

LAW & DATA

2024/2025

University of Padova

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EUROPEAN COURT OF JUSTICE

European Court of Justice + General Court of the EU

JUDGES and ADVOCATES GENERAL

whose number depends on the number of MS (usually one per MS)
6 years' term – renewable every three years

Appointed among individuals possessing qualifications required for appointment to the highest judicial offices in their respective countries or jureconsults of recognised competence BUT independent from their MS

FUNCTIONS:

JURISDICTIONAL

→ litigation

INTERPRETATIVE / PRELIMINARY RULINGS

→ not litigation

ADVISORY / CONSULTATIVE

→ not litigation

LITIGATION PROCEEDINGS BEFORE THE ECJ

DIRECT APPEALS

263 TFEU

Appeal of acts adopted
by EU Institutions

PUBLIC initiative

MS, other EU institutions

PRIVATE initiative

Any natural or legal person
*«against an act addressed to that
person or which is of direct and
individual concern to them, and against
a regulatory act which is of direct
concern to them and does not entail
implementing measures»*

➤ VICES

lack of competence, invalidity, voidness,
misuse of powers

➤ Time-limit: 2 months + 10 days

FAILURE TO ACT

265 TFEU

PRELITIGATION

Letter of formal notice

2 months for acting

Non-performance

LITIGATION before the ECJ

COMPENSATION FOR DAMAGES

340(2) TFEU

Initiative by individuals, legal
persons, and Member States

Damage must be proved as
unlawful, serious, certain



NON-LITIGATION PROCEEDINGS BEFORE THE ECJ

PRELIMINARY RULINGS

ECJ + General Court
267 TFEU

Initiative: by **any jurisdiction** of any MS (nature and instance – also upon the parties' request)

Object: **INTERPRETATION** of any EU law provision
VALIDITY of acts of EU Institutions

Development:

1. MS National proceedings
2. national judge refers the preliminary rulings to the ECJ
3. (usually) suspension of the national proceedings
4. Decision of the ECJ (judgment / order) which is **compulsory** for the national judge

BODIES OF THE EU

- **European Data Protection Supervisor (EDPS)**
independent body ensuring that EU institutions and bodies respect people's right to privacy when processing their personal data
- **European Data Protection Board (EDPB)**
independent body ensuring the consistent application of data protection rules throughout the EU, promoting cooperation between national data protection authorities in the EU
- **Agencies of the European Commission**
 - EU decentralised bodies distinct from the institutions
 - specific tasks

FUNDAMENTAL RIGHTS AGENCY



WHAT IS PRIVACY?



PRIVACY

NEGATIVE

POSITIVE

**prevention
of intrusions**

exclusion

PRIVACY

1890

S. Warren // L. Brandeis

RIGHT TO BE LET ALONE

«most comprehensive of rights and the right most valued by civilized men»

- right to reputation
- right to honour and moral integrity
- right to one's own image
- right to private/family life
- right to non-interference
- personhood / protection of identity and dignity
- ...
- right to control personal information

COMMON LAW ORIGIN

distinction between what is private from what is public



PRIVACY

Common Law tradition

Civil Law tradition

RIGHT TO LIBERTY

RIGHT TO DIGNITY



(RIGHT TO) PERSONAL DATA

«Everyone has the right to protect personal data concerning him or her»

Article 8(1) CFR

PERSONAL DATA ?

«any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person»

Art. 4(1)(1) GDPR

CIVIL LAW ORIGIN

