



New Rules of Procedure for the Court of Justice

Faced with a constant rise in the number of cases brought before it, dominated by references for a preliminary ruling, the Court is adapting its rules of procedure to ensure that the particular features of those cases can more readily be taken into consideration, while at the same time strengthening its ability to dispose within a reasonable period of time of all the cases that are brought before it

In recasting its rules of procedure, which will enter into force on 1 November 2012¹, the Court seeks primarily **to adapt to the changes in its caseload**. Notwithstanding a series of amendments to the Rules of Procedure of the Court, the structure of those rules has remained fundamentally unchanged since their original adoption on 4 March 1953. The rules still reflect a preponderance of direct actions, usually between a natural or legal person or a Member State and an institution of the European Union, whereas in fact, with the exception of infringement proceedings and some special categories of actions for annulment, that type of case now largely falls outside the Court's jurisdiction. This year, references for a preliminary ruling from the courts and tribunals of the Member States represent, quantitatively, the primary category of cases brought before the Court². The new rules of procedure are designed to reflect that fact more closely by devoting a separate title to such references, while making the rules in that title both clearer and more comprehensive, for litigants as well as for national courts and tribunals.

A second key objective of the recasting of the rules relates to the Court's intention to continue the efforts already made over a number of years to maintain its capacity, in the face of an ever-increasing caseload, to dispose within a reasonable period of time of the cases brought before it.³ Thus the new rules of procedure introduce a number of measures that should **encourage cases to be dealt with swiftly and efficiently**. Those measures include, in particular, the possibility of the Court adopting a decision with a view to limiting the length of written pleadings or observations lodged before it, or the relaxation of the preconditions for the Court's adoption of a reasoned order, particularly where the answer to the question referred by a national court or tribunal for a preliminary ruling admits of no reasonable doubt.

The new rules also contain a number of significant innovations in relation to the oral part of the procedure. If the Court considers on reading the written pleadings or observations lodged by the parties that it has sufficient information, it will, as a rule, no longer be obliged to hold a hearing, which should enable it to give rulings within a shorter period of time. The new rules of procedure also provide, where a hearing is organised, for the Court to be able to invite the parties to concentrate in their oral pleadings on one or more specific issues, or for the Court to be able to organise joint hearings for two or more cases of the same type relating to the same subject-matter.

¹ The [Rules of Procedure](#) of the Court of Justice were adopted on 25 September 2012 and published in the *Official Journal of the European Union* on 29 September 2012. In accordance with Article 210, the Rules are to enter into force on the first day of the second month following their publication.

² Thus, in 2011, there were 423 references for a preliminary ruling, out of a total of 688 new cases. References for a preliminary ruling therefore account for more than 60% of the Court's caseload.

³ It must be noted that in spite of the increase in that caseload the Court has been able to reduce significantly the average length of time taken for cases to be dealt with. Thus, for example, the average time taken to deal with references for a preliminary ruling was 16.4 months in 2011, as against more than 25 months in 2003.

However, the report for the hearing, which has been a source of costs and delay in the handling of cases, has been abandoned.

In addition to the pursuit of the aforementioned objectives, the new rules of procedure seek at the same time to **clarify existing rules and practices**. Thus, a clearer distinction is drawn between the rules that apply to all types of action and those that are specific to each type (references for a preliminary ruling, direct actions and appeals), while all the articles of the new rules are specifically numbered and headed, making searches easier. In relation to preliminary ruling proceedings, it will be noted in particular that the new rules of procedure now include a rule setting out the minimum essential content of any request for a preliminary ruling and a rule on anonymity, which should help national courts and tribunals in the formulation of their references, whilst ensuring enhanced respect for the private lives of the parties to the main proceedings. In relation to appeals, the 2012 rules clarify the rules for cross-appeals lodged in response to an initial appeal. Cross-appeals will now always have to be introduced by a separate document, which should facilitate their subsequent handling by the Court.

Finally, this recasting of the rules of procedure **simplifies the existing rules**, either by repealing certain rules that are outdated or not applied, or by revising the procedure for dealing with certain cases. Examples include the simplification of the rules relating to the intervention of Member States and European Union institutions, the designation, for one year, of a Chamber responsible for review cases, and the easing of the procedural arrangements for dealing with requests for Opinions, by providing for a single Advocate General to be involved in future (instead of all the Advocates General of the Court).

There is no doubt that, taken in isolation, none of the aforementioned measures can by itself alter the trend of an increase in the number of increasingly complex cases or the duration of proceedings. The Court nevertheless remains convinced that, together, these measures – coming as they do just a few weeks after the adoption of amendments to the Protocol on the Statute of the Court of Justice of the European Union, resulting in the creation of the office of Vice-President and the enlargement of the composition of the Grand Chamber to 15 members, and which follow on from the Court's decision to establish, from October 2012, a new Chamber of five Judges and a new Chamber of three Judges – offer the best means of enabling the Court to continue to fulfil its task of ensuring that the law is observed in the interpretation and application of the Treaties within a reasonable period of time.

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