



COURT OF JUSTICE  
OF THE EUROPEAN UNION

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# ANNUAL REPORT 2016

THE YEAR IN REVIEW

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THE YEAR IN REVIEW

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# COURT OF JUSTICE OF THE EUROPEAN UNION

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## FOREWORD BY THE PRESIDENT



In 2016, our institution entered a new phase of its existence. Two of the three stages of the reform of the judicial structure of the European Union adopted in 2015 were implemented: a large number of additional judges joined the General Court, which took over the jurisdiction of the, now dissolved, Civil Service Tribunal.

Never before in the history of this institution have the courts of the Member States referred so many questions in order to better be able to interpret and apply EU law. This reflects not only the willingness of national courts to apply EU law correctly through the cooperation mechanisms provided for in the Treaties, but also the confidence they place in the Court of Justice of the European Union.

At the same time, the duration of proceedings continues its downward trend to the benefit of citizens and undertakings, who need legal certainty. The past year, moreover, has been one of unflagging judicial activity (more than 1600 cases completed). A large number of judgments have settled questions relating to the greatest challenges currently faced by the European Union (terrorism, the migration crisis, the banking and financial crisis, and so forth), but also issues relating to the everyday lives of all citizens.

In addition to those figures, I should like, lastly, to draw attention to the event organised within our institution on 11 November, the day commemorating the Armistice which brought the First World War to an end. The Presidents of the European Parliament, the European Commission and the Court of Justice of the European Union met informally with some 250 secondary school students to exchange views on and discuss their careers and a number of topical European issues. Such events are particularly welcome and fruitful in these turbulent times for European integration, when it is a moral duty to maintain a resolutely optimistic and confident outlook for the future.

A handwritten signature in blue ink that reads "K. Lenaerts". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

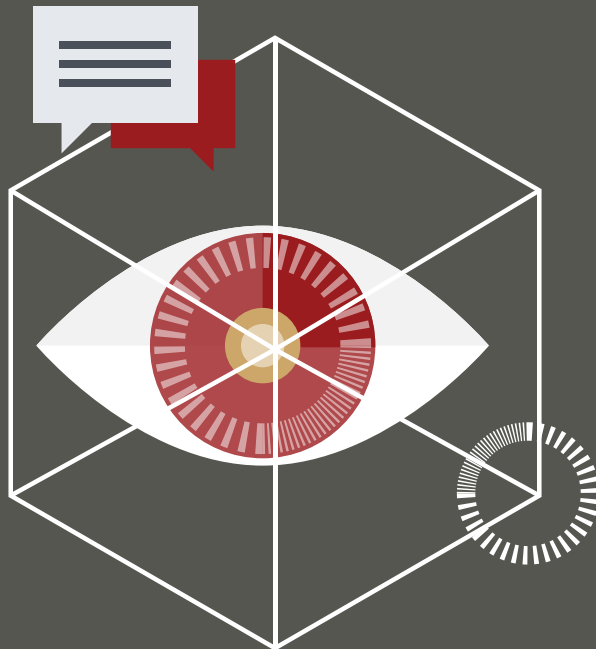
Koen **Lenaerts**  
President of the Court of Justice of the European Union

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2016

**AT A GLANCE**





# A // THE YEAR IN PICTURES



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

It is the judicial authority of the European Union and its task is to ensure compliance with European law by overseeing the interpretation and uniform application of the Treaties. The institution contributes to the preservation of the values of the European Union and by its case-law works towards the building of Europe.

The Court of Justice of the European Union is currently made up of two courts: the 'Court of Justice' and the 'General Court'.

**18 January**

Opening of the exhibition '70th Anniversary of the Nuremberg Trial: a tribute to the pioneers of simultaneous interpreting'

**7 March**

Visit to the Court of a delegation from the European Court of Human Rights

**16 March**

Judgment in *Dextro Energy*

**13 April**

Entry into office of seven new judges at the General Court as part of the reform

**6 June**

Proceedings before the Court brought in the *Uber* case

**8 June**

Entry into office of three new Members of the General Court

**26 and 29 June**

Proceedings against the Commission brought before the General Court in the *Ville de Paris* and *Ville de Bruxelles* cases

**27 June**

Laying of the foundation stone for the construction of the third tower

**6 July**

Partial renewal of the membership of the Court of Auditors

**31 August**

Incorporation of the Civil Service Tribunal within the General Court and transfer of jurisdiction

**19 September**

Entry into office of a new Advocate General at the Court, partial renewal of the membership of the General Court and entry into office of six new judges at the General Court as part of the reform

**20 and 21 September**

Elections of the President, Vice-President and Presidents of the Chambers of the General Court

**30 September**

Visit to the Court of the European Data Protection Supervisor

**6 October**

Renewal of the term of office of the Registrar of the General Court

**9 November**

Proceedings before the General Court brought in the *Apple* cases

**11 November**

'*Bâtisseurs d'Europe*' dialogue with young people

**30 November**

Partial renewal of the membership of the Court of Auditors

**14 December**

Solemn undertaking of a Member of the European Commission, Mr Julian King

**15 December**

Judgment in *Depesme*

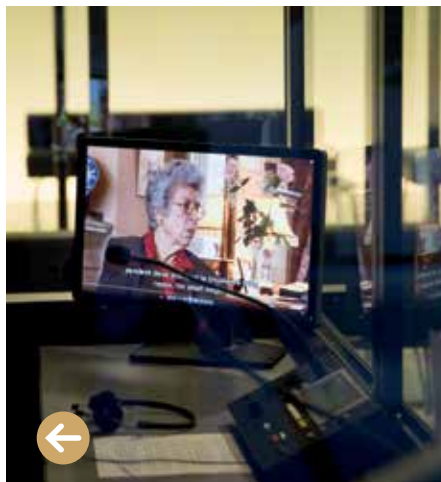
**21 December**

Judgment in *Tele2 Sverige*

18 January — 30 April

**Exhibition '70th Anniversary of the Nuremberg Trial: a tribute to the pioneers of simultaneous interpreting'**

Hosted by the Court for three months, this exhibition pays tribute to the interpreters at Nuremberg, the pioneers of simultaneous interpretation. It describes the lives of the twenty-five interpreters in the historical and technical context of the trials and — through a series of documents and objects, the precursors of today's equipment — charts the development of a profession which then evolved further at the Court of Justice of the EU and in other international courts.



7 March

**Visit to the Court of a delegation from the European Court of Human Rights**

The meeting forms part of the long-standing cooperation between the two European courts. Thus, the Members of the Court of Justice of the European Union and of the European Court of Human Rights meet on a regular basis, in Luxembourg or Strasbourg, to exchange views on the evolution of case-law in the field of fundamental rights.



16 March

### Judgment in *Dextro Energy*: health claims and dextrose cubes

Since 2006, a European regulation has established harmonised rules throughout the European Union on the use of health claims in relation to food. According to the General Court, several health claims used by the 'Dextro Energy' brand on labelling and advertising concerning the glucose contained in its products may not be authorised (T-100/15).

(See page 23)

13 April

### Entry into office of seven new judges at the General Court and partial renewal of the membership of the Civil Service Tribunal

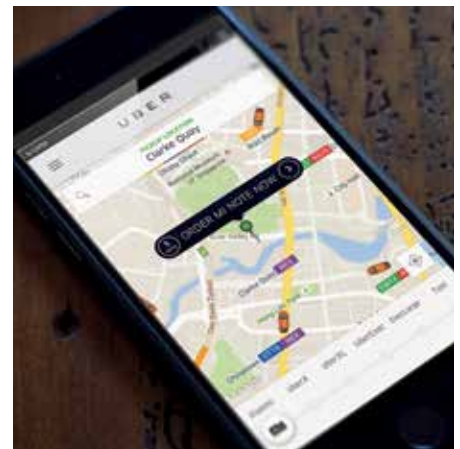
First stage of the implementation of the reform of the Court of Justice of the European Union. This reform provides for an increase in the number of judges at the General Court and for the transfer to it of all of the activities of the Civil Service Tribunal. Five new judges are appointed to the General Court until 31 August 2016: Constantinos Iliopoulos (Greece), Dean Spielmann (Luxembourg), Zoltán Csehi (Hungary), Nina Pótorak (Poland) and Anna Marcoulli (Cyprus). Another two judges, Leopoldo Calvo-Sotelo Ibáñez-Martín (Spain) and Virgilijus Valančius (Lithuania) are appointed to the General Court for the period from 13 April 2016 to 31 August 2019. The number of judges at the General Court thus goes from 28 to 35.

In addition, João Sant'Anna (Portugal) and Alexander Kornezov (Bulgaria) are appointed as judges at the Civil Service Tribunal until the jurisdiction of that tribunal is transferred to the General Court on 1 September 2016.

6 June

### Proceedings before the Court brought in the *Uber* case

May a Member State such as France make Uber's activity a criminal offence without notifying the draft law to the Commission in advance (C-320/16)?



8 June

### Entry into office of three new judges at the General Court

The implementation of the reform continues: taking of the oath of Peter George Xuereb (Malta), Fredrik Schalin (Sweden) and Inga Reine (Latvia). The number of judges at the General Court thus goes to 38.



**26 and 29 June**

### Proceedings before the General Court brought in the *Ville de Paris* and *Ville de Bruxelles* cases

The City of Paris is seeking annulment of the regulation by which the Commission relaxed the nitrogen oxide emissions threshold for diesel vehicles (T-339/16). The case brought by the City of Brussels followed three days later (T-352/16).

**27 June**

### Laying of the foundation stone of the third tower

Start of construction work for the third tower. In due course, this important real estate project will make it possible for all of the staff of the institution to be brought together on one site. A scroll formally recording the laying of that foundation stone, which prefigures the fifth extension of the Court, is buried in the presence of François Bausch, the Luxembourg Minister for Sustainable Development and Infrastructure, Félix Braz, the Luxembourg Minister for Justice, and Koen Lenaerts, the President of the Court.

**6 July and 30 November**

### New Members of the Court of Auditors

On 6 July, five new Members of the Court of Auditors are sworn in: Janusz Wojciechowski (Poland), Samo Jereb (Slovenia), Jan Gregor (Czech Republic), Mihails Kozlovs (Latvia) and Rimantas Šadžius (Lithuania). On 30 November, two other Members are also sworn in: Leo Brincat (Malta) and João Figueiredo (Portugal). The new Members gave the undertaking before the Court of Justice of the European Union



**31 August**

### Incorporation of the CST into the General Court and transfer of jurisdiction

The Civil Service Tribunal (CST), established in 2004, ceased to operate as part of the reform of the judicial structure of the European Union. Cases pending on this date are transferred to the General Court which, from 1 September, is the court with jurisdiction to rule on civil service actions.



### 19 September

#### Entry into office of a new Advocate General at the Court of Justice, partial renewal of the membership of the General Court and entry into office of six new judges at the General Court

The Court of Justice welcomes its eleventh Advocate General, Evgeni Tanchev (Bulgaria), while in parallel, the General Court sees its composition evolve as part of its three-yearly renewal and its expansion. Ezio Perillo (Italy), René Barents (the Netherlands), Ricardo da Silva Passos (Portugal), Paul Nihoul (Belgium), Barna Berke (Hungary), Jesper Svenningsen (Denmark), Ulf Christophe Öberg (Sweden), Octavia Spineanu-Matei (Romania), Maria José Costeira (Portugal), Jan Passer (Czech Republic), Krystyna Kowalik-Bańczyk (Poland) and Alexander Kornezov (Bulgaria) are sworn in. The number of judges in office at the General Court goes to 44.

### 20 and 21 September

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

Following the partial renewal of the Members of the General Court, Marc Jaeger (Luxembourg), President since 2007, is elected by his peers to serve a fourth term for the period to 31 August 2019. Marc van der Woude (the Netherlands), Judge at the General Court since 2010, is elected Vice-President for a term of three years.

Irena Pelikánová (Czech Republic), Miro Prek (Slovenia), Sten Frimodt Nielsen (Denmark), Heikki Kanninen (Finland), Dimitrios Gratsias (Greece), Guido Berardis (Italy), Vesna Tomljenović (Croatia), Anthony Michael Collins (Ireland) and Stéphane Gervasoni (France) are elected as Presidents of Chambers for a period of three years.



### 30 September

#### Visit of the European Data Protection Supervisor

The European Data Protection Supervisor (EDPS), Giovanni Buttarelli, is responsible for ensuring that, when processing personal data, the institutions of the European Union comply with the strict rules on the protection of citizens' right to privacy. Processing covers the collection, recording, storage, investigation, transmission, blocking and erasure of data such as ethnic origin, political opinions, religion, data on health, sexual orientation, and so forth. In carrying out their tasks, the institutions process personal information disclosed to them by citizens in electronic, written or visual form.





**6 October**

### Renewal of the term of office of the Registrar of the General Court

Emmanuel Coulon, Registrar of the General Court since 2005, has his term renewed for the period to 5 October 2023.

**9 November**

### Proceedings brought in the General Court in the *Apple* cases

Ireland is asking the General Court to annul the Commission's decision requiring it to recover from Apple illegal tax benefits of a record amount of € 13 billion (T-778/16). Apple brought a similar action before the General Court on 19 December (T-892/16).

**11 November**

### 'Bâtisseurs d'Europe' dialogue with young people

Secondary school students from various Member States meet Martin Schulz, Jean-Claude Juncker and Koen Lenaerts, the Presidents of the European Parliament, the European Commission and the Court of Justice of the European Union, respectively.



**14 December**

### Solemn undertaking of a Member of the European Commission

European Commissioner Julian King gives before the Court the solemn undertaking provided for in the Treaties. He is responsible for the 'Security Union' portfolio.

**15 December**

### Judgment in *Depesme*: children in reconstituted families

The stepchild of a married cross-border worker or a cross-border worker who is in a registered partnership may apply for social advantages provided that the step-parent in fact contributes to maintaining that child (C-401/15 to C-403/15).

(See page 17)

**21 December**

### Judgment in *Tele2 Sverige*: retention of data relating to private life

The Member States may not impose a general obligation to retain metadata on providers of electronic communications services (C-203/15).

# B // THE YEAR IN FIGURES

## The institution in 2016

2016 BUDGET

€ 380

MILLION

75 | 11

JUDGES

ADVOCATES  
GENERAL

from the 28 Member States

2 168

officials and other staff



864  
Men

40%



1 304  
Women

60%



Statistically, 2016 has been a year of unflagging judicial activity. Although the overall number of cases brought in 2016 (1 604 cases) is slightly lower than in 2015, the number of cases completed in 2016 has, on the other hand, remained at a high level (1 628 cases).

This workload has also been reflected in the activity of the administrative departments which lend their support to the courts on a daily basis.

# The judicial year

(all courts taken together)

# 1 604

cases brought

# 1 628

cases completed

# 142 988

procedural documents entered in the registers of the Registries

Average duration of proceedings:



# 16.7

months

Court of Justice  
General Court



14.7  
18.7



# 2 840

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



# 1 160 000

pages of translation produced



# 602

hearings and meetings with simultaneous translation

# 74

interpreters for hearings and meetings

# The institutional year



More than

# 1 900

national judges

received at the Court in the context of seminars or training



# 16 000

visitors

- professionals
- journalists
- students
- citizens



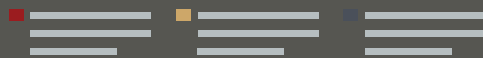
# 73

formal events

# 2

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## JUDICIAL ACTIVITY



## A // A LOOK BACK AT THE IMPORTANT JUDGMENTS OF THE YEAR



### EUROPEAN CITIZENSHIP AND THE COMMON AREA OF JUSTICE

The European Union offers its citizens an area of freedom, security and justice without internal frontiers. Consequently, Union citizens may, generally, travel, work and live in any Member State. In 2016, the Court of Justice had the opportunity to clarify the conditions under which citizens who have made use of those freedoms are entitled to state benefits such as social benefits or study grants. In addition, it interpreted EU law in the context of the cross-border fight against crime.

A Spanish family settled in Spain in two successive stages: first, the mother and daughter, and then the father and son. The latter were refused German subsistence benefits for the first three months of their residence. However, on their arrival in Germany, the mother had already found work and the children were attending school during the three months in question. The Court of Justice confirmed, nevertheless, that Member States may refuse nationals of other Member States certain social benefits in their first three months of residence and stated that the refusal of the benefits in question does not presuppose an individual assessment. ([Judgment of 25 February 2016, García Nieto, C-299/14](#))

In 2013, the Court of Justice held that the children of a frontier worker may apply for a study grant in the Member State in which the worker is pursuing his activity. In 2016, it stated that the concept of 'child' also includes the stepchildren of a frontier worker who is married to, or

in a registered partnership with, one of the child's parents. However, the child may apply for a study grant or another social advantage in the Member State only if his step-parent in fact contributes to the child's maintenance. (Judgment of 15 December 2016, *Depesme and Others*, C-401/15 to C-403/15)

**In the 'Schengen area' (22 Member States which operate, as far as international travel is concerned, as single area without controls at internal frontiers), a person may not be prosecuted or punished twice for the same offence. Accordingly, a person who has been found guilty and has served his sentence, or who has been acquitted by a final judgment in a Schengen State, may travel within the Schengen area without fear of being prosecuted in another Schengen State for the same facts.**

In a reference from a German court, the Court of Justice clarified that that principle does not apply where the first proceedings were terminated without a detailed investigation. In the case in question, the Polish public prosecutor's office had terminated the criminal investigation procedure opened against a Polish national because he had refused to give a statement and because the victim and a witness were living in Germany, so that it had not been possible to interview them. (Judgment of 29 June 2016, *Kossowski*, C-486/14)

A different German court asked the Court of Justice whether the German authorities had to execute two **European arrest warrants** from Romania and Hungary (countries which the European Court of Human Rights has declared infringed fundamental rights due to

overcrowding in their prisons). The execution of a European arrest warrant must be deferred if there is a real risk of inhuman or degrading treatment because of the conditions of detention of the person in the Member State which issued the warrant. If the existence of that risk cannot be discounted within a reasonable period, the authority responsible for the execution of the warrant must bring the surrender procedure to an end. (Judgment of 5 April 2016, *Aranyosi and Căldăraru*, Joined Cases C-404/15 and C-659/15 PPU)

Lastly, in a reference from the Supreme Court of Latvia concerning extradition, the Court of Justice held that a Member State is not required to grant every Union citizen the same protection against extradition as that granted to its own nationals. Aleksei Petruhhin, an Estonian national, was accused in Russia of attempted drug-trafficking. Sought by Interpol, he was arrested in Latvia, which proposed to allow the Russian extradition request. Mr Petruhhin then invoked the prohibition on extraditing Latvian nationals, claiming that he ought to benefit from that rule as a Union citizen. However, although the requested Member State may prosecute such nationals for serious offences committed outside its territory, it has, as a general rule, no jurisdiction when neither the perpetrator nor the victim is a national of that Member State. Extradition thus allows such offences not to remain unpunished. However, before proceeding with the extradition, the Member State must exchange information with the Member State of origin and allow the latter to request the citizen's surrender for the purposes of prosecution. (Judgment of 6 September 2016, *Petruhhin*, C-182/15)





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## RIGHTS AND OBLIGATIONS OF MIGRANTS

EU law lays down rules aimed at facilitating the reunification of family members who are not citizens of the European Union. The Member States must, for example, authorise the entry and residence of the spouse of the sponsor, under certain conditions. The sponsor must provide evidence of stable and regular resources which are sufficient to maintain himself and the members of his family without recourse to the social assistance system of the Member State in which he resides.

In a reference from a Spanish court, the Court of Justice held that the directive on **family reunification** allows a periodic assessment of the **pattern of the sponsor's resources** beyond the date of submission of the application for reunification. The competent national authority may therefore carry out a prospective assessment of those resources to ensure that neither the sponsor nor his family are likely to become a burden on its social assistance system during their period of residence. (Judgment of 21 April 2016, *Khachab*, C-558/14)

**Under an EU directive, 'subsidiary protection' may be granted to third-country nationals who do not qualify as refugees but who, on the basis of substantial grounds, have been shown to be in need of international protection. The Member States must**

**allow freedom of movement within their territory to persons to whom they have granted such status under the same conditions as those laid down for other third-country nationals who are legally resident in the EU.**

In Germany, where beneficiaries of subsidiary protection receive social security benefits, their residence permit is issued subject to a condition requiring residence in a particular place. When asked whether German law was compatible with EU law, the Court of Justice replied that a Member State may make beneficiaries of **subsidiary protection** subject to a residence condition for the purpose of promoting their integration if they face greater integration difficulties than other third-country nationals who are legally resident in the Member State. (Judgment of 1 March 2016, *Alo and Osso*, [Joined Cases C-443/14 and C-444/14](#))

**EU law also establishes the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in a Member State (Dublin III Regulation).**

When called upon by a Hungarian court to interpret that regulation, the Court of Justice confirmed that a Member State may **send an applicant for international protection to a safe third country**, irrespective of whether it is the Member State responsible for processing the application. A Pakistani national entered Hungary illegally from Serbia. After submitting a first application for international protection in Hungary, he left the place of residence assigned to

him by the Hungarian authorities. He was subsequently taken in for questioning in the Czech Republic when he attempted to reach Austria. Applying the Dublin III Regulation, the Czech authorities asked Hungary to take him back, and Hungary did so. The Pakistani citizen then submitted a second application for international protection in Hungary, which was rejected on the ground that, for him, Serbia was a 'safe third country'. In view of the fact that the Pakistani national was being detained, the Court of Justice gave its ruling in less than three months, under the urgent preliminary ruling procedure. It confirmed that Hungary was entitled to return the Pakistani citizen to a 'safe third country'. (Judgment of 17 March 2016, *Mirza*, C-695/15 PPU)

In addition, the Court of Justice declared that EU law allows an **asylum seeker to be detained** when his conduct **threatens national secu-**

**urity or public order**. A detention measure, for which the European directive on the reception of applicants for international protection provides, genuinely meets a general interest objective, namely that everyone has the right to security of the person, as is recognised by the European Union and in the Charter of Fundamental Rights of the EU. (Judgment of 15 February 2016, *J. N.*, C-601/15 PPU)





## INFORMATION AND COMMUNICATION TECHNOLOGY

Every year, a number of judgments are delivered in cases relating to the use of information and communication technology. In 2016, the Court of Justice was required on several occasions to reconcile freedom of access to information with the protection of copyright.

A Dutch tabloid posted on its website a hyperlink to another site on which photos, the copyright to which is held by Playboy, had been illegally published. The Court of Justice held that the posting of the **hyperlink** on the tabloid's website did not require Playboy's consent as long as the tabloid did not seek financial gain and acted without knowledge that the photos had been published illegally. However, if the hyperlink was provided for profit, knowledge of the illegal nature of the publication of the photos must be presumed. ([Judgment of 8 September 2016, GS Media BV, C-160/15](#))

In Germany, Sony brought proceedings against the manager of a shop on the ground that a musical work to which the Japanese company holds the copyright had been unlawfully offered to the public for downloading via the shop's **free and non-secured Wi-Fi network**. The Court of Justice declared that the manager is not liable for potential copyright infringements committed by users of his Wi-Fi network because he is merely a passive intermediary. However, he may be

required to password-protect his network in order to bring to an end, or prevent, such infringements. ([Judgment of 15 September 2016, Mc Fadden, C-484/14](#))

In another case concerning Sony, the Court of Justice held that the **combined sale of a computer with pre-installed software** does not constitute an unfair commercial practice. Furthermore, if, at the time of purchasing a computer, the customer is duly informed of the existence of pre-installed software, he may not claim that such a combined offer is contrary to the requirements of professional diligence, even if the seller did not indicate the price of that software. ([Judgment of 7 September 2016, Deroo-Blanquart, C-310/15](#))

In criminal proceedings brought in Latvia against two individuals who had sold on the Internet **back-up copies of software** produced by Microsoft, the Court of Justice clarified that the acquirer of software may resell the original material medium containing that program and its user licence. However, where that material medium has been damaged, destroyed or lost, the acquirer may not resell his back-up copy of the software without the authorisation of the rightholder. ([Judgment of 12 October 2016, Ranks and Vasiļevičs, C-166/15](#))

Lastly, the Court of Justice held that, as in the case of the lending of traditional books, public libraries may also lend **electronic books** without the authorisation of the authors. However, the authors must obtain fair remuneration for those loans and only books obtained from lawful sources may be the subject of such lending. ([Judgment of 10 November 2016, Vereniging Openbare Bibliotheken, C 174/15](#))



## TRADE MARKS

The European Union Intellectual Property Office (EUIPO, formerly known as OHIM) is responsible for the registration and management of EU trade marks and Community designs. Its decisions may be challenged before the General Court of the European Union, and the lawfulness of the judgment of the General Court may in turn be reviewed by the Court of Justice. Around a third of the cases before the General Court relate to disputes concerning trade marks.

The General Court held that, for **foodstuffs or beverages**, the reputation of McDonald's trade marks makes it possible to prevent the registration of trade marks combining the prefix 'Mac' or 'Mc' with the name of a foodstuff or beverage. Consequently, a company from Singapore was not able to have the mark **MACCOFFEE** registered by EUIPO for foodstuffs and beverages. ([Judgment of 5 July 2016, Future Enterprises v EUIPO, T-518/13](#))

The Court also declared that the **standard ringing sound of an alarm or telephone** may not be registered as an EU trade mark on account of its banality. Such a ringing sound generally goes unnoticed and will not be remembered by the consumer. ([Judgment of 13 September 2016, Globo Comunicação e Participações S.A. v EUIPO, T-408/15](#))

Lastly, the Court of Justice held that the General Court should not have upheld EUIPO's decision to register the shape of the Rubik's Cube as an EU trade mark. In a judgment in 2014, the General Court

found that the **shape of the Rubik's Cube** did not involve a technical solution and could therefore be registered as a trade mark. The Court of Justice held that it was necessary to take into account non-visible technical elements of the graphic representation of the Rubik's Cube, such as the rotating capability of the individual elements of the 3D puzzle. EUIPO will therefore have to adopt a new decision taking into account the Court's findings. ([Judgment of 10 November 2016, Simba Toys GmbH & Co. KG v EUIPO, C-30/15 P](#))

## PROTECTION OF HEALTH

The European Union takes the utmost account of the interests of consumers. It aims to promote consumer safety, improve consumers' awareness of their rights and strengthen the application of the rules protecting them. The Courts of the European Union have thus adjudicated on several disputes relating to the protection of consumers' health.



In 2016, the Court of Justice held that the labelling of certain **citrus fruit** (lemons, mandarin oranges and oranges) indicating the chemical substances used in post-harvest processing is compulsory. The consumer must be informed of the processing of citrus fruit since, by comparison with thin-skinned fruit, citrus fruit may be treated with much higher doses of chemical substances. (Judgment of 3 March 2016, Spain v Commission, C-26/15 P)

In addition, the General Court has ruled on claims made on labels, in the presentation of products or in advertising indicating the beneficial effects of **glucose** (for example, 'glucose supports physical activity' or 'glucose contributes to normal energy-yielding metabolism'). Those claims highlighted only the beneficial effects without mentioning the dangers inherent in increased sugar consumption. They were, therefore, ambiguous and misleading and, accordingly,

could not be authorised. (Judgment of 16 March 2016, Dextro Energy GmbH & Co. KG v Commission, T-100/15)

Lastly, the Court of Justice has also held that the new (2014) directive on tobacco products is valid. It provides for the prohibition from 2020 of the placing on the market of **tobacco products with a characterising flavour**, in particular, menthol cigarettes. In addition, it lays down special rules for **electronic cigarettes**, and provides for the standardisation of labelling and packaging of tobacco products, requiring that the packaging carry health warnings taking the form of a message and a colour photograph. (Judgments of 4 May 2016, Poland v Parliament and Council and Others, C-358/14 and others)



## PROTECTION OF THE ENVIRONMENT AND ANIMAL WELFARE

The environmental standards of the European Union are amongst the strictest in the world: they seek to 'green the economy', protect biodiversity and natural habitats, and ensure a high level of health and a high standard of living in the European Union.

EU law excludes **cosmetic products** containing ingredients which have been tested on animals from the European market. The Court of Justice has confirmed that it is not possible to circumvent the prohibitions laid down in EU law by carrying out **animal testing in non-member countries**. Consequently, the placing on the EU market of cosmetic products containing some ingredients that have been tested on animals outside the EU may be prohibited where the results are used to prove the safety of the product. ([Judgment of 21 September 2016, European Federation for Cosmetic Ingredients, C-592/14](#))

The Court of Justice has also held that Greece failed to fulfil its obligation to protect the **giant sea turtle *Caretta caretta*** in the Bay of Kyparissia, since the turtles are disturbed by the tourism activities

developed in the region. ([Judgment of 10 November 2016, Commission v Greece, C-504/14](#))

Environmental threats can also come from harmful organisms, such as the ***Xylella fastidiosa* bacterium** which is thought to cause the death of olive trees by desiccation. In 2015, in order to prevent the spread of the bacterium, the Commission required Member States to remove immediately plants capable of hosting the bacterium within a radius of 100 metres around plants found to be infected. In a reference from an Italian administrative court, the Court of Justice held that that decision was compatible with the precautionary principle and proportionate to the objective of protecting plant health in the European Union, since there is currently no treatment that can restore to health infected plants in the field. ([Judgment of 9 June 2016, Giovanni Pesce and Others, Joined Cases C-78/16 and C-79/16](#))

## FOREIGN POLICY AND RESTRICTIVE MEASURES

'Restrictive measures' are a foreign policy instrument by which the European Union seeks to bring about a change of policy or behaviour on the part of a non-member country. They may take the form of an arms embargo, the freezing of assets, a prohibition on entering and travelling through the territory of the European Union, a ban on imports and exports, and so forth. They may target governments, companies, natural persons and groups and organisation (such as terrorist groups).

The Court of Justice and the General Court have dealt with several cases concerning restrictive measures in relation to, amongst others, Afghanistan, Belarus, Côte d'Ivoire, Egypt, Iran, Libya, Russia, Syria, Tunisia, Ukraine and Zimbabwe.

In the context of restrictive measures adopted in response to the crisis in Ukraine, the General Court upheld the maintaining of the freezing of funds of several **Ukrainians**, including the former President, **Viktor Yanukovich**. Those persons were the subject of criminal proceedings for misappropriation of public funds or assets and the freezing of funds imposed on them contributed, in an effective manner, to facilitating the prosecution of those crimes. (Judgments of 15 September 2016, Yanukovich and Others v Council, T-340/14 and others)

The General Court also upheld the freezing of funds imposed in 2015 on the **Russian** multimillionaire **Arkady Rotenberg**. He helped to further undermine the territorial integrity of Ukraine by constructing a bridge between Russia and Crimea and implementing a public



relations campaign to persuade Crimean children that they are Russian citizens living in Russia. (Judgment of 30 November 2016, Arkady Rotenberg v Council, T-720/14)

Lastly, the Court of Justice confirmed the restrictive measures imposed on **Johannes Tomana**, Attorney-General of **Zimbabwe**, and on 120 other individuals and companies in Zimbabwe. It found that those who hold senior posts are fully associated with the Government of Zimbabwe and consequently contributed to the serious infringements of human rights committed by that government. (Judgment of 28 July 2016, Johannes Tomana and Others v Council and Commission, C-330/15 P)

## B // KEY FIGURES CONCERNING JUDICIAL ACTIVITY

### COURT OF JUSTICE

#### The Court of Justice deals mainly with:

- ◆ **requests for a preliminary ruling**, when a national court is uncertain as to the interpretation or validity of an act adopted by the European Union. The national court stays the proceedings before it and refers the matter to the Court of Justice, which gives a ruling on the interpretation or the validity of the provisions in question. When the matter has been clarified by the Court of Justice's decision, the national court is then in a position to settle the dispute before it. In cases calling for a response within a very short time (for example, in relation to asylum, border control, child abduction, and so forth), an **urgent preliminary ruling procedure ('PPU')** may be used;
- ◆ **appeals**, against decisions made by the General Court, a remedy enabling the Court of Justice to set aside the decision of the General Court;
- ◆ **direct actions**, which mainly seek:
  - ◆ annulment of an EU act (**'action for annulment'**) or
  - ◆ a declaration that a Member State has failed to fulfil its obligations under EU law (**'action for failure to fulfil obligations'**). If the Member State does not comply with the judgment finding that it has failed to fulfil its obligations, a second action, known as an action for **'twofold failure'** to fulfil obligations, may result in the Court imposing a financial penalty on it;
  - ◆ requests for an **opinion** on the compatibility with the Treaties of an agreement which the European Union envisages concluding with a non-member State or an international organisation. The request may be submitted by a Member State or by a European institution (Parliament, Council or Commission).



**692**

Cases brought

**Preliminary ruling proceedings**

**453**  
including  
8 PPU

Main Member States from which the requests originate:

Germany:	84
Italy:	62
Spain:	47
The Netherlands:	26
Belgium:	26

**35** Direct actions

**Including**

**31** actions for failure to fulfil obligations and  
**3** actions for 'twofold failure' to fulfil obligations

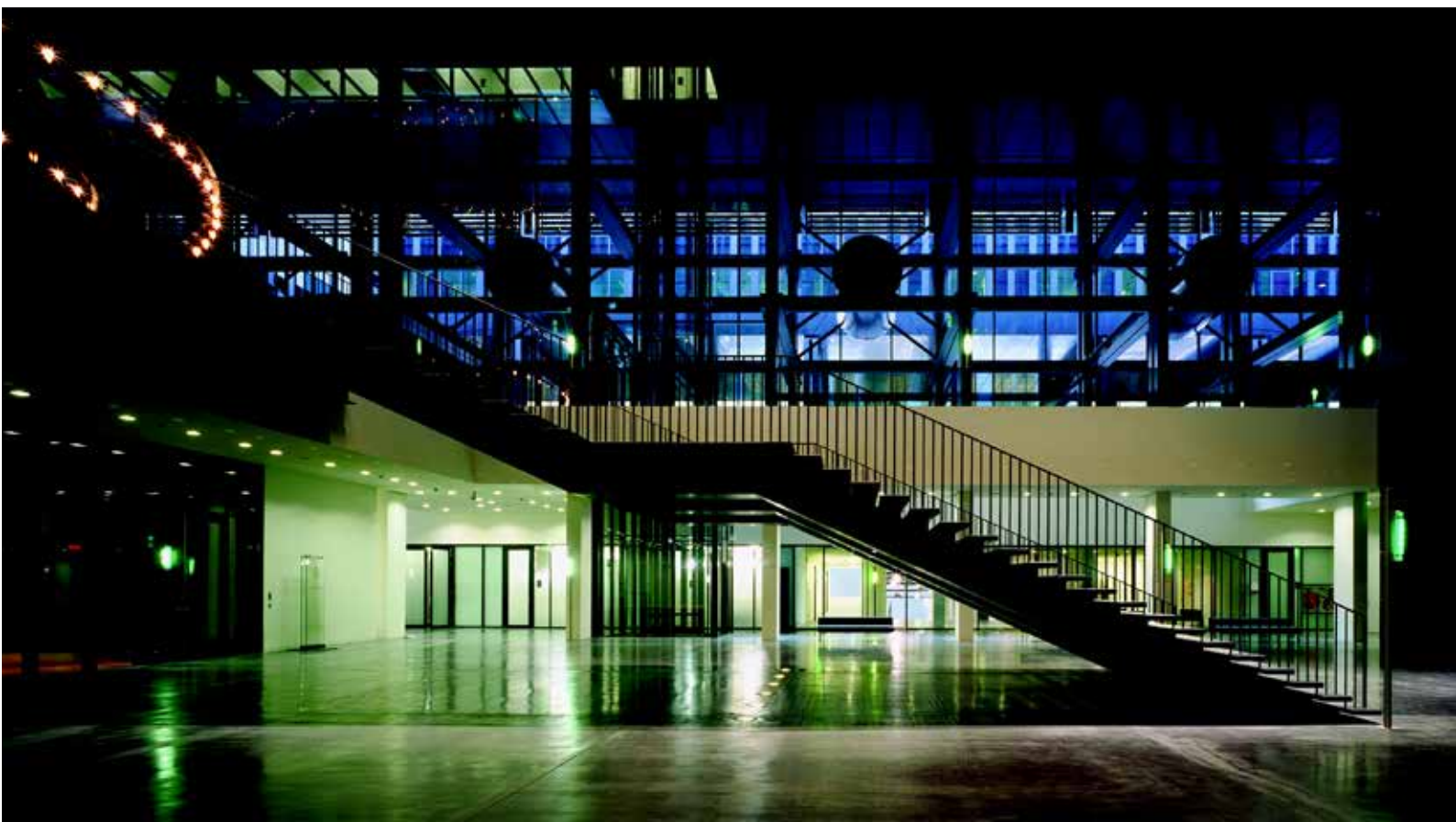
**175**




Appeals against decisions of the General Court

**7** Applications for legal aid

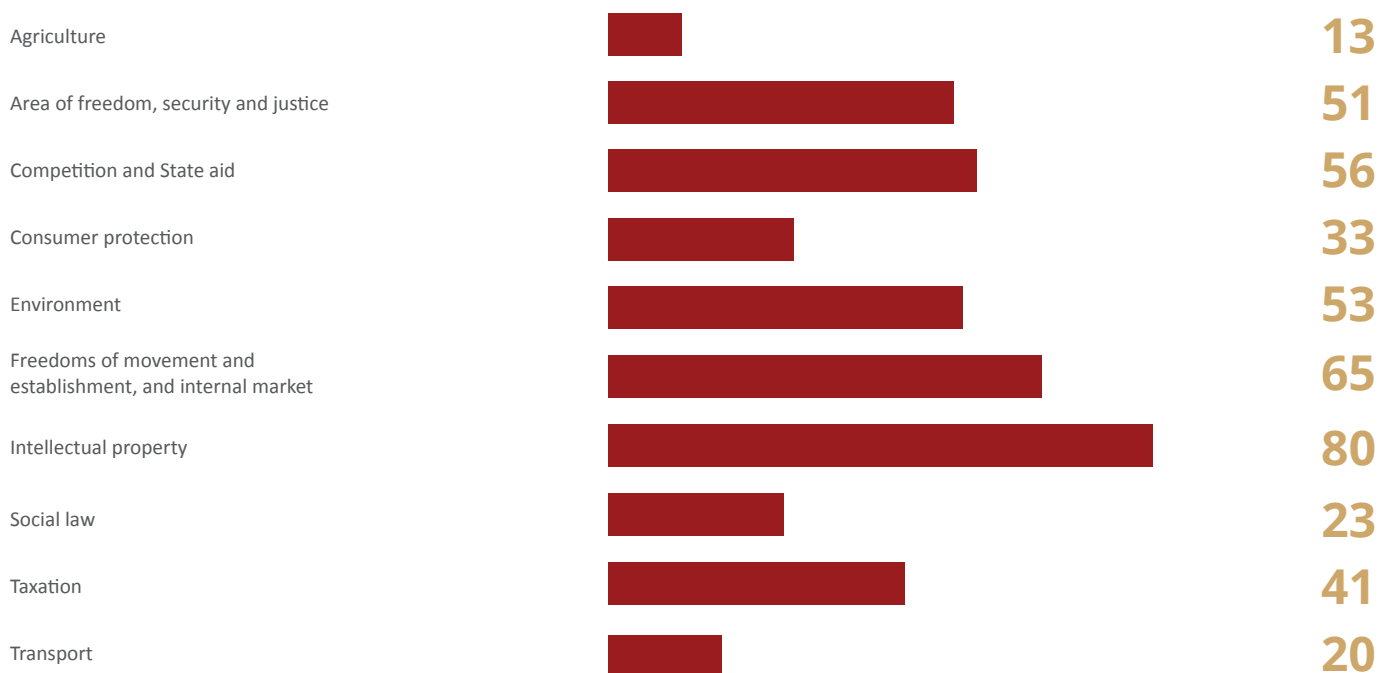


A party who is unable to meet the costs of the proceedings may apply for free legal aid.



  <h1>704</h1> <p>Cases completed</p>	<h1>453</h1> <p>Preliminary ruling proceedings</p>	<p>including <b>9</b> PPU</p>	
	<h1>49</h1> <p>Direct actions</p>	<p>including <b>27</b> failures to fulfil obligations found against <b>16</b> Member States</p>	
	<p>Appeals against decisions of the General Court</p>	<p>including <b>2</b> actions for 'twofold failure' to fulfil obligations</p>	
	<h1>189</h1> <p>in 21 of which the decision adopted by the General Court was set aside</p>	<p>Average duration of proceedings</p>  <h1>14.7</h1> <p>months</p>	<p>Procédures préjudicielles d'urgence</p>  <h1>2.7</h1> <p>months</p>

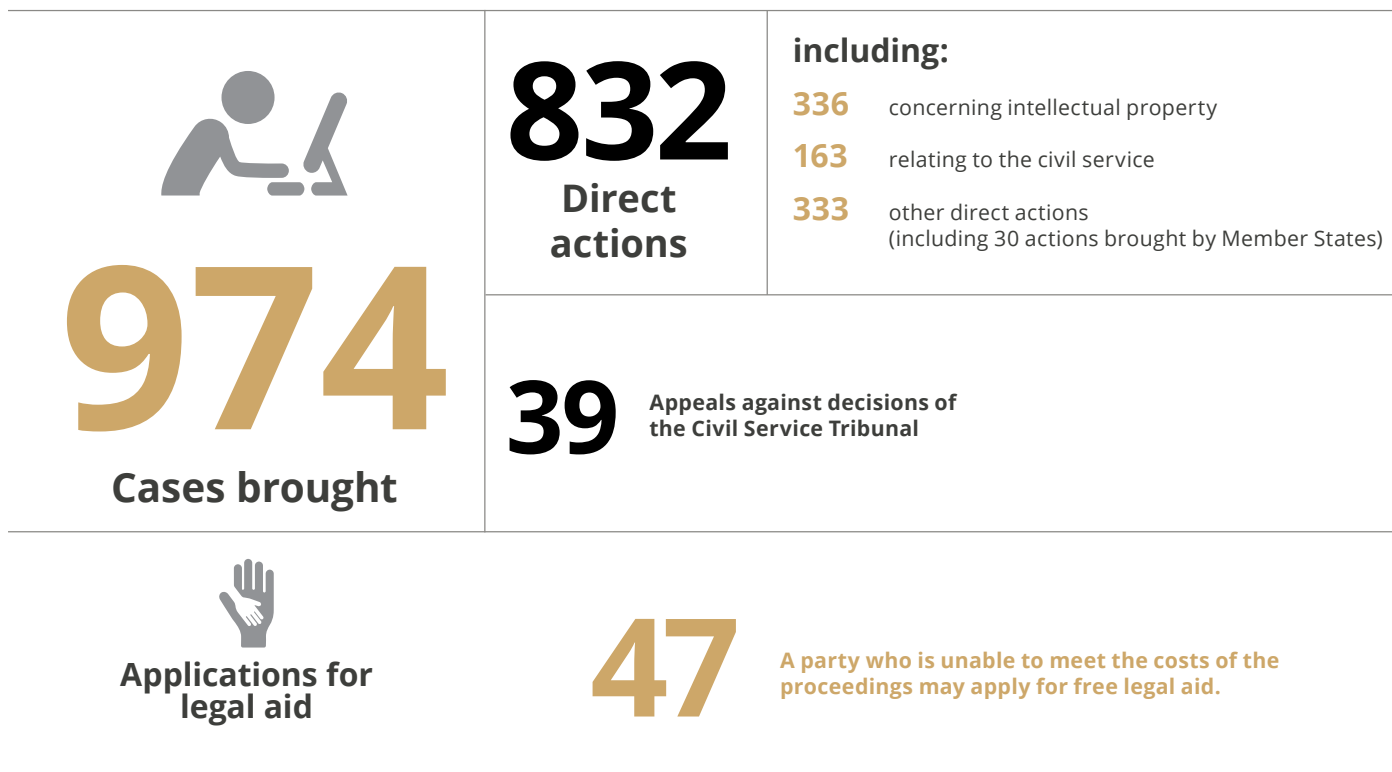
**Principal matters dealt with:**

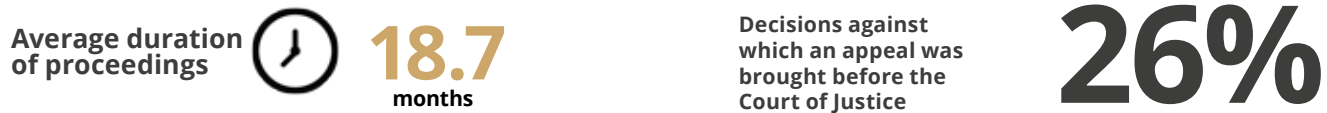
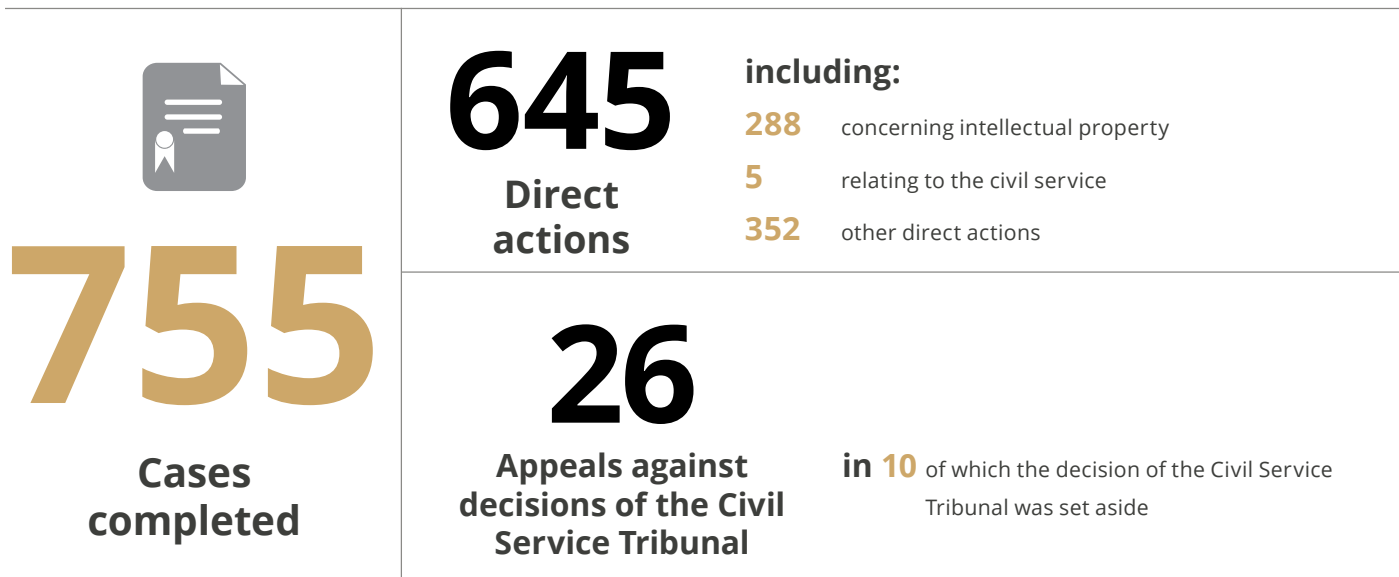


## GENERAL COURT

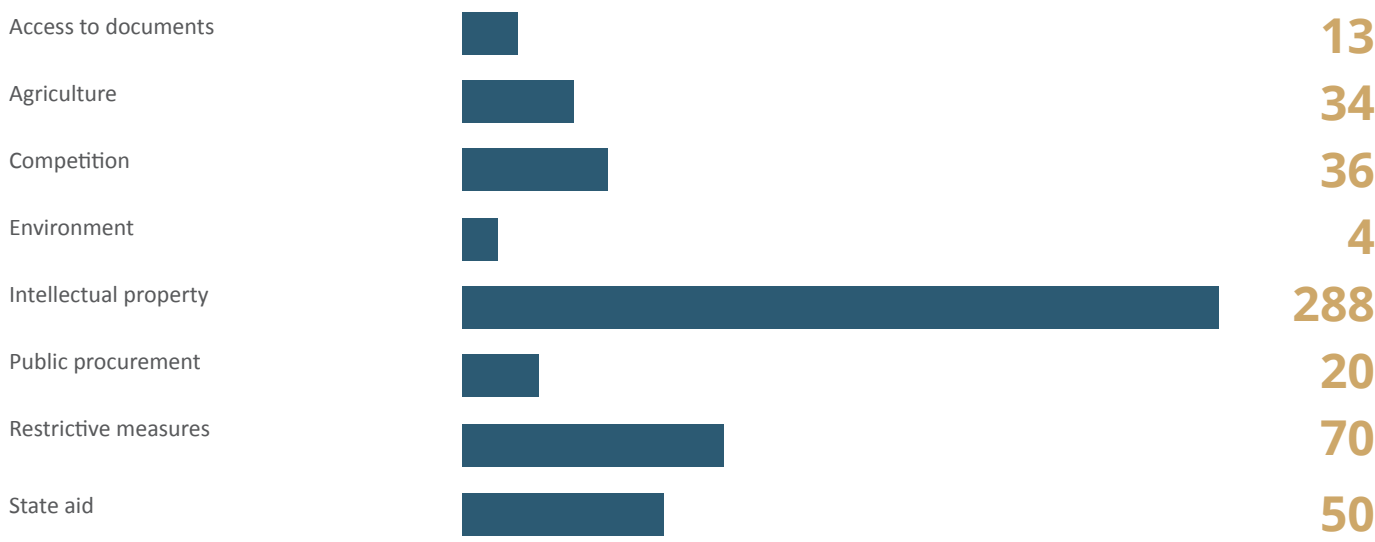
Proceedings may be brought before the General Court, at first instance, in direct actions brought **by natural or legal persons (companies, associations, and so forth)** and by **Member States** against acts of the institutions, bodies, offices or agencies of the European Union, and in direct actions seeking compensation for damage caused by the institutions or their staff. A large part of the litigation before it is economic in nature: intellectual property (EU trade marks and designs), competition and State aid.

Since 1 September 2016, the General Court also has jurisdiction to adjudicate, at first instance, 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.





**Principal matters dealt with:**

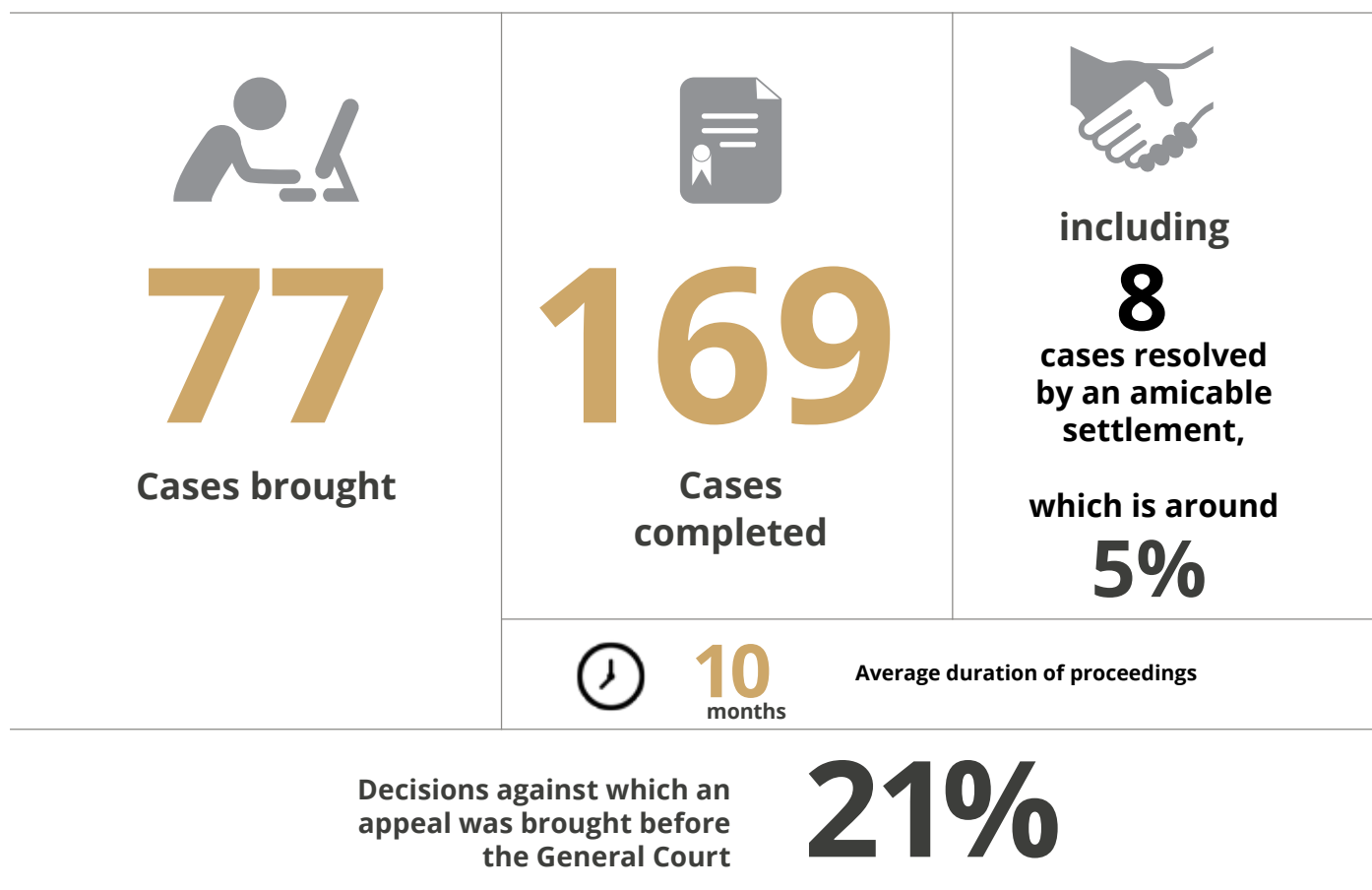


## CIVIL SERVICE TRIBUNAL

The Civil Service Tribunal (CST), established in 2004, ceased to operate on 31 August 2016 as part of the reform of the judicial structure of the European Union. Cases pending on that date were transferred to the General Court which, from 1 September, is the court with jurisdiction to rule on civil service actions.

These are disputes between the EU institutions and their staff (around 40 000 persons, when all the institutions and agencies of the European Union are taken into account) and mainly concern employment relationships in the strict sense and the social security scheme.

The statistical information set out below relates exclusively to the period from 1 January to 31 August 2016.



3

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A YEAR  
**OF OPENNESS AND EXCHANGES**



## A // IMPORTANT EVENTS

The dialogue which the Court of Justice of the European Union maintains with national courts and European citizens is not confined to judicial proceedings, but is sustained each year by many exchanges.

In that regard, 2016 saw a large number of meetings and discussions, which helped to disseminate and promote understanding of the law and case-law of the European Union.



15 April

### Final of the 'European Law Moot Court Competition'

The European Law Moot Court Competition, which for almost 30 years has been organised by the European Law Moot Court Society is a 'mock trial' competition designed to promote knowledge of EU law among law students. It is considered to be one of the most prestigious competitions in the world and the final is held each year at the Court, where teams of students from all the Member States of the European Union, and also from the United States, compete in pleadings which take place before a jury composed of members of the Court of Justice and the General Court. The winner of the 2016 competition was the University of Ljubljana (Slovenia), while the prize for the 'best Advocate General' and 'best Commission Agent' were awarded to Emma Gheorghiu of Leiden University (the Netherlands) and Emily Rebecca Hush of Columbia University (United States), respectively



24 September

### Open Day at the institutions

To foster transparency and closeness to citizens, several national and European institutions in Luxembourg, including the Court, opened their doors to the public. This initiative makes it possible for any citizen to discover, close up, what goes on behind the scenes at these institutions. By pushing open the doors to those buildings, visitors can find out about the role and operation of various public actors in a novel way.



11 November

### 'Bâtisseurs d'Europe' dialogue with young people

The Court invited secondary school students from various Member States to meet and exchange views with leading European figures. Martin Schulz, Jean-Claude Juncker and Koen Lenaerts, the Presidents of the European Parliament, the European Commission and the Court of Justice of the European Union, respectively, conversed with students from schools in Belgium, France, Germany and Luxembourg, and from the European School in Luxembourg. On this occasion, the three Presidents presented their respective European careers and shared their thoughts on European integration with the students.



13 to 15 November

### Meeting of Judges

Judges from various courts of the Member States meet every year on the occasion of the Meeting of Judges organised by the Court to exchange views on various topics of EU law. This event is designed to strengthen the judicial dialogue which the Court maintains with national courts, in particular, in the context of requests for a preliminary ruling, but also to promote the dissemination and uniform application of EU law, since the national courts are the first to apply it to the disputes before them.



### Official visits to the Court

In 2016, in the framework of the continuous institutional dialogue that exists between the Court, the other European institutions, international courts and the institutions and courts of the Member States of the European Union, the Court received delegations from the Committee on Constitutional Affairs of the European Parliament, the European Court of Human Rights and from the Parliaments of the Walloon Region and Austria. It also received Mr Laurent Fabius, President of the French Constitutional Council, Mr James Wolffe, Lord Advocate, Mr Myron Nicolatos, President of the Supreme Court of Cyprus, and Mr Costas Clerides, Attorney General of Cyprus, and delegations of judges from the Supreme Court of the United Kingdom, the High Court of Justice of the Grand

Duchy of Luxembourg and the Council of State of the French Republic.

The Court also received delegations from the Council of Bars and Law Societies of Europe and the European Lawyers' Union, and various key figures from the Member States, including Mr Milan Brglez, President of the National Assembly of Slovenia, Mr Timo Soini, Minister for Foreign Affairs of Finland, Ms Ekaterina Zaharieva, Minister for Justice of Bulgaria, Ms Lucia Žitňanská, Deputy Prime Minister and Minister for Justice of Slovakia, Mr Augusto Santos Silva, Minister for Foreign Affairs of Portugal, Mr Miro Kovač, Minister for Foreign and European Affairs of Croatia, Mr Ard van der Steur, Minister for Security and Justice of the Netherlands, and Mr Guy Arendt, State Secretary at the Ministry for Culture of the Grand Duchy of Luxembourg.

## B // KEY FIGURES

### A continuous dialogue with legal professionals

- Maintaining the judicial dialogue with national judges

# 1 938

**national judges  
received at  
the Court**

- national judges received in the context of the annual Meeting of Judges or of a 6 or 10 month placement in the chambers of a Member
- seminars held at the Court
- contributions intended for national judges in the context of European judicial associations or networks
- participation at the formal reopening of national supreme and higher courts, and meetings with the Presidents or Vice-Presidents of European supreme courts

- Promoting the application and understanding of EU law by legal professionals

# 675

**groups of visitors**

who receive presentations on the hearings they attend or on the operation of the courts

including

# 219



**groups of legal professionals**

totalling **3 318** individuals



# 245

**trainee lawyers  
received in the context  
of their studies**

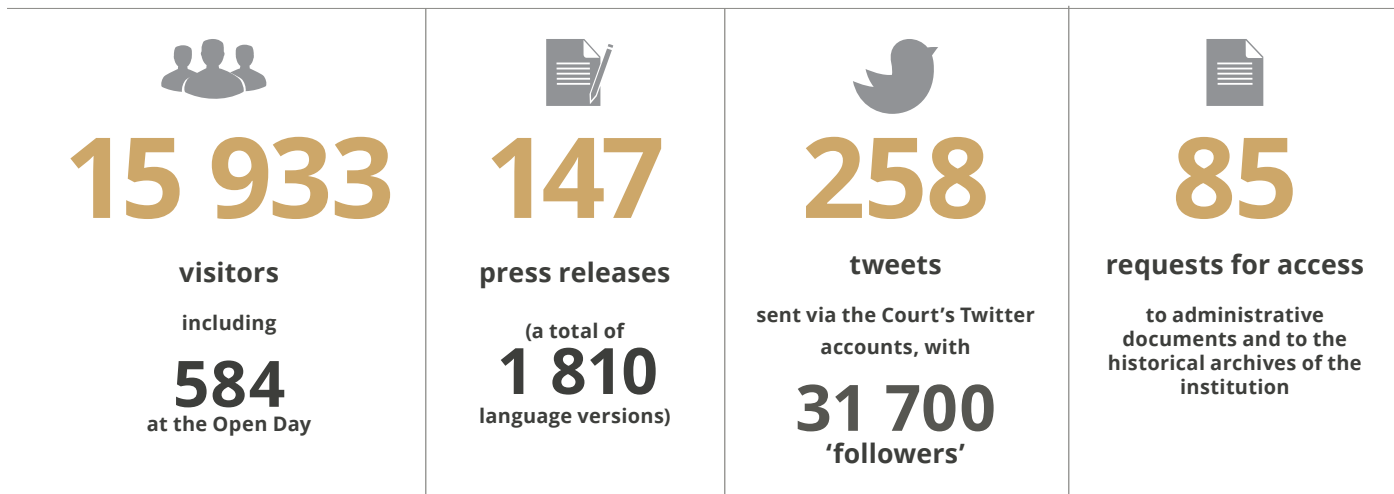


# 447

**external users**

students, researchers and teachers who have carried out research in the institution's library

## An enhanced dialogue with European citizens



Around

**18 000** requests for information per year

## A regular official and institutional dialogue

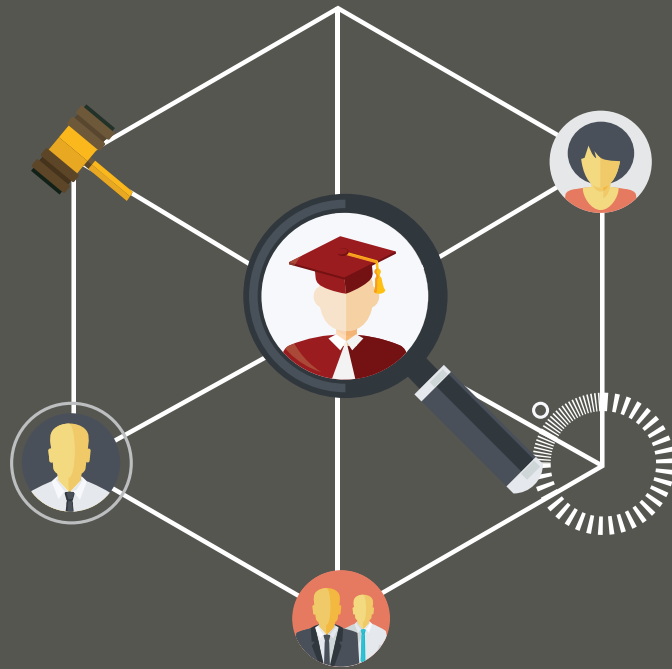




# 4

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## AN ADMINISTRATION **AT THE SERVICE OF JUSTICE**



# A // AN EFFICIENT, MODERN AND MULTILINGUAL ADMINISTRATION



The Registrar of the Court of Justice, the Secretary-General of the institution, is in charge of the administrative departments under the authority of the President. He bears witness to the departments' commitment to providing support to the judicial activity.

Against a background of both a continued increase in judicial activity and a reduction of the workforce required by the budgetary authorities for the period 2013-2017, the implementation of the first two stages of the reform of the judicial structure over this last year had necessarily to be accompanied by considered and innovative management of the resources placed at the disposal of the institution.

Whilst the strengthening of the capacity of the General Court has enabled the core 'business' of the institution to be preserved, it has also led the administrative departments to continue the rapid and profound adaptation of their organisation and modus operandi in order to support the implementation of that reform in an optimal manner and without additional resources.

It has been possible to meet that challenge thanks to the administrative departments' ongoing commitment to supporting judicial activity. They have worked to optimise and rationalise their working arrangements, as shown by the initiatives, for example, to digitise case management flows, from the bringing of the case to the publica-

tion of the judgment; by the discussions and consultations conducted with a view to addressing, in an ever more efficient manner, the linguistic needs of the courts; or by the adaptation of infrastructure to the new context in which the institution is carrying out its activities.

All the innovations and adaptations set out in the following pages bear witness to the mobilisation of a responsible institution, focused on the contribution it brings to the sound administration of justice. While the institutions are getting ready to celebrate the 60<sup>th</sup> anniversary of the Treaties of Rome, there is no doubt that the discussions and work undertaken for the purposes of an ever closer cooperation with the Court's partners in the Member States should enable the contours of tomorrow's Europe of justice to be sketched out.

ALFREDO **CALOT ESCOBAR**  
Registrar

## B // FIGURES AND PROJECTS

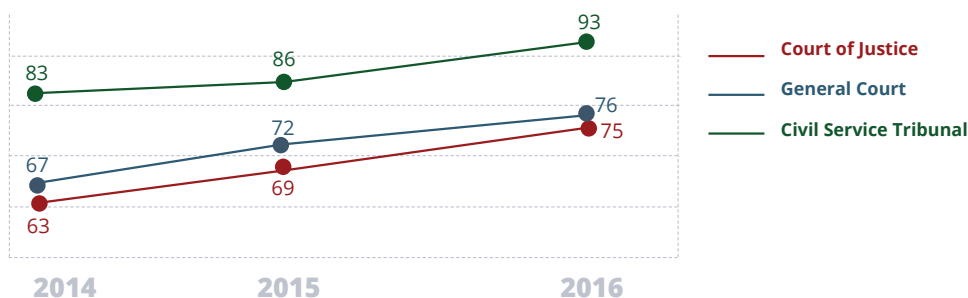
### Towards paperless procedural flows

Although the Court is the oldest European institution, it nevertheless remains resolutely turned towards the future. Relying on the latest technological developments in the field of judicial software, it has been working for several years on the digitisation and security of flows in proceedings brought before its courts, from the bringing of the case to the publication of the judgment.

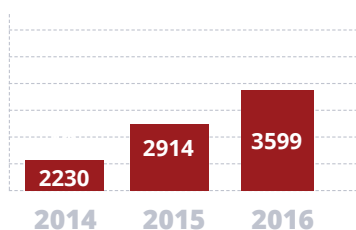
As shown by the increasing use of the e-Curia application and the daily publication of case-law in the European Court Reports, the institution is taking advantage every day of the possibilities offered by digital tools in order to ensure rapidity of justice and in its dissemination.

When a new case is brought, the Court of Justice and the General Court make available to the parties a computer application called 'e-Curia', which enables procedural documents to be lodged, consulted and received by electronic means, in a secure manner. The popularity of e-Curia has remained unabated since it was launched in 2011 and the institution is delighted that, as of 2016, all the Member States now use e-Curia when they are parties to proceedings.

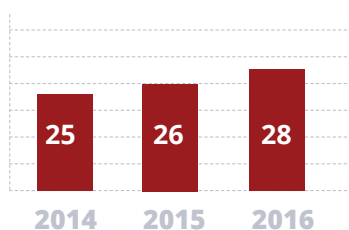
**Percentage of procedural documents lodged via e-Curia:**



**Number of e-Curia access accounts**

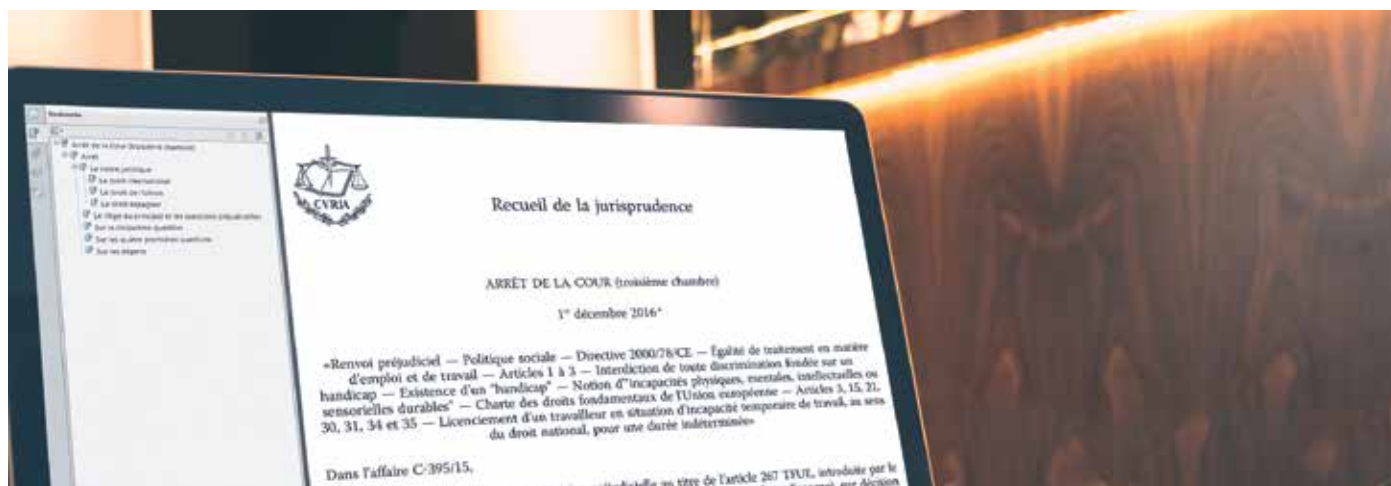


**Number of Member States using e-Curia**



The process of digitising procedures has also led the Court to accelerate the flow of publications in the European Court Reports. The Reports, which are the official publication of the case-law of the courts which form the Court of Justice of the European Union in all the official languages of the European Union, are now published in digital format only.

Since 1 November 2016, publication in the digital Reports takes place on a daily basis in order to ensure that decisions appear in the Reports as rapidly as possible after delivery (previously, from the introduction of digital Reports in 2012, publication took place in monthly volumes).



## The challenges of innovative management of multilingualism

**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, and then ensure that its case-law is disseminated in all those languages.**

In the light of the challenges relating to the increase in the number of official languages, from 4 to 24 since the start of European integration, the Court has constantly sought to rationalise its management of multilingualism in order to ensure it is preserved.

In addition, its translation department is continuing to discuss and analyse possible methods of optimising the contribution of external translation in order to bring legal translation at the Court closer to the practices and legal and linguistic expertise developed in the Member States, while increasing the pool of skills which will enable the Directorate-General for Translation to respond to the structural increase in the quantity of material to be translated and the language combinations to be covered.

The outcome of those discussions, which will involve investments essential for finding and developing the skills available in the Member States, will be fundamental to the future of legal translation and to the institution itself as regards the multilingualism that is an integral feature of all aspects of its judicial activity.

### The language departments in figures



**24**

potential languages of the case

**74** interpreters for hearings and meetings

**613** 'lawyer-linguists' to translate written documents



**23** language units

**552**

possible language combinations



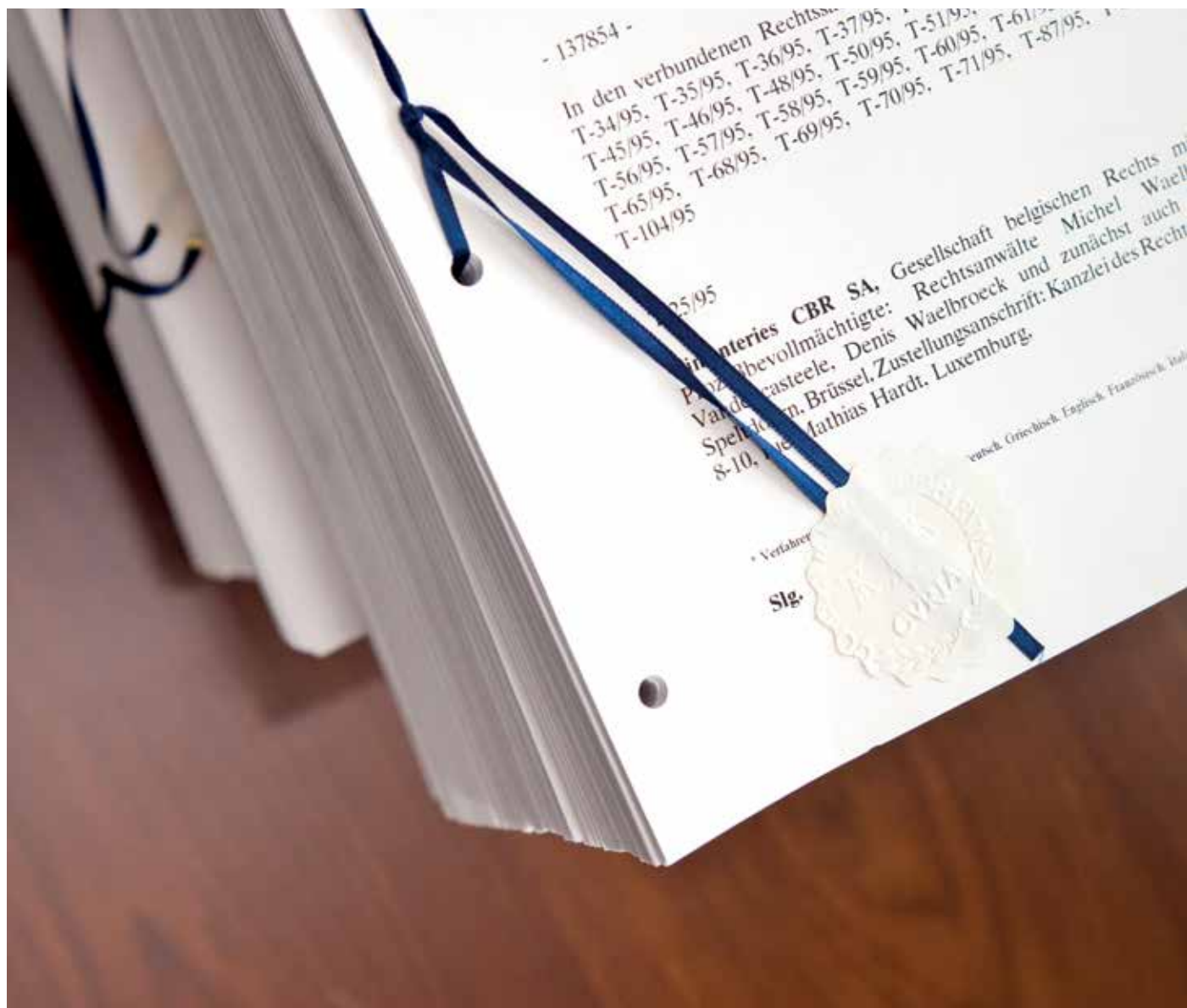
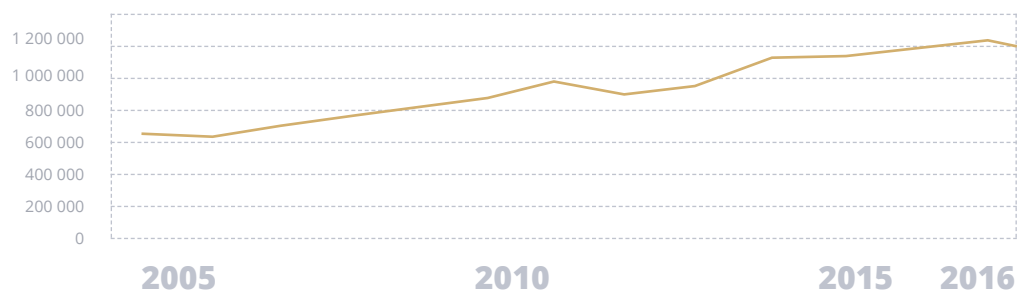
**1 160 000**

pages produced by the translation service in 2016

Reduction of translation requirements in 2016 (internal economy measures): **440 000 pages**



### Evolution of the number of pages to be translated





## Economical, ecological and secure infrastructure

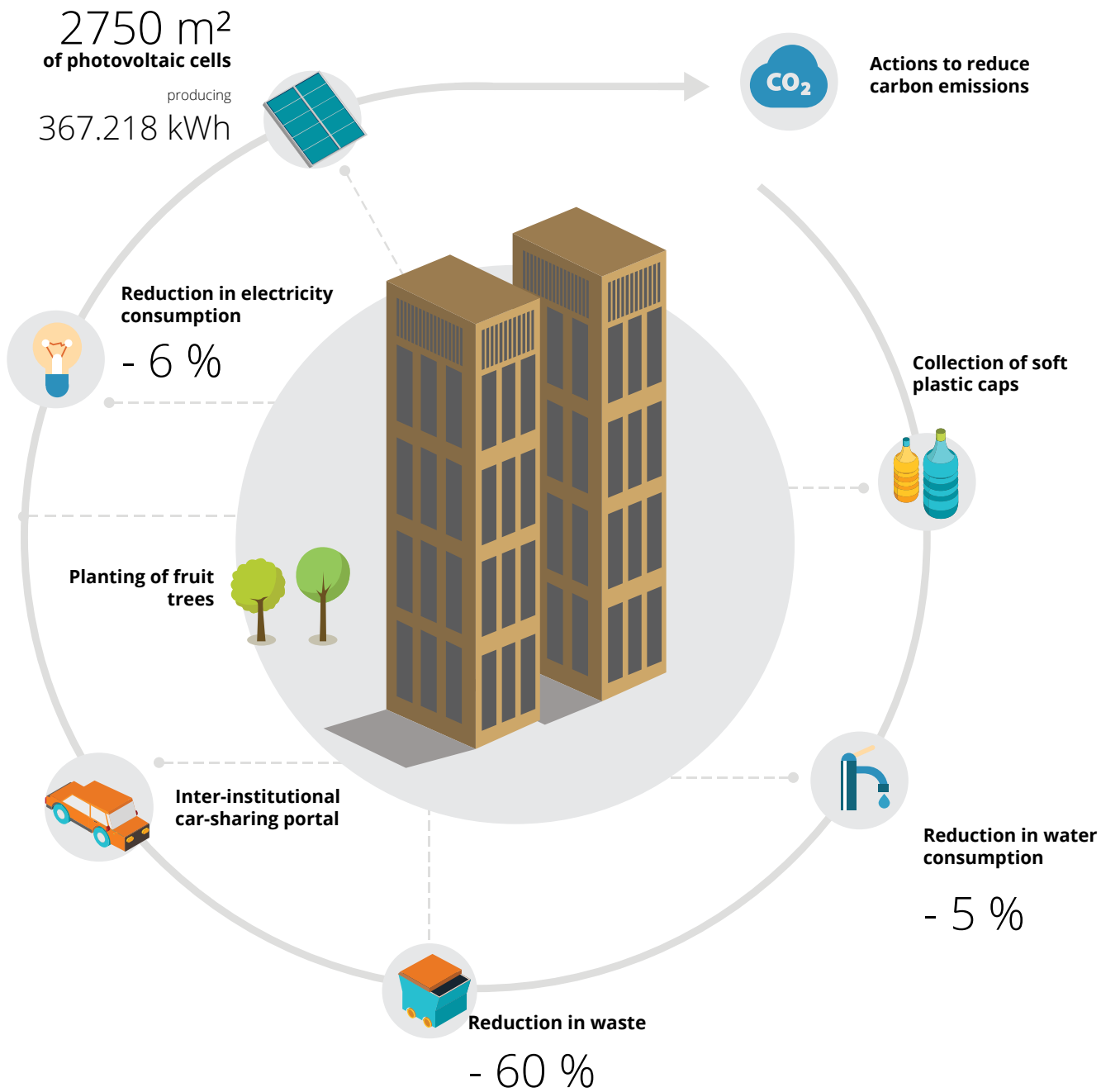
The renovation of the infrastructure of the Palais de justice (inaugurated in 2008), which is expected to be completed when the third tower is ready in 2019, continues under the three imperatives of economy, ecology and the security of people, buildings and data.

Designed in order to separate the public areas from those reserved for the Members and staff in order to ensure that cases are dealt with smoothly in accordance with the requirements set out in the rules governing procedure, the buildings are the subject of continuous adjustment to meet the public's expectations, to the disputes that may be brought before the courts and to the international context in which they are carrying out their activities.

The laying of the foundation stone of the third tower in June 2016 marks an important stage in the pursuit of the objective of bringing together all of the staff on one site, and, in so doing, making the important resources savings sought by the budgetary authority as regards buildings infrastructure management.

Underpinning the management of the institution's real estate projects, and the day to day management of the means and tools made available to it, is the constant drive for respect for the environment, as is attested by the Court's EMAS registration (Eco-Management and Audit Scheme) on 15 December 2016. That certification, established by a European regulation and which entitles organisations that satisfy strict conditions relating to their environmental policies and efforts in relation to protection of the environment and sustainable development, thus constitutes a clear recognition of the high environmental performance achieved by the Court and of its ecological commitment.

Lastly, infrastructure management has had to adapt to the new security situation existing in all Member States, in order to ensure an orderly and respectful reception of Members, staff and the more than 100 000 legal professionals, visitors and service providers who come to the Court every year.



# 5

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## LOOKING AHEAD: **QUALITY OF JUSTICE, AN ONGOING CHALLENGE**





The quality of justice constitutes an ongoing challenge for every judicial institution and the Court of Justice of the European Union attaches the greatest importance to it. In recent years, the Court has taken a number of actions to maintain and strengthen the quality of justice in the legal order of the European Union. These actions are structured around three main axes:

- reforming the judicial structure of the European Union;
- recasting the rules of procedure
- modernising and reviewing working methods

These actions have already borne fruit and will continue to do so. Although the number of cases before the two courts of the European Union is increasing steadily, the duration of proceedings is continuing to fall, despite the inevitable constraints of multilingualism, which is an integral, and indeed unique, feature of proceedings before those courts.

In addition, the Court of Justice of the European Union has decided to intensify its consideration of one of the principal features of justice in the European Union: the justice network. Decades before the Internet was conceptualised and materialised, European justice was already operating on a network basis through the preliminary ruling procedure. Firmly convinced that strengthening judicial cooperation in the European Union is likely to improve the quality of justice to the benefit of citizens, the Court of Justice of the European

Union intends to take a number of initiatives to that end. The first of those initiatives is to invite the Presidents of the Supreme Courts and Constitutional Courts of the Member States of the European Union to a Meeting of Judges to discuss the 'justice network', which will take place in Luxembourg in 2017 on the occasion of the celebration of the 60<sup>th</sup> anniversary of the Treaties of Rome.

# 6

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## FOLLOW WHAT IS HAPPENING AT THE INSTITUTION



## Access the case-law search portal of the Court of Justice and the General Court via the Curia website:



[curia.europa.eu](http://curia.europa.eu)

## Keep up with the latest case-law and institutional news by:



- consulting **press releases**: [curia.europa.eu/jcms/PressRelease](http://curia.europa.eu/jcms/PressRelease)
- subscribing to the Court's **RSS feed**: [curia.europa.eu/jcms/RSS](http://curia.europa.eu/jcms/RSS)
- following the institution's **Twitter account**: @CourUEPresse ou @EUCourtPress
- downloading the **CVRIA App** for smartphones and tablets

## To learn more about the activity of the institution:



- consult the **Annual Report 2016**: [curia.europa.eu/jcms/AnnualReport](http://curia.europa.eu/jcms/AnnualReport)
  - The year in review
  - Judicial activity
  - Management report

## Access the documents of the institution:



- historical archives: [curia.europa.eu/jcms/archive](http://curia.europa.eu/jcms/archive)
- administrative documents: [curia.europa.eu/jcms/documents](http://curia.europa.eu/jcms/documents)

## Visit the seat of the Court of Justice of the European Union:



The institution offers those interested programmes of visits specially tailored to the interests of each group (attend a hearing, guided tours of the buildings or of the works of art, study visit)

[curia.europa.eu/jcms/visits](http://curia.europa.eu/jcms/visits)

## For all information concerning the institution:



- write to us via the **contact form**: [curia.europa.eu/jcms/contact](http://curia.europa.eu/jcms/contact)



# COURT OF JUSTICE OF THE EUROPEAN UNION

COMMUNICATIONS DIRECTORATE  
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