



COURT OF JUSTICE
OF THE EUROPEAN UNION

Annual Report
2022

The Year in Review



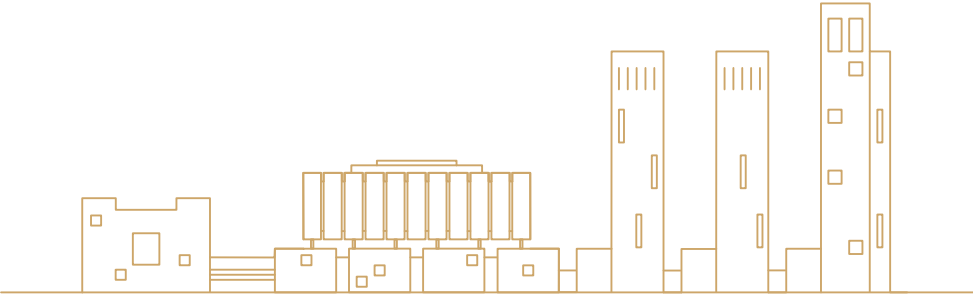
The Court of Justice of the European Union, upholding European Union law.

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 ensuring 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 comprises two courts: the Court of Justice and the General Court.








Annual Report 2022

The Year in Review

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Koen Lenaerts

President of the Court of Justice of the European Union

2022 was the year of the 70th anniversary of the Court of Justice of the European Union. To mark the occasion, the Institution's Annual Report has had a makeover. Without compromising on the quality of information, the choice was made to adopt a more concise format providing a panorama of the most significant developments in the life of the Court and its case-law, using a style that is more direct and accessible to the widest possible audience.

The period covered by this Panorama saw a return to the normal functioning of the Court, after two years complicated by the health crisis related to the COVID-19 pandemic. The technological tools put in place during that crisis are now part of our day-to-day working environment, but it was essential to breathe life back into the Institution by reviving the scope for spontaneous exchanges and interactions within its halls, which are so important for the effectiveness of the work of both courts.

The commemoration of the 70th anniversary of the Court of Justice of the European Union, focussed on the theme of 'Bringing justice closer to the citizen', was marked by a series of events, such as the special Open Day held on 8 October 2022, the Special Meeting of Judges hosted from 4 to 6 December 2022 featuring, as its highlight, a formal sitting attended by His Royal Highness, the Hereditary Grand Duke of Luxembourg as well as high-level representatives from the EU institutions, the Luxembourg authorities, the judicial world and the diplomatic community, the publication of a prestigious work, the issuing of a special stamp by the Luxembourg postal service,

the release of a film about the history of the Court and the renaming of the Institution's buildings in honour of prominent figures in the history of Justice.

2022 was not just the Institution's 70th year, but also an 'anniversary' year for key milestones in the building of Europe: 30 years of the Treaty of Maastricht, to which we owe the explicit reference, in the founding texts of the European Union, to democratic values, including the rule of law; 25 years of the Treaty of Amsterdam, which expanded the 'Community method', including the jurisdiction of the Court, to the area of freedom, security and justice; and 20 years since the entry into circulation of the euro.

However, such celebrations must not mask the realities which we have to face.

The health crisis was sadly followed, in late February 2022, by the outbreak of the war in Ukraine. The chilling images of victims and destruction, which we thought belonged to the past on the European continent, have served as a reminder that peace and freedom are values which, as 'self-evident' as they might be for those committed to the European project, are not built on unshakeable foundations.

The very legitimacy of the European Union and its institutions is disputed regularly by waves of Euroscepticism and populism, or by challenges to the democratic values which are the bedrock of the European project. In a European Union entrusted, following each revision of the Treaties, with new areas of competence, the Institution is being called upon more than ever before to adopt judicial decisions on sensitive matters. Whether on preserving the values intrinsic to the rule of law, protection of the environment, combating discrimination, protection of privacy and personal data, enforcing competition rules against digital giants, protection for consumers or reviewing

the lawfulness of restrictive measures adopted in response to serious violations of human rights and international law, the decisions of the Court of Justice and of the General Court are directly affecting the major issues of today's world.

In a geopolitical context where the very foundations of our democratic societies are coming under ever more frequent attack, the impact of such decisions means that particular care must be taken to communicate and educate in order to put a stop to any approximations or disinformation, as well as to ensure that the lessons of European case-law are correctly incorporated into the various national legal systems.

Statistically, the number of cases brought before the two courts in 2022 is similar to the previous year (1 710 cases in 2022, as compared with 1 720 in 2021). As for the number of cases closed by the Court of Justice and the General Court, it decreased slightly (1 666 in 2022, as compared with 1 723 in 2021). The combined effect of these two developments resulted in a slight increase in the total number of pending cases (2 585 in 2022, as compared with 2 541 in 2021).

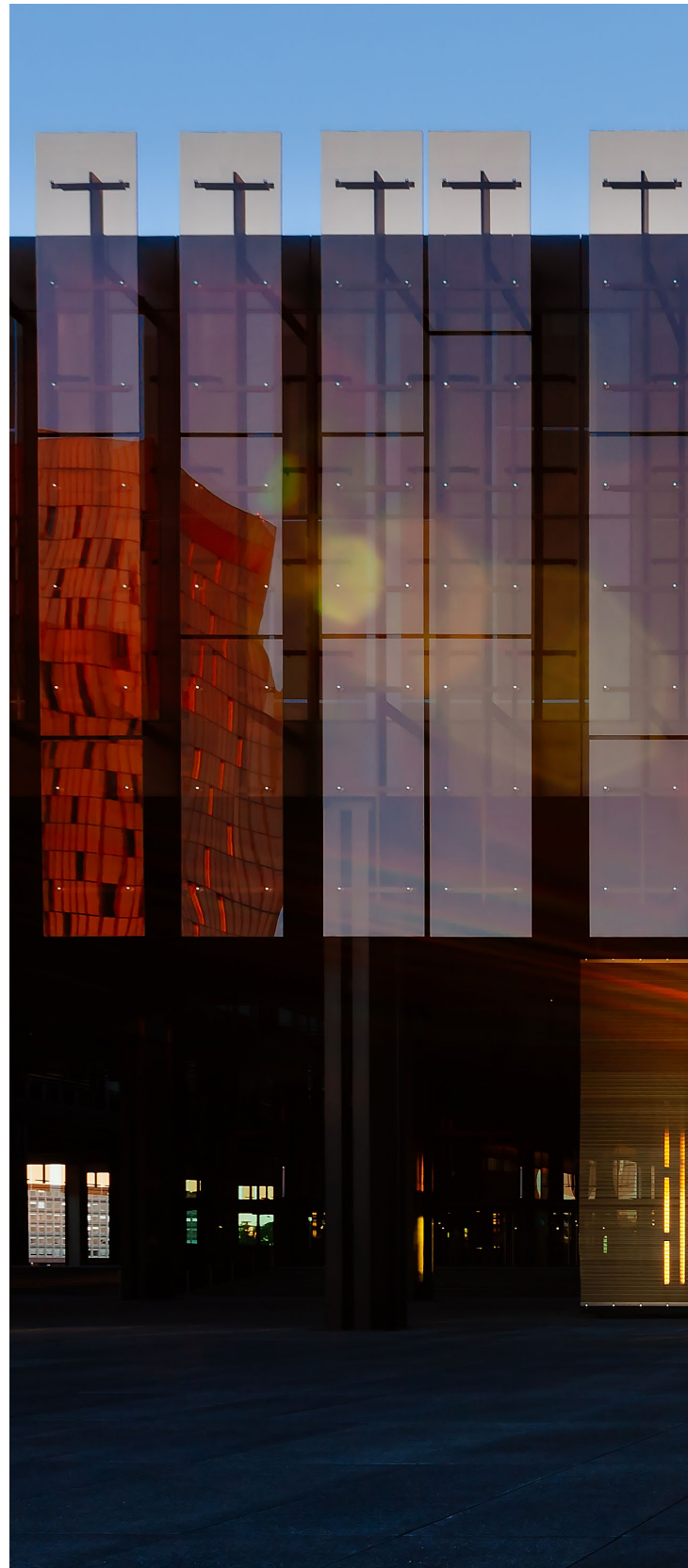
The number of cases brought before the Court of Justice, although slightly reduced in relation to the previous year (806 in 2022, as compared with 838 in 2021), remained high in 2022, particularly as regards requests for a preliminary ruling. Furthermore, a growing number of cases brought before the Court of Justice raise sensitive and complex issues, requiring more consideration and time.

In that respect, with a view to maintaining its ability to deliver high-quality judgments in a timely manner, on 30 November 2022, the Court of Justice, making use of the option provided for in the Treaties, submitted a request to the EU legislature seeking a transfer to the General Court of jurisdiction to give preliminary

rulings in certain specific areas and an extension of the mechanism for the determination of whether an appeal against a decision of the General Court is allowed to proceed.

I would like to take this opportunity to thank warmly my colleagues and the entire staff of the Institution for the outstanding work carried out by them during the year, and without whom the many achievements that marked 2022 would not have seen the light of day.

K. Lenaerts







2022
at a glance



1

A The year in pictures

January



70th anniversary of the Court of Justice of the European Union

The Court launches the celebrations for its 70th anniversary. The events taking place throughout the year are themed around 'Bringing justice closer to the citizen'. Each week on Mastodon and Twitter, the Court looks back at the milestone events of its 70 years of existence.
#CJUEen70jours #CJEUin70days

March



Introduction of the electronic signature

Accelerating digitalisation, the qualified electronic signature is used to sign judgments and orders of the General Court.



Action brought before the Court of Justice in *RT France v Council*

Against the backdrop of the war in Ukraine and the sanctions adopted against Russia by the Council of the European Union, the RT France channel challenges the broadcasting ban imposed on it before the General Court ([T-125/22](#)).

April



Action brought before the General Court in *Hamoudi v Frontex*

A Syrian national seeks damages from the European Border and Coast Guard Agency (Frontex) for that agency's unlawful conduct in the context of a 'pushback' operation in the Aegean Sea on 28 and 29 April 2020 ([T-136/22](#)).



Actions brought before the General Court in *Poland v Commission*

Poland challenges before the General Court the recovery initiated by the Commission in respect of the daily penalty payment of EUR 500 000 ordered by the Court of Justice ([C-121/21 R](#)) in the case concerning extraction of lignite from the 'Turów mines' ([T-200/22](#) and [T-314/22](#)).



Streaming of hearings of the Court of Justice

The Court of Justice launches a streaming service for hearings, the delivery of judgments and the reading of Opinions, allowing everyone to attend a sitting regardless of their location.

May



Request for a preliminary ruling lodged in *Tez Tour*

Against the background of the COVID-19 pandemic, the Lietuvos Aukščiausiasis Teismas (Supreme Court, Lithuania) asks the Court of Justice to interpret the Directive on package travel and linked travel arrangements, with a view to clarifying the conditions for termination of a package travel contract without paying fees ([C-299/22](#)).



Final of the 'European Law Moot Court' competition

First organised in 1988, the European Law Moot Court is the world's top moot competition in the field of EU law. The University of Lund (Sweden) is the winning team of the 2022 edition.



Europe Day

To celebrate the anniversary of the Schuman Declaration, the Court welcomes citizens in Esch-sur-Alzette, the 2022 European Capital of Culture. In the streets of the European Village, teams of volunteers from the Court gather to listen to citizens and answer their questions. The campaign is also covered on social media such as EU Voice and Twitter, with publications containing the hashtags #ECJDidYouKnow about the life of a case and #AskCuria, disseminated in response to questions put by citizens.

June



Official visit to Croatia by a delegation from the Court

The Members of the Court of Justice meet the Croatian Prime Minister, members of the Croatian government and the presidents of the Croatian Supreme Court and Constitutional Court. At a conference in Zagreb, they address judicial cooperation, the preliminary reference procedure, the role of the highest courts in safeguarding the uniformity of the law, unfair terms in consumer contracts and the European arrest warrant.



Tribute to judges G. Falcone and P. Borsellino

On the occasion of the 30th anniversary of the deaths of the Italian anti-mafia judges Giovanni Falcone and Paolo Borsellino and as a tribute to all those who defend the rule of law, the Court hosts a special performance of the Claudio Fava play *L'Ultima estate – Falcone e Borsellino trent'anni dopo* in its Main Courtroom.



Interinstitutional Innovation Days

The Court welcomes the Interinstitutional Committee for Digital Transformation (ICDT): the top officials at the EU institutions in the fields of technology and information discuss issues of digital sovereignty, sharing of digital resources, artificial intelligence and cybersecurity.

July



Visit of H.E. Katerina Sakellariopoulou, President of the Hellenic Republic

The President and Members of the Court welcome Her Excellency Katerina Sakellariopoulou, President of the Hellenic Republic to a working session. She attends a general presentation on the Institution and on multilingualism.



Meeting of the Judicial Network of the European Union (RJUE)

The members of the Judicial Network of the European Union, intended to promote dialogue between the supreme and constitutional courts of the Member States, meet to have discussions, in particular on the theme of 'Bringing justice closer to the citizen'.



Request for a preliminary ruling lodged in *RTL Nederland and RTL Nieuws*

The Ministry of Justice and Security of the Netherlands refuses, on grounds of confidentiality, to provide access to information about the downing of flight MH17 (shot down over Ukraine in 2014) to the media outlet RTL Nederland. The Raad van State (Council of State, Netherlands) asks the Court of Justice whether that refusal is compatible with the freedom of expression and information ([C-451/22](#)).

September



The Court's response to the health crisis

In its audit report, the European Court of Auditors commends the Court's resilience shown during the COVID-19 pandemic, as the Institution reacted with speed and flexibility by relying on prior investments in the digital transformation.



Court's visit to Rome

Members of the Court of Justice and the Italian Constitutional Court meet in Rome to discuss topics such as national identity, the equality of Member States before the Treaties, the rule of law and judicial independence, and the primacy of EU law.



Election of the President, Vice-President and Presidents of the Chambers of the General Court and partial renewal of the Court

On the occasion of the partial renewal of the General Court, Marc van der Woude (Netherlands) is re-elected President of the General Court by his peers for three years. Savvas S. Papasavvas (Cyprus) is also re-elected Vice-President of the General Court. The judges of the General Court also elect from amongst themselves ten Presidents of the Chambers for a three-year term.

October



Request for a preliminary ruling lodged in *Bundesamt für Fremdenwesen und Asyl*

The Verwaltungsgerichtshof (Federal Administrative Court, Austria) asks whether the situation of women in Afghanistan, following the Taliban's seizure of power, constitutes persecution granting entitlement to refugee status ([C-608/22](#)).



Open Day

With a view to raising public awareness of the role of the Court and the values of the European Union, citizens are welcomed by staff and Members of the Court as part of the Open Day. Citizens learn about the Institution and how it functions, as well as about the life of a case and the work of the various departments.

November



Presentation ceremony for the stamp commemorating 70 years of the Court

In collaboration with the Court, the Luxembourg postal service issues a commemorative stamp to mark the 70th anniversary of the Institution. This initiative is part of a long tradition of celebrating important anniversaries of the Court.

December



Visit to the Court by a delegation from the Supreme Court of Ukraine

The Court welcomes a delegation from the Supreme Court of Ukraine as part of the procedure for the country's accession to the European Union; Ukraine has held accession candidate status since June 2022. The purpose of this meeting is to establish cooperation between the two courts, particularly in relation to the fundamental values of the European Union.



Special Meeting of Judges

As part of this annual event, the Court organises a Special Forum, the main invitees to which are the presidents of the superior courts of the Member States, the Presidents of the ECtHR and the EFTA Court and former Members of the Court. Dedicated to the theme of 'Bringing justice closer to the citizen', the Forum begins with the presentation of a short film tracing the history of the Court, featuring archive footage, contributions from Members of the Institution and interviews with law professors.



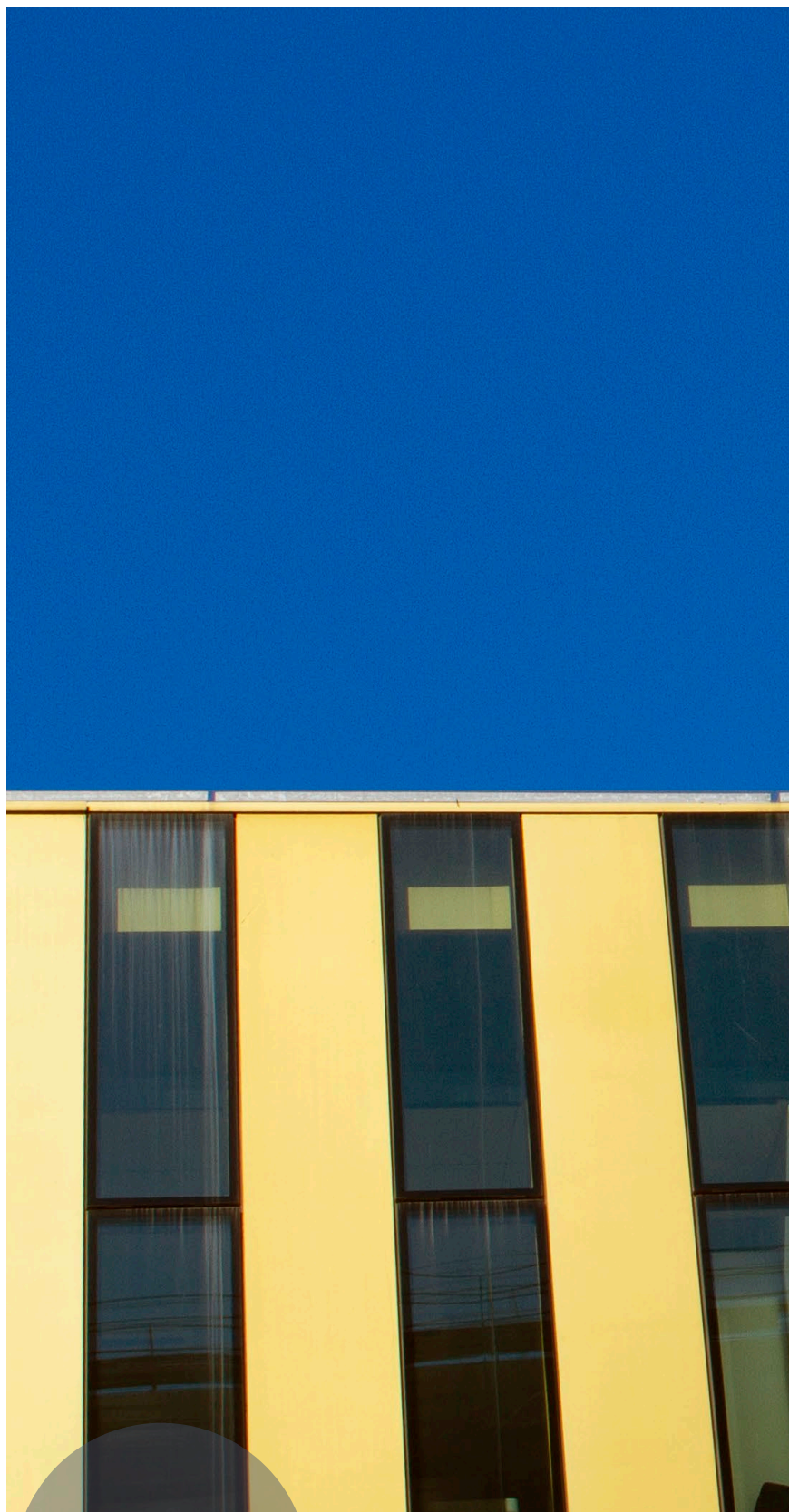
Formal hearing for the 70th anniversary

The Court invites the highest Luxembourg authorities, senior officials of the institutions of the European Union and the attendees of the Meeting of Judges to the formal hearing, which is broadcast live, to commemorate 70 years of the formal hearing for installing the Court of Justice of the European Coal and Steel Community.



'Bâtisseurs d'Europe' **(Builders of Europe)** **Conference**

The celebrations conclude with an interactive meeting between secondary school students from various Member States, attending in person or participating remotely via videoconferencing, and senior officials of the European institutions.





B The year in figures

The Institution in 2022



budget: EUR: **465** million



81 judges



11 Advocates General

from the

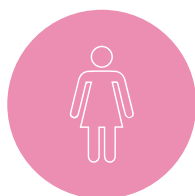
27

Member States



2 254

officials and other staff



60%

1 361 women



40%

893 men

The representation of women in positions of responsibility within the administration means that the Court exceeds the average for the European institutions.

Women hold:

54%

of administration posts

40%

of middle and senior management posts

The judicial year (Court of Justice and General Court)



1 710
cases brought



1 666
cases resolved



2 585
pending cases

173 288 procedural documents entered
in the registers of the Registries

Average duration of proceedings: **16.3** months

16.4 month for the Court of Justice **16.2** months for the General Court

Percentage of procedural documents lodged via e-Curia:



87% Court of Justice



94% General Court

9 365 e-Curia accounts

e-Curia is an IT 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.

e-Curia: An application for the exchange of legal documents with the Court



[Watch the video on YouTube](#)



The linguistic services

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 languages of the case

552 language combinations



612 lawyer-linguists to translate written documents

1 281 000 pages to be translated

1 279 000 pages translated



71 interpreters for hearings and meetings

526 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 texts. That is why the Court's language services employs only lawyer-linguists who have completed their education in law and who have a thorough knowledge of at least two official languages other than their mother tongue.

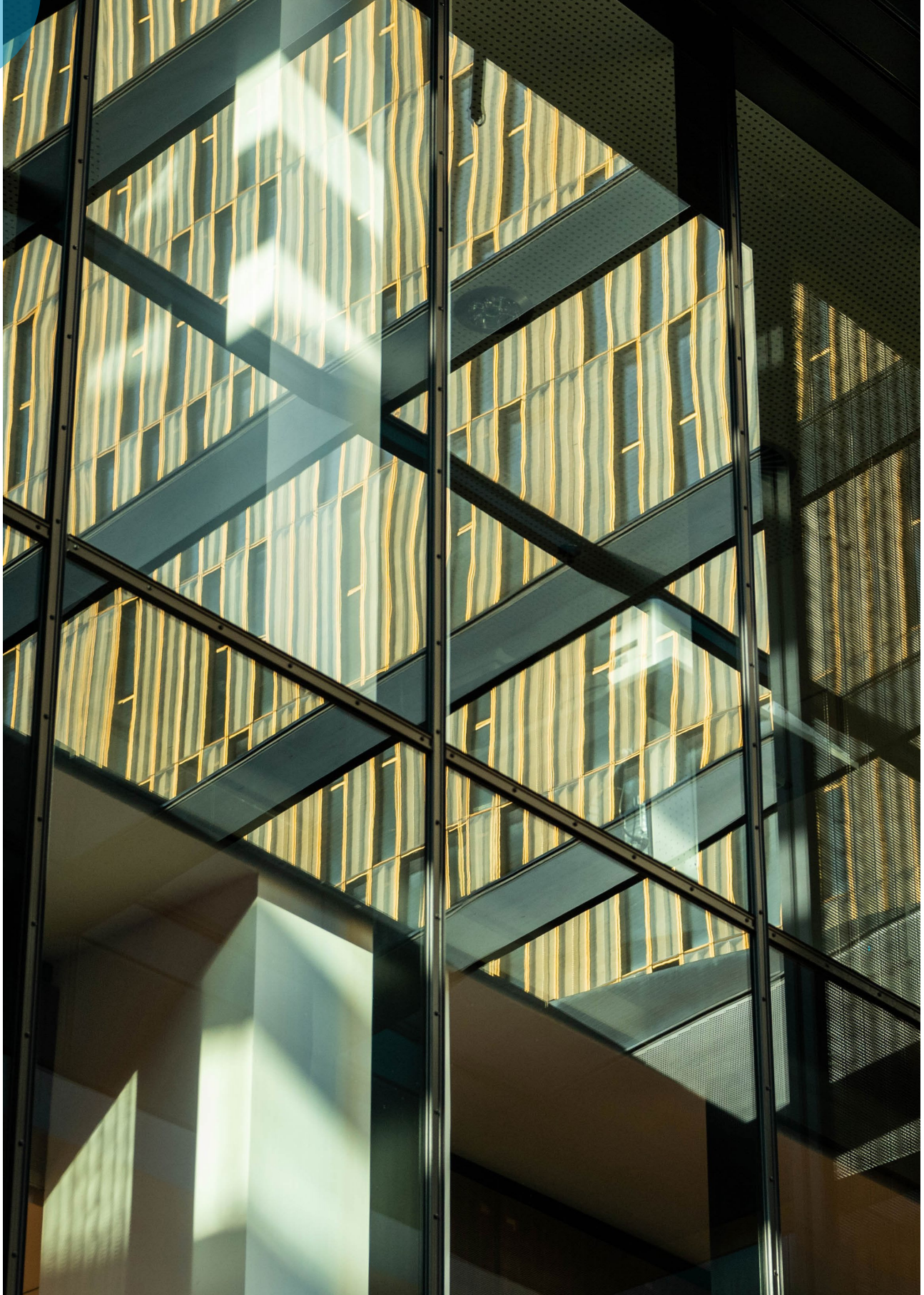


Multilingualism at the Court of Justice of the EU – Ensuring equal access to justice



[Watch the video on YouTube](#)







Judicial activities



2

A The Court of Justice in 2022

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 EU rule, it stays the proceedings before it and refers the matter to the Court of Justice. 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;

- **direct actions**, which seek:

- the annulment of an EU act (**'action for annulment'**), or
- a declaration that a Member State is failing to comply with 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 of Justice imposing a financial penalty on it;

- **appeals**, against decisions made by the General Court, on conclusion of which the Court of Justice may set aside the decision of the General Court;

- **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 (submitted by a Member State or by a European institution).



Activities and developments at the Court of Justice

The composition of the Court of Justice did not change in 2022 and nor did the texts governing its activities, the Statute of the Court of Justice of the European Union and the Rules of Procedure.

After two years impacted by the health crisis, 2022 saw the widespread return of staff to the Institution's premises and a re-establishment of normal working conditions, in particular as regards the holding of hearings. The technological developments necessitated by the health measures of the past two years were, however, put to use to implement certain major projects intended to bring justice in Europe closer to its citizens.

For example, since 26 April 2022, the Court of Justice has offered a streaming service for hearings which, like the remote visit project launched in 2021,



806
cases brought

aims to bolster its image as a ‘Citizens’ Court’ which is more accessible to the general public. The broadcasts are designed to allow anyone wishing to follow hearings to do so as if they were physically present in Luxembourg, in the courtroom, thanks to simultaneous interpretation of the discussions into the languages necessary for the smooth conduct of the hearing.

Statistically speaking, 2022 will once again have been a year of sustained activity. 806 cases were brought before the Court of Justice. As in previous years, those cases were, in the main, requests for preliminary rulings and appeals which, at 546 and 209 cases respectively, alone represent over 93% of the total cases brought in 2022. Those cases cover fields as varied and sensitive as the preservation of the fundamental values of the European Union and the protection of personal data, consumers or the environment, not forgetting the areas of taxation, competition and State aid. There were, in addition, a number of cases related to the health crisis or the war in Ukraine.

808 cases were closed by the various formations of the Court of Justice. A significant number (78) were heard by the Grand Chamber and two of them, concerning the link between respect for the rule of law and the implementation of the EU budget, were decided by the full Court (Cases [C-156/21](#), *Hungary v Parliament and Council*, and [C-157/21](#), *Poland v Parliament and Council*).

In view of the frequent use made of orders, particularly in relation to appeals, the overall duration of proceedings (16.4 months) remained similar to that of the previous year (16.6 months). However, as a sign of the greater complexity of the questions being submitted to the Court of Justice, there was an increase in the average time taken to deal with requests for preliminary rulings (17.3 months, compared with 16.7 months in 2021).

As of 31 December 2022, the number of cases pending before the Court of Justice stood at 1 111, just two fewer than the number as of 31 December 2021 (1 113 cases).

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



546

preliminary ruling proceedings
including 5 PPU

Member States from which
the most requests originate:

Germany:	98
Italy:	63
Bulgaria:	43
Spain:	41
Poland:	39

37

direct actions,
including:

- 35 actions for failure to fulfil obligations and
- 2 actions for ‘twofold failure to fulfil obligations’

209

appeals brought against
decisions of the General Court

6

applications for legal aid

In the light of those statistics, and in view of the fact that, since July 2022, the General Court has had 54 Judges (two per Member State) following the completion of the reform to the judicial architecture of the European Union decided upon in 2015, the Court of Justice submitted to the EU legislature a request to [amend the Statute](#) in two respects. Its purpose is to enable the Court of Justice to continue to be able to deliver high-quality judgments in a timely manner, but also to focus to a greater extent on its core roles as the supreme and constitutional court of the European Union.

In the first place, the request for amendment involves transferring to the General Court jurisdiction to give preliminary rulings in five clearly defined areas, which rarely raise issues of principle, are built upon a solid body of case-law of the Court of Justice and represent, in addition, a sufficiently high number of cases for the proposed transfer to have a real impact on the Court of Justice's workload: the common system of VAT, excise duties, the Customs Code and the tariff classification of goods under the Combined Nomenclature, compensation and assistance to passengers and the scheme for greenhouse gas emission allowance trading.

The General Court's jurisdiction to give preliminary rulings in a case would be without prejudice to the option which that court has of referring the case to the Court of Justice if it considers that that case requires a decision of principle likely to affect the unity or consistency of EU law. The Court of Justice would also have the possibility, exceptionally, of reviewing the decision of the General Court where there is a serious risk of that unity or consistency being affected.

In the second place, against the background of a significant number of appeals against decisions of the General Court, in order to maintain the efficiency of such proceedings and to allow the Court of Justice to focus

on the appeals that raise important legal questions, the legislative request advocates an extension of the mechanism for the determination of whether an appeal is allowed to proceed, which entered into force on 1 May 2019 (Article 58a of the Statute).

That extension would concern appeals brought against decisions of the General Court concerning decisions of the independent boards of appeal of certain offices and agencies of the Union which had not initially been mentioned in Article 58a of the Statute when it entered into force on 1 May 2019 (for example, the European Union Agency for Railways, the European Agency for the Cooperation of Energy Regulators, the European Banking Authority, the Securities and Markets Authority and the Insurance and Occupational Pensions Authority).

Koen Lenaerts

President of the Court of Justice
of the European Union





808
cases resolved

564 preliminary ruling procedures including **7** PPU

36 direct actions including **17** failures to fulfil obligations found against **12** Member States

196 appeals against decisions of the General Court including **38** in which the decision adopted by the General Court was set aside

1 opinion

Average duration of proceedings: **16.4** months

Average duration of urgent preliminary ruling proceedings: **4.5** months



1 111

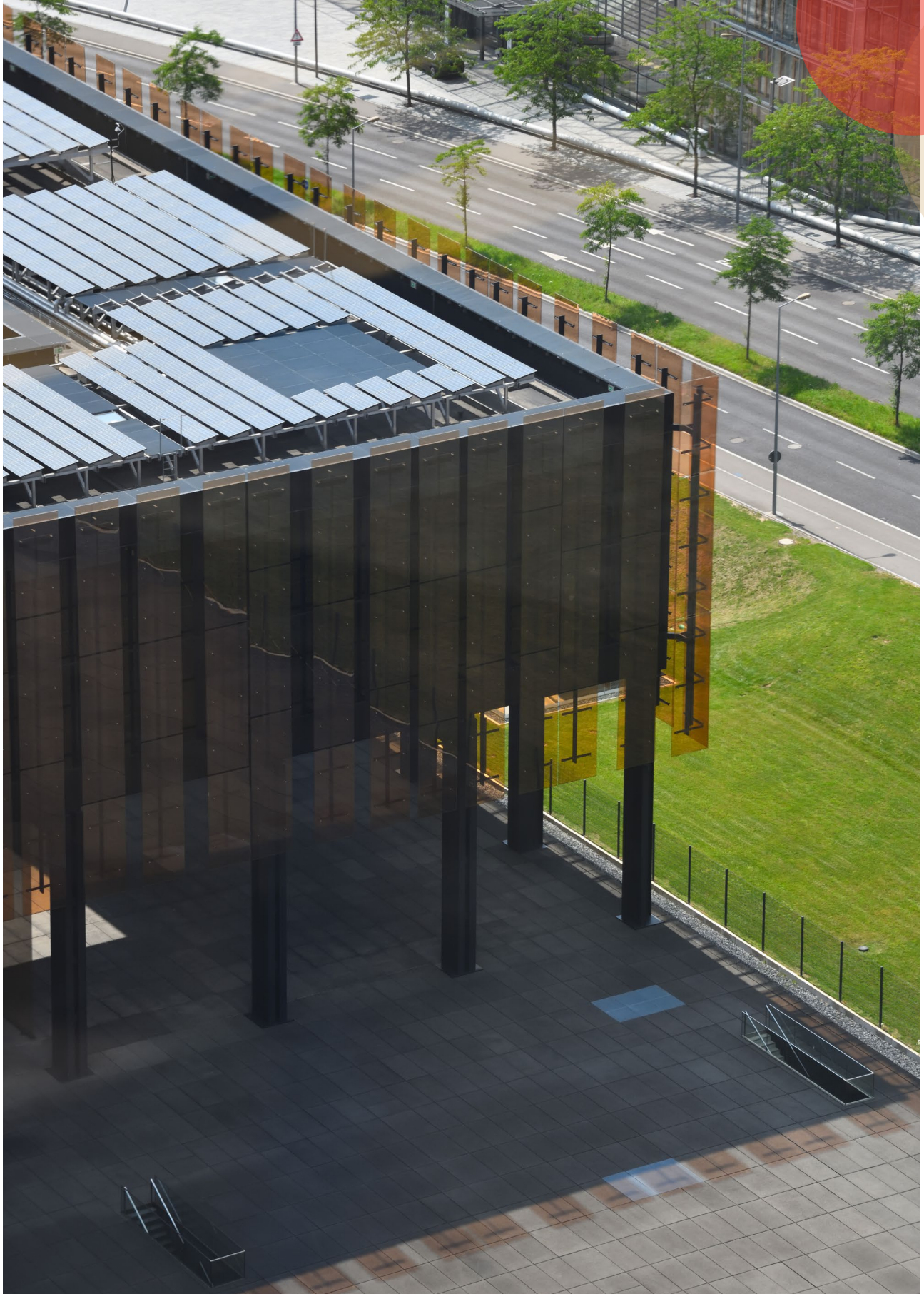
cases pending as of
31 December 2022

Principal matters dealt with:

State aid	58
Competition	64
Law governing the institutions	38
Environment	46
Area of Freedom, Security and Justice	132
Taxation	80
Social policy	73
Intellectual property	33
Consumer protection	77
Approximation of laws	89
Transport	49

[See detailed statistics for
the Court of Justice](#)





Members of the Court of Justice

The Court of Justice is composed of 27 Judges and 11 Advocates General.

The Judges and Advocates General are appointed by common accord of the governments of the Member States after consultation of a panel responsible for giving an opinion on prospective candidates' suitability to perform the duties concerned. They are appointed for a term of office of six years, which is renewable.

They are chosen from among individuals whose independence is beyond doubt and who possess the qualifications required for appointment, in their respective countries, to the highest judicial offices, or who are of recognised competence.

The Judges perform their duties in a totally impartial and independent manner.

The Judges of the Court of Justice appoint, from amongst themselves, the President and Vice-President. The Judges and Advocates General appoint the Registrar for a term of office of six years.

The Advocates General are responsible for presenting, with complete impartiality and independence, an 'opinion' in the cases assigned to them. This opinion is not binding, but allows for an additional view to be provided on the subject matter of the dispute.



In 2022, no new Members were appointed to the Court of Justice.





K. Lenaerts
President



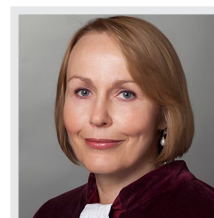
L. Bay Larsen
Vice-President



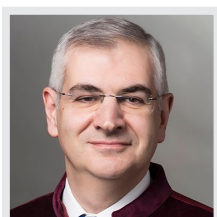
A. Arabadjiev
President of the
First Chamber



A. Prechal
President of the
Second Chamber



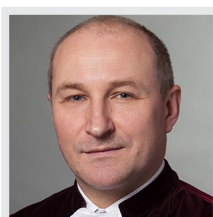
K. Jürimäe
President of the
Third Chamber



C. Lycourgos
President of the
Fourth Chamber



E. Regan
President of the
Fifth Chamber



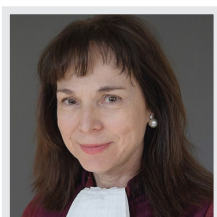
M. Szpunar
First Advocate General



M. Safjan
President of the
Eighth Chamber



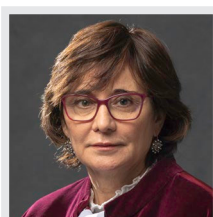
P. G. Xuereb
President of the
Sixth Chamber



L. S. Rossi
President of the
Ninth Chamber



D. Gratsias
President of the
Tenth Chamber



**M. L. Arastey
Sahún**
President of the
Seventh Chamber



J. Kokott
Advocate General



M. Ilešič
Judge



J.-C. Bonichot
Judge



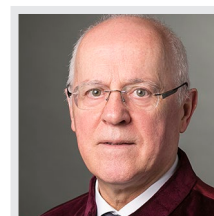
T. von Danwitz
Judge



S. Rodin
Judge



F. Biltgen
Judge



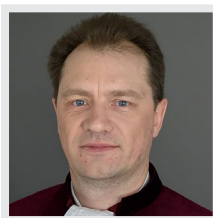
**M. Campos
Sánchez-
Bordona**
Advocate General



**N. J. Cardoso
da Silva Piçarra**
Judge



G. Pitruzzella
Advocate General



I. Jarukaitis
Judge



P. Pikamäe
Advocate General



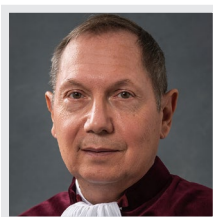
A. Kumin
Judge



N. Jääskinen
Judge



N. Wahl
Judge



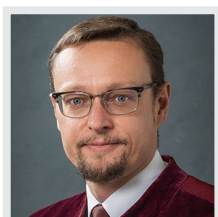
**J. Richard
de la Tour**
Advocate General



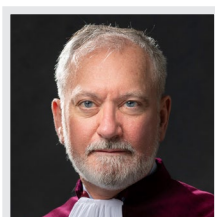
A. Rantos
Advocate General



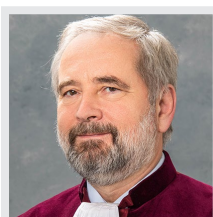
I. Ziemele
Judge



J. Passer
Judge



A. M. Collins
Advocate General



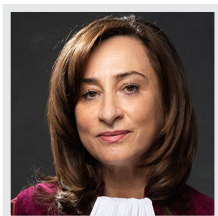
M. Gavalec
Judge



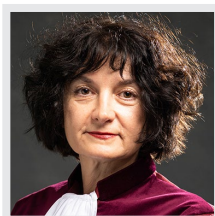
N. Emiliou
Advocate General



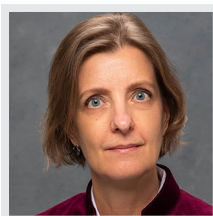
Z. Csehi
Judge



**O. Spineanu-
Matei**
Judge



T. Čápetá
Advocate General



L. Medina
Advocate General



A. Calot Escobar
Registrar

Order of Precedence as from 7 October 2022

B The General Court in 2022

Proceedings may primarily be brought before the General Court, at first instance, in **direct actions** brought by natural or legal persons, where they are **directly and individually concerned** (individuals, 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.



Activities and developments at the General Court

The year 2022 saw the return of war to our continent. This tragic occurrence must be a moment of collective realisation for all Europeans. Peace is never permanent and requires the commitment of all. Our institution lies at the heart of that commitment. It is the role of the Court of Justice and the General Court to ensure respect for the rule of law and to work to protect human dignity. Within the European Union, conflicts are not settled by threats and weapons, but by debate and the law. In that context, the General Court is called upon, sometimes within a very short timeframe, to review the legality of the restrictive measures adopted by the European Union in respect of persons or entities linked to the aggression waged by the Russian Federation since February 2022. For example, the judgment in the case of *RT France v Council* was given by the Grand Chamber of the General Court, under an expedited procedure, five months after the case was brought. To date, more than 70 cases of restrictive measures associated with the armed conflict have been brought. It is to our Union's credit that such measures do not bear hallmarks of arbitrary decision-making and are therefore subject to a review by independent and impartial judges.



904

cases brought

More than ever, the cases brought before the General Court reflected the major social issues facing our continent. In addition to restrictive measures, which do not just concern the war in Ukraine, such issues include the regulation of digital giants in matters of competition and the rules governing State aid, in particular in the field of taxation and in the energy and environmental sectors, as well as banking and financial law, the protection of personal data, the common commercial policy and the regulation of energy markets. In view of the recent legislative developments and the international context, which continues to be shaped by greater pressures, we could see greater scrutiny of the legality of the acts of the EU institutions.

Make no mistake: the General Court is fully aware of its responsibilities. It has the resources to meet them. Over the past year, the court has welcomed eight new Members, thus marking the completion of the reform process initiated by Regulation 2015/2422. Now with 54 Members, the General Court is finally composed of two Judges per Member State. Looking to the new three-year period which began in September 2022, the General Court has also been devoting greater consideration to its organisation and its working methods, with emphasis being placed on a more in-depth judicial review process, support for the parties to a dispute throughout the proceedings and the duration of proceedings (16.2 months on average in 2022). A thereby strengthened and reorganised General Court has set its future course: to deliver high-quality justice that individuals can understand within time limits consistent with the needs of today's world.

The judicial architecture of the European Union must constantly adapt to the challenges of our time. It is with that in mind that in November 2022 the Court of Justice submitted a legislative request seeking, inter alia, to define specific areas in which the General Court could have jurisdiction to hear and determine questions referred for a preliminary ruling by the courts and tribunals of the Member States (Article 256 TFEU). The General Court stands ready to support the Court of Justice, which is having to deal with an increasing workload. Having been closely involved in the considerations which led to the development of that initiative, the General Court is now preparing for its implementation.

Marc van der Woude

President of the General Court

792

direct actions, including:

State aid and competition	76
Intellectual and industrial property	270
EU civil service	66
Other direct actions (including 21 actions brought by Member States)	380

54

applications for legal aid

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





858
cases resolved

760 direct actions, including:

State aid and competition **87**

Intellectual and industrial property **291**

EU civil service **103**

Other direct actions **279**

Average duration of proceedings: **16.2** months

Proportion of decisions subject to an appeal before the Court of Justice: **26%**



1 474

pending cases
(as of 31 December 2022)

Principal matters:

Access to documents	30
Agriculture	30
State aid	293
Competition	65
Environment	22
Public procurement	22
Restrictive measures	122
Economic and monetary policy	204
Intellectual and industrial property	299
Staff Regulations	96

[See detailed statistics for
the General Court](#)



Innovations in case-law



At the General Court, as elsewhere, life does not stand still. While disputes arising from the COVID-19 pandemic are still taking it along uncharted pathways, as shown by the judgment in *Roos and Others v Parliament* of 27 April 2022 ([T-710/21](#), [T-722/21](#) and [T-723/21](#)) in which the General Court examined for the first time the legality of certain restrictions imposed by the institutions of the European Union in order to protect the health of their staff, the military aggression launched by the Russian Federation against Ukraine on 24 February 2022 has created a new source of litigation. For instance, in its judgment in *RT France v Council* of 27 July 2022 ([T-125/22](#)), the General Court, sitting as the Grand Chamber, gave an unprecedented ruling, at the end of an expedited procedure, on the legality of restrictive measures adopted by the Council seeking to prohibit the broadcasting of audiovisual content.

However, as multi-faceted as that turn of events may be, the General Court has continued to make many advances in its case-law in more traditional fields.

Thus, on institutional matters, in the judgment in *Verelst v Council* of 12 January 2022 ([T-647/20](#)), the General Court considered for the first time the legality of Implementing Decision 2020/1117 appointing the European Prosecutors of the European Public Prosecutor's Office, adopted pursuant to Regulation 2017/1939 implementing enhanced cooperation on the establishment of that office. On completion of its examination, it came to the conclusion that the Council had wide discretion when assessing and comparing the merits of the candidates for the position of European Public Prosecutor of a Member State, adding that, in the case in question, the successful candidate had been selected and appointed within the limits of that wide power of discretion. In the field of public procurement, the General Court, in the judgment in *Leonardo v Frontex* of 26 January 2022 ([T-849/19](#)), examined the admissibility of an action for annulment directed against a contract notice and the annexes thereto brought by an undertaking which had not participated in the tendering procedure organised by that notice. Ruling in extended composition, it held that an undertaking which demonstrated that its participation in a tendering procedure had been made impossible by the requirements of the tender specifications

could establish an interest in bringing proceedings against a number of documents of a contract. Finally, in the area of competition, in the judgment in *Illumina v Commission* of 13 July 2022 ([T-227/21](#)), the General Court gave its first ruling on the application of the referral mechanism provided for in Article 22 of Regulation No 139/2004 to a transaction that did not have to be notified in the State which made the referral request but which entailed the acquisition of an undertaking whose significance for competition was not reflected in its turnover. In that case, the General Court acknowledged, in principle, that the Commission may be regarded as competent in such a situation.

Savvas S. Papasavvas
Vice-président du Tribunal



Members of the General Court

The General Court is composed of two Judges from each Member State.

The Judges are chosen from among individuals whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices. They are appointed by common accord of the governments of the Member States after consultation of a panel responsible for giving an opinion on candidates' suitability. They are appointed for a term of office of six years, which is renewable. They appoint, from amongst themselves, the President and Vice-President for a period of three years, and appoint the Registrar for a term of office of six years.

The Judges perform their duties in a totally impartial and independent manner.

In January 2022, Mr Ioannis Dimitrakopoulos (Greece), Mr Damjan Kukovec (Slovenia) and Ms Suzanne Kingston (Ireland) entered into office as Judges of the General Court.

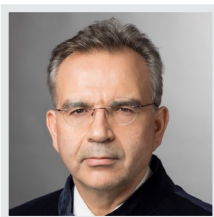
In July 2022, Mr Tihamér Tóth (Hungary) and Ms Beatrix Ricziová (Slovakia) entered into office as Judges of the General Court.

In September 2022, Ms Elisabeth Tichy-Fisslberger (Austria), Mr William Valasidis (Greece) and Mr Steven Verschuur (Netherlands) entered into office as Judges of the General Court.

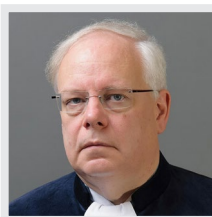




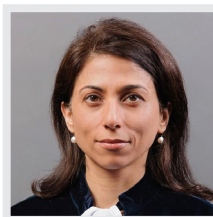
M. van der Woude
President



S. S. Papasavvas
Vice-President



D. Spielmann
President of the
First Chamber



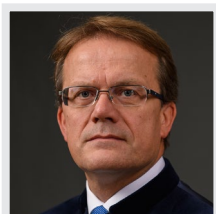
A. Marcoulli
President of the
Second Chamber



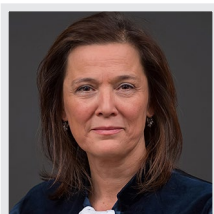
F. Schalin
President of the
Third Chamber



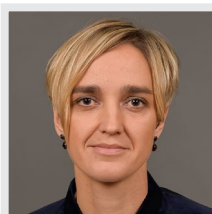
**R. da Silva
Passos**
President of the
Fourth Chamber



J. Svenningsen
President of the
Fifth Chamber



M. J. Costeira
President of the
Sixth Chamber



**K. Kowalik-
Bańczyk**
President of the
Seventh Chamber



A. Kornezov
President of the
Eighth Chamber



L. Truchot
President of the
Ninth Chamber



O. Porchia
President of the T
enth Chamber



M. Jaeger
Judge



**S. Frimodt
Nielsen**
Judge



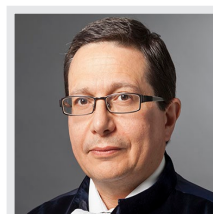
H. Kanninen
Judge



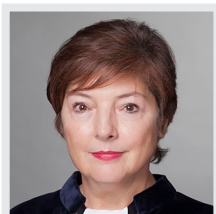
J. Schwarcz
Judge



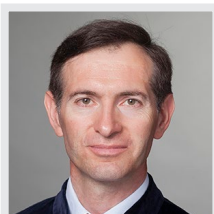
M. Kancheva
Judge



E. Buttigieg
Judge



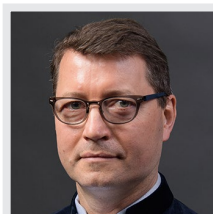
V. Tomljenović
Judge



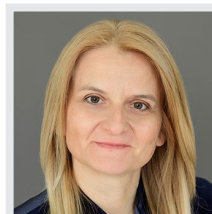
S. Gervasoni
Judge



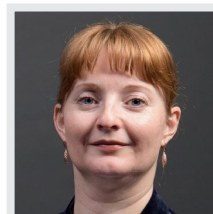
L. Madise
Judge



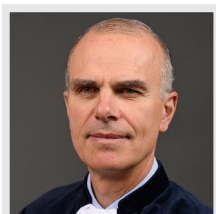
V. Valančius
Judge



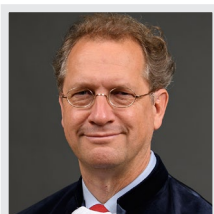
N. Póltorak
Judge



I. Reine
Judge



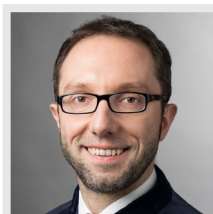
P. Nihoul
Judge



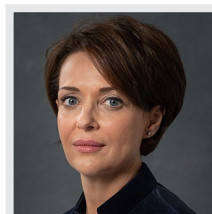
U. Öberg
Judge



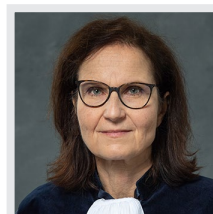
C. Mac Eochaidh
Judge



G. De Baere
Judge



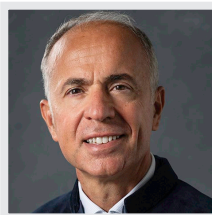
R. Frendo
Judge



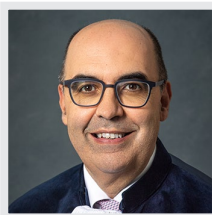
T. R. Pynnä
Judge



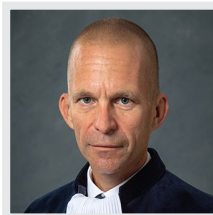
J. C. Laitenberger
Judge



R. Mastroianni
Judge



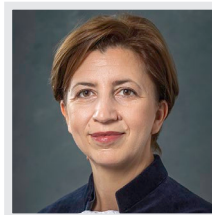
**J. Martín y Pérez
de Nanclares**
Judge



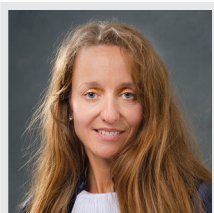
G. Hesse
Judge



**M. Sampol
Pucurull**
Judge



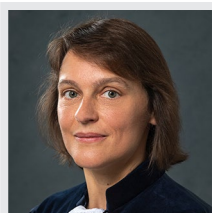
M. Stancu
Judge



P. Škvařilová-Pelzl
Judge



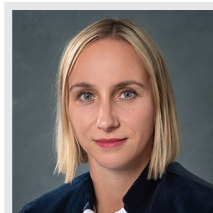
I. Nõmm
Judge



G. Steinfatt
Judge



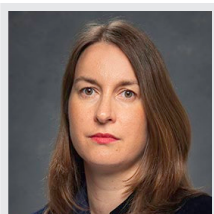
R. Norkus
Judge



T. Perišin
Judge



D. Petrlík
Judge



M. Brkan
Judge



P. Zilgalvis
Judge



K. Kecsmár
Judge



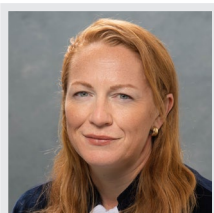
I. Gâlea
Judge



I. Dimitrakopoulos
Judge



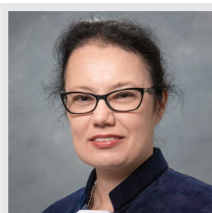
D. Kukovec
Judge



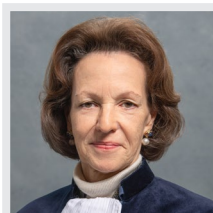
S. Kingston
Judge



T. Tóth
Judge



B. Ricziová
Judge



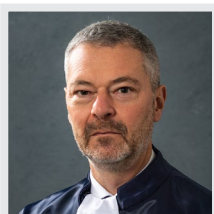
**E. Tichy-
Fisslberger**
Judge



W. Valasidis
Judge



S. Verschuur
Judge



E. Coulon
Registrar

Order of Precedence as from 19 September 2022

C Case-law in 2022

Focus The Regulation that makes payments from European funds conditional on respect for the rule of law is valid

Judgments in *Hungary v Parliament and Council* and *Poland v Parliament and Council* of 16 February ([C-156/21](#) and [C-157/21](#))

The rule of law

The rule of law is one of the fundamental values of the European Union which includes:

- the principle of legality, implying a transparent, accountable, democratic and pluralistic law-making process;
- the principle of legal certainty;
- the prohibition of arbitrariness of the executive powers;
- the principle of effective judicial protection (access to justice that is independent and impartial);
- the principle of the separation of powers;
- the principle of non-discrimination and equality before the law.



In order to protect the Union budget and the financial interests of the Union against effects resulting from breaches of the rule of law, a fundamental value upon which the EU is founded, the European Union has a new regime of conditionality.

That regime, introduced by Regulation 2020/2092 of the European Parliament and of the Council, makes the receipt of financing from the Union budget subject to the respect by the Member States for the principles of the rule of law. That regulation allows the Council, on completion of an investigation by the Commission, to adopt measures – such as **the suspension of payments or financial corrections – in order to protect the Union budget** and the financial interests of the Union **where such breaches risk affecting them**.

The Regulation was challenged by Hungary and Poland before the Court of Justice. In view of their exceptional importance, the cases were decided by the Court of Justice sitting as a full Court.

On 16 February 2022, the Court of Justice **dismissed the actions** brought by Hungary and Poland.

The Court of Justice points out that the European Union is founded on values common to the Member States, including the rule of law. Those common values define the very identity of the European Union as a common legal order and were accepted by all Member States on their accession to the European Union. Respect for the principles of the rule of law

thus constitutes an obligation as to the result to be achieved imposed on Member States which flows directly from their membership of the European Union. It is a condition for the enjoyment by those States of all the other rights deriving from the application of the Treaties.

The financial interests of the Union may be seriously compromised by breaches of the principles of the rule of law committed in a Member State. Sound financial management can be ensured by Member States only if public authorities act in accordance with the law, if breaches of the law are effectively pursued, and if arbitrary or unlawful decisions of public authorities can be subject to effective judicial review by independent and impartial courts. The European Union must therefore be able to defend its financial interests, inter alia by measures to protect the Union budget. Accordingly, the Court of Justice finds that the regime introduced by the contested regulation does indeed fall within the concept of financial rules which determine in particular the procedure to be adopted for implementing the Union budget (Article 322 of the Treaty on the Functioning of the European Union (TFEU)). The Regulation was therefore correctly adopted on that legal basis.

The Court of Justice also explains, in response to certain arguments raised by Hungary and Poland, that the conditionality mechanism does not circumvent the procedure laid down in Article 7 of the Treaty on European Union (TEU). The two procedures pursue different aims and each has a distinct subject matter. In particular, Article 7 TEU allows a response to be given to all serious and persistent breaches of one of the founding values of the European Union, or to any clear risk of such a breach, whereas the contested regulation applies only to breaches of the principles of the rule of law and only where there are reasonable grounds to consider that those breaches have budgetary implications.

The Court of Justice also rejects the argument that the principles of the rule of law lack any specific substantive content in European Union law. **Those principles have been developed**

Article 7 TEU

This provision sets out the procedure under which certain rights arising from the application of the Treaties to a Member State may be suspended in the event of a serious and persistent breach of the values common to the Member States referred to in Article 2 TEU, including the rule of law. Hungary and Poland claimed that, by establishing a parallel procedure, the 'Conditionality' Regulation unlawfully allowed the specific conditions laid down in Article 7 TEU to be circumvented with a view to penalising a Member State.



Respect for the rule of law has formed the subject matter of many judgments of the Court of Justice, including:

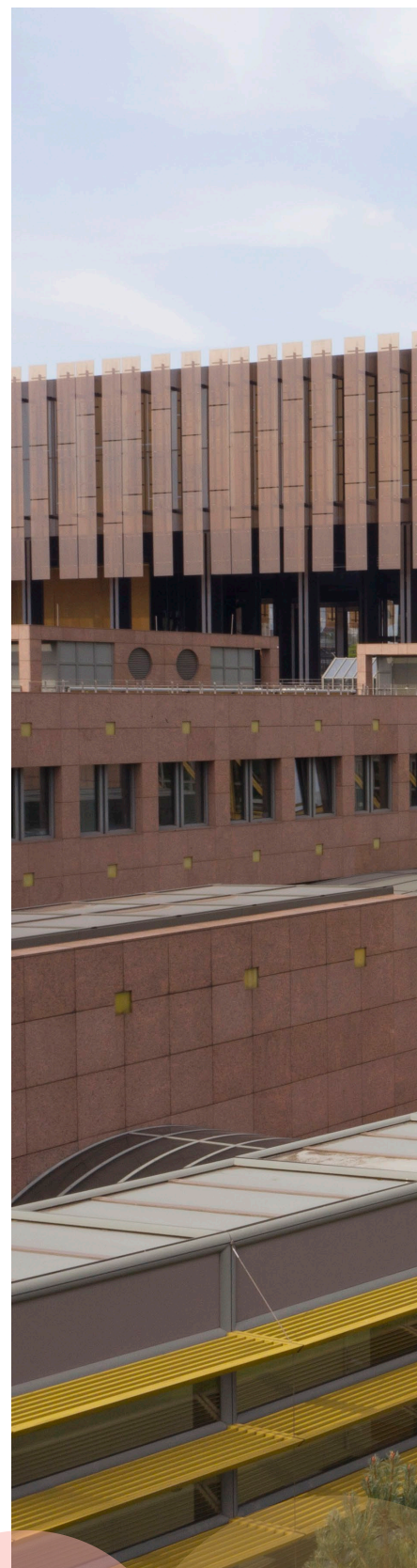
- the judgment in *Associação Sindical dos Juízes Portugueses* (Judicial independence – Reduction of remuneration in the national public administration) of 27 February 2018 ([C-64/16](#));
- the judgment in *Commission v Poland* (Disciplinary regime for judges – Restriction of the right of national courts to submit requests for a preliminary ruling to the Court of Justice and of their obligation to do so) of 15 July 2021 ([C-791/19](#));
- the judgment in *Repubblika* (Independence of the members of the judiciary of a Member State – Appointments procedure – Power of the Prime Minister – Involvement of a judicial appointments committee) of 20 April 2021 ([C-896/19](#)).

extensively in its case-law and are thus specified in the legal order of the European Union. They have their source in the common values which are recognised and applied by the Member States in their own legal systems. Accordingly, the Member States are in a position to determine with sufficient precision the essential content and the requirements flowing from each of those principles.

Finally, the implementation of the conditionality mechanism requires that a **genuine link** be established between a breach of a principle of the rule of law and an effect or serious risk of an effect on the sound financial management of the European Union. The implementation of that mechanism also requires the Commission to observe strict procedural requirements. Hungary and Poland are therefore not justified in claiming that the powers granted to the Commission and the Council are too extensive. The Court of Justice concludes therefrom that the **contested regulation meets the requirements of legal certainty.**

The principle of legal certainty

This principle requires that legal rules are clear and precise and that their application is foreseeable for those subject to the law, in particular where those rules may have adverse consequences. Legislation must therefore enable those concerned to ascertain their rights and obligations unequivocally and take steps accordingly.





Focus The right of environmental associations to bring legal proceedings

Judgment in *Deutsche Umwelthilfe* (Approval of motor vehicles) of 8 November 2022 ([C-873/19](#))



With a view to protecting the environment and improving air quality, the EU Regulation on type approval of motor vehicles prohibits the use of devices which act on the emission control system for gaseous pollutants in order to reduce its effectiveness (so-called 'defeat' devices). There are, however, three exceptions to that prohibition, in particular where 'the need for the device is justified in terms of protecting the engine against damage or accident and for safe operation of the vehicle'.

Deutsche Umwelthilfe, a German environmental association, considers that the German Federal Motor Transport Authority acted in breach of the prohibition in question by authorising, for certain vehicles of the **Volkswagen** brand, the use of **software that reduces the recirculation of gaseous pollutants**, in particular nitrogen oxide (NOx). That software, which is called the 'temperature window', **allowed the exhaust-gas purification rate to be adjusted** according to the external temperature. The result of installing that software was therefore that the recycling of gaseous pollutants was fully effective only if the external temperature was greater than 15 °C. However, for the year 2018, the average annual temperature in Germany was 10.4 °C.

Deutsche Umwelthilfe challenged the authorisation before a German court. That court referred the matter to the Court of Justice to obtain clarifications on two questions:

1. The German court states that, under German law, Deutsche Umwelthilfe is unable to bring an action against the authorisation granted by the Federal Authority because the EU Regulation upon which it relies is not intended to protect citizens individually. The German court asks the Court of Justice whether that inability is compatible with the Aarhus Convention and with the right to an effective remedy guaranteed by the Charter of Fundamental Rights of the European Union.

In its judgment of 8 November 2022, the Court of Justice holds that, under the Aarhus Convention, read in the light of the Charter, **an environmental association** which is authorised to bring legal proceedings **cannot be deprived of the possibility of obtaining the verification**, by the national courts, **of compliance with certain rules of EU environmental law**. Such an association must thus be able to challenge before the courts an authorisation granted for defeat devices.

2. The German court also asks whether the ‘need’ to use the ‘temperature window’ device, which allows its installation to be justified exceptionally in order to protect the engine or for its safe operation, must be assessed taking into account the technology existing on the date of the authorisation, or whether account should also be taken of other circumstances.

The Court of Justice observes that a **defeat device, such as a ‘temperature window’, may exceptionally be justified** if the following conditions are met:

- the device must strictly meet the need to avoid immediate risks of damage or accident to the engine, caused by a malfunction of a component of the exhaust-gas recirculation system;
- that damage must be of such a serious nature to give rise to a specific hazard when a vehicle fitted with that device is driven;
- at the time of the authorisation of the device or of the vehicle equipped with it, no other technical solution makes it possible to avoid such risks.

Finally, even if the need is proven, **the defeat device must**, in any case, **be prohibited if its design means that**, under normal driving conditions, **its operation is activated during most of the year**. If that were the case, the exception would be applied more often than the prohibition, which would constitute a disproportionate breach of the very principle of limiting nitrogen oxide (NOx) emissions.

The Court of Justice regularly gives judgment in cases in the environmental sphere. Some of the most recent include:

- the judgment in *Ville de Paris and Others (Type approval of vehicles – Values for emissions of oxides of nitrogen – Real driving emission test procedure)* of 13 January 2022 ([C-177/19 P and Others](#));
- the judgments in *GSMB Invest, Volkswagen and Porsche Inter Auto and Volkswagen (Diesel vehicles – Nitrogen oxide (NOx) emissions – Prohibited defeat devices – ‘Temperature window’)* of 14 July 2022 ([C-128/20 and Others](#));
- the judgment in *Commission v Spain (Limit values – NO₂)* of 22 December 2022 ([C-125/20](#));
- the judgment in *Ministre de la Transition écologique and Premier ministre (State liability for air pollution)* of 22 December 2022 ([C-61/21](#)).

Focus The right to be forgotten versus the right of information

Judgment in *Google (De-referencing of allegedly inaccurate content)* of 8 December 2022 ([C- 460/20](#))

The General Data Protection Regulation (GDPR)

On its entry into application in 2018, the GDPR gave citizens greater control over their personal data and placed responsibilities on the persons holding such data.

The rights enshrined in the GDPR include:

- the right to information on data processing;
- the right of access to the data held;
- the right to have inaccurate or incomplete data corrected;
- the right to the erasure of data processed unlawfully or which are no longer necessary in relation to the purposes for which they were processed (better known as the 'right to be forgotten');
- the right to data portability (recovery of data provided to a controller).



The protection of personal data is governed, within the European Union, by the General Data Protection Regulation.

The right to the protection of personal data is not, however, an absolute right. It must be balanced against other fundamental rights, in accordance with **the principle of proportionality**. Those other fundamental rights include the right to freedom of information.

In the judgment in *Google*, delivered on 8 December 2022, the Court of Justice restated the importance of striking that balance and undertook that balancing act in response to a question put by the German Federal Court of Justice regarding the right to be forgotten.

The dispute concerned two managers of a group of investment companies who had asked Google to de-reference the results of searches carried out on the basis of their names. The results of those searches reproduced links to articles in the press which criticised that group's investment model. The two managers argued that those articles contained inaccurate claims. They also requested that photos of them, displayed in the form of thumbnails without any context, be removed from the list of those results.

Google refused to comply with those requests, referring to the professional context in which those articles and photos were set, and arguing that it was unaware whether the information contained in the articles was accurate or not.

The German Federal Court of Justice, before which proceedings had been brought, asked the Court of Justice to interpret the General Data Protection Regulation in the light of the Charter of Fundamental Rights of the European Union. That regulation expressly provides that the right to be forgotten is excluded where the processing of the personal data at issue is necessary for the exercise of the right to freedom of information.

The Court of Justice observes that the **right to privacy** and to the protection of personal data **overrides**, as a general rule, **the legitimate interest of internet users in accessing the information**. However, that balance may depend on the nature of that information and its sensitivity for the private life of the data subject concerned. It also depends on the interest of the public in having that information. That interest may vary according to **the role played by the data subject in public life**.

However, the right to freedom of expression and to **information** cannot be taken into account where information contained in the referenced content (and which is not of minor importance) **proves to be inaccurate**.

When a person submits a request for de-referencing, the operator of the search engine has certain obligations:

- The operator must determine whether content may continue to be included in the list of search results carried out using its search engine. If the request provides sufficient evidence, the operator of the search engine is obliged to accede to that request.
- If the request fails to establish the manifest inaccuracy of the information, the operator is not obliged to delete it. However, in such circumstances, the data subject making the request must be able to bring the matter before the data protection supervisory authority or the judicial authority to allow them to carry out the necessary checks and, where appropriate, order the controller to adopt the necessary measures.
- The operator must warn internet users about the existence of administrative or judicial proceedings concerning the alleged inaccuracy of the content.

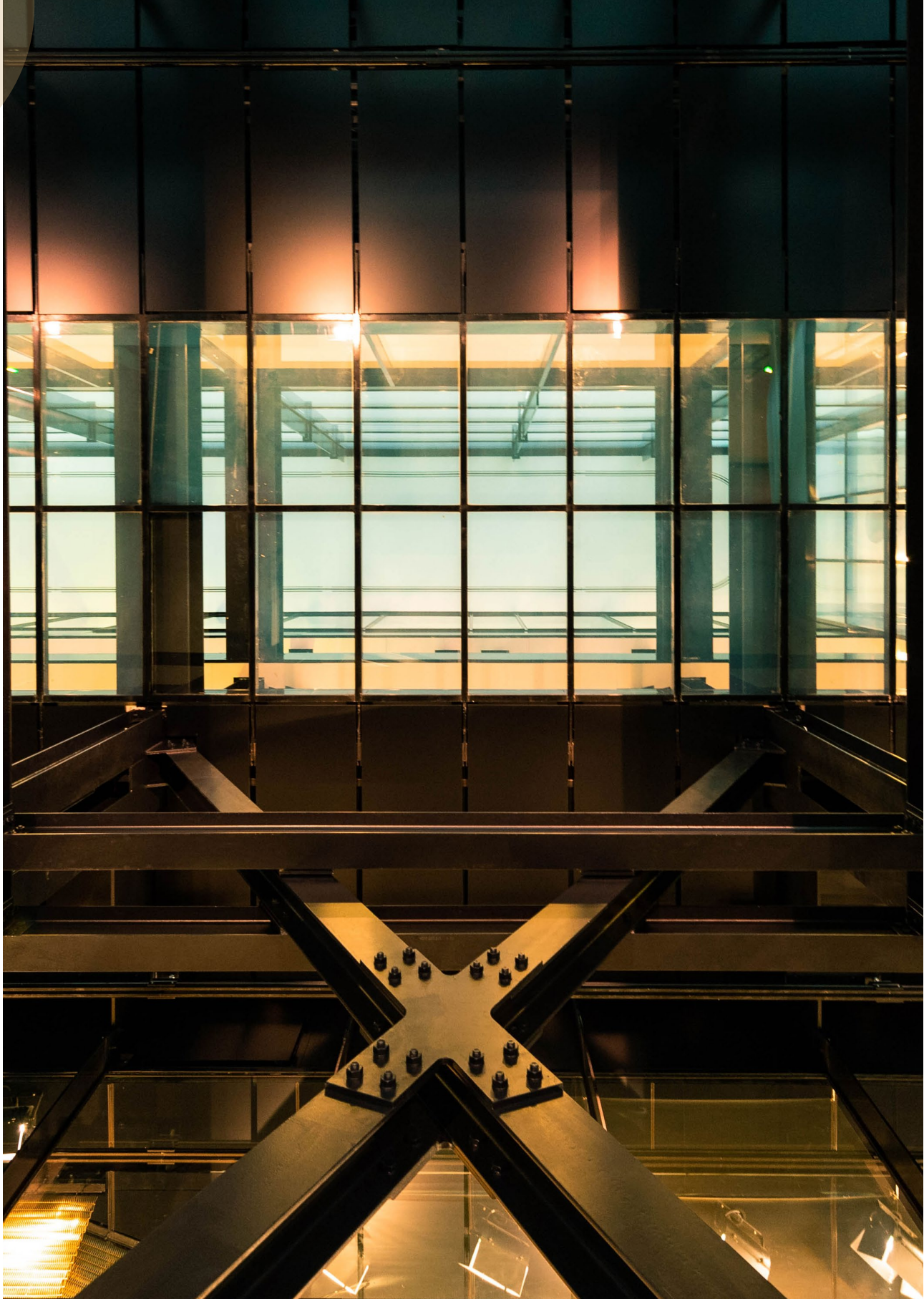


- The operator must ascertain whether displaying photos in the form of thumbnails is necessary for internet users who are potentially interested in accessing those photos to exercise the right to freedom of information. Displaying photos of a data subject is a particularly significant interference in that person's private life. The fact that such access contributes to a debate of public interest is an essential factor to be taken into consideration when striking a balance with other fundamental rights.

The protection of personal data is a subject which gives rise to a considerable number of cases before the Court of Justice.

Recent judgments connected with the development of information and communications technology include:

- the judgment in *Facebook Ireland and Schrems* of 16 July 2020 concerning the level of protection that must be guaranteed when transferring personal data to a third country ([C-311/18](#));
- the judgment in *La Quadrature du Net and Others* of 6 October 2020 on the prohibition of national legislation requiring the transmission or the general and indiscriminate retention of traffic and location data ([C-511/18 and Others](#));
- the judgment in *Prokuratuur* of 2 March 2021 concerning public authorities' access to traffic or location data with a view to combating serious crime ([C-746/18](#));
- the judgment in *Facebook Ireland and Others* of 15 June 2021 on the powers of the national supervisory authorities ([C-645/19](#));
- the judgment in *Vyriausioji tarnybinės etikos komisija* of 1 August 2022 on the transparency of declarations of private interests by public sector workers or managers ([C-184/20](#)).



Focus War in Ukraine: broadcasting ban imposed on pro-Russia media outlets and freedom of expression

Judgment in *RT France v Council* of 27 July 2022 ([T-125/22](#))



Interim proceedings

Pending the final decision of the General Court, RT France applied to the President of the General Court, on 8 March 2022, for the immediate suspension of the effects of the decision prohibiting broadcasting activities. That application, referred to as the ‘interim proceedings’, was dismissed on 30 March. The President found in particular that RT France had failed to show that the ban caused it irreparable harm. There was therefore no particular urgency justifying such suspension before delivery of the final judgment in the case.

On 24 February 2022, the Russian Federation launched a war of aggression against Ukraine. Within the scope of its common foreign and security policy, the European Union reacted to that violation of international law, inter alia, by imposing sanctions on the Russian Federation. On 1 March 2022, **the Council of the European Union prohibited certain media outlets from engaging in broadcasting activities** within or to the European Union **in order to counter Russian propaganda campaigns**.

The prohibition covered inter alia RT France, a television channel funded from the Russian State budget, which brought proceedings before the General Court of the European Union on 8 March 2022 seeking the annulment of that Council decision.

Given the significance and the urgency of the case, the General Court sat as a Grand Chamber (15 judges) and implemented, of its own motion and for the first time, the expedited procedure, which allowed it to give a ruling in less than five months.

In its judgment of 27 July, the General Court dismisses the action in its entirety. The judgment is based on three key points:

- The Council has considerable latitude in defining **restrictive measures** in matters relating to the common foreign and security policy. It may have recourse to a temporary prohibition on the broadcasting of content by certain media outlets funded by the Russian State if those outlets support Russia’s military aggression. The uniform implementation of a prohibition of that kind is better realised at EU level than at national level.

- The prohibition on broadcasting, which was decided upon without hearing RT France beforehand, does not constitute an infringement of the rights of the defence. The exceptional context and the extreme urgency connected with the outbreak of war at the European Union's borders required a rapid response. The immediate implementation of **the measures prohibiting a campaign of propaganda in support of the military aggression was essential to ensure the effectiveness of those measures.**
- Freedom of expression is one of the essential pillars of a democratic society. That freedom applies not only to ideas that are favourably received or deemed inoffensive but also to those which are offensive, shocking or troubling. This is the result of the requirements of pluralism, tolerance and open-mindedness, without which a democratic society does not exist.

However, it may prove necessary, in democratic societies, to **penalise forms of expression** which propagate, justify or incite hatred based on intolerance and the use and glorification of violence.

The prohibition imposed on RT France pursues that objective. It seeks to protect public order and security within the European Union, which are threatened by the systematic propaganda campaign put in place by Russia, and to exert pressure on the Russian authorities to bring an end to the military aggression. The measure is also proportionate because it is appropriate and necessary in relation to the aims pursued. There is a sufficiently concrete, precise and consistent body of evidence to show that **RT France actively supported the policy of destabilisation and aggression conducted by the Russian Federation**, which ultimately resulted in a large-scale military offensive against Ukraine. None of the evidence put forward by RT France is capable of demonstrating an overall balanced treatment by the latter of information concerning the ongoing war, in compliance with the principles relating to the 'duties and responsibilities' of audiovisual media outlets.

Restrictive measures or 'sanctions'

These are one of the tools at the EU's disposal to promote the objectives of its common foreign and security policy. Those objectives include protecting the EU's values, fundamental interests and security, consolidating and supporting democracy, the rule of law, human rights and the principles of international law, preserving peace and preventing conflict, and strengthening international security.

Such measures may target governments of non-Member countries or non-State bodies (for example, undertakings) and individuals (such as terrorist groups). In the majority of cases, the measures target individuals or entities and consist in the freezing of assets and bans on travel to the EU.

A considerable number of cases involving restrictive measures are brought before the General Court: they involve sanctions imposed in the context of actions jeopardising or threatening the territorial integrity, sovereignty and independence of Ukraine, or in view of the situation in Syria and Belarus, or against the Democratic Republic of the Congo.



Focus Record fine of EUR 4.125 billion imposed on Google for restrictions imposed on manufacturers of Android mobile devices

Judgment in *Google and Alphabet v Commission (Google Android)* of 14 September 2022 ([T-604/18](#))



Google is an undertaking active in the information and communications technology sector specialising in internet-related products and services. It derives most of its revenue from its flagship product, its search engine Google Search. Its business model is based on the interaction between, on the one hand, a number of internet-related products and services offered for the most part free of charge to users and, on the other hand, online advertising services that use data collected from those users. In addition, Google offers the Android operating system, with which approximately 80% of smart mobile devices used in Europe were equipped in July 2018, according to the European Commission.

Further to complaints lodged with it, the Commission initiated a procedure against Google in 2015. That procedure ended in 2018 with a EUR 4.343 billion fine imposed on Google for having imposed unlawful restrictions on the manufacturers of Android mobile devices and on mobile network operators.

Those restrictions consisted in requiring the mobile device manufacturers to:

- pre-install Google Search and Chrome in order to be able to obtain a licence to use Play Store;
- refrain from selling devices running versions of Android not approved by Google;
- agree not to pre-install a competing search service in order to obtain a percentage of Google's advertising revenue.

According to the Commission, the objective of **those restrictions** was to consolidate **the dominant position held by Google's search engine** and the revenue that it obtained through advertisements linked to Google searches.

What is abuse of a dominant position?

A dominant position is a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained and to behave independently of its competitors, customers, suppliers and the end consumer.

The Treaty on the Functioning of the European Union prohibits undertakings from abusing their dominant position to restrict or distort competition, for example by imposing abusive prices, exclusive sales agreements or loyalty bonuses which seek to divert suppliers from their competitors.



This is the largest fine ever imposed in Europe by a competition authority. Google brought an action before the General Court to contest the Commission's decision.

In the case of *Google and Alphabet*, the case file amounted to over 100 000 pages. At the hearing, 72 lawyers and representatives were present, representing 13 different parties (the applicant; Google and Alphabet; the defendant; the European Commission; and 11 parties intervening in support of either the applicant or the defendant). The hearing took place over five days.

The case was settled by the judgment in *Google and Alphabet v Commission* of 14 September 2022. **The General Court broadly upheld the Commission's decision and dismissed the action in the main.** However, the General Court did find that the Commission had not sufficiently demonstrated the ability of certain conduct by Google to restrict competition, and that the Commission should not have denied Google the opportunity to present its arguments on that point at a hearing. On completion of its own assessment of all the circumstances, the **General Court** ultimately **reduced** the amount of **the fine imposed on Google to EUR 4.125 billion.**

Verification by the General Court of the facts and the correct application of the law

The competition cases before the General Court are often complex and extensive. The General Court gives a ruling at first instance: it therefore examines not only whether the Commission applied the law correctly but also whether the facts are sufficiently established. The files may contain detailed evidence and economic studies seeking to prove or to challenge the effects of the undertakings' conduct on the market.



Judgment in *Qualcomm v Commission* of 15 June 2022 ([T-235/18](#))

In another case of abuse of a dominant position, the General Court annulled in its entirety the Commission's decision by which a fine of approximately EUR 1 billion had been imposed on Qualcomm for having abused its dominant position on the market for LTE chipsets (electronic components found in smartphones and tablets). According to the Commission, that abuse was characterised by the existence of agreements providing for incentive payments, under which Apple had to obtain its requirements for LTE chipsets exclusively from Qualcomm. The General Court found that a number of procedural irregularities affected Qualcomm's rights of defence, in particular the failure to record certain interviews in the course of the investigation. Furthermore, the General Court also observed that the Commission's analysis of the anticompetitive effects of the agreements had not taken account of all the relevant factual circumstances, in particular the fact that Apple had had no technical alternative to the LTE chipsets.

A look back at the most important judgments of the year

Environment

The protection of flora and fauna, air, land and water pollution and the risks associated with dangerous substances are all challenges to which the European Union contributes by adopting strict rules. The same applies to the

setting of emission limit values for pollutants, including in agglomerations.

The Court of Justice and the Environment



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In the context of infringement proceedings against Italy, the Commission asked the Court of Justice to find that that Member State had failed to fulfil its obligations on account of the systematic and persistent non-compliance with the annual limit values for the emission of nitrogen dioxide (NO₂) in certain zones – namely the cities of Turin, Milan, Bergamo, Brescia, Genoa, Florence, Rome and Catania. In its judgment, the Court of Justice upheld the Commission's action, finding that **Italy** had breached its obligations under Directive 2008/50 because it failed to ensure that **the annual limit values for nitrogen dioxide were not systematically and persistently exceeded**. Italy also failed to fulfil its obligations by not adopting, as from 11 June 2010, measures – such as better suited plans to improve air quality or specific additional measures to protect vulnerable categories of people – guaranteeing compliance with the NO₂ limit values in the zones concerned.

[Judgment in *Commission v Italy \(Limit values – NO₂\)* of 12 May 2022 \(C-573/19\)](#)

The Research and Documentation Directorate offers legal professionals, as part of its Collection of Summaries, a '[Compilation of Selected Judgments](#)' and a '[Monthly Case-law Digest](#)' of the Court of Justice and the General Court.



The sinking of the *Prestige* oil tanker in November 2002 off the coast of Galicia (Spain) caused a major oil spill which affected the Spanish and French coastlines. It is the most serious environmental disaster in Spain's history. In the context of a case concerning the **damage caused by the oil spill** linked to that sinking, the Court of Justice held that a judgment given by a UK court confirming an award resulting from arbitration proceedings initiated in the United Kingdom could not block the recognition of a Spanish judgment ordering an insurer to pay compensation for that damage. It considered that an arbitral award can prevent the recognition of judicial decisions from other Member States only if the content of that award could also have been the subject of a judicial decision adopted in compliance with Regulation 44/2001. In the present case, the Court of Justice did not accept that the UK judgment may prevent the recognition of the judgment given in Spain following a direct action brought by the injured party against the insurer for effective compensation of the damage suffered by it.



[Judgment in *London Steam-Ship Owners' Mutual Insurance Association* of 20 June 2022 \(C-700/20\)](#)

Energy

Against a background defined by the war in Ukraine and Europe's energy dependence vis-à-vis the rest of the world, the European Union is ensuring the supply and security of energy in its territory. It is helping to guarantee the functioning of the energy market and to bring soaring energy prices under control, in particular for gas and electricity. It is also ensuring the interconnection of Member States' energy networks. Furthermore, the European

Union is promoting development of renewable energy and reduction of dependence on fossil fuels. Since Member States' investments are capable of undermining competition on the energy market, the compatibility of those investments with EU law is subject to assessment by the General Court.



Austria contested the Commission's decision approving investment aid provided by **Hungary** to a State-owned undertaking for **the development of two nuclear reactors** under construction at the Paks nuclear power station site. The General Court examined the arguments raised by Austria, which alleged inter alia that the aid caused disproportionate distortions of competition and unequal treatment resulting in the exclusion of producers of renewable energy from the **electricity market**. It concluded that the analysis carried out by the Commission was correct, complete and allowed the **compatibility of the State aid granted with EU law** to be established. The electricity produced by the new reactors is available on the wholesale market for all market participants and transparently so. There was therefore no risk of the electricity produced by the Paks II company being monopolised under long-term contracts, a type of contract which poses a risk to the liquidity of the market.

[Judgment in *Austria v Commission* of 30 November 2022 \(T-101/18\)](#)

In 2015, the Hungarian gas transmission system operator (FGSZ) engaged in a regional cooperation project to increase energy independence by introducing **Black Sea gas** to the network. That project provided for the creation of incremental capacity, inter alia between **Hungary and Austria**. In 2018, the Austrian regulatory authority approved the proposal from the Austrian gas transmission system operator (GCA) connected with that component of the project, whereas its Hungarian counterpart (MEKH), on a proposal from FGSZ, adopted a decision rejecting that proposal. In August 2019, in the absence of a coordinated decision between the national regulatory authorities concerned, the Agency for the Cooperation of Energy Regulators (ACER) declared that it had the relevant competence and approved the component of the project as proposed by GCA. Further to two actions brought before it by MEKH and FGSZ against ACER's decision, the General Court declared inapplicable the provisions of Regulation 2017/459 relating to the process for the **creation of incremental capacity for gas transmission**. ACER was therefore not competent to adopt the approval decision and the General Court therefore annulled that decision.



[Judgment in *MEKH and FGSZ v ACER* of 16 March 2022 \(Joined Cases T-684/19 and T-704/19\)](#)

Consumer Protection

Upholding consumers' rights, their prosperity and their well-being are fundamental values in the development of EU policies. The Court of Justice monitors the application of the rules protecting consumers with a view to ensuring the protection of their health, safety

and economic and legal interests, wherever they live, travel to or buy from within the European Union.

What has the Court of Justice done for me?



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The Court of Justice: Guaranteeing the Rights of EU Consumers



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Under EU law, a consumer who has concluded a contract with a trader via the internet or by telephone has, in principle, 14 days to withdraw from that contract, without having to give reasons for his or her decision. However, that **right of withdrawal is excluded for cultural or sporting events**, in order to protect the organisers against the risk of unsold places. The Court of Justice clarified that that exclusion also applies **in the case of online ticket purchases for a concert from a provider of ticket agency services**, where the economic risk falls on the organiser of the concert.

[Judgment in *CTS Eventim* of 31 March 2022 \(C-96/21\)](#)

The Court of Justice held that a **non-EU air carrier** (in this case, **United Airlines**) which has not concluded a contract of carriage with passengers but did operate the flight **may be liable to pay compensation to passengers in the event of the long delay of the flight**. The carrier which, in the course of its passenger carriage activities, decides to perform a particular flight constitutes the operating air carrier. That carrier is therefore regarded as acting on behalf of the contracting carrier (Lufthansa). The Court did however emphasise that the operating air carrier (United Airlines), which is obliged to compensate a passenger, retains the right to seek compensation from any person, including third parties, in accordance with the applicable national law.



[Judgment in *United Airlines* of 7 April 2022 \(C-561/20\)](#)

Following a delay of more than three hours of their flight from New York to Budapest, a number of passengers brought the matter before the Hungarian authority responsible for the enforcement of the Air Passenger Rights Regulation, asking it to order the carrier LOT to pay the compensation provided for in that regulation. That authority found that the Regulation had indeed been infringed and ordered LOT to pay compensation in the amount of EUR 600 to each passenger concerned. That decision was challenged by LOT before a Hungarian court. That court referred a question to the Court of Justice to determine whether the authority in question could order an air carrier to pay compensation or whether that power was reserved for the national courts. The Court of Justice considered that **the national authority responsible for the enforcement of the Regulation could, in response to individual complaints, compel a carrier to pay compensation to passengers**, provided that the Member State concerned has granted that authority a power to that effect.



[Judgment in *LOT \(Payment of compensation ordered by the administrative authority\)* of 29 September 2022 \(C-597/20\)](#)



In a reference for a preliminary ruling from a Lithuanian court, the Court of Justice interpreted the Directive on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of the consumer. In this case, the products at issue were several types of bath bombs with the appearance of foodstuffs and presenting a risk of poisoning to consumers, particularly children. The Court of Justice held that a **Member State may, subject to certain conditions, place restrictions on the distribution of cosmetic products which may be confused with foodstuffs, because they resemble foodstuffs, and pose risks for health.** It clarified that the interest in protecting the health and safety of consumers can prevail over the right to market certain cosmetic products.

[Judgment in *Get Fresh Cosmetics* of 2 June 2022 \(C-122/21\)](#)

Equal Treatment

The Charter of Fundamental Rights of the European Union enshrines the equality before the law of all individuals as human beings, workers, citizens or parties to judicial proceedings. Directive 2000/78 in particular provides a general framework for equal treatment in employment and occupation, prohibiting any discrimination based on religion or belief, disability, age or sexual

orientation. The Court of Justice decided several cases relating to alleged instances of discrimination, whether direct or indirect, whilst pointing to the need to observe the principle of proportionality between the objective pursued by the rules called into question and the principle of equal treatment.

The Court of Justice: guaranteeing equal treatment and protecting minority rights



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In a reference for a preliminary ruling from a Spanish court, the Court of Justice ruled on the compatibility of national legislation on the **social security benefits of domestic workers** with the Directive on equality in matters of social security. Spain's special social security scheme for domestic workers did not include protection in respect of unemployment. Noting that domestic workers are primarily women, the Court held that the Directive precludes that exclusion which places female workers at a particular disadvantage compared with male workers and thus constitutes **indirect discrimination on grounds of sex**. Furthermore, nor is that exclusion justified by objective factors unrelated to any discrimination on those grounds.

[Judgment in *TGSS \(Domestic worker unemployment\)* of 24 February 2022 \(C-389/20\)](#)





In a reference for a preliminary ruling from a Portuguese court, the Court of Justice ruled on the compatibility of national legislation on the calculation of **compensation in respect of days of paid annual leave not taken** with the Directive on **temporary agency work**. It held that the method of calculating that compensation and the corresponding holiday bonus pay laid down in the special rules applicable to temporary agency workers placed them at a disadvantage from the perspective of the number of days of paid leave and the amount of the bonus. The compensation in question **must be at least equal to that which would be granted to them if they had been recruited directly by the user undertaking** to occupy the same job for the same period at that undertaking.

[Judgment in *Luso Temp* of 12 May 2022 \(C-426/20\)](#)

The French-speaking Brussels Labour Court asked the Court of Justice whether the words ‘religion or belief’ contained in the Directive on equal treatment in employment and occupation are to be interpreted as two facets of a single protected criterion or, on the contrary, as two separate criteria. It also asked the Court whether the prohibition on wearing a headscarf contained in a company’s internal rules constitutes direct discrimination based on religion. The dispute concerned the failure to take into consideration the unsolicited application by L.F., a young woman of the Muslim faith, after she had indicated at an interview that she would refuse to remove her headscarf, contrary to the policy of neutrality promoted by those internal rules.

In its judgment, the Court of Justice held that **religion and belief** (in particular philosophical or spiritual belief) **constitute a single ground of discrimination**. That said, **the internal rule of an undertaking prohibiting the visible wearing of religious, philosophical or spiritual signs does not constitute direct discrimination if it is applied to all workers in a general and undifferentiated way**. It may however entail indirect discrimination if it is established that the apparently neutral obligation it encompasses results, in fact, in persons adhering to a particular religion or belief being put at a particular disadvantage. Such indirect discrimination may, nevertheless, be justified, in certain circumstances, by a legitimate aim. When assessing the existence of a justification, the national court may, in the context of balancing diverging interests, ascribe greater importance to those relating to religion or belief than to those resulting, inter alia, from the freedom to conduct a business, provided that such an approach stems from its domestic law.

[Judgment in SCRL \(*Religious clothing*\) of 13 October 2022 \(C-344/20\)](#)





An Italian court asked the Court of Justice about the compatibility with EU law, in particular with the principle of non-discrimination, of the **age limit of 30 years** provided for in national legislation as the **maximum limit for admission to the public competition for the recruitment of police commissioners**. The Court considered that that limit constitutes a **difference of treatment on grounds of age**, whilst leaving it to the national court to determine whether that difference is justified by a genuine and determining occupational need, such as the requirement of particular physical capacities connected with the duties actually performed by a police commissioner. It is also for the national court to determine whether that same limit pursues a legitimate objective and is proportionate to that objective, by assessing inter alia whether the eliminatory physical fitness test provided for in the competition constitutes an appropriate and less onerous measure.

[Judgment in *Ministero dell'Interno* \(Age limit for the recruitment of police commissioners\) of 17 November 2022 \(C-304/21\)](#)

A was elected sector convenor of an organisation of workers in 1993. That political office, which was based on trust, nevertheless included certain elements characteristic of a job: A was employed on a full-time basis, received a monthly salary and the Law on paid holidays applied to her. A was re-elected every four years and held the post of sector convenor of that organisation until 2011, when she reached the age of 63 and exceeded the age limit laid down to stand in the election for sector convenor planned for that year. The Danish court seised of an action brought by the Ligebehandlingsnævnet (Equal Treatment Board), the latter acting on A's behalf against HK/Danmark and HK/Privat, put a question to the Court of Justice with a view to ascertaining whether the Directive on **equal treatment in employment** and occupation was applicable to that situation. The Court held that an **age limit laid down in the statutes of an organisation of workers for eligibility to stand as sector convenor does fall within the scope of that directive**. Neither the political nature of such a post nor the method of recruitment (election) has any bearing on the Directive's application in that context.



[Judgment in *HK/Danmark and HK/Privat* of 2 June 2022 \(C-587/20\)](#)

Family Law

The European Union lays down rules for the coordination of social security systems to prevent Union citizens, particularly families, from being impeded in the exercise of their rights because they live in different Member States of the European Union or because they moved from one Member State to another

in the course of their life. In the same vein, the 'Brussels IIa' Regulation governs judicial cooperation within the European Union in matrimonial matters and matters of parental responsibility.

In the context of a reference for a preliminary ruling concerning the **transfer of a child's residence** from Sweden to Russia, the Court of Justice held that a court of a Member State does not retain jurisdiction to rule on the custody of the child on the basis of the 'Brussels IIa' Regulation where the habitual residence of the child has been lawfully transferred, during the proceedings, to the territory of a third State that is a party to the 1996 Hague Convention.

[Judgment in CC \(Transfer of the child's habitual residence to a third country\) of 14 July 2022 \(C-572/21\)](#)





An EU citizen who is not a German national was refused the **payment of family benefits** by the German authorities for the first three months after establishing her residence in Germany. That refusal was based on the fact that that person was not in receipt of income in Germany. Since that requirement does not apply to German nationals returning from a period of residence in another Member State, the EU citizen challenged that refusal before a German court, which referred a question to the Court of Justice. The latter found that such a **difference in treatment constitutes discrimination prohibited** by EU law. It did however point out that it follows from EU legislation that, unlike the case in which (as in this case) the person establishes his or her habitual residence in the Member State concerned, a period of merely temporary residence is not sufficient to be able to claim such equal treatment.

[Judgment in *Familienkasse Niedersachsen-Bremen* of 1 August 2022 \(C-411/20\)](#)

In January 2019, **Austria put in place an adjustment mechanism for calculating the flat-rate amount of family allowances and of various tax advantages** which it granted to workers whose children reside permanently in another Member State. The adjustment could be made upwards or downwards depending on the general price level in the Member State concerned. The Commission considered that that adjustment mechanism and the resulting difference in treatment, which mainly affected migrant workers as opposed to Austrian nationals, were contrary to EU law. It therefore brought an action for failure to fulfil obligations before the Court of Justice against Austria. By its judgment, the Court of Justice found that that adjustment mechanism, which took into account the State of residence of the workers' children, **was contrary to EU law since it constituted unjustified indirect discrimination based on the nationality of migrant workers.**



[Judgment in *Commission v Austria \(Indexation of family benefits\)* of 16 June 2022 \(C-328/20\)](#)

Data Protection

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 those data are collected, stored, processed or transferred. The Court of Justice ensures that the processing or storage

of personal data is limited to what is strictly necessary and does not disproportionately undermine the right to privacy.

The Court of Justice in the Digital World



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Proximus, a provider of telecommunications services in Belgium, also publishes **directories** containing the name, address and telephone number of the subscribers of the various **public** telephone services. Those contact details are communicated to Proximus by the operators, except where the subscriber has expressed the wish not to be included in the directories. In the context of a request to **withdraw consent made by a subscriber**, a Belgian court asked the Court of Justice about Proximus' obligations, as the controller of personal data. According to the Court of Justice, **that controller must implement appropriate technical and organisational measures to inform the other controllers of the withdrawal of the consent of the data subject concerned**. Those other controllers are the ones which provided Proximus with those data or to which Proximus communicated such data. The controller is also required to take reasonable steps to **inform internet search engine providers of a request for erasure** made by the data subject in question.



[Judgment in *Proximus \(Public electronic directories\)* of 27 October 2022 \(C-129/21\)](#)



The Court of Justice once again ruled on the possibility of the State requiring providers of electronic communications services to **retain, in a general and indiscriminate way, traffic and location data**. It clarified that, even though, as provided for in a German law, traffic data are to be retained for only ten weeks and location data for four weeks, the significant volume of data collected does nevertheless enable a complete profile of the persons concerned to be established. **That serious interference in private life can be allowed only in the case of a serious and present threat to national security, in particular in the case of a terrorist threat**. In the absence of such threats, the security authorities have other measures at their disposal to combat crime, such as the general and indiscriminate retention of IP addresses (that is to say, an identification number assigned to a device connected to the internet), targeted data retention and expedited data retention (a 'quick freeze', further to an injunction ordering the temporary retention of data currently being processed and stored).

[Judgment in *SpaceNet and Telekom Deutschland* of 20 September 2022 \(Joined Cases C-793/19 and C-794/19\)](#)

The Ligue des droits humains (LDH) is a not-for-profit association which brought an action for annulment before the Belgian Constitutional Court in July 2017 against the Law of 25 December 2016 transposing into domestic law the PNR Directive (on the use of air passenger name records), the API Directive (on the obligation on carriers to communicate passenger data) and Directive 2010/65 (on the formalities for ships arriving in and/or departing from ports of the Member States). According to the LDH, that law infringed the right to respect for private life and the right to the protection of personal data guaranteed under Belgian and EU law. The Court of Justice took the view that respect for fundamental rights requires that the powers provided for by the PNR Directive be limited to what is strictly necessary. It considered that, **in the absence of a genuine and present or foreseeable terrorist threat** to a Member State, EU law **precludes national legislation providing for the transfer and processing of PNR data of intra-EU flights and transport operations carried out by other means within the European Union**.



[Judgment in *Ligue des droits humains* of 21 June 2022 \(C-817/19\)](#)

The French Court of Cassation asked the Court of Justice about the relationship between the relevant provisions of the Directive on privacy and electronic communications, the Charter of Fundamental Rights of the European Union, the Market Abuse Directive and the Market Abuse Regulation. The national legislative measures at issue required the operators of electronic communications services to retain traffic data, as a preventive measure, on a general and indiscriminate basis, for a year from the date on which they were recorded. The purpose of those measures was to combat market abuse offences, including insider dealing. The Court of Justice held that **EU law does not permit a general and indiscriminate retention of traffic and location data for the purposes of combating market abuse offences** and, in particular, insider dealing. Measures providing for such retention go beyond the limits of what is strictly necessary and cannot be justified in a democratic society.

[Judgment in *VD and SR* of 20 September 2022 \(Joined Cases C-339/20 and C-397/20\)](#)



Area of Freedom, Security and Justice

The area of freedom, security and justice without internal frontiers is built around four pillars: judicial cooperation between Member States in civil and criminal matters, police cooperation, control at the external borders, and asylum and immigration. Judicial cooperation between Member States is manifested notably through the European arrest warrant, a judicial decision adopted by a Member State seeking the arrest of a wanted person in another Member State and

the surrender of that person for the purpose of criminal prosecution or executing a custodial sentence. As regards asylum, EU law establishes the conditions which third-country nationals and stateless persons must satisfy in order to qualify as beneficiaries of international protection (the Directive on refugees). The Court is regularly called upon to clarify the scope of the applicable rules.



In the context of the migration crisis, Austria reintroduced border control at its borders with Hungary and Slovenia from the middle of September 2015. That border control was subsequently extended a number of times. An Austrian court, before which a citizen challenged that control, asked the Court of Justice about the compatibility of the control with EU law. The Court of Justice held that, **where there is a serious threat to its public policy or internal security, a Member State may reintroduce border control at its borders** with other Member States, but without exceeding a **maximum duration of six months**. Only in the event of a new serious threat arising can the re-application of such a measure be justified.

[Judgment in *Landespolizeidirektion Steiermark and Others* \(Maximum duration of internal border control\) of 26 April 2022 \(C-368/20\)](#)

In June 2016, the Italian judicial authorities issued a **European arrest warrant** (EAW) in respect of KL, an Italian national residing in France, with a view to the execution of a custodial sentence of twelve years and six months. That sentence was a cumulative sentence imposed for four offences committed in Italy, one of which was termed ‘devastation and looting’. The Court of Appeal of Angers (France) refused to surrender KL to the Italian judicial authorities because two of the acts do not constitute an offence in France. The constituent elements of the offence of ‘devastation and looting’ differ between the two Member States concerned: under Italian law, that offence relates to multiple acts of wholesale destruction and damage causing, inter alia, a breach of the peace, whereas, under French law, there is no specific offence of endangering the public peace through the wholesale destruction of movable or immovable property. The Court of Justice held that **there does not have to be an exact match between the elements of the offence concerned in the issuing State and the executing State**. The executing judicial authority cannot therefore refuse to execute the European arrest warrant because only some of the acts corresponding to that offence in the issuing Member State also constitute an offence in the executing Member State.



[Judgment in *Procureur général près la cour d'appel d'Angers* of 14 July 2022 \(C-168/21\)](#)



A Russian national who at the age of 16 developed a rare form of blood cancer is currently receiving treatment in the Netherlands. His medical treatment, which is not permitted in Russia, consists, inter alia, in the administration of medicinal cannabis to alleviate his suffering. The District Court of the Hague asked the Court of Justice whether EU law precludes a **return decision** from being taken or a **removal order** from being made in such a situation. The Court took the view that **EU law precludes this where there are substantial grounds for believing that returning that person would expose him or her**, on account of appropriate care not being available for analgesic purposes in the receiving country, **to a real risk of a rapid, significant and permanent increase in the pain caused by his or her serious illness**, which would be contrary to human dignity.

[Judgment in *Staatssecretaris van Justitie en Veiligheid \(Removal – Medicinal cannabis\)* of 22 November 2022 \(C-69/21\)](#)



In 2019, I, an Egyptian national, applied for **international protection** in Greece whilst he was still a minor. At the time of his application, he expressed the wish to be reunited with S, his uncle, also an Egyptian national, who was lawfully resident in the Netherlands. The Netherlands State Secretary refused the request to take charge of I made by the Greek authorities because I's identity and, therefore, the alleged family relationship with S, could not be established. The State Secretary also rejected the objection lodged by I and S as manifestly inadmissible on the ground that the Dublin III Regulation does not provide for the possibility for applicants for international protection to challenge a decision refusing a take charge request adopted by the competent national authorities. That rejection was challenged before the District Court of the Hague (Netherlands), which put questions to the Court of Justice. In response, the Court held that the Dublin III Regulation, read in conjunction with the Charter of Fundamental Rights of the European Union, requires a **right to a judicial remedy** to be granted to **an unaccompanied minor to challenge a decision refusing to take charge** of him or her. However, a relative of that minor does not enjoy such a right to a remedy.

[Judgment in *Staatssecretaris van Justitie en Veiligheid \(Refusal to take charge of an Egyptian unaccompanied minor\)* of 1 August 2022 \(C-19/21\)](#)

Sea Rescue

Against a background of sea rescue operations, issues have arisen in the field of maritime and environmental safety regarding the extent of the powers of the port Member State's

authorities with respect to controls of ships flying the flag of another Member State of the European Union.

Sea Watch is a German humanitarian organisation which **systematically carries out activities involving the search for and rescue of persons in the Mediterranean Sea** using ships. Following on from rescue operations conducted in 2020, two of its ships were subject to inspections and detention measures by the Harbour Master's Offices of the Ports of Palermo and Porto Empedocle (Italy), which were challenged by Sea Watch. An Italian court referred the matter to the Court of Justice in order to clarify the extent of the port State's powers of control and detention over ships operated by humanitarian organisations. The Court held **that such ships may be the subject of an inspection by the port State**. However, that State can adopt **detention measures only in the event of a clear risk to safety, health or the environment**, which it is for the port State to demonstrate. The Court also emphasised the importance of the principle of sincere cooperation, according to which Member States, including the port State and the flag State, are required to cooperate and to consult each other in the exercise of their respective powers.

[Judgment in *Sea Watch* of 1 August 2022 \(Joined Cases C-14/21 and C-15/21\)](#)



Access to Documents

Transparency in public life is key principle of the EU. Thus, any EU citizen or legal person in principle may access the documents of

the institutions. However, that access may be refused in certain cases.



Agrofert is a Czech holding company which was initially established by **Mr Andrej Babiš, who was Prime Minister of the Czech Republic from 2017 to 2021**. In a resolution, the European Parliament stated that Mr Babiš continued to control the Agrofert group, including after his appointment as Prime Minister. Taking the view that that statement was inaccurate and wishing to know the sources and information held by the Parliament, Agrofert submitted an application for access to several documents. In its reply, the **Parliament** identified certain documents as publicly accessible and **refused access** to a letter from the Commission to the Czech Prime Minister and to a report drafted by the Commission. Further to an action brought by Agrofert against that decision of the Parliament, the General Court confirmed the decision's validity. The **General Court found that the interest of the company Agrofert in bringing proceedings against the decision refusing to give that company access to the report**, which had in the meantime been communicated to it, **had ceased to exist**, and **dismissed the action against the decision refusing access** to the letter to the Prime Minister because disclosure of that letter could undermine the Commission's investigative activities.

[Judgment in Agrofert v Parliament of 28 September 2022 \(T-174/21\)](#)

Competition and State Aid

The European Union applies rules to protect free competition. Practices which have as their object or effect the prevention, restriction or distortion of competition within the internal market are prohibited. More specifically, EU law prohibits certain agreements or exchanges of information between an undertaking and its competitors which may have such an object or effect and the abuse of

a dominant position in a certain market by an undertaking. Similarly, State aid is in principle prohibited unless it is justified and does not distort competition in a manner contrary to the general interest.

In 2009, the Commission imposed a fine of EUR 1.06 billion on **Intel Corporation** for having **abused its dominant position on the worldwide market for processors** between 2002 and 2007. In 2014, the General Court upheld that decision. Intel lodged an appeal against that judgment before the Court of Justice which, in 2017, set it aside on account of an **error in law**. The General Court had, wrongly, found merely that the rebates at issue were by their nature capable of restricting competition, without analysing whether those rebates did in fact have that effect. The Court of Justice then referred the case back to the General Court for it to give judgment once more. In its judgment of 26 January 2022, the General Court considered that the Commission's analysis concerning the capacity of the rebates at issue to restrict competition was incomplete and therefore annulled the Commission's decision in part. With regard to the impact of such a partial annulment of the contested decision on the amount of the fine imposed by the Commission on Intel, the General Court considered that it was not in a position to identify the amount of the fine relating solely to the naked restrictions. Accordingly, it **annulled in its entirety** the article of the contested decision imposing on Intel a **fine totalling EUR 1.06 billion** in respect of the infringement found.



[Judgment in *Intel Corporation v Commission* of 26 January 2022 \(T-286/09 RENV\)](#)



On 27 September 2017, the European Commission found that the companies Scania AB, Scania CV AB and Scania Deutschland GmbH, three entities of the **Scania group**, which produce and sell heavy trucks used for long-haulage transport, had infringed EU competition law. The Commission alleged that those companies had participated together with their competitors, from January 1997 to January 2011, in **collusive arrangements on the market for medium and heavy trucks** in the European Economic Area (EEA). That decision was adopted following a 'hybrid' procedure, combining the settlement procedure and the standard administrative procedure in cartel matters. The settlement procedure enables the parties in cartel cases to acknowledge their liability and, in exchange, to receive a reduction in the amount of the fine imposed. The Scania group companies had confirmed to the Commission their willingness to participate in settlement discussions. However, they subsequently decided to withdraw from that procedure. The Commission thus adopted a settlement decision in respect of the undertakings which had submitted a request in that regard and continued the investigation concerning the Scania group companies, on which a fine of EUR 880 523 000 was imposed. The General Court dismissed the action brought by the companies in the group against the Commission's decision in its entirety, and therefore **the fine imposed by the Commission was maintained**.

[Judgment in *Scania and Others v Commission* of 2 February 2022 \(T-799/17\)](#)

On 4 May 2022, the General Court upheld the Commission's decision approving rescue aid of EUR 36 660 000 granted by Romania to the **Romanian airline TAROM**, which is mainly active in the domestic and international transport of passengers, cargo and mail. The airline Wizz Air Hungary challenged that decision before the General Court. The General Court upheld the Commission's decision on the ground that **the aid aims to prevent the social hardship that a disruption of the Romanian airline's services might cause**, taking into account the poor condition of the Romanian road and rail infrastructure.

[Judgment in *Wizz Air Hungary v Commission \(TAROM; Rescue aid\)* of 4 May 2022 \(T-718/20\)](#)



The Government of the **Autonomous Community of Valencia** provided the Fundación Valencia, an association linked to the **football club Valencia CF**, with a guarantee for a bank loan of EUR 75 million, through which that association acquired 70.6% of the shares in Valencia CF. That guarantee was subsequently increased by EUR 6 million. In 2016, the Commission found that those measures constituted State aid incompatible with EU law and ordered their recovery. Valencia CF contested that decision before the General Court which, in 2020, annulled it ([T-732/16](#)). The Commission then lodged an appeal before the Court of Justice against the judgment of the General Court. The Court of Justice dismissed the appeal, finding that the **General Court had not imposed an excessive burden of proof on the Commission and had, rightly, merely found that that institution had not fulfilled the requirements which it had imposed on itself** by adopting, in the form of a notice, rules on the analysis of guarantees offered by Member States.

[Judgment in *Commission v Valencia Club de Fútbol* of 10 November 2022 \(C-211/20 P\)](#)



Intellectual Property

The Court of Justice and the General Court ensure the interpretation and application of the rules adopted by the European Union to protect all exclusive rights to intellectual creations. The protection of intellectual property (copyright) and industrial property (trade mark law, protection of designs) improves the competitiveness of undertakings

by fostering an environment conducive to creativity and innovation. EU law also protects the recognised know-how of a product in a geographical area of the EU through protected designations of origin (PDOs).

Intellectual Property at the General Court



[Watch the video on YouTube](#)



The name 'Feta' was registered as a **protected designation of origin (PDO)** in 2002. Since then, that name may be used only for cheese that originates from a defined geographical area in Greece and conforms to the product specification applicable to that product. Denmark was of the view that Regulation 1151/2012 applied only to products sold in the European Union and did not cover exports to third countries. It therefore did not prohibit its producers from exporting their products bearing the designation 'Feta'. The Commission brought proceedings for failure to fulfil obligations against Denmark, considering that that Member State had infringed its obligations under the Regulation. The Court of Justice held that the Regulation does not exclude products intended for export from the acts prohibited therein, in particular infringements of the intellectual property right protecting PDOs. It therefore found that **Denmark** had failed to fulfil its obligations by not preventing the **use of the designation 'Feta' on cheese** intended for export to third countries.

[Judgment in *Commission v Denmark \(PDO Feta\)* of 14 July 2022 \(C-159/20\)](#)

In June 2017, the Government of the **Principality of Andorra** filed an application for registration as an EU trade mark, for a broad range of goods and services, of the following figurative sign:

Andorra

Following the refusal by the European Union Intellectual Property Office (EUIPO) to register that trade mark, the Government of the Principality of Andorra brought an action before the General Court. In order to be registered, an EU trade mark must not, inter alia, have a descriptive character, meaning that it cannot be restricted to a mere description of the goods or services covered by it. In its judgment, the General Court concluded that the **trade mark Andorra has a descriptive character**. The relevant public may perceive it as an indication of the origin of the goods and services in question. This is an **absolute ground for refusal** which in itself justifies a refusal to register the sign as an EU trade mark.



[Judgment in *Govern d'Andorra v EUIPO \(Andorra\)* of 23 February 2022 \(T-806/19\)](#)



The General Court dismissed three actions brought by **Apple Inc.** against the decisions of the European Union Intellectual Property Office (EUIPO) **revoking the word sign 'THINK DIFFERENT'**. In 1997, 1998 and 2005, Apple Inc. had obtained registration of the word sign 'THINK DIFFERENT' as an EU trade mark, inter alia for IT and communications products. On application from **Swatch AG**, EUIPO revoked the contested marks, finding that those marks had not been put to genuine use for the goods concerned for an uninterrupted period of five years. The General Court upheld EUIPO's decision: in the General Court's view, the onus was on Apple Inc. to prove that those marks had been put to genuine use for the goods concerned during the five years preceding the date on which the applications for revocation were filed, which it had failed to do.

[Judgments in *Apple v EUIPO – Swatch \(Think different\)* of 8 June 2022 \(Joined Cases T-26/21, T-27/21 and T-28/21\)](#)



In 2017, the UK company **Golden Balls** filed with the European Union Intellectual Property Office (EUIPO) an **application for revocation of the BALLON D'OR trade mark** because, in its view, that mark had not been put to sufficient use for certain goods and services. The BALLON D'OR trade mark had previously been registered for the French company **Les Éditions P. Amaury**, which holds rights relating to the Ballon d'or (an award given to the best football player of the year). In 2021, EUIPO ordered the revocation of that trade mark for the majority of the goods and services for which it had been registered. Further to an action brought before it by Les Éditions P. Amaury against EUIPO's decision, the General Court annulled that decision as far as concerned the declaration of revocation for entertainment services. However, the **General Court upheld the revocation of that trade mark for services consisting in the broadcasting or production of television programmes, the production of shows or films and the publication of books, magazines or newspapers.**

[Judgment in *Les Éditions P. Amaury v EUIPO – Golden Balls \(BALLON D'OR\)* of 6 July 2022 \(T-478/21\)](#)

Taxation

Direct taxes in principle fall within the competence of the Member States. Nevertheless, such taxes, including corporation tax for example, must comply with basic EU rules, such as the prohibition of State aid. Thus, 'tax rulings' issued in certain Member States under which multinational

corporations benefit from special tax treatment are scrutinised by the Commission, and the EU Courts have been called upon to adjudicate in this area.

Tax rulings are decisions adopted, at the request of undertakings, by the tax authorities of certain Member States which determine in advance the tax to which those undertakings will be liable. As it has its registered office in the Grand Duchy of Luxembourg, **Fiat Chrysler Finance Europe** obtained from the Luxembourg tax authorities a tax ruling approving a methodology for determining Fiat Chrysler Finance Europe's remuneration, as an integrated company, for the services provided to the other companies in the Fiat/Chrysler group. In 2015, the Commission found that that tax ruling constituted operating aid incompatible with the internal market within the meaning of EU law. Actions were brought by Fiat Chrysler Finance Europe and by Luxembourg before the General Court which, in 2019, endorsed the Commission's approach and dismissed the actions. Fiat Chrysler Finance Europe and Ireland challenged several aspects of the analysis carried out by the General Court to determine the existence of an economic advantage, specifically from the perspective of the rules applicable in State aid matters. The Court of Justice set aside the judgment of the General Court and annulled the Commission's decision. According to the Court of Justice, the Commission applied an **arm's length principle different from that defined by Luxembourg law, even though in the absence of harmonisation in that regard under EU law, only the national provisions are relevant** for the purposes of analysing whether particular transactions must be examined in the light of the arm's length principle.

[Judgment in *Fiat Chrysler Finance Europe v Commission* of 8 November 2022 \(Joined Cases C-885/19 P and C-898/19 P\)](#)



Rule of Law

The Charter of Fundamental Rights of the European Union, like the Treaty on European Union, refers expressly to the rule of law, which is one of the values, common to the Member States, on which the European Union is founded. The Court of Justice is increasingly called upon to rule on the compliance by Member States with the rule of law, whether in the context of actions for failure to fulfil obligations brought against them by the European Commission or

requests for a preliminary ruling from national courts. The Court of Justice must therefore examine whether that founding value is respected at national level, in particular with regard to the judiciary and, more specifically, in connection with the process for appointing judges and the disciplinary regime for judges.

Upholding the rule of law in the EU



[Watch the video on YouTube](#)



The EU Charter of Fundamental Rights – binding rules with real-world impact



[Watch the video on YouTube](#)



In response to a question referred for a preliminary ruling by the Sąd Najwyższy (Supreme Court, Poland), the Court of Justice held that the mere fact that a judge was appointed at a time when that judge's Member State was not yet a democratic regime does not affect **the independence and impartiality of that judge** in the exercise of his subsequent judicial functions. Specifically, the circumstances surrounding the initial appointment of that judge cannot, on their own, give rise to reasonable and serious doubts in the minds of individuals.

[Judgment in *Getin Noble Bank* of 29 March 2022 \(C-132/20\)](#)

Restrictive Measures and Foreign Policy

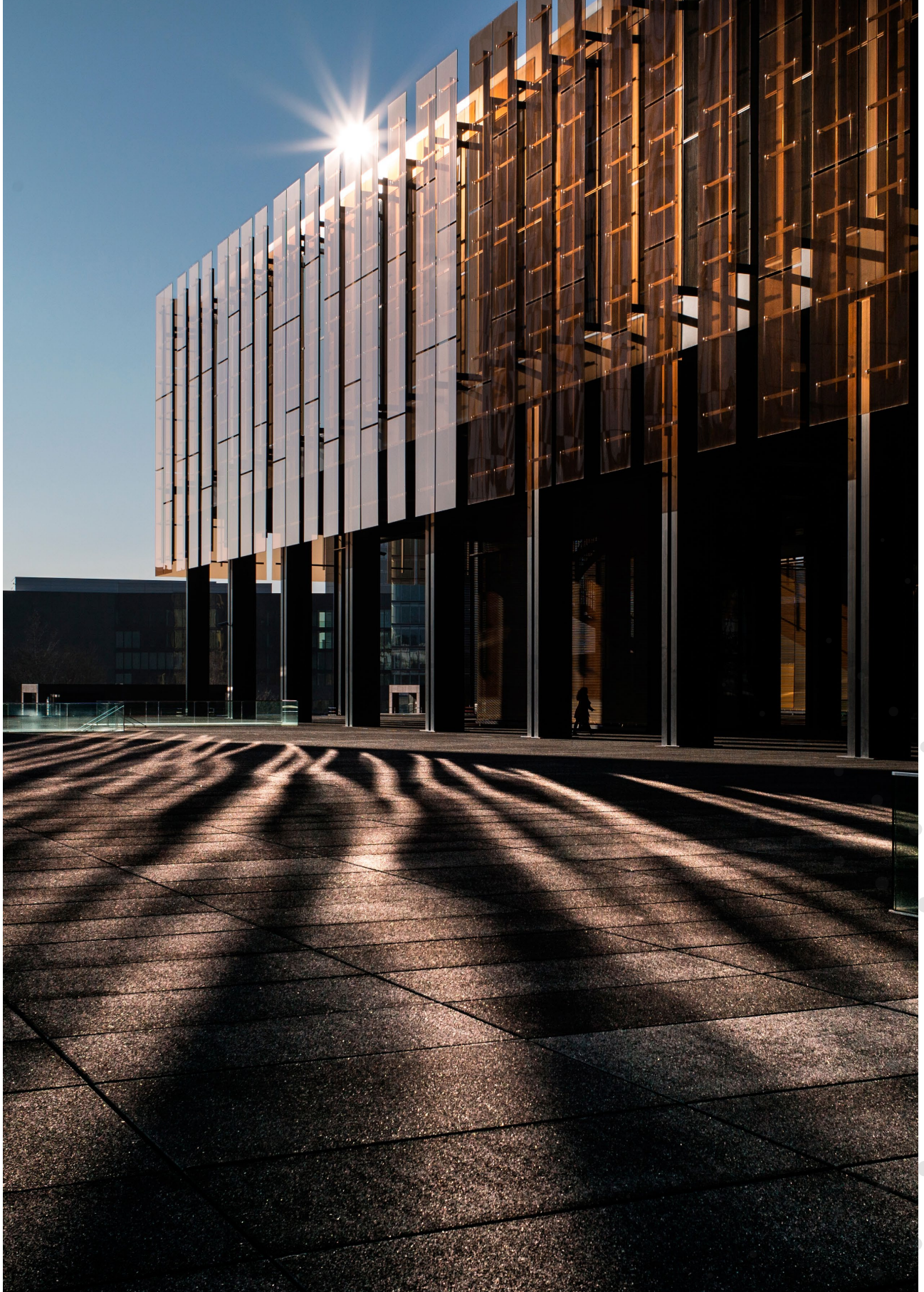
Restrictive measures or ‘sanctions’ are an essential tool of the European Union’s common foreign and security policy (CFSP). They are used as part of an integrated and global action that includes, in particular, political dialogue. The European Union adopts them with a view to protecting its values, fundamental interests and security and to preventing conflict

and strengthening international security. The purpose of the sanctions is to encourage a change of policy or conduct on the part of the persons or entities concerned, with the goal of promoting the objectives of the CFSP.

Following serious human rights abuses in Libya, in October 2020 the Council of the European Union adopted restrictive measures against **Mr Yevgeniy Viktorovich Prigozhin**, a Russian businessman with close links to the **Wagner Group**, which is involved in military operations in that State. The decision was extended in July 2021. Those measures consist in the **freezing of funds** of persons engaged in or providing support for acts that threaten the peace, stability or security of Libya. Mr Prigozhin brought an action against those measures before the General Court to obtain their annulment. The **General Court rejected the application**. It took the view, inter alia, that the evidence produced, such as extracts from the report of the United Nations Secretary-General (including photographs and witness statements), comes from various sources such as news agencies or media organisations, which made it possible to identify the Wagner Group, and that it contained precise and consistent information on the **activities of that group threatening peace, security and stability in Libya**. The evidence pack also contained specific, precise and consistent evidence demonstrating the numerous close links between Mr Prigozhin and the Wagner Group.

[Judgment in *Prigozhin v Council* of 1 June 2022 \(T-723/20\)](#)





70 years in the service of citizens and a European Union based on law



3



A Activity of the Institution in 2022

The Registrar of the Court of Justice, the Secretary-General of the Institution, oversees the administrative departments under the authority of the President.

On 4 December 1952, the first Members of the Court of Justice of the European Coal and Steel Community (ECSC) took their oaths in one of the four official languages of the ECSC. Nine Members, comprising seven Judges and two Advocates General, representing the judicial cultures of each Member State so as to ensure a rich dialogue between their traditions, a Registry dedicated to the effective functioning of the Court, a language service guaranteeing access to justice at European level free from linguistic barriers, and an administration ensuring the proper use of public funds available to

the judicial authority of the ECSC: in broad terms, that was the Court in its earliest days.

70 years later, the Court is able to look back on the path it has travelled with pride at having managed to move with the times without ever abandoning its founding values.

Now more than ever, when the Court has handed down more than 43 000 decisions since its creation, it is the answer to the question of how we can best **support the judicial activity of the Institution** that continues to set the course for all of its services.

In that regard, 2022 will have been an important year for setting in motion one of the Court's key projects, namely the implementation of an integrated case management system which will ultimately allow the courts to operate via an entirely digital, secure and integrated workflow from the moment a case is lodged all the way through to when the decision is delivered. That project, the essential aim of which is to promote timely justice of the highest quality, will be completed in 2024 after several years of close cooperation between the courts, registries and services. It will be a major step in the process of digitising judicial activity, which commenced a number of years ago with the development of the e-Curia tool, and will be further evidence – if such evidence is necessary – that increased recourse to technological innovation is the key to efficiency and progress.

At the same time, other strategic objectives have continued to feed into the Institution's work plan. In this context, significant projects were commenced in 2022, some of which undeniably echo the guiding principles which have steered the Institution's actions since its creation.

Those principles have, for the past seven decades, included finding members of staff with the best skills and the highest level of professionalism from each and every Member State. Multilingual, highly qualified and fully committed to the service of building a European Union founded on justice, it is they who are at the heart of the project of developing and retaining talent put in place by the Institution. With that in mind, in 2022 the Court launched a **comprehensive initiative to increase accessibility and inclusion**, with the aim of promoting the recruitment, integration

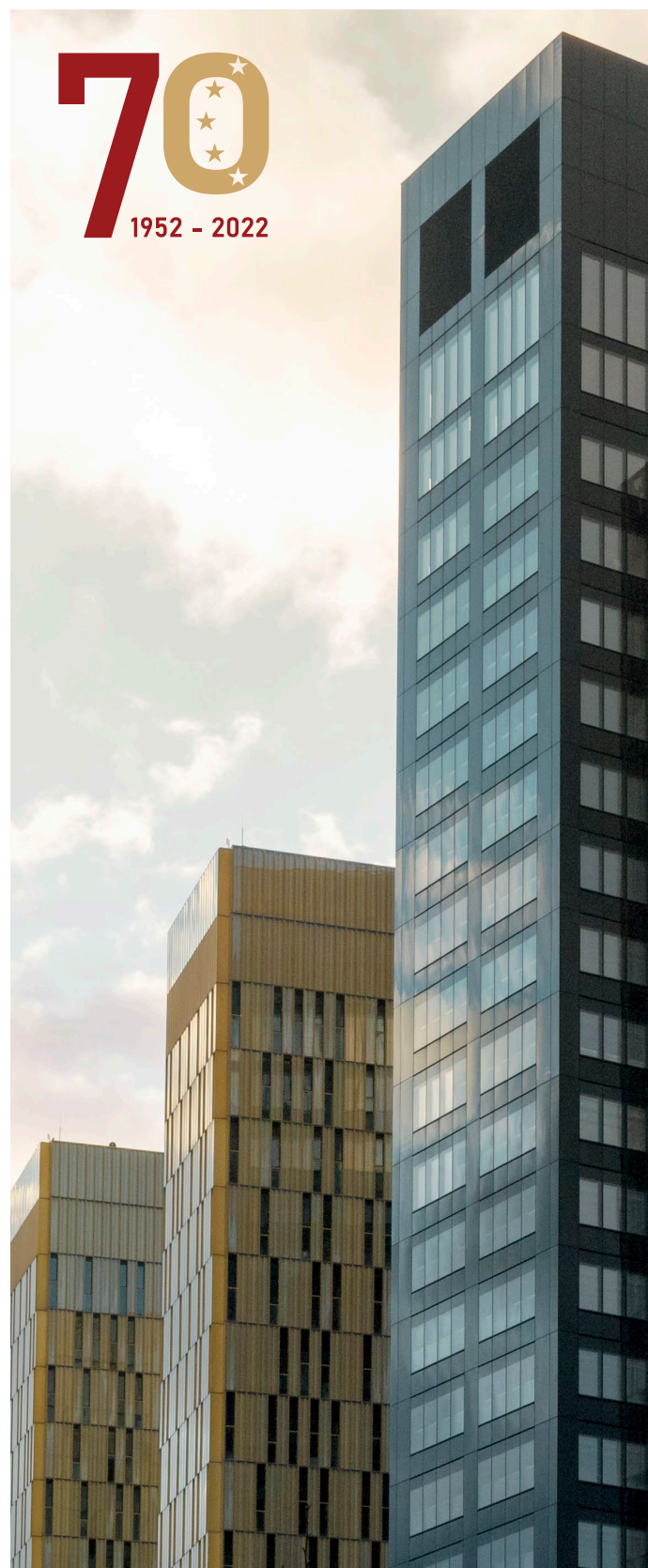


and development of colleagues with a disability and, by doing so, allowing everyone to make best use of their skills. That initiative, involving the participation of the whole Institution, also aspires to guarantee access to the Court of Justice of the European Union, physically or virtually, to all individuals, participants in proceedings and visitors.

The desire not only to continue to listen to citizens, but also to **bring the Institution closer to the wider public**, has for many years influenced its communication and information policy. In this anniversary year, a number of initiatives have reinforced this proximity, such as the pilot project of streaming hearings on the internet, as outlined below. Building on the extensive experience gained during the pandemic, the Institution also made permanent the remote visits programme for secondary school students of Member States, which allows them to visit the Institution's buildings, attend presentations and talk to a Member of the Institution, in their language, without leaving the classroom. This fascinating initiative, in which several hundred students have already participated in various Member States, gives young people who have until now been prevented from visiting the Court, whether owing to distance, financial reasons or travel difficulties, new opportunities to visit us and better understand the role of the European Union's judicial authority.

As is the case every year, the list of projects completed in 2022 is as rich as it is varied, making it easy to continue citing other projects. Nevertheless, it is not the year's achievements which best reflect the culture and values of an organisation, but rather its ability to assume its responsibility in the troubling times Europe is currently experiencing.

In that regard, the Court has fully embraced its role by welcoming the Supreme Court of Ukraine in order to promote peaceful and progressive justice, by exceptionally opening its Main Courtroom to celebrate – in the time needed for a theatre performance – the memory of judges who gave their lives to uphold the rule of law, as referred to constantly in our case-law, by having recourse to all technology available





to connect with those far away, and by working to ensure that everyone can find his or her place and can develop within the Institution with a view to equality and inclusion.

In 2022, while, in the Court as elsewhere, the heating and lighting were turned down to reduce energy consumption, the flame burning at the heart of our mission has never shone brighter!

Alfredo Calot Escobar

Registrar of the Court of Justice

B Key events of the year

70 years of the Court of Justice of the European Union: looking back on an anniversary year

‘Bringing justice closer to the citizen’



The Institution celebrated its 70th anniversary throughout 2022, a year themed around ‘Bringing justice closer to the citizen’. The celebrations showcase the road travelled since the first stone was laid, by the founding fathers of the European Coal and Steel Community (ECSC) in 1952, at the very early stages of European integration. The judicial institution has navigated years and eras, overcoming the challenges it encountered, in order to blow out the 70th candle on its anniversary cake. The succession of Treaties, the creation of the General Court in 1989, the delegation of new areas of jurisdiction, the successive enlargements and indeed Brexit, the gradual increase in the number of official languages and of Advocates General, the doubling of the number of Judges at the General Court ... so many events that have been milestones along that road and have accompanied the Court in the performance of its mission: to guarantee compliance with EU law and ensure that it is interpreted and applied uniformly. Before looking ahead to the future, let’s look back to the main events that occurred in the course of this special year.

At the start of the year, the President unveiled **the 70th anniversary logo**, which appeared for the first time in the Court’s insignia. As the symbol of this anniversary year, it will appear on all the year’s publications. It was affixed to the building and is visible from the centre of Luxembourg City, so as to attract the attention of citizens. During the **Open Days**, visitors were able to send postcards containing the abovementioned logo to the four corners of the European Union to let their friends and family know about their involvement in this celebratory event.

An information campaign was run on **Twitter** to raise awareness amongst citizens about the Institution’s history and its activities. 70 tweets provided an overview of the Court from 1952 to the present day for our 146 000 followers.

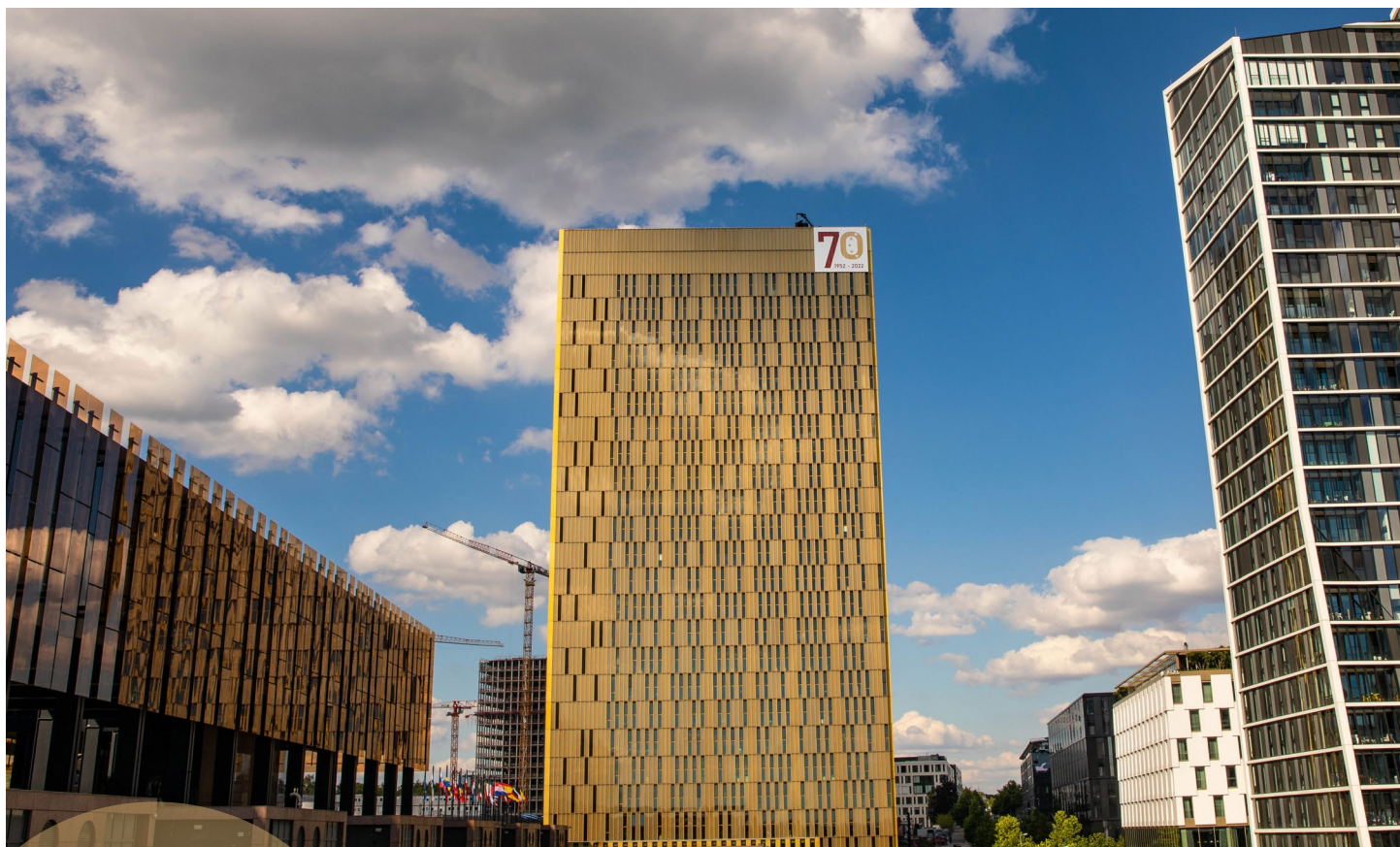
Continuing a decades-long tradition, and following on from the stamps issued for the inauguration of the Palais in 1973, the Court’s 35th anniversary in 1987, its 50th anniversary in 2002 and its 60th anniversary in 2012, the Luxembourg postal service has commemorated the Institution’s 70th anniversary with a **stamp**. On a different note entirely, a special edition of a **book** about the history of the



Court has been published: it will allow information about our institution to be shared during official visits and formal receptions. An edition will be made available to the public in 2023.

The highlight of the celebrations came in early December: at a **Special Meeting of Judges**, the Court gathered together the presidents of the constitutional and supreme courts of the Member States, the European Court of Human Rights and the European Free Trade Association Court. This important annual event, which was held in a special format in 2022, is an opportunity for discussions between the Judges and Advocates General of the Court and the judicial officers of all the Member States with the aim of promoting judicial dialogue. Focussed on the theme of 'Bringing justice closer to the citizen', the meeting was opened by the premiere screening in the Main Courtroom of a film commemorating the Court's 70th anniversary, tracing its history and its role in the construction of the European legal order. The film, which can be viewed by the general public and was produced internally by the Court, sees the involvement of Members of the Court of Justice and of the General Court as well as representatives from the world of academia, and is illustrated throughout using archive footage.

For **the formal hearing** on 6 December, the Court welcomed H.R.H. Prince Guillaume, the Hereditary Grand Duke of Luxembourg, as well as Mr Othmar Karas, First Vice-President of the European Parliament, Mr Michal Šalomoun, Minister for Legislation and Chairman of the Legislative Council of the Government of the Czech Republic, Ms Věra Jourová, Vice-President of the European Commission, and Ms Sam Tanson, Minister for Culture and Justice of the Grand Duchy of Luxembourg.





Bâtisseurs d'Europe (Builders of Europe): young people honoured at the Court

The 70th anniversary celebrations concluded on 6 December with the 'Bâtisseurs d'Europe' (Builders of Europe) conference, a special meeting between senior EU officials and young Europeans.

'Welcome to your home, your Court of Justice!'

Those were the opening words spoken by President Koen Lenaerts to the 240 secondary school students from 10 Member States present in the Main Courtroom and attending the conference remotely, before he turned to the role of the Court and its impact on the day-to-day lives of citizens. President Lenaerts, Mr Othmar Karas and Ms Věra Jourová each spoke about their career paths and their duties at their respective institution, stressing the importance of their different backgrounds, a reflection of a Europe united in diversity: 'A man from a different background, of a different religion or with different views can be just as right as me', said Mr Karas. For her part, Ms Jourová reminded the young students that values such as democracy and the rule of law have not always been guaranteed: she thus spoke of her earliest abiding childhood memories – the arrival of Soviet tanks during the Prague Spring in 1968.

Mr Lenaerts, Mr Karas and Ms Jourová then took part in a Q&A session with the young guests. The advantages of European integration, the quest by countries of Eastern Europe to join the European Union, the greatest challenges facing the EU, action taken by the EU whenever its law and its values continue to be disregarded, the various criticisms made of the EU and the growth of Euroscepticism, global warming and discrimination on grounds of gender or sexual orientation. So many issues on which the young visitors asked the speakers to set out their views.

As an epilogue, President Lenaerts reminded the students of the words spoken by Robert Schuman: 'Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity'. At the end of the meeting, the students expressed their enjoyment at having had the opportunity to interact with senior EU representatives.

'I think it's really inspiring to see that we have the opportunity to get involved and to put questions to top officials!'

'Our school had the privilege of putting questions to important figures within the European institutions: I wasn't a spectator, I was a participant in the conference.'

Streaming of hearings: one step further in bringing the Court closer to citizens

Adopting a modernised approach to the principle of the transparency and publicity of hearings, the Court of Justice has this year begun offering a streaming service for hearings on the CVRIA website, as part of a pilot project. The Court hopes, through this new service, to bring the Institution closer to the citizens of the European Union. The service, which was established in April 2022, allows people who are unable to travel to Luxembourg for whatever reason (cost, distance, difficulty with travelling) to follow hearings of the Grand Chamber of the Court of Justice just as if they were physically present. Since multilingualism lies at the heart of how the Institution operates, citizens can follow the discussions in the language of their choice, by selecting the relevant interpretation channel in the streaming session.

In order to guarantee the serenity of the proceedings and anticipate any technical difficulties, hearings are not broadcast live, but rather as delayed broadcasts. Hearings held in the morning are thus broadcast in the afternoon, whilst afternoon hearings are available the following morning. However, the delivery of judgments of the Court of Justice and the reading of Opinions of the Advocates General are broadcast live. To help viewers understand the case, a short, multilingual video presented by a press officer and explaining the case is shown on screen just before the hearing is broadcast.



Sébastien Servais,

Head of Multimedia

'Although the decision to establish the streaming service is quite recent, our team has been preparing for it for a number of years. The main challenge that we encountered on launching the service was primarily technical, because we needed a lot of IT equipment and changes had to be made at the very heart of our conference systems, in particular to ensure respect for multilingualism. Other aspects required

lots of attention too: the use of images during the hearings, various issues concerning the integrity of the hearing itself, as well as the protection of the personal data of the participants. Very special attention was devoted to the quality of the camerawork and the management of the cameras, in order to broadcast a high-quality picture. This streaming service will be gradually supplemented by new external means of communication that will allow for greater visibility of the work of our institution, whilst retaining maximum transparency for citizens. This is likely only a first stage, but the first step is undoubtedly always the most difficult to take.'



Tina Omahen,
interpreter

'After having to adjust to major changes to their profession as a result of the health crisis, interpreters were faced with another new challenge: dubbing the short videos presented before the hearings broadcast via the streaming service. Unlike interpreting, dubbing requires almost perfect synchronisation with the speaker. In addition to having to adjust our normal delivery technique to that new requirement, we also had to become familiar with new recording tools. For some colleagues, who mainly use handwritten documents in their preparations, going digital proved to be a challenge. However, after a few teething problems, we have now developed a robust routine for carrying out this new task.'

Marc-André Gaudissart,

Deputy Registrar of the Court of Justice



'While there had been calls for hearings to be broadcast online for several years, in particular by journalists, academics and parliamentarians, such a service had still not been launched by the Court of Justice or the General Court not only for reasons connected with managing the discussions and ensuring the smooth conduct of hearings but also because of technical and linguistic constraints, since broadcasting a multilingual hearing without simultaneous interpretation is of little use to EU citizens. But that was before the health crisis ...

Thanks to the considerable efforts made by the Court over that period, in particular to allow the parties, who in some cases were subject to very strict travel restrictions, to participate remotely in hearings held in Luxembourg, the Court acquired the necessary technology which now enables it to broadcast its hearings on the internet. At this stage, only hearings of the Grand Chamber of the Court of Justice are covered by that development. Nevertheless, it represents a significant step towards greater transparency for citizens in matters of justice, as well as undeniable progress for the national courts and tribunals which have referred questions to the Court of Justice regarding the interpretation or the validity of EU law and are now able to follow remotely the discussions prompted by those questions at the hearing and, therefore, are better able to grasp the scope of the answers given by the Court of Justice. This is a significant advantage at a time when the values and the very foundations of the European project itself are sometimes challenged.'



Theatrical performance in the Court's Main Courtroom

The last summer – Falcone and Borsellino thirty years on

In memory of the 30th anniversary of the assassination of the Italian judges Giovanni Falcone and Paolo Borsellino, the Main Courtroom of the Court of Justice was transformed into a stage for the performance of Claudio Fava's play *L'Ultima estate – Falcone e Borsellino trent'anni dopo*, directed by Chiara Callegari and attended by President Lenaerts and a number of prominent figures. Claudio Fava is a journalist and writer, a former Italian parliamentarian and Member of the European Parliament, and current President of the Anti-Mafia Commission for the Sicily Region. His play charts the last two months of the lives of two Italian judges in the 1990s.

A desk, two chairs and a filing cabinet in a minimalist set: what the director, Ms Callegari, wanted to convey was the importance of the commitment to a common cause and the need to remain vigilant to the danger that continues to be posed today by threats to the rule of law and economic crime that knows no borders.

The arts create a space within which the audience's emotions can be corralled and their awareness of the values of justice raised. The Court thereby underlined the importance of the duty of remembrance and showcased its desire to pay tribute to these Italian judges who were so committed to upholding the rule of law.



Chiara Callegari, Simone Luglio and Giovanni Santangelo

'The play "L'Ultima estate – Falcone e Borsellino trent'anni dopo" tells a unique story about two Italian judges who were passionate about combating the mafia. It was written in 2021, during a period of great uncertainty for mankind, in which the peoples all across the world were fighting a common foe. Faced with such uncertainty, it was both strange and difficult to think about bringing to the stage the lives of these two

men who had to stand alone in fighting the mafia, a monster that knew no limits. Honouring those men in a setting such as the Court of Justice of the European Union was a privilege.

In order to tell stories, an actor needs a public. At the Court, not only did we have a large audience – both physically present and via streaming – we also had a stage which, by its very nature and its role, represents the voice of all the citizens of Europe.

That setting lent our play perspective and elevated our performance to a whole new level. The weight of the words spoken by the actors changed and took on a new dimension. We had to contend with the fact of being the first to take to the stage inside the Court, which had become a theatre for the day.

The play was introduced by the President of the Court, Mr Koen Lenaerts, followed by the Italian Minister for Justice, Ms Marta Cartabia. And then it was our turn to speak! Faced with the challenge of presenting such a poignant work in such a highly symbolic place of justice, we really did have to hold our nerve.

“The day was set, a Saturday in May ...”. Those words rang out in the silence of the Main Courtroom and our tale of the human story of two servants of justice began.

We are left today with our memories of the warm welcome shown to us, the readiness and the skills of the organisers and technical teams, and the shared enthusiasm that prevailed in this wonderful cathedral to EU law.’

C Public relations

The Communications

Directorate's press

officers, who are lawyers by training, have the task of explaining judgments, orders and legal opinions, as well as ongoing cases, to journalists in all the Member States and to their various correspondents. It is the press officers' responsibility to organise events and information materials intended for such professionals and to which those professionals can subscribe.



2 700

visitors
inside the Court

2 856

press releases

2022, a year focussed on 'Bringing justice closer to the citizen', witnessed a strengthening of dialogue between legal professionals and the general public. As in previous years, the use of information technology, whether as part of the new remote visits programme or via social media, remains a key tool for enhancing the accessibility and the transparency of the Court's activities, in particular for civil society. The 70th anniversary was the opportunity to shed light on one of the Court's core values: to place itself at the service of citizens and of a European Union based on law.

2022 saw the gradual return of visitors thanks to the gradual lifting of the restrictions imposed as a result of the pandemic.

After two years of no gatherings, a first **Open Day** was organised at the Court on 9 May, on the occasion of Europe Day. During this event, at the place where the Court has its seat, guided visits in several languages explaining the Institution's activities were held for visitors who had registered in advance: the role of the Court of Justice and of the General Court, the 'lifecycle' of a case, the conference room and the Main Courtroom were all revealed to the public. At the same time, in Esch-sur-Alzette, the 2022 European Capital of Culture, the Court set up its stand on a beautiful spring day. A team made up of staff and Members of the Court went out to meet members of the public to promote and explain the role of the EU's judicial institution. On 8 October, the Court decided to open its doors once more, this time for an event on a larger scale than in the spring. The Institution's services and a number of professions were celebrated. In total, more than 2 700 people took advantage of this unique opportunity to explore inside the Court.

Over the course of the year, the Institution published 216 **press releases** on the CVRIA website to inform journalists and legal practitioners of the decisions of the Court of Justice and the General Court in real time, as soon as they were delivered. Taking into account all the language versions available on the website, 2 856 press releases were sent to correspondents in the Member States.

Press officers also distributed to their correspondents, primarily journalists but also legal professionals, 551 information letters and 568 'Info-rapid' bulletins concerning cases that were not covered by press releases.

Over 10 000 emails and almost 5 000 telephone calls regarding requests for information from citizens were also dealt with in 2022 (in the language of each individual who contacted the Court).

The Institution made increased use of social media to inform the general public with its two **Twitter** accounts (one in French, the other in English), which have in total 146 000 followers. 1 868 tweets were sent in 2022, double the previous year, and were mainly devoted to the most important judgments delivered by the Court of Justice and the General Court and the main events in the life of the Institution. A campaign was run on Twitter to cover the 70th anniversary celebrations: followers were thus able to discover the history of the Institution through 70 tweets specially posted for the occasion, tracing the past 70 years of the Court. The Institution is also present on the professional platform **LinkedIn** and sent 313 messages to its 178 000 followers. In the space of a year, the Court has grown that community by more than a third, a trend which demonstrates its visibility on that platform.

The Court's goal is thus one of transparency, with the aim of strengthening citizens' trust in the Institution. Understanding its role and its case-law activities are essential to that objective. That drive to bring the Institution closer to citizens is also illustrated by the fruition of a **remote visit** project launched in 2021. Following its initial implementation in French, Italian, Latvian and Hungarian, this highly successful project has now been offered in other languages. Remote visits have therefore also taken place in Czech, Greek, Polish and Romanian. The goal for 2023 is to build on that momentum and to expand the project to new official languages.

Turning to more traditional opportunities, after two years heavily impacted by the pandemic, the organisation of **in-person visits** has picked up again: 9 683 people visited the Institution's buildings in 2022. Others opted for the **virtual format** – around 15% of visitors this year. This format has the potential to develop considerably in the coming years by making the Court equally accessible to those European citizens who are furthest away from Luxembourg. This policy of openness which, on the one hand, reduces the Institution's carbon footprint and cuts distances and costs is, on the other hand, a bonus as regards the goal of increasing the transparency and understanding of the Institution.



146 000
followers



178 000
followers

The purpose of the [remote visits](#) is to give secondary school students aged between 15 and 18 an understanding of the role played by the EU courts. The impact of the case-law of the Court on their daily lives and the Institution's judicial activities are presented by a lawyer. The students undertake a virtual visit to the buildings and attend a viewing of two short films made for this programme. They have the opportunity to meet with a Judge or an Advocate General for a Q&A session. The programme aims to raise awareness amongst the young students and their teachers about democratic values and current legal issues.





Mr Dimitrios Gratsias,

Judge at the Court of Justice

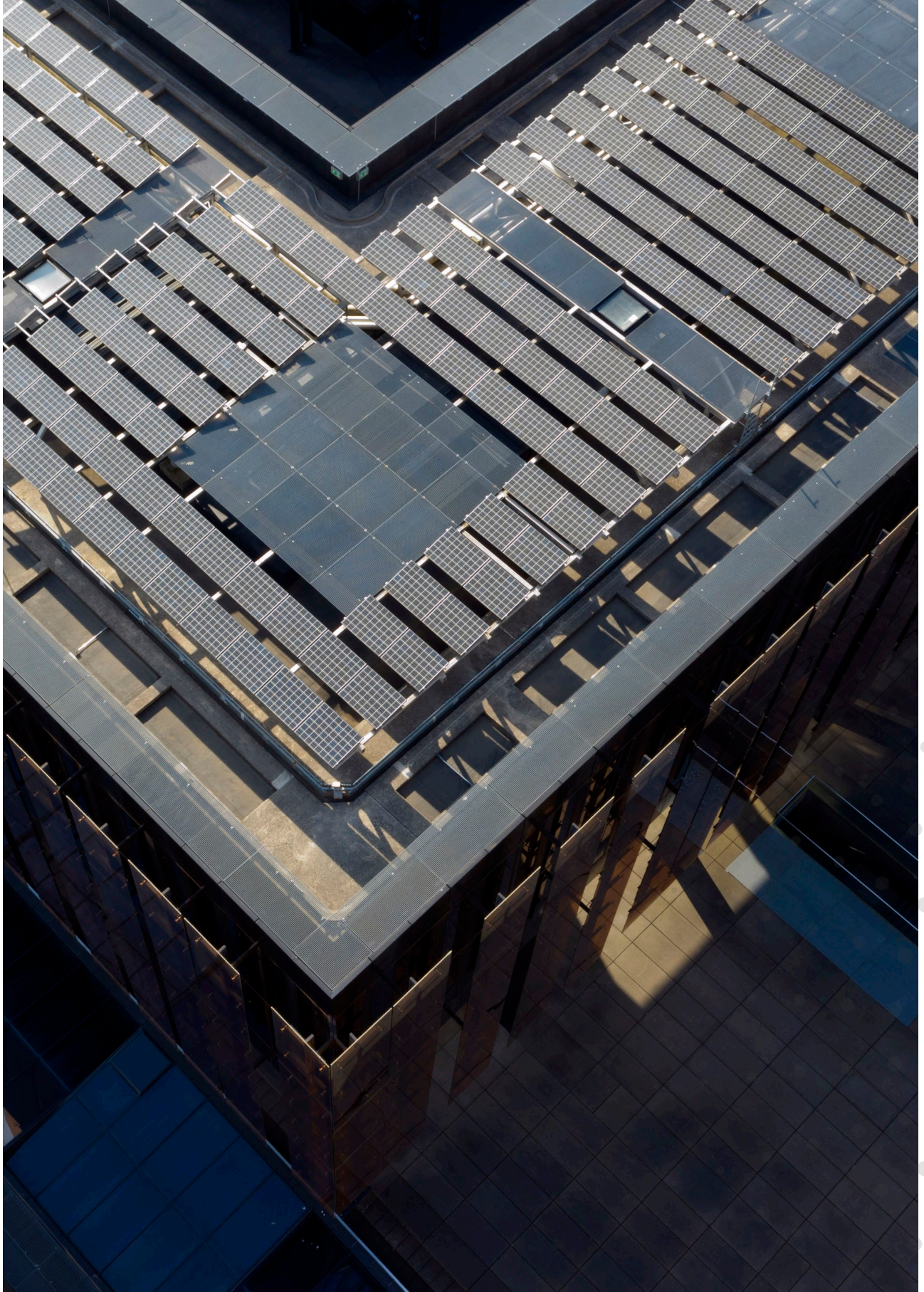
'The prospect of participating in a 'remote visit' to the Court, conducted in Greek, fascinated me from the outset of the project. I must confess that I did nevertheless have some doubts. How would it be possible to speak to secondary school students about the Court without overwhelming them with too many technical details or falling into the trap of misleading them through oversimplification? Moreover, would it be exactly that, a 'remote' visit, devoid of the spontaneity typical of the exchanges during visits in person? It turned out that I need not have worried. Many participants sent us questions in advance, each more interesting than the last. I structured my presentation by first addressing general questions, then moving to the more specific, even personal ones. Thanks to the questions asked during the session, not only was our discussion lively – which is not surprising with an audience like that – it was also a truly profound debate, which, I believe, painted a faithful picture of the Court's mission and of the challenges it faces. Would I do it again? Without a shadow of a doubt!'

Varvara Efkarpidou,

*final year student, école franco-hellénique 'Jeanne d'Arc',
French international school in Piraeus, Greece*

'My classmates and I had the privilege of participating in a remote visit to the Court of Justice of the European Union and talking to its Members. Having access to a guided visit to the Court is a unique opportunity at our age, when we are starting to think about, and choose, our careers and build our future. Optimism can sometimes be in short supply: it is the social and financial crises and the growing worries of our parents which feed our questions. Meeting Members of the Court was an enriching experience and, for some of us, the beginning of a dream. The answers to our questions and the whole guided tour sparked the interest and curiosity of all the students. The visit will stay ingrained in our memories. Thank you to all the organisers and to our school for this wonderful initiative.'





An environmentally friendly institution



4

For several years, the Court has pursued an ambitious environmental policy, designed to meet the highest standards of sustainable development and environmental conservation.

As in every year, the Institution provides an account of developments through the most recent indicators at its disposal, namely those for **2021**.

Underpinning the management of the Institution's building complex, and the day-to-day management of the resources and tools at its disposal, is the constant commitment to respecting the environment, as shown, since 2016, through the Court's EMAS (Eco-Management and Audit Scheme) registration. The **EMAS** registration, established by an EU regulation, is 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. It is a clear recognition of the Court's ecological commitment and of the significant environmental performance achieved.

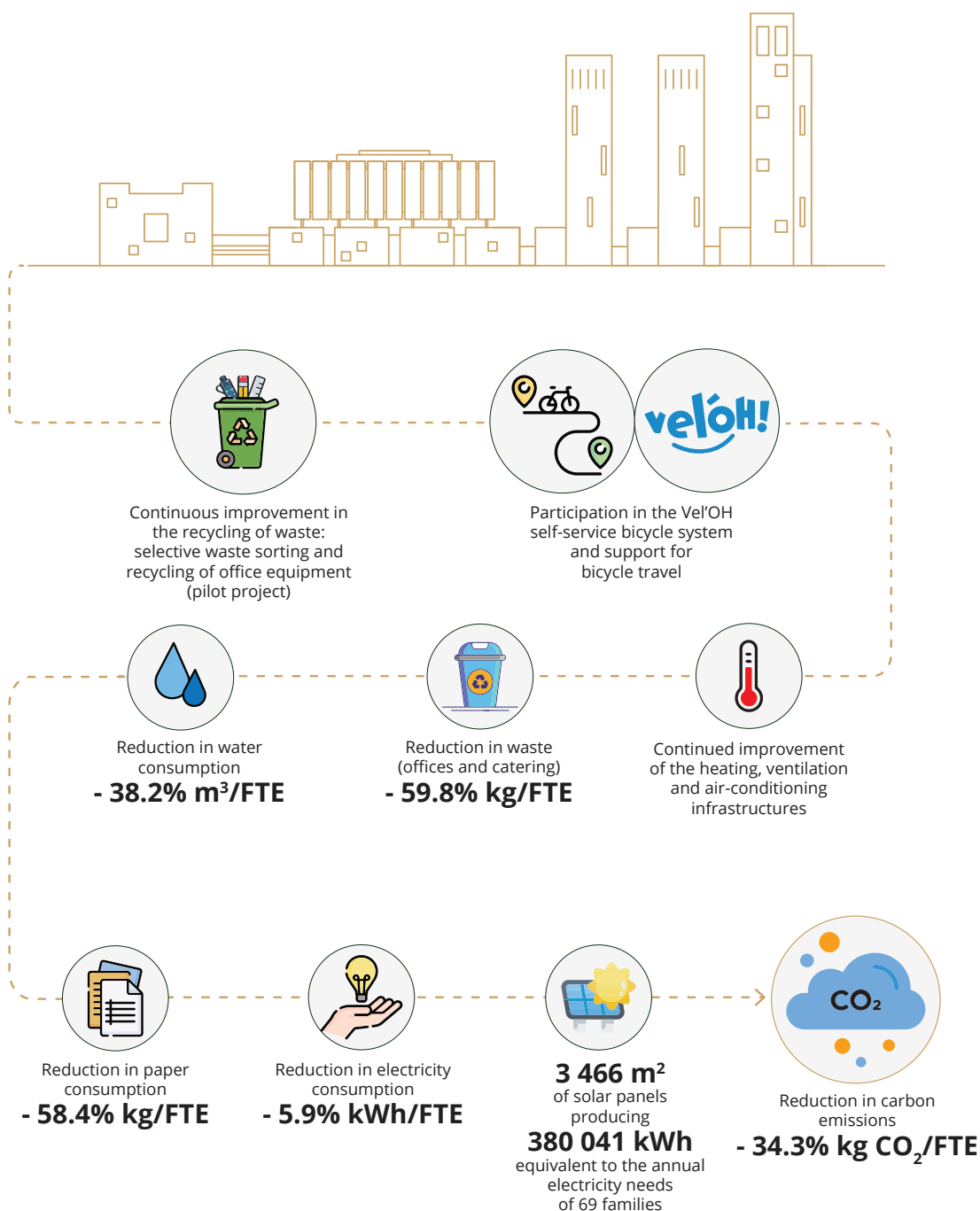
In its **annual environmental statement**, the Court presented a detailed account of its environmental performance and described current and future ecological projects within the Institution. For example, the Court has developed an **online training module** through which it informs all new arrivals of the environmental aspects associated with their daily work, encouraging the adoption of good habits in connection with information and office technology, energy use, water and waste processing, and also in their own personal transport choices.

Among recent concrete actions, the Court provided its staff with a network of water fountains with the aim of drastically reducing the use of plastic bottles. At the time of the return to the office post-pandemic, the Court also distributed reusable flasks in order to encourage use of these fountains. Indeed, the system for supply of drinking water precludes the use of plastic bottles.

As for paper consumption, the Court for the first time set quantitative targets for 2022-23: in 2022, a 10% reduction as compared with 2019 and, in 2023, an additional 5% reduction. Moreover, in September 2022, the EMAS Committee decided to reduce the number of personal printers by 50%. The first steps in this exercise were launched in December 2022.

The 'e-Curia' application, used widely for exchanging judicial documents between the parties' representatives and the Courts of the European Union, also 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 2022 (around one million pages) had been lodged in paper form, including the necessary sets of copies, the documents generated would have corresponded 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 2021. Variations are quantified by reference to 2015, the reference year.

The major fluctuations in various indicators are explained by the exceptional situation occurring in 2021 as a result of the health crisis.







Looking ahead

Looking ahead

‘United in diversity’, the motto of the European Union, is founded upon common values and diverse traditions. In 2023, the Court will celebrate multilingualism, a core value of the European project and a key element in the operation of the EU courts.

Multilingualism gives concrete expression to the fundamental principle of the equality of European citizens and is a pillar of European integration. Access to EU law is guaranteed in each official language: every citizen of the European Union can learn about EU law in their own language and rely – again in their own language – on the rights afforded to them by the European Treaties. Multilingualism also enables citizens to be treated equally in their access to justice and case-law. For its implementation, the Court relies on its lawyer-linguists and interpreters, who work on a daily basis in the 24 official languages (552 possible language combinations).

Thus, 2023 will see the completion of a number of projects which relate to that value, including the inauguration of a Garden of Multilingualism. In cooperation with the Luxembourg authorities, the Court is participating in the creation of a new green space intended to pay tribute to the EU’s linguistic richness and diversity. Open to the public and adjoining the Court buildings, it will help familiarise citizens with multilingualism, a value which the Court has fervently defended since its founding. Audiovisual content explaining the work of lawyer-linguists and interpreters, as well as an interpretation booth, will offer the public an immersive and enriching experience.

Moreover, a website dedicated to multilingualism will be launched, and a three-volume work on multilingualism

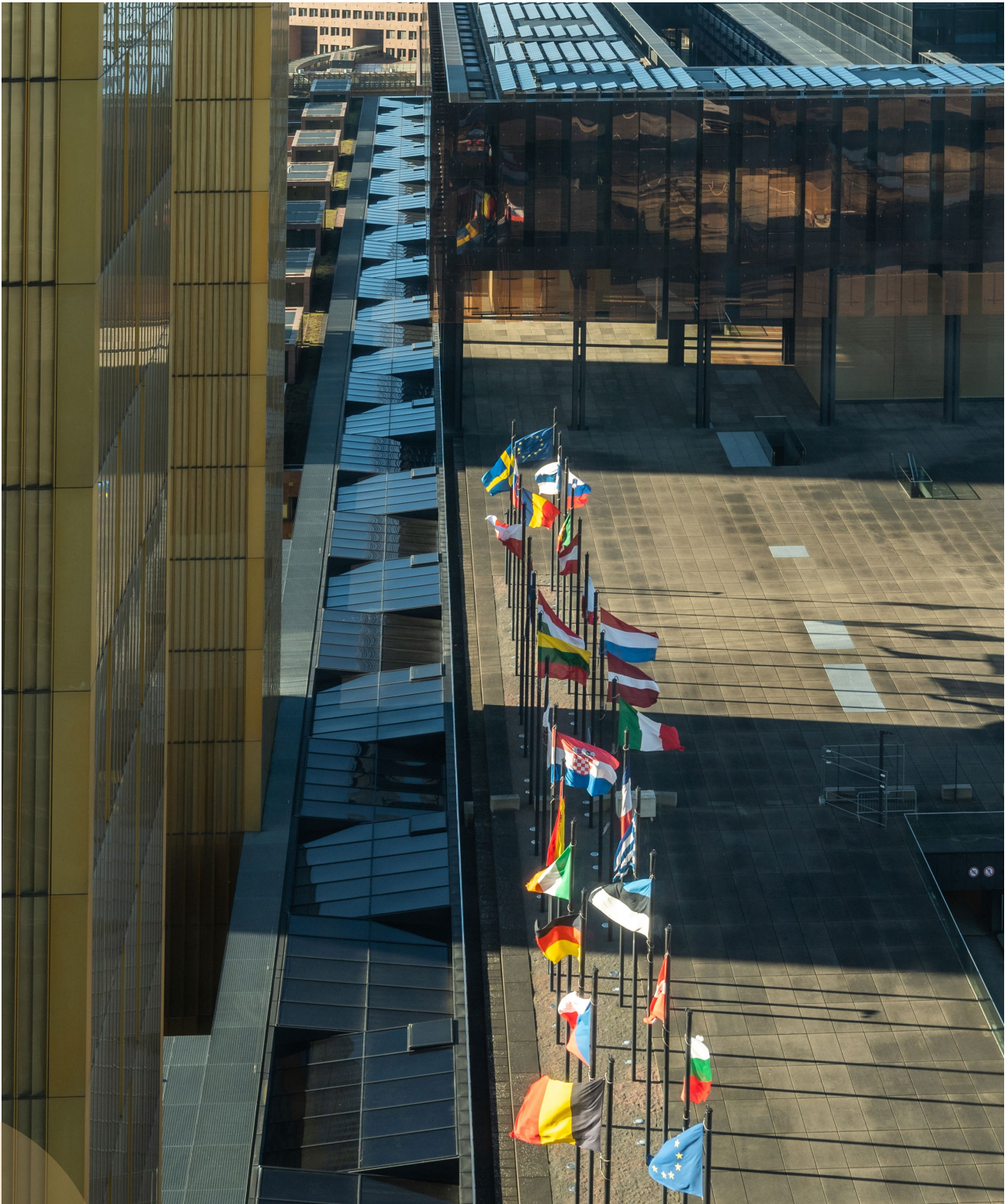
and the law will also be published. That work describes in the 24 official languages the operation of the EU courts and features contributions from eminent figures from the Member States, each giving their views on multilingualism in legal and administrative contexts. The texts will be available on the website mentioned above in all the official languages.

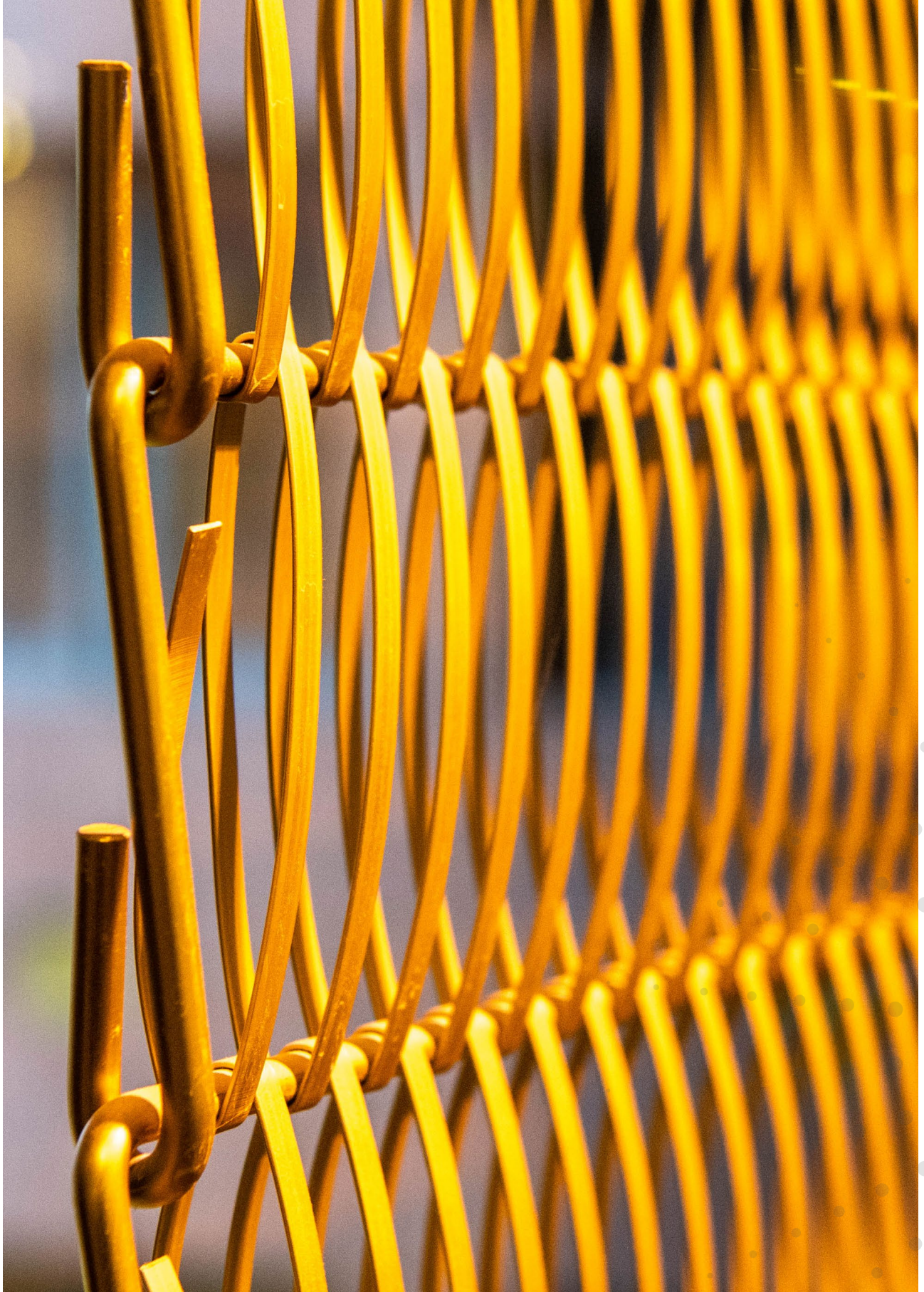
In addition, in order to get closer to the general public and legal professionals, a new communication channel will be added in the near future to those channels that already exist, in particular the Institution’s website and social media: Curia Web TV, an online television channel. It will be broadcast on the CVRIA website and will provide greater transparency for European citizens, including the youngest, by offering them access to audiovisual content and keeping them informed about the Court’s institutional and judicial activities.

In the context of the overall plan in favour of inclusion, the Court, in 2023, will continue its work to improve and promote the inclusion of persons living with a disability and to facilitate support and assistance for carers.

Lastly, significant efforts will be made to harness the potential of emerging technologies to further digital transformation and innovation in 2023. Research and experiments led within the innovation laboratory will be carried out in close collaboration with departments in relation to concrete needs directly linked to the

implementation of tools for the performance of the judicial mission. More specifically, work will continue in the field of automatic text analysis, reference detection, automated transcription, accessibility and robotic process automation.





Stay connected!

6

Access the case-law search portal of the Court of Justice and the General Court via the Curia website: curia.europa.eu



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curia.europa.eu/jcms/RSS

following the Court's **Twitter account**:

[CourUEPresse](https://twitter.com/CourUEPresse) ou [EuCourtPress](https://twitter.com/EuCourtPress)

following the Court's **Mastodon account**:

<https://social.network.europa.eu/@Curia/>

following the Institution's account on **LinkedIn**:

<https://www.linkedin.com/company/european-court-of-justice>

downloading the **CVRIA app** for smartphones and tablets

consulting the **European Court Reports**:

curia.europa.eu/jcms/EuropeanCourtReports



To learn more about the activity of the Institution:

consult the webpage on the **Annual Report**:

curia.europa.eu/jcms/AnnualReport

watch the videos on **YouTube**:

<https://www.youtube.com/@CourtOfJusticeEU>



Access the documents of the Institution:

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administrative documents:

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The Institution offers **visit programmes** tailored to the interests of each group (attending a hearing, guided tours of the building or of the works of art, study visit):

curia.europa.eu/jcms/visits

The **virtual tour** provides a bird's eye view of the **building complex** and allows you access from the comfort of your own home:

curia.europa.eu/visit360



For any information about the Institution:

Write to us using 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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