

The judiciary of the European Union

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Abstract:

The European Union 's specific supranational organization that brings together a significant part of European countries . During its existence, the EU has built a number of institutions that facilitate their functioning and facilitate communication and cooperation between the member states. The creation of the judicial authorities of the EU is an important step towards the harmonization of the legal system and the member states. The European Court of Justice already represents a crucial instance for those countries that recognize it . It will probably show us the near future sustainability of the project.

Keywords : *European Union institutions , communication , court*

INTRODUCTION

The European Union has organized similar to the modern state. The bodies of the Union, their structure, functioning and competence greatly resemble the authorities and responsibilities of modern parliamentary states. The European Union is founded on the principle of supra-nationality when it comes to matters that are within the competence of the Union. Try greater convergence of the EU countries adopting the Constitution failed, and as much milder variant signed the Treaty of Lisbon. The future will show the strength and sustainability of this international organization.

The structure of institutions of the European Union is a key point that makes this organization different from other international organizations. Members of the European Union have accepted that part of their sovereign power to the new institutions that represent both the national interests and the interests of the Union. The four main European Union institutions are: the EU Council, EU Commission, European Parliament and European Court of Justice. The European Union institutions are very important for the proper functioning of economic and political systems all over Europe, because their editing define certain rules which must be adhered to. Also affecting the security of citizens, employment and many others, without which it is impossible to imagine a smooth development of Europe. The judicial authorities (EU Court of Justice first of all)

have a great importance in the creation of the EU legal system and strengthening legal security states and their citizens.

The Court of Justice of the European Union

The Court of Justice of the European Communities, known as the European Court of Justice, the Supreme Court of the European Union. This court has a decisive role in the creation of the legal system of the European Union. He interprets the provisions of the Treaties and resolve disputes concerning actions of Member States and citizens whose rights have been violated by a decision of the body of the Union. It also has overall responsibility for the interpretation of the provisions of European Union law and ensuring their continuous and uniform application. It allows simultaneous interpretation of Community law in its territory through collaboration with national and municipal courts through preliminary proceedings for the interpretation of Community law.

The establishment of the European Court of Justice linked to the creation of the European Coal and Steel Community. The conference held on 23 July 1952 it was decided that the seat of the Court is in Luxembourg where the court is today. After these organizations established the European Economic Community and the European Atomic Energy Community, and each had its own court of justice. It was clear that such a structure has no future, and it was decided to create a single court of justice for all three organizations. This was done in 1959 and then this court becomes the Court of Justice of the European association. For a long time the Court has been working as the sole judicial authority, and for the solution of particular cases waiting a long time. From 1989, the Court of First Instance is attached to the court dealing with a number of cases.

The Court consists of one judge from each member state (27) and eight advocates-five of which are still in France, Great Britain, Italy and Spain, while the other three rotate alphabetically. They are appointed by member states, from among distinguished and experienced lawyers, his term is six years. They must meet the requirements for appointment to the highest judicial functions. During their term of office may not perform any other function. Council of the European Union may seek to increase the number of attorneys. The president is elected for a term of three years but

may be re-selected. Under Article 4 of the Statute of the Court of judges after the expiry of the mandate must behave honorably when it comes to further the enjoyment of certain appointments or benefits. Secretary of the Court shall be elected by secret ballot of the judges for a period of six years. It may be re-elected. Its function is to ensure the proper conduct of procedural issues. At first glance, one could say that it is a judicial institution of a special character from the point of special powers and activities of non-typical for this type of institution, nor that it was basically a very untypical institutions. The starting base does not take into account a number of peculiarities that make particular status. Created on the basis of an international agreement which should be indicative of its international legal personality. However, the European Court of Justice is different in many ways from other international judicial bodies. The jurisdiction of international judicial bodies such as International Court of Justice in The Hague, as a rule, optional. Jurisdiction of the Court of Justice of the EU is required.

The most unique element is that international courts do not interpret the regulations, while the European Court of Justice has the function of interpreting the founding treaty. His supranational character is reflected in the independence of its judges and attorneys general, which relies on contractual basis. They can constitute mandatory decisions on the Member States, their citizens and legal entities.

Also, it is difficult to be accepted as argumentative perceptions that say that it is a judicial body similar to the national courts since it is not empowered to directly annul acts of the Member States. Therefore, the proper understanding of which says that it is a non-typical *sui generis* [1] judicial institution which has different characteristics than of national and international courts.

The main jurisdiction of the court to respect the rights of the interpretation and application of the Treaty establishing the European Union and this Court jurisdiction implemented through different types of procedures. According to their character, the right of European Union law is not conventional, but special system structures and procedures with a characteristic not only of national legal systems, but also a supranational legal system. Any legal entity of a Member State may invite the European norms (of the Community) law, but also to the norms of national law.

Jurisdiction of the Court of Justice

Court jurisdiction is a diverse and complex, and in some cases he has the role of a court-international when interpreting the provisions of the treaty, constitutional-court when examining the legality, the appellate court-when it comes to the decisions of the previous question and the Administrative Court-when it comes to deciding in civil service disputes.

Court jurisdiction covers three areas:

- dealing with an action for breach of contract against which Member States may submit to the Commission or by another Member State;
- controlling the legality of acts adopted jointly by the European Parliament and the Council, the legality of acts of the Council, the Commission and the European Central Bank, except for those who have the character of recommendation and opinion;
- give an opinion on a preliminary issue concerning the application of the Treaty gives the interpretation of the acts that brought the Union authorities. National courts are required to request the opinion of the Court when the previous question is raised in a case before a national court against whose decisions there is no legal remedy within the domestic system.

The Court of Justice shall sit in panels of three or five judges in the Grand Chamber consists of 13 judges and the plenary. The Court shall sit in plenary in special cases prescribed by the Statute of the Court, in a Grand Chamber in session when a Member State or an institution that is a party to the proceedings so requests, in particularly complex or important cases. Other cases are searched before a panel of three or five judges. Each council has its own president who is elected for a number of years.

The European Court of Justice has the primary function to ensure proper implementation of the founding treaties. The practical meaning of this role could mean that the Court provides the form the final arbiter resolving the conflict between the European institutions and the Member States. This is achieved, first of all, that the European institutions can not possess more power than they are given on the basis of the Treaty establishing. Also, this means it can be indisputably and in accordance with the contractual commitments to count on the consent of the member states that these

provisions are applied in practice. The Court of Justice in particular in the early stages of labor played a significant role in the process of creating European law, becoming a very important factor of deepening EU integration process.

In 1963, the Court established the doctrine of direct effect, or direct application of European law. It has brought the possibility of nationals of the EU to their countries seek fulfillment of the obligations directly if they have a basis in EU law. The following year, the Court has established the supremacy of the Community Law. [2] It is, in effect, meant that, if the domestic law contrary communitarian law, preferably the latter. In this way, along with everything else came to the fore and specificity of Community law in relation to public international law, which is reflected in the fact that EU citizens have the opportunity to appeal to the Court of Justice against final decisions of their domestic courts.

According to the generally accepted opinion, it is possible to carry out the division of competences to:[3]

- 1) that the direct and lawsuits
- 2) the jurisdiction of the preliminary issues.

The first category includes the following categories of disputes that can run on the request of the Commission, other organs of the European Union, the Member States as follows:

- failure to meet the obligations of Member States stemming from the founding treaty,
- annulment of illegal acts of Community institutions,
- omission or failure of EU bodies to take action against violations of the provisions of the founding treaties,
- compensation for damages arising from non-contractual responsibility of the community,
- regarding Central and Investment Bank,
- regarding the dismissal of members of the Commission,
- labor disputes,
- disputes between Member States started on the basis of a special agreement between them,
- disputes on the basis of arbitration clauses in public law contracts.

Another category of disputes relating to the preliminary stage of judicial functions. Practically, this means that the national court may ask the European Court opinion on the case before it is located. In the event that the domestic law in conflict with the community law such provision can not be applied. A national court can not make decisions on the basis of such a regulation, no matter what it is in force in that Member State. This establishes aberrant function of the Court, which almost borders with the function of creating the law, which, by their nature, belong to the second type institution. Court justice in these disputes has compulsory jurisdiction when it comes to proceedings before a national court of the highest instance. On the lower level is not mandatory jurisdiction of the Court. The court's decision on these matters shall not be made in the form of a judgment, but declare only a previous question when this guilty condition of the judgment by the national courts.

According to the provisions of Article 177 the Court has jurisdiction to rule on preliminary issues relating to:

- interpretation of the contract,
- evaluating orderliness and interpretation of Community acts,
- the interpretation of body established by the Council when these statutes.

When it comes to the interpretation of international treaties it is possible to distinguish several types of laws as regards the jurisdiction of the Court as follows:

- Convention matters in which the community does not participate, but there is a need for a uniform interpretation,
- Agreements to which the Union is involved, and in which there exists a need in applying for a uniform interpretation,
- Contracts to which the Union or its body one party.

To a question was similar to present his case before the Court, it is necessary that what was previously pending before the national court. During this process determines the need for an interpretation of certain Community norms because it is estimated that this fact essentially defines the decision. The court is not required no special form for a referral. In practice, it happened that he accepted solving and vaguely formulated questions.

Court of first instance

Because of the overload of the Court of Justice of the EC 24.10.1988. was established in the Court of First Instance of the European Communities, and started operating in October next year. The existence of the Court of First Instance has proved very justified, not only from the standpoint of efficiency, but also from the perspective of an appropriate judicial function in the EU. In addition, notes the extraordinary dynamism and diversity of cases to be considered. It is also a serious reason to establish certain elements of the principle two-level. Because of the excessive number of cases that have led to overcrowding, labor disputes have crossed the jurisdiction of the Court of First Instance and the European Court remained responsible for administrative procedure on appeal against the decision of the first instance court except that its jurisdiction is limited to questions of law. The Court of First Instance has no general Public Attorneys. Court in session or in plenary assembly of all judges or in small groups of judges and judicial councils which decide on specific types of cases. Until the Treaty of Nice in 2001 [4], this Court has acted as an associate body of the Court of Justice, and not as a separate court.

Court of First Instance has at least one judge from each member state, but no Advocates already one of the judges may perform this function. Judges are appointed by mutual agreement of the Member States for 6 years, and possible re-election. President of the Court elected by the judges from among its members for a term of 3 years and the same person may be re-elected. Court of First Instance has its secretary and issues regulations governing its operation. Service of the Court of Justice provide expert assistance in the work. On trial in panels of three or five judges who elect the president from among their ranks, can be tried by a single judge, a judge in complex cases much larger than 13 judges. Jurisdiction court of first instance is designated in the contract and can be changed Statute of the Court of Justice.

Jurisdiction of the Court of First Instance*Court of First Instance:*

- decides on direct complaints submitted by individuals and legal entities against the body of the community;
- decides on the complaints of the Member States against acts of the Commission;

- decides on complaints against member states of the Council acts in connection with decisions on state aid, dumping, which responsibilities for enforcement;
- decides on complaints regarding the damages that have been done of the Community and its servants;
- decide on actions taken on the basis of contracts communities in which it expressly envisaged the jurisdiction of the Court of First Instance;
- Decide on complaints relating to the trademark community.

The Treaty of Nice introduced the possibility that the Court of First Instance decides on the previous question, in relation to specific areas under the Statute. These are issues that his instructions to the national courts of the Member States relating to the application and interpretation of the Community rights. Treaty the Lisbon Court of First Instance is renamed the General Court 2007-2008.

Judicial panels

The first step towards establishing a judicial panel stems from demands for the creation of specialized courts to act as the lower courts. The Treaty of Nice provides for the possibility that the Court of First Instance adds to the judicial panels in order to perform in certain areas of judicial judiciary. They are based on the proposal from the Commission or the Court of Justice, a decision by the Council unanimously, after consultation with the Parliament and the Court of Justice. The Council on a proposal from the Commission in 2004 decided to set up the tribunal for civil service disputes. They solve disputes in the civil service which is one side of the EU institutions, and the other European institutions. Civil Service Tribunal judge in the first instance, with the possibility of an appeal Court of First Instance in the second instance. The conditions for the appointment of members of the judicial panels are the same as in the Court of First Instance. The judges are persons qualified to hold judicial office. They are appointed by the Council by unanimous decision. Judicial panels make rules of procedure with the approval of the Court of Justice. Rules of Procedure approved by the Council by qualified majority.

Composition of the Tribunal

The Tribunal has 7 judges, and the number may increase. Judges are elected for 6 years with the possibility of re-election. Applicants must be members of the European Union. A special committee examines the candidate's suitability. The Committee consists of 7 members, former judge of the Court of Justice and of First Instance court. Tribunal have a president who is elected for three years and may be re-elected after the expiration mandates. Occupies in panels of three judges, the judge in chambers of five judges, in plenary or trial a single judge. The paper may assist the professional service of the court acting in the Court of Justice and the Court of First Instance. The tribunal has his secretary.

Other Services Tribunal

The Court of Justice has its Secretary who receives and forwards the documents to the Court and submitted documents of the Court to the parties. He is the principle of judicial administration attend sessions of the Court when considering administrative issues, but without voting rights. Secretary of the Court is accountable to the President of the Court.

Judges and advocates-general assisted by legal secretaries. Every judge and the advocate-general has three legal secretary. These are young lawyers who spend a few years in the service of the Court, and then returning to their country. They perform legal research and assist in the preparation of legal opinions. They are elected by judges and advocates-general for which they work.

Within the court, there are a number of specialized services to assist the work of the Court. These are: the library, the department of research and documentation that provide the legal systems of the Member States and the Union itself. This department prepares publications in connection with the practice of the court. Other services include: Translation Service, Directorate for simultaneous translation, the department for press and information department visits.

Organizational changes in the judicial system of the European Union

The judicial system of the European community suffered some changes by adopting reform treaty. The Treaty of Lisbon is changing the name of the EC Treaty in the Treaty on the Functioning of the European Union.

Organizational changes related to the name change of courts, appointment of judges and advocates general of the European Court of Justice Judge Court of First Instance, as well as ways of appointing higher court under whose auspices in 2004 established Civil Service Tribunal.

Significant changes affecting certain types of proceedings before the European Court of Justice and the Court of First Instance. This applies to: the procedure for annulment, the procedure for sanctioning a Member State and the procedure for granting a preliminary opinion.

According to the Lisbon Treaty of the European Union judicial system and further comprises:

- European Court of Justice,
- Court of First Instance,
- judicial council - under whose auspices the 2004 Civil Service Tribunal was established.

For the first time introduces an obligation for Member States tj.njihovih national courts to provide the legal means to guarantee effective legal protection in the areas regulated community law.

The European Court of Justice changed its name to the Court of Justice of the European Union, and the Court of First Instance General Court. The number of judges remains unchanged, but the number of advocates-general at the Court of Justice has increased from 8 to 11. The mere internal organization remains the same.

The jurisdiction of the European Court of Justice under the Treaty of Lisbon

Under the new agreement leaves tripartite structure, the matter of the third tube is transferred to the first, and in conjunction with the second pillar of the Union in several ways emphasized the particularity of this kind of cooperation.

Common foreign and security policy is subject to special rules and procedures. Expands the jurisdiction of the European Court. He had long been excluded from Pillar

3, because there was a fear of the Member States of the case-making decisions to determine labor standards and respect for basic human rights in this area that are higher than national standards. Instruments from the 3rd pillar (framework decisions, common positions, decisions and conventions) that were used in the field of police and judicial cooperation in criminal matters, leaving it. The Lisbon Treaty provides for the use of traditional instruments, ie. LEGISLATIVE ACTS OF THE UNION.[5]

The supranational principle is now being applied to the matter of Pillar 3. The European Court of Justice will act as soon as possible when the preliminary issue raised before a court or tribunal in a Member State, relating to the person in custody.

Changes within the Court of Justice

The manner of election of judges is partially changed. Now previously consulted for the selection panel that was established specifically for this purpose. This larger gives an opinion on candidates' suitability before than member state governments make an appointment. The Chamber consists of seven members from the ranks of former judge at the European Court of Justice and the General Court, members of national supreme courts and recognized lawyers. Judicial structure of the EU in 2004 became richer by another judicial institution embodied in the civil service tribunal. Established the decision of the Council of 02 November 2004, pursuant to Article 225a and 245 of the EC Treaty. It provides education panels to interrogation and execution in the first instance certain types of activities or procedures provided for in some cases. Court higher education Council on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission. The trial chambers are called special courts at the General Court.

CONCLUSION

The European Union (EU) is a family of democratic European countries working together to improve life for their citizens and to build a better world. Although the headlines most often due conscience of disputes and occasional "family" squabbles that occur in the work of the European Union, behind the public eye Union has, for now, remarkably successful project. In just over half a century it has delivered peace and prosperity in Europe, a single European currency (the euro), and the "single market"

without borders and barriers to movement of goods, persons, services and capital. The Union has become a major trading power and a world leader in areas such as the environment and development aid. No wonder it has grown from six to 27 members and more countries waiting in line for membership. The European Union's success owes a lot to Strange how that works. Unusual because the EU is not a federation like the United States. Nor is it simply an organization for cooperation between governments, like the United Nations. It is, in fact, unique. States that make up the EU (its 'member states') remain independent sovereign nations, but they pool their sovereignty in order to gain a strength and world influence none of them alone could not have. Pooling sovereignty means, in practice, that the member states delegate some of their decision-making powers to shared institutions they have created, so that decisions on specific matters of joint interest can be made democratically EU level.

The powers and responsibilities of the EU institutions, rules and procedures must be respected, as laid down in the Treaties on which the EU is founded. With the founding treaties agreed that heads of state and government of all EU member states and ratified by their parliaments. The three main decision-making institutions are:

- 1) The European Parliament (EP), which represents the EU's citizens who are directly elected;
- 2) The Council of the European Union, which represents the individual member states;
- 3) European Commission, which seeks to represent the interests of the Union as a whole.

This "institutional triangle" produces the policies and laws that apply throughout the Union. In principle, the Commission proposes new laws, but Parliament and the Council that adopt them. There is a judicial system that embodies the Court of Justice upholds the rule of European law, and the Court of Auditors controls the financing of the Union's activities. In addition to the aforementioned and numerous other bodies also have key roles in the functioning of the European Union.

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- [1] Lilic S., "Administrative Law", Belgrade, 2007;
- [2] Community law - *acquis communautaire* is a special system of legal rules and refers to the specific structure of the European Union.
- [3] Kosutic B., "Introduction to European Law", Belgrade, 2006;
- [4] The Treaty of Nice was signed on 26.02.2001., And entered into force in 2003. It contains amendments to the agreement on the EU and changes to the Treaty of Rome;
- [5] Traditional instruments: regulations, directives, recommendations and opinions get the name of legislative acts of the Union.