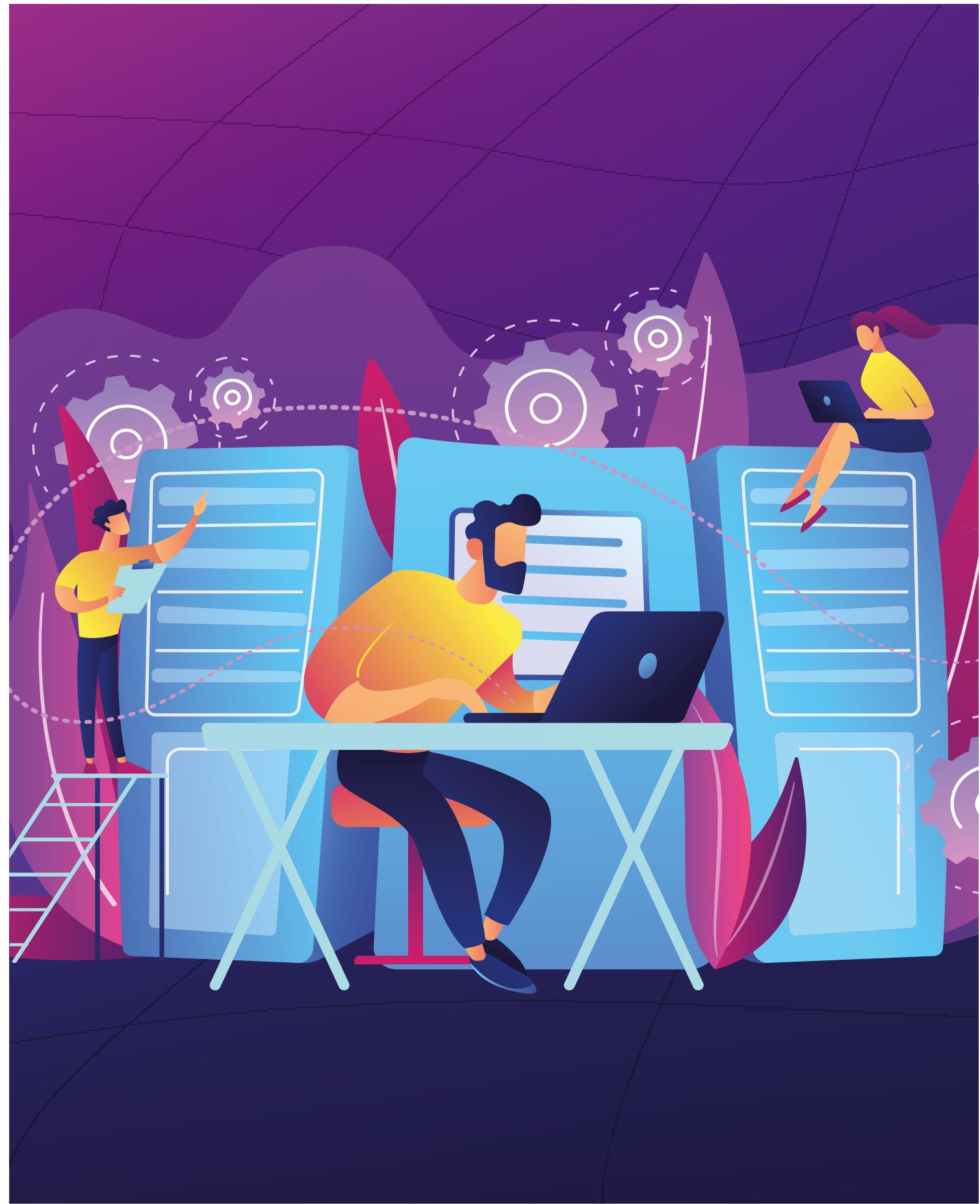
15.4 months

Average length
of proceedings

23%
Percentage of decisions against
which an appeal was brought
before the Court of Justice

Principal subject-matters	
Access to documents	24
Agriculture	21
Competition	78
Economic and monetary policy	156
Environment	14
Intellectual and industrial property	319
Public procurement	21
Restrictive measures	65
Staff Regulations	182
State aid	292





3

A year of adaptation and continuity of the public service of European justice

A | Introduction by the Registrar

B | The different stages in managing the crisis

C | Overview of the Court's activity during the pandemic

Focus

- Hearings conducted remotely
- Public relations
- The contribution of the Directorate-General for Multilingualism to ensuring continuity of the functioning of the Institution
- Information technology put to the test by Covid-19

A | Introduction by the Registrar



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 in a year in which those departments faced unprecedented challenges.

In individual terms, 2020 was a trying year for everyone owing to restrictions, illness and uncertainty, which were the hallmarks of that period.

In terms of managing the Institution's various departments, 2020 was a significant challenge, taken up methodically with determination and resilience. This required a complete transformation of the Institution's operating methods in very short order. No department was spared by that necessity to adapt, to innovate, to reinvent itself.

Fortunately, the Institution was able to rely on a structure and procedures which had already been established to deal with crisis situations. That structure is based on a crisis unit, which has competence to adopt, in respect of the Institution as a whole, major decisions linked to the crisis situation and developments therein. It then takes the necessary general measures (remote working scheme, cross-cutting measures relating to staff management, and so forth). Those general decisions are then implemented by the Crisis Management Centre (CMC), which is composed of representatives of all operational units ensuring the continuity of activity within each department. During its

regular meetings, the CMC also ensured that relevant information was passed up to the crisis unit, allowing the situation to be managed.

That crisis management, which brought closely together the various departments and the two courts within the Institution, allowed **consistent action to be taken with three concomitant and interdependent objectives at its core**: guaranteeing the health and safety of staff members and any persons needing to be on the Institution's premises; ensuring the continuity of judicial activity; and supporting staff members.



➔ With a view to guaranteeing **health and safety within the Institution's buildings and protecting staff** from the risk of infection, it was decided, on 10 March, that all suitable tasks were to be performed from home by those persons responsible for carrying them out. This **system of working from home** was subsequently generalised and made mandatory from Monday 16 March, even before the national authorities decided on lockdown measures. Court premises could thus no longer be accessed, except by those persons required to perform essential tasks that could not be carried out remotely. Thanks to constant monitoring of health and regulatory developments in Luxembourg and neighbouring countries by the Court's security department and medical service, working in regular concertation with the Luxembourg authorities, the scheme was adapted to various phases, striving to strike a balance between health conditions, attendance on Court premises, maintaining judicial activity and the needs of staff members.

In parallel with the remote working scheme, one of the key tools in protecting human health was **the definition and implementation of strict and specific health protocols**. To allow EU justice to continue to be dispensed, the Court of Justice reopened its courtrooms on 25 May. Consequently, the daily presence on the premises not only of those staff members necessary to the organisation of hearings, but also of lawyers and agents from all over the European Union, had to be managed in terms of logistics and of health and safety. The particularly exacting measures put in place (temperature check on entry to the buildings, compulsory wearing of masks in communal areas, physical distancing measures by establishing separate lanes for human traffic, disinfection of those areas where people had been present, installation of alcohol gel dispensers, protective screens, signposting, raising awareness through a variety of communications) all served to guarantee the highest level of protection for all persons involved while offering them satisfactory reception conditions.

➔ This resumption of public hearings was necessary in order to **ensure that European justice continued to be served in the public interest**. Prior to the resumption of hearings, judicial activity was maintained by dealing with cases remotely, in particular by means of adapted procedural arrangements. Representatives of parties were duly informed of the procedural consequences of the crisis and of the measures adopted by the Registries of the Court of Justice and the General Court, through a dedicated page on the Institution's website.

From a **technical perspective**, the Institution's IT department accelerated the remote working equipment programme in February. Bandwidth was increased tenfold in the first few weeks of the first lockdown and a secure audio then videoconference system was very quickly made available to all departments.

As the following pages describe in detail, the Institution had to innovate in order to address the travel difficulties faced by a number of legal representatives of parties to proceedings. The fruit of a remarkable cooperation between the various departments, the two courts and their registries, a single system for remote participation in hearings via videoconference was designed, offering simultaneous interpreting potentially to and from the EU's 24 official



languages.

Lastly, as part of the **efficient management of resources**, certain members of staff, who had experienced a drop in their professional activity on account of their respective roles, were temporarily reassigned on a regular basis to those departments dealing, conversely, with additional work. This solidarity and mutual enhancement of skills and experience were assets in dealing with difficulties and will be equally valuable to the successful return of staff members to the Institution's premises.

- ➔ The last of the objectives pursued in this context of crisis management was that of **supporting staff through an unprecedented period** characterised by difficult personal circumstances.

Particular attention was paid to them, whether they were persons suffering from the virus or those at risk of infection, isolated individuals or those having to care for children at home. They received assistance from the Human Resources Department, the doctors and nurses from the medical service, and from a consulting psychologist. In the context of an approach putting the care of our staff first and foremost, heads of department also took into account such specific situations in order to adapt the working arrangement of the persons concerned.

Furthermore, from the very beginning of the crisis, the Institution was particularly aware of the need to **ensure clear, accessible, consistent and relevant communication** with its staff. Additional structured channels of communication were put in place, each with its own purpose: an intranet page containing all relevant information, important messages sent to work and personal email address from a dedicated email account and also via text message, communications to staff of an operational nature sent by email and intended to provide information on a regular basis concerning developments in the health situation and support measures put in place.

The range of e-learning **courses** was enhanced so as to allow members of staff to continue to develop their skills. Senior and middle management were also given specific training on managing remote teams.

Two surveys were conducted of all staff and of management, respectively, to gauge their views on the work arrangements put in place, so as to make adjustments thereto and look ahead, in the longer term, to innovations in a crisis management context.

Lastly, in the **inter-institutional sphere** that is the Board of Heads of Administration of the institutions and bodies located in Luxembourg, the foundations for cooperation with the competent Luxembourg authorities were laid in December 2020 so that the institutions might contribute, to the best of their abilities, to the success of the **vaccination campaign**, for staff of the EU institutions.



The pandemic and the need to find solutions to deal with its consequences for the organisation of the Institution led to an impressive acceleration in the developments that were either already under way or simply in their early stages.

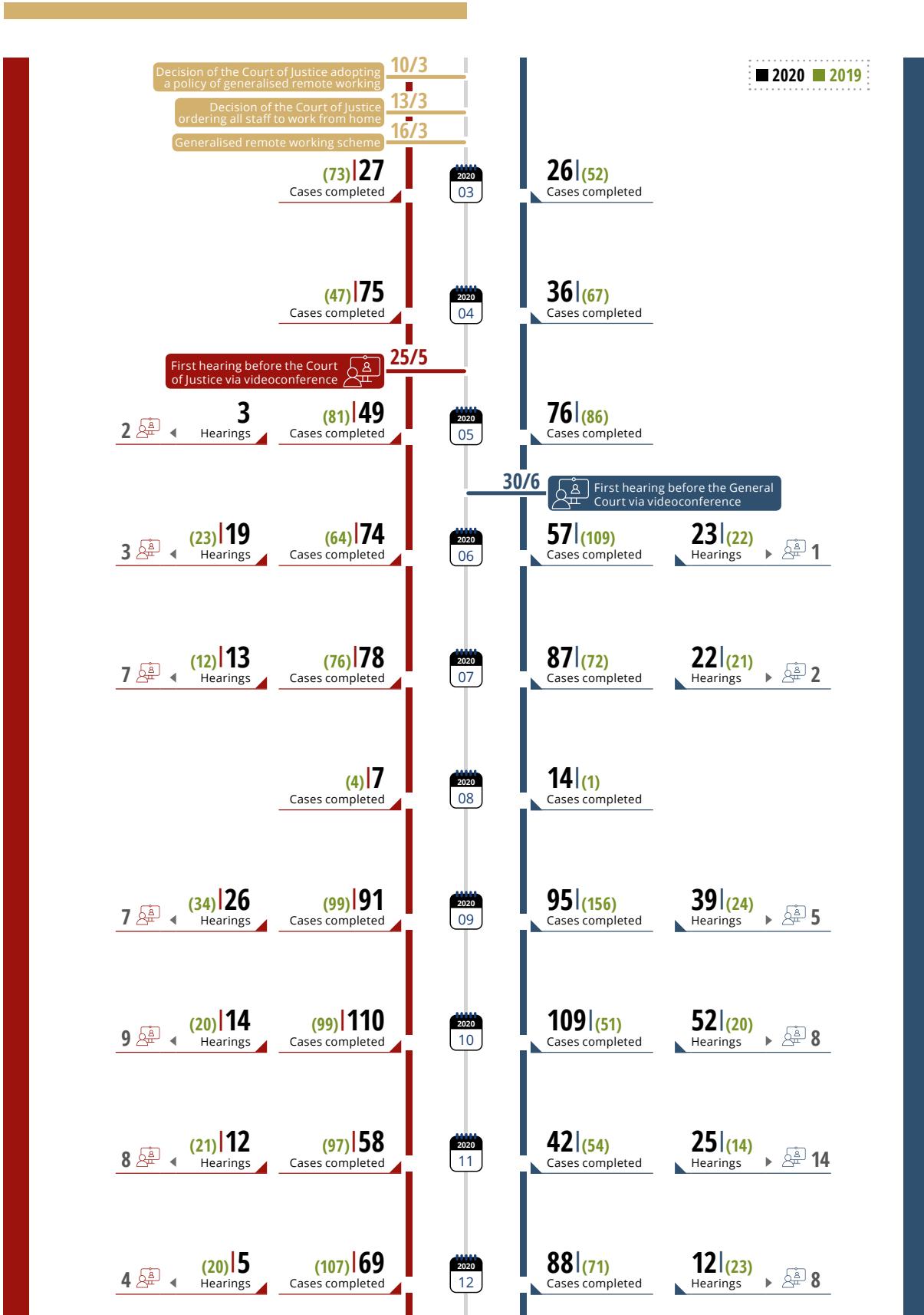
Beyond the pride to be drawn from working together to **maintain a level of activity almost equivalent to that seen previously and continue with ongoing projects while ensuring the highest possible levels of health and safety**, the management of such an unprecedented period for the Institution opens the way for **positive, sustainable changes** in working methods, or even working relationships, together with all of the possibilities offered by virtual work attendance.

Working from home (full- or part-time) has been a reality for all members of staff since 16 March 2020. At each stage of the introduction of the scheme, dictated by the prevailing circumstances, the **consequences of these new ways of working** came to light quite naturally: digitising and simplifying decision-making processes; fostering greater independence for staff and maintaining the quality of their performance; adjusting work-life balance; demonstrating a strong esprit de corps with and within the Institution; and getting closer to external counterparts – be they institutions or citizens – thanks to the opportunities presented by new technologies.

When the restrictions associated with the pandemic are behind us, it will fall to the Institution to **sustain the benefits of these developments, as part of a return to working life the conditions of which will be entirely new and all the richer**. The obstacles overcome are experiences which have made us individually and collectively stronger, more responsible and united. And if the Institution has been able to face up to such an unfavourable situation successfully, this is thanks to the commitment and cohesion of its staff, together with the dedication and concern of its management. The Institution will in future be able to rely on those qualities in preparing for the return of its staff and fostering a strong esprit de corps in an environment where mobility and responsibility will feature amongst the new parameters of its organisation.

Alfredo Calot Escobar
Registrar of the Court of Justice





B | The different stages in managing the crisis

In light of the health situation in the European Union, and having regard to the measures adopted by the authorities in Luxembourg and the other Member States, the Court decided, on 10 March, that all suitable tasks would be performed remotely by those persons responsible for carrying them out. **On 13 March 2020**, in the light of developments in the health situation in Europe and in order to prevent the spread of the virus while maintaining its judicial activity, the Court instructed its staff **to work from home from 16 March**, with the exception of those staff members called upon to carry out critical tasks. The Institution's primary concern was to protect its staff and those involved in hearings while limiting, as far as possible, the negative consequences of the situation caused by the COVID-19 pandemic for litigants and the administration of justice in Europe. In order to ensure continuity in the public service of European justice and the conduct of ongoing proceedings, the Institution faced an unprecedented challenge in technological and human terms.



The rules implemented in March 2020

Relying on the structures and procedures already in place for crisis situations, **all measures were taken to prevent access to the Court's buildings while allowing the activities of both courts and the various departments and services to continue** under conditions as close as possible to those which would prevail in normal times, necessarily adapted to the exceptional circumstances.

➔ Protecting members of staff

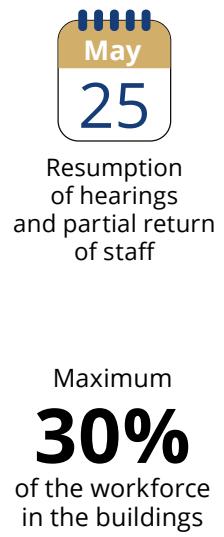
On 13 March 2020, the Institution **instructed staff not to visit the Court's buildings except in a number of very specific and necessary cases**. The early implementation of an IT equipment strategy served to provide remote access to the majority of staff members from March onwards and, gradually, to all members of staff over the following weeks.

➔ Judicial activity continues

Initially scheduled to end on 27 March, the suspension of hearings was pushed back to **25 May** on account of the travel restrictions in force. The Registries of the two courts made contact with the representatives of parties to proceedings to inform them of those postponements and provide further information on arrangements for next steps in the procedure, and a dedicated page was created on the Institution's website.

Urgent proceedings, however, continued during that period and cases ready for hearing continued to be dealt with. **Between 16 March and 25 May, 51 cases were completed by the General Court, 79 judgments were delivered by the Court of Justice and 47 Opinions of the Advocates General were given**.

The processing of cases was adapted to the circumstances: decisions were made via a written procedure, written questions were put to the parties, hearings for the delivery of judgments and Opinions were held on a single day each week, and conditions for opening an e-Curia account (an application which allows procedural documents to be lodged and notified electronically) were adapted.



Updated rules from May 2020 onwards

→ The resumption of hearings

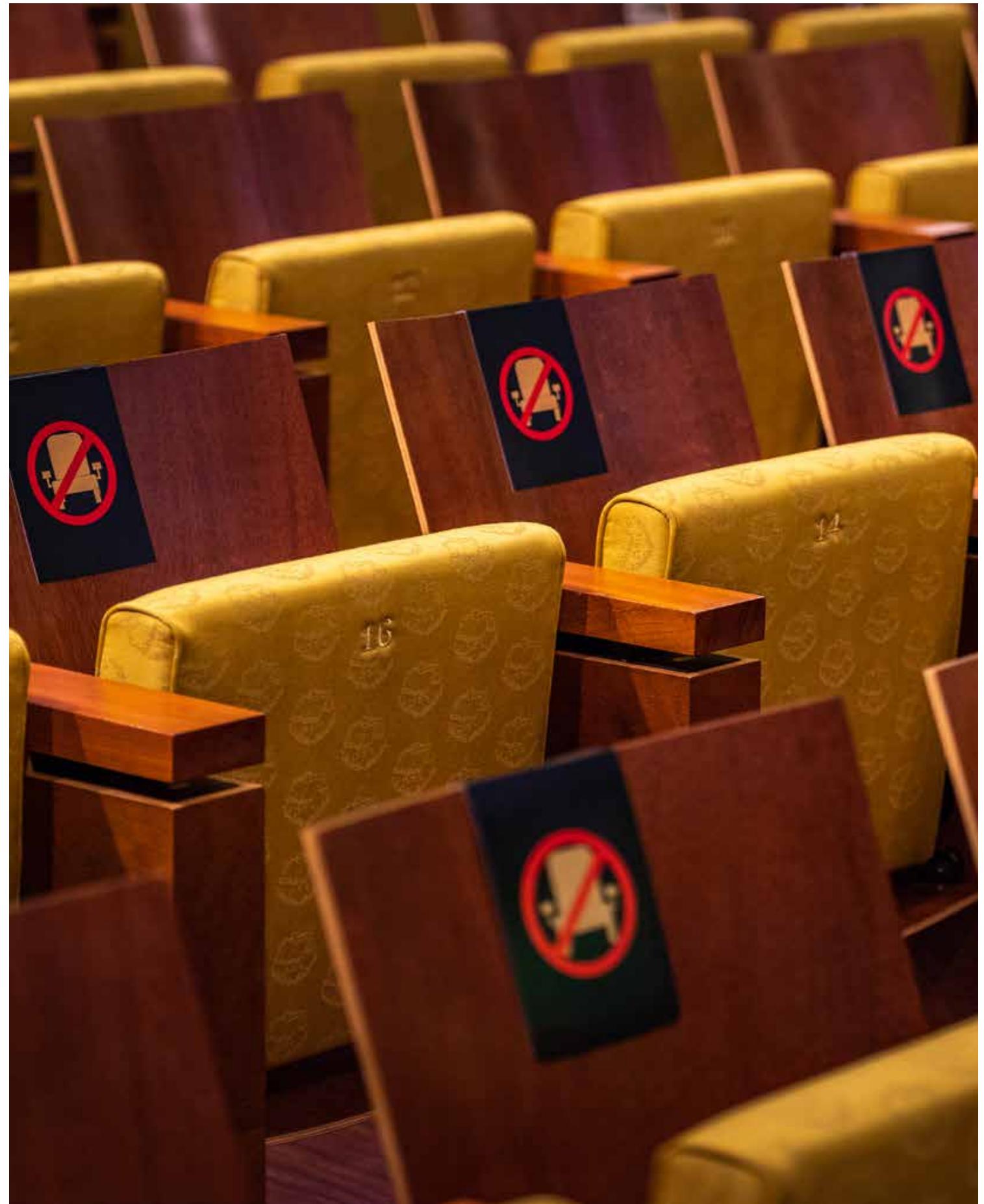
Hearings resumed on 25 May 2020. The Court's departments and services instituted strict health protocols in order to allow hearings to be held in the safest possible conditions for all those involved, including the general public in light of the principle that hearings must be public.

Parties not able to travel to Luxembourg were permitted, by way of exception, to submit oral arguments remotely. To that end, the Institution designed a specific videoconferencing system allowing the provision of simultaneous interpretation to and from the 24 official languages. Specific health measures were also adopted, in particular, with regard to interpreters who could work by limiting each interpretation booth to one interpreter.

Members of staff made a partial return to the Court's buildings in order to perform tasks that could not be carried out remotely, relating in particular to the resumption of hearings before the Court of Justice and the General Court. Working from home remained the rule, with the aim of limiting the presence of staff on site to whoever was strictly necessary to ensure the proper functioning of the Institution in the light of the resumption of hearings, that is, between **20 and 30% of the workforce**.

On site, the strictest hygiene and distancing rules, defined in concertation with the Institution's medical service, were to be observed,

In view of improvements in the health situation, the scope of those rules was temporarily extended from 21 September, on the basis of a ceiling corresponding to the maximum limit, established in consultation with the Institution's medical officers, on the number of persons to be admitted to the buildings every day in order to guarantee the effectiveness of the health protocols. The earlier rules for accessing the Institution's buildings for the sole purpose of organising hearings and deliberations had, however, to be reintroduced on 26 October on account of a deterioration in the health situation in Luxembourg.



C | Overview of the Court's activity during the pandemic

The Court's continued judicial activity during the pandemic has consisted in measures implemented to ensure the proper functioning of European justice, but also to continue to inform European citizens of their rights and of the activities of the EU Courts. Whether it be developing a system allowing the remote submission of oral arguments with simultaneous interpretation or internal and external communication campaigns, the Court has shown initiative and adaptability. With the Institution's buildings initially closed and subsequently subject to strict health rules, there were necessarily fewer visits from the general public and legal professionals or for on-site consultation of library publications, but alternatives were immediately proposed by the Court.

252
oral
hearings



Hearings via
videoconference
(between 25 May
and 22 December)

A total of **252 oral hearings** (which could, in some instances, concern several cases argued before the same composition of the court) were held **between 25 May and 22 December 2020**. That figure includes **40 hearings before the Court of Justice which involved parties** (between one and four) **appearing remotely** via videoconference, and **38 hearings before the General Court involving parties** (between one and three) **appearing remotely**.

The life of the Institution and administrative activities also went on, with the arrival, between March 2020 and December 2020, of a number of **new Members**. The entry into office of the new French Advocate General, Jean Richard de la Tour, gave rise to a fresh innovation: **he took the oath remotely**, via interposed screens, in the presence of President Lenaerts, First Advocate General Szpunar and Registrar Calot Escobar. Subsequently, on 10 September, Athanasios Rantos, the Greek Advocate General and, on 6 October, Jan Passer, the Czech Judge of the Court of Justice, and Ineta Ziemele, the Latvian Judge of the Court of Justice, all took the oath in situ before the Court, with the necessary health measures still in place.

40
before
the Court of Justice

38
before
the General Court



All of the Institution's departments and services have had to adapt their internal communication methods since March. By making use of videoconferencing technology, teams have been able to meet and continue to work remotely. Accordingly, on average, **more than 150 videoconferences or audioconferences were held per week**, for internal or inter-institutional meetings.



150

videoconferences or
audioconferences
per week



29

formal
events



5

formal
sittings





Hearings conducted remotely

In response to travel restrictions imposed by the Member States, the Institution designed a videoconference system which allows, by way of exception, representatives of the parties not able to travel in person to Luxembourg to take part, remotely, in the hearing, in compliance with the principle of multilingualism. Two of the system's users share their experiences.

Submitting oral arguments remotely



by Viktoija Soneca, Director of the Ministry of Justice of the Republic of Latvia, Agent representing the Republic of Latvia in proceedings before the Court of Justice

'I am honoured to be invited by the Court of Justice of the European Union (CJEU) to share my experience of using videoconferencing in hearings at the Court and to express my views on the system.'

It should be pointed out, first of all, that the process of digital transformation began in the European Union well before 2020. However, this year will go down in history not only on account of COVID-19 and its consequences, but also for the turning point that it represents in terms of digitisation and the use of videoconference technology in the context of hearings at the CJEU.

This is because, whilst the list of negative consequences of COVID-19 is long, the pandemic has facilitated the acquisition of digital skills and accelerated the implementation of digital solutions in everyday life. In this regard, undertakings, institutions and individuals have started to use digital solutions to improve their everyday lives, to work better and more efficiently, and to improve communication with national courts and the CJEU.



In 2020, Member States and parties to proceedings pending before the CJEU were given the opportunity to participate in hearings before the Court via videoconference. Thanks to this technology, Member States and parties were able to state their views during the hearings and to respond not only to questions posed by the CJEU, but also to questions and remarks from other parties and Member States. As it is with face-to-face hearings, an interpretation service is available during the videoconference, made possible by the enormous amount of work carried out by interpreters to translate simultaneously the words spoken during hearings so that all participants can understand what is being said.

The conduct of oral hearings has not changed, except that Member State officials and representatives of the parties can remain in their country and participate remotely. Such a possibility brings with it, of course, its share of advantages – convenience, safety, and the time gained in journey time – and disadvantages, such as the fact that it is not possible to soak up the spirit of the CJEU, a wonderful experience that is renewed each time one enters a courtroom of the CJEU to argue the case, in person, before the Court.

It should also be pointed out that the CJEU, by making it possible to use videoconferencing for hearings, has demonstrated that it can adapt to the circumstances and that proceedings must follow their proper course despite the health crisis'.

The unprecedented challenges of remote interpretation

by Ignasi Vancells Mora, freelance conference interpreter



The conduct of hearings in which some of the parties participate remotely has had significant repercussions on the work of interpreters.

A freelance interpreter from the Spanish interpretation booth who works regularly for the Court explains what working as an interpreter for the EU institutions – and more particularly the Court of Justice – has meant in 2020.

'2020 has been unusual for everyone. For all interpreters, the pandemic first of all brought activities to a complete halt, in part due to the cancellation of international meetings. When they resumed, working conditions were quite different. For freelance interpreters, this new way of working raised many questions: how to get around given the travel restrictions in place and how to work under good health and technical conditions? Videoconferencing, which has made it possible to hold online meetings, has raised a number of concerns relating to the reliability of remote access connections and sound quality which is rarely the same as being in the same room. You have to work harder to understand speakers and you tire more quickly.'

That said, I find the Court's remote access connections during hearings to be generally of good quality. Of course it is impossible to guarantee optimum quality at all times, but I believe that everything is being done to try to do so, in particular thanks to a series of tests carried out beforehand with interpreters. Furthermore, the standard of communication in informing parties and interpreters in advance of any changes in the new working arrangements or relating to preparatory work is excellent. Freelance interpreters are clearly informed of these upon the conclusion of the contract.

Remarkable efforts have been made by the Institution to ensure that the best possible working conditions are maintained. I have been impressed by the thoroughness and rigour of health measures: in addition to what is normally done, interpreters don't share anything (laptops, headsets or desks).

We don't even share the same booths anymore, so it is more difficult to communicate with or even to hear the interpretation of our colleagues. This can interfere with the consistency of the terminology that we employ; we have to coordinate in advance. When faced with one difficulty or another (a terminological

question, a technical problem, and so forth), it is more complicated to help each other whilst interpreting. For some questions, we communicate by gesturing and, for others, via mobile phone or instant messaging.

In this context, preparation for the hearing is essential and the Court is, moreover, the only institution where ACI interpreters devote a full day's work to preparation, just like staff interpreters. In this regard, I've barely noticed any difference since the start of the pandemic. Our colleagues are just as available, albeit more so via e-mail and SMS, and there are no more casual conversations in corridors.

I believe that, at the beginning, many were frightened by the prospect of what the pandemic could mean for our profession. But, after the initial shock, solutions were found and we have adapted and found a way forward'.





Public relations

Dialogue with legal professionals and the general public continued throughout 2020. Whilst traditional channels were maintained, virtual dialogue was enhanced through videoconference services and social media platforms.



127
groups

a total of

3 729
visitors



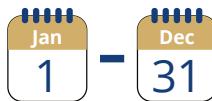
21
virtual
tours
for
798
visitors

The use of traditional communication channels by the Communications Directorate continued but emphasis was placed on an increased use of social media. **142 press releases** were published **between 16 March and 22 December 2020**. The Court's Twitter and LinkedIn accounts (in French and English) were used to share Court news: **668 messages, or 'tweets'**, were sent via Twitter to keep followers informed. These tweets were intended, on the one hand, to draw attention to the main cases to be dealt with the following week and, on the other, to relay the publication of press releases.

Organising visits is an important activity for the Court as part of its policy of openness and knowledge-sharing not only with regard to legal professionals and law students but also European citizens. The health measures adopted from March 2020 precluded the organisation of such visits and the ability to receive visitors. Whilst the overall figures – **127 groups** with a total of **3 729 visitors** – are inevitably lower than in previous years (18 099 people in 2019), the Court has nevertheless found new ways to make its buildings and activities accessible to the public. It thus organised meetings across digital platforms with Court officials conducting a **virtual tour of the Palais building complex**, along with 'tailor-made' webinars held over two days with the participation of Members, référendaires (law clerks) and administrators at the Court. The webinars gave **798 people** across **21 virtual visits** the opportunity to attend the presentations given.



The Court, through the Communications Directorate, issued **173 press releases** (a total of **2 292 language versions**) to inform professionals and the general public (**3 366 recipients** included on the mailing list) about its decisions, as well as events organised within the Institution. The curia.europa.eu website received more than **6.6 million visits** and more than **27 million pages were viewed**.



The Institution maintained its presence on social media, posting **702 tweets on Twitter** via the Court's two accounts – one in French, the other in English. **273 messages** were also posted **on LinkedIn**.

Given that it was not possible to hold events such as the annual Open Day, it was decided that social media would be used to introduce the public around the world to the functioning of the Court. **Three virtual events** were therefore held exclusively on social media on the occasion of **Europe Day** (9 May), the **European Day of Justice** (24 October) and the **anniversary of the creation of the Court of Justice** (4 December): presentations on Court rulings, activities focused on certain themes arising from the case-law, question-and-answer sessions. These three events were a big hit with the Court's following, which has grown steadily throughout the year to exceed **90 000 followers** on LinkedIn and **100 000 followers on Twitter**. These three events generated a total of **1 713 000 impressions on Twitter** (the number of times the tweet is seen) and **258 000 views on LinkedIn**.

In parallel with this, **online press briefings** dedicated to procedural news were organised for journalists. The 11 press briefings brought together a total of **94 journalists**.

173
press releases

2 292
language
versions



702
tweets



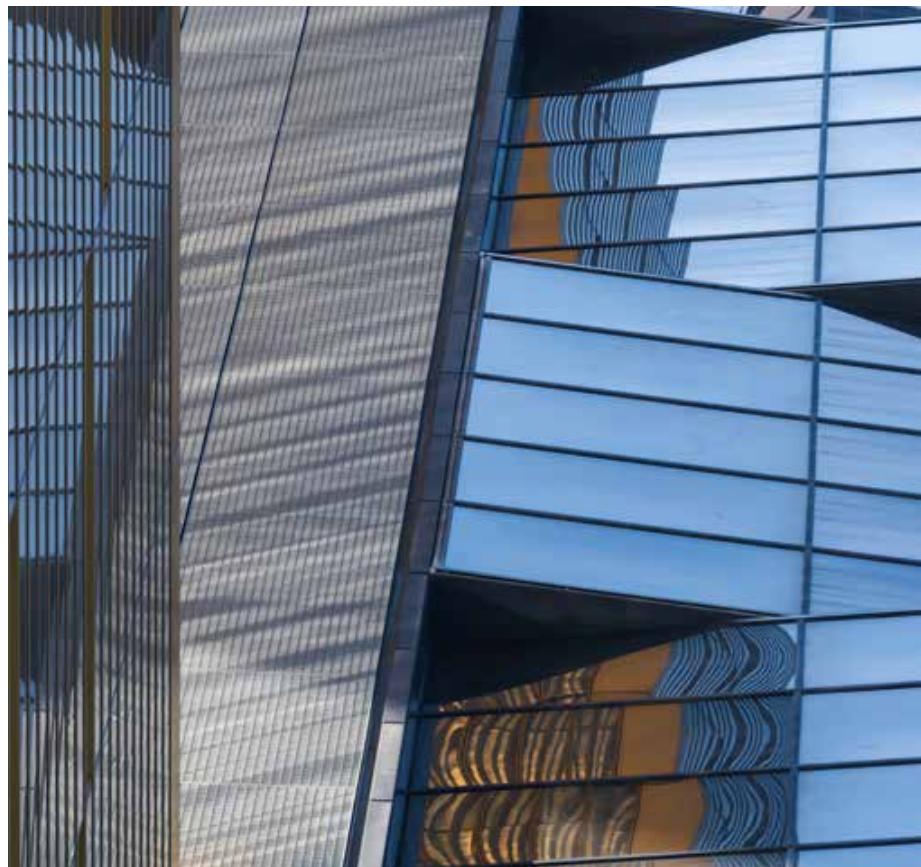
273
posts on
LinkedIn

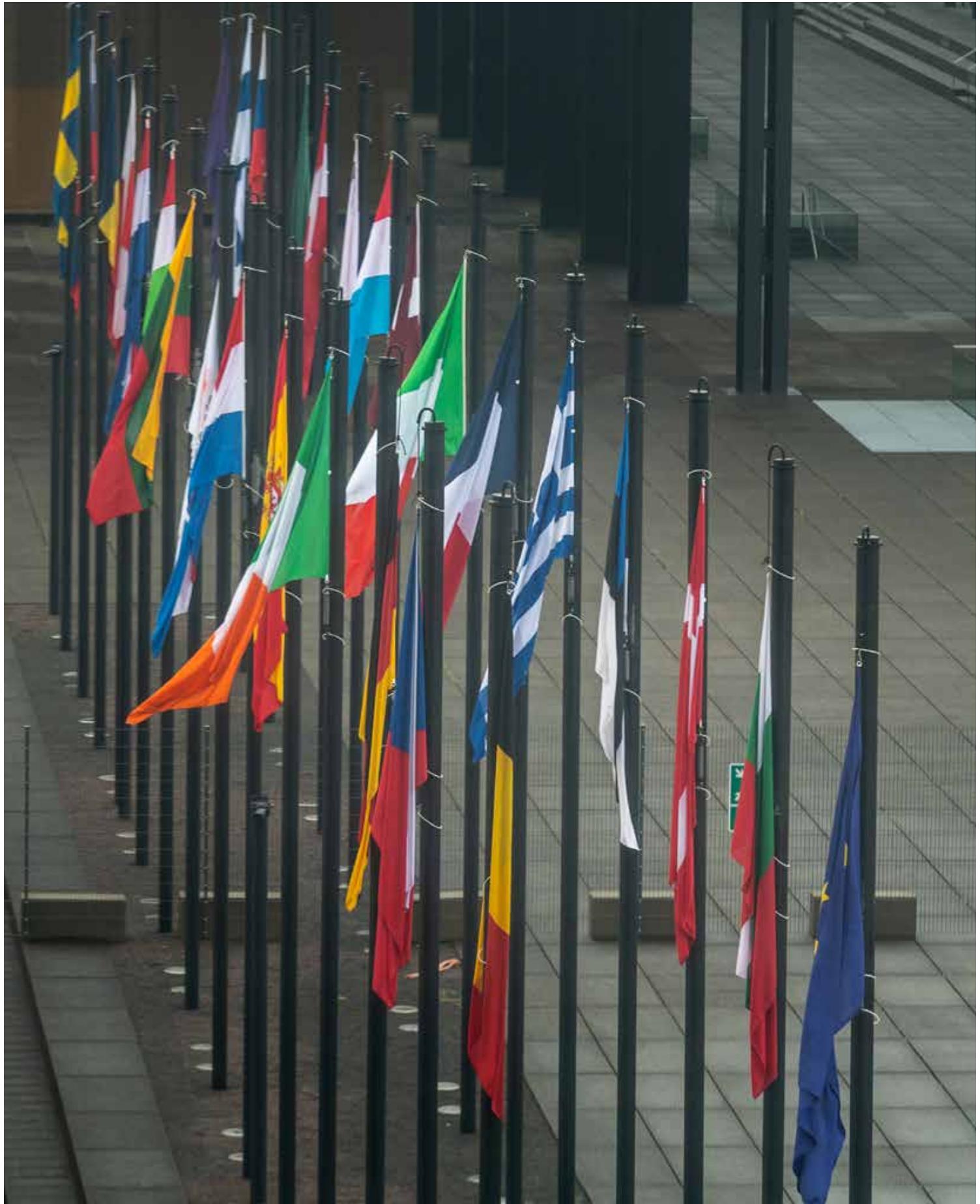
17 174

requests
for information
received from
citizens

In accordance with the applicable regulation, the Court granted **access to its administrative documents** and **historical archives** in response to **103** requests. The Court also responded to **17 174 requests for information** from citizens concerning cases pending before it or its case-law, the functioning of the Court and its jurisdiction.

Lastly, the Judicial Network of the European Union, founded in March 2017 on the 60th anniversary of the Treaties of Rome, which brings together the Constitutional and Supreme Courts of the Member States, met several times via videoconference in two thematic groups: 'Innovation' and 'Legal Terminology'. These meetings were an opportunity to exchange information on the use of new technology in support of court activity and to share translation resources which may be used by national courts and tribunals.







The contribution of the directorate-general for multilingualism to ensuring continuity of the functioning of the Institution



By Thierry Lefèvre, Director-General for Multilingualism

Multilingualism lies at the heart of judicial proceedings at the Court of Justice. If that were not the case, citizens would not have access to European justice or its case-law, yet this activity creates rights and obligations. Faced with the sudden emergence of the health crisis, the Directorate-General for Multilingualism (DGM) has thus had to fulfil the mandate entrusted to it, whilst ensuring the safety of staff.

Specifically, at the outbreak of the pandemic, the first months of the year ran smoothly. From the end of February, the DGM activated its crisis management unit and considered implementing plans to ensure continuity, in close collaboration with the other departments of the Court of Justice and the Chambers of the Judges and Advocates General.

On 13 March, three days before the national lockdown, all staff were informed that they would not be working on Court premises. Absolute priority was given to protecting the health of colleagues and preventing the spread of the virus. Once this two-fold objective had been met, the DGM turned its attention to the continuity of the service. It was first of all necessary to show flexibility and creativity in managing specific aspects of the crisis, with staff facing unforeseen and often uncomfortable working conditions. It was then necessary to demonstrate endurance in view of the unforeseen – and as yet uncertain – duration of the crisis.

As regards legal translation specifically, both collective and individual objectives took into account, in the early stages of lockdown and where the situation justified the same, the personal situation of staff members of the Directorate General (isolation, children at home, and so forth). As the crisis was widespread, the temporary drop in capacity was offset by a fall in demand for translations. Subsequently, the organisational measures and the commitment shown by everyone, combined with the benefits of continuous investment in new technologies and optimised outsourcing, made it possible to restore production capacity gradually so that the continuity of the service was not compromised at any stage.

As for interpretation, the issue of continuity took a different form. Hearings had either to be cancelled or postponed to a date after 25 May. The period between 13 March and 25 May was therefore used to establish a protocol for hearings, dedicated to ensuring the health and safety of all parties involved, for example by limiting each interpretation booth to one interpreter. In view of the travel problems that litigants continued to face, a system was established whereby parties could participate in hearings remotely, which prevented many postponements. This development represented a major technical, cognitive and organisational challenge which was successfully met ([see pp. 15 and 74-76](#)). Lastly, the interpretation department also adapted to the suspension of hearings, devoting itself to various tasks associated with professional training and development (language courses, interpreting exercises and language exchange, all online) and the promotion of the interpreting profession in the legal sphere (webinars and language modules).

The DGM thus capitalised on the commitment and sense of responsibility of its staff, the cooperation, and the decisive contribution of new technologies to ensure the continuity of the legal translation and interpretation services.

Lastly, the DGM's ability to adapt was illustrated by the dematerialisation of workflows, the organisation of training courses and meetings held remotely, which included maintaining a certain conviviality and social relationship which are vital to everyone's wellbeing, and a policy of sharing information regularly via e-mails from the Director-General or newsletters.

The results are a measure of the endeavours undertaken. In 2020, thanks to the efforts of all parties, scheduled hearings could be interpreted and the necessary translations could be provided. The management of multilingualism did not, therefore, hinder the proper functioning of the justice system during what has been a trying year everyone.



Information technology put to the test by Covid-19



by Raluca Peica, Director of Information Technology

2020 will remain for the Directorate for Information Technology (DTI) a year marked by exceptional responsiveness and adaptation that will make 2020 a historic year.

When generalised remote working was introduced, the main priority was to provide the Court's departments with the possibility of continuing to work as efficiently as possible under lockdown.

Before the adoption of the decision to introduce generalised remote working, our support teams were already equipped to answer calls from home. In anticipation, several days before that decision was taken in respect of all staff members, half of the helpdesk was already working from home, which enabled us to check that the remote working systems were functioning correctly and ready to provide support to users having to change their place of work overnight. So as to ensure that all Court users had a workstation allowing them to work at home as in the office, we accelerated the mobility programme, which was already underway, and provided computer equipment to all those who had not yet received the items that they required.

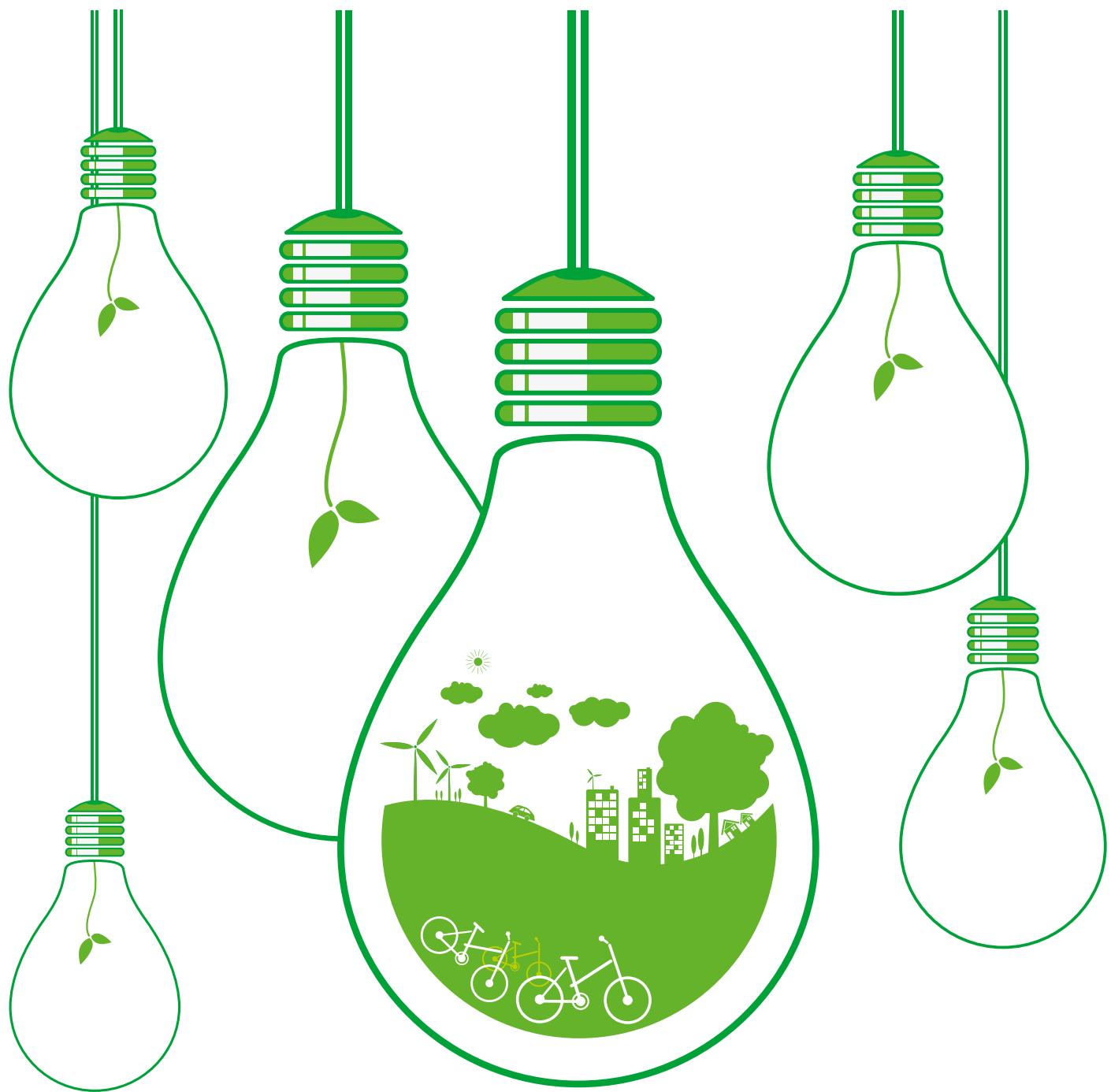
A few days after lockdown began, we increased the capacity of our internet connections tenfold to cope with the explosion of connection requirements between the Court and outside. This involved the mobilisation of the relevant departments who did everything possible to complete the operation within an extremely short period of time.

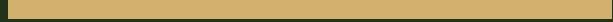
Communication and cooperation have been the hallmarks of our activity during the Covid-19 crisis, both in terms of judicial activity and administrative activity, and both inside and outside the Institution. The most visible achievements have been the adoption of a new secure videoconference service, which has made it possible to hold the judges' deliberations and meetings (15 per week), as well as meetings of the Institution's directorates (150 per week). It has also enabled the Court of Justice and the General Court to hold 77 hearings with parties participating remotely.

The Covid-19 crisis has given rise to challenges but has also provided the opportunity to accelerate the process of digital transformation that was already underway within the Institution. As a result, after initially focusing our resources on ensuring the stability of the information technology and telecommunication services in the context of the crisis, we have resumed our other activities and projects at a normal pace whilst adapting them to meet emerging needs generated by the crisis, such as developing user autonomy in using remote working tools. Despite the crisis situation, we have also continued to make progress in line with our digital transformation roadmap and operational stability programmes.

Rather than being a year centred on maintaining the 'status quo' for the DTI, 2020 has been a year of adaptation and evolution.







4

An environmentally-friendly institution

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

As in every year, the Institution gives an account of developments in the most recent indicators at its disposal, namely those for 2019. 2020 will be a peculiar year in view of the incidence of generalised remote working on the Institution's environmental impact. This will be outlined in the Year in Review for 2021.

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 (Eco-Management and Audit Scheme) registration since 2016.

The EMAS registration, 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.

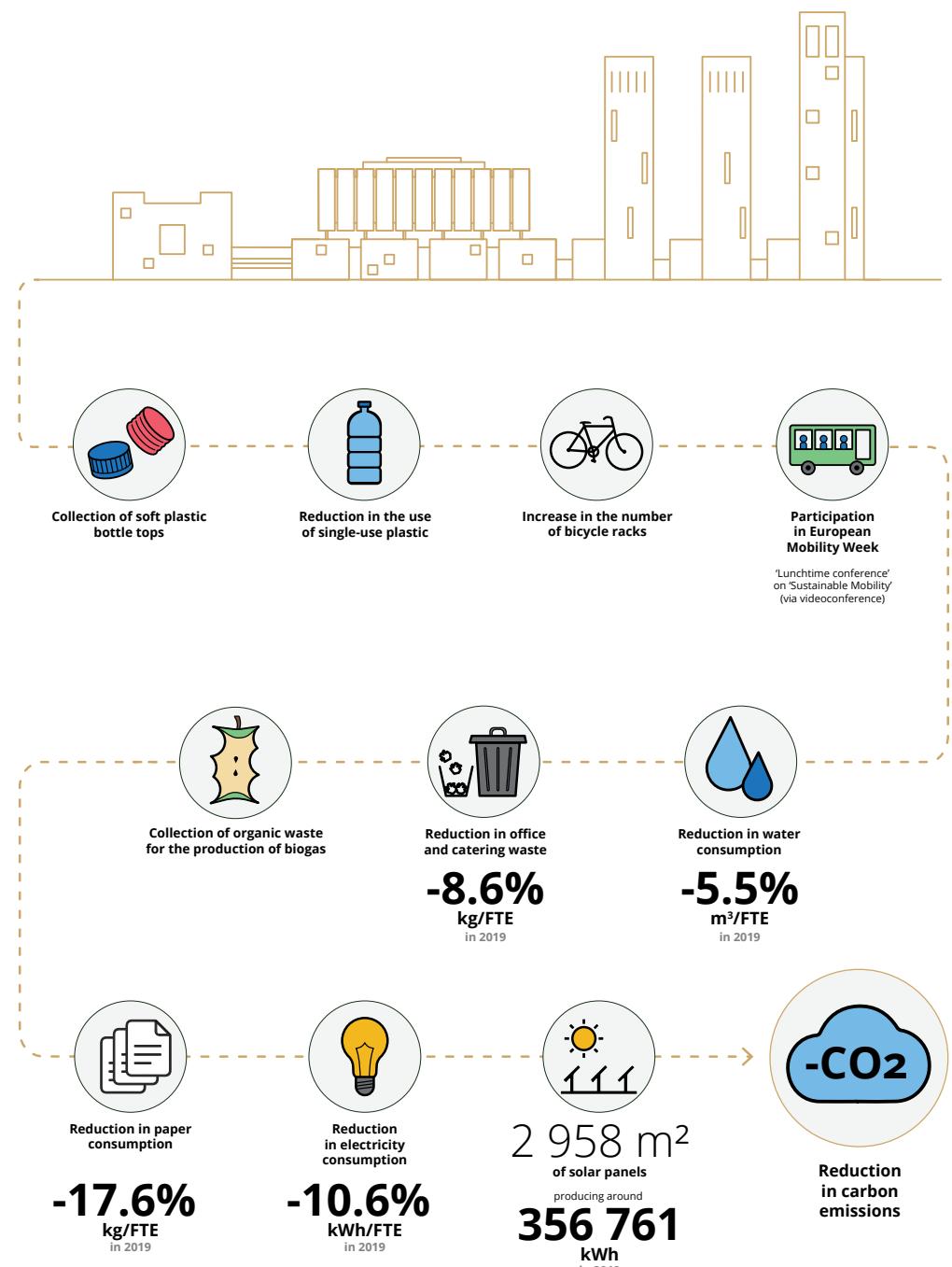
In its annual environmental statement, the Court presented a detailed account of its environmental performance and of current and future ecological projects within the Institution.

By means of an online training module, the Court informs all new arrivals of the environmental aspects associated with their daily work, proposing good habits to adopt in connection with information and office technology, energy use, water and waste processing, and also in their own personal transport choices.

Among the specific initiatives adopted, the Court set itself the objective of completely eliminating single-use plastic bottles from courtrooms, deliberation rooms and meeting rooms over the course of the year: since November 2020, it has stopped ordering them.

The e-Curia application (see p. 24) for exchanging judicial documents between the parties' representatives and the Courts of the European Union has a positive environmental impact. For example, if all the pages of procedural documents submitted to the Court of Justice and the General Court by e-Curia in 2020 (more than 1 300 000 pages) had been lodged in paper form, including the necessary sets of copies, the documents generated would correspond to several tonnes of paper, which, moreover, would have had to be physically transported to Luxembourg.





Full Time Equivalent (FTE) is a unit of measurement of occupational activity independent of the disparities in the number of hours worked each week by staff members resulting from their different working arrangements.

The **environmental indicators** for water, waste, paper and electricity match those for 2019. Variations are quantified by reference to 2015, the reference year.





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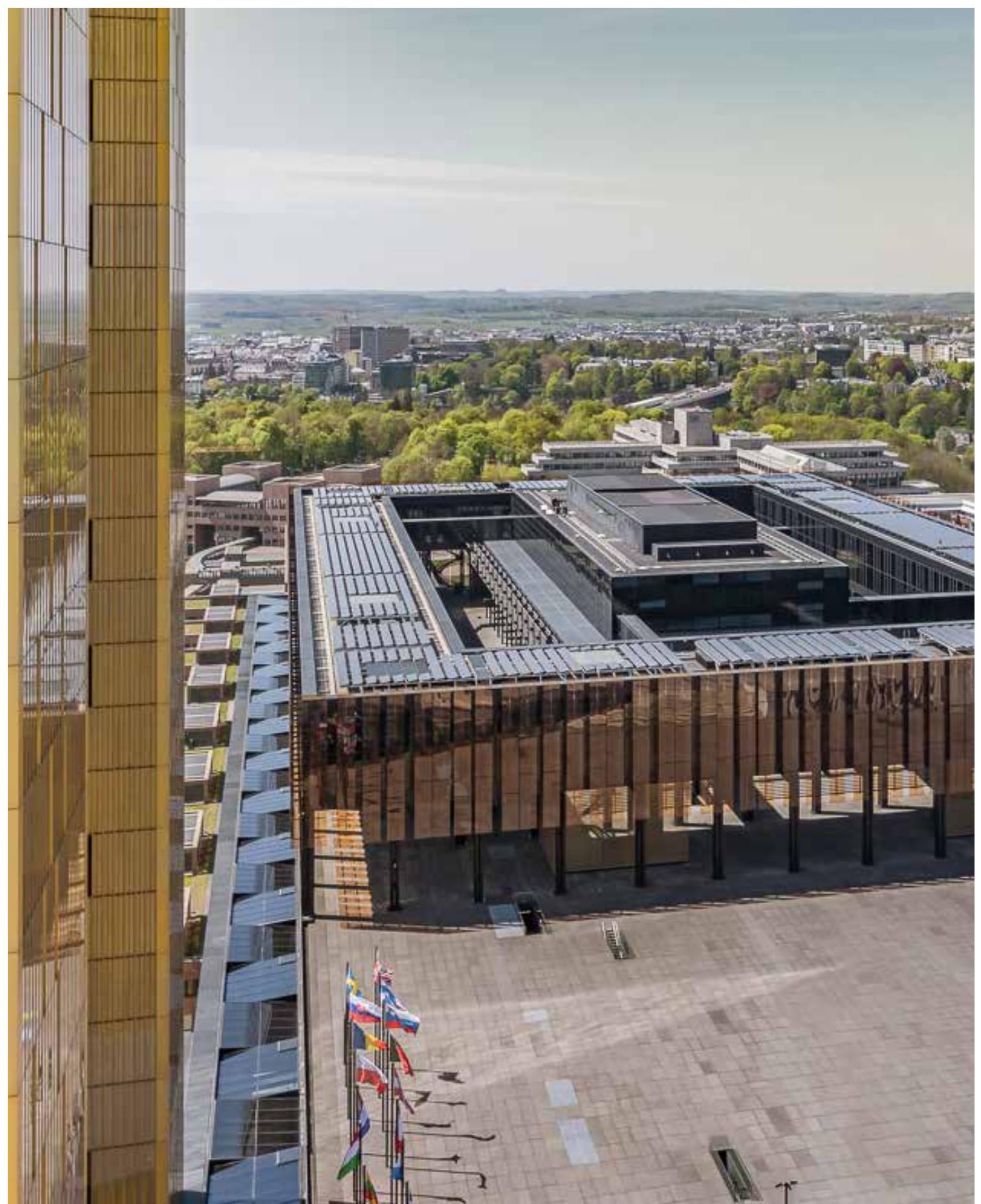
Looking ahead

Following the changes undergone by the Institution in 2020, 2021 promises to be a year in which ongoing projects will continue, incorporating the innovations resulting from the experience of working from home, in a context of a gradual return to more face-to-face working methods.

In the context of the digitisation, simplification and rationalisation of document flows and decision-making processes, an integrated case-management system project, for which the public procurement procedure drew to a close in 2020, will see significant developments leading to considerable gains in terms of efficiency for the courts and the departments involved in case handling and management.

The positive aspects of generalised remote working – identified, *inter alia*, through surveys conducted amongst members of staff and heads of unit – will form the basis of an overall reflection on the practical arrangements for working from home on a part-time basis. Such developments will include considerations relating to the work-life balance; supporting the increased autonomy of members of staff from the perspective both of staff well-being and quality of service; as well as the means to ensure staff cohesion and the development of the relationship between members of staff and the Institution.

Virtual presence technologies, which were used so intensively in 2020, will serve as the basis for a project to diversify the range of services available to visitors. This project is intended to offer external visitors, for whom travel to Luxembourg constitutes an obstacle to their learning about the Court (*inter alia*, owing to geographical distances, the impact of such a journey in terms of time and cost, including the cost to the environment), the possibility of making a virtual tour of the Institution's buildings as part of a remote visit. The proposed programme will include video sequences, a guided tour of the buildings and interactive encounters with members of the Court's staff. Through this virtual visits programme, the Institution seeks to offer to a wide audience the possibility of learning about the Court's role in the European institutional system and its contribution to the EU legal order, in the pursuit of a democratic goal. 2021 will initially see the launch of a pilot phase with a limited number of groups of young people (aged between 15 and 18), before expanding and adapting the service to other categories of visitors.







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TO LEARN MORE ABOUT THE ACTIVITY OF THE INSTITUTION

- consult the webpage for the [**2020 Annual Report**](#)
curia.europa.eu/jcms/AnnualReport
 - The year in review
 - Report on judicial activity
 - Management report
- watch the [**videos on YouTube**](#)



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FOR ANY INFORMATION CONCERNING THE INSTITUTION

- write to us via **the contact form**

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COURT OF JUSTICE OF THE EUROPEAN UNION

Court of Justice
L-2925 Luxembourg
Tel. +352 4303-1

General Court
L-2925 Luxembourg
Tel. +352 4303-1

The Court on the internet: curia.europa.eu

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