



Taking a complaint to the Court of Justice of the European Union

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Section International Affairs and Defence Section

This Note sets out how individuals who believe they are victims of a government's failure to respect an EU obligation, or that they have been negatively affected by an EU act or a failure to act, can seek judicial and non-judicial remedies.

The EU Treaties and EU law confer rights and obligations on Member State governments, local and regional authorities, businesses and individuals. Member States are responsible for implementing EU legislation in national law and enforcing it correctly, thereby guaranteeing citizens' rights under EU law. Breaches of EU law by the State can have serious consequences for individuals, but individuals are restricted in the ways in which they can approach the Court with a complaint.

The Court of Justice of the European Union (CJEU) in Luxembourg – formerly called the European Court of Justice (ECJ) - rules on alleged breaches of the EU Treaties and any laws made under them by a Member State government, or on failure to implement EU law or incorrect implementation. It hears both preliminary references from Member States' national courts when they refer questions on the interpretation of EU law, and allegations of a failure to act by an EU institution, body, office or agency. Proceedings before the CJEU are governed by rules of law contained in the Treaties, the Protocol on the Statute of the Court and its Rules of Procedure. The CJEU has the power to impose a large fine on a Member State for failure to comply with its rulings.

The *Treaty of Lisbon*, which came into force on 1 December 2009, makes it easier for actions to be brought by individuals against decisions of the EU Institutions, bodies, offices or agencies. Individuals may bring proceedings against an EU regulatory act if they are directly affected by it and if it does not entail implementing measures; they no longer have to show that they are individually concerned by the act in question.

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

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1 Introduction

The European Union court system is now called the Court of Justice of the European Union (CJEU). It comprises three courts: the Court of Justice (previously the European Court of Justice or ECJ), the General Court (previously the Court of First Instance or CFI), and the Civil Service Tribunal (as before)

The CJEU deals among other things with "preliminary references" from a national court on a point of EU law, matters brought by the Commission concerning a Member State's failure to fulfil an EU obligation, complaints about acts of the EU institutions and appeals from the General Court on points of law.

The General Court deals largely with actions brought by individuals and companies against decisions of the EU Institutions (such as appeals against European Commission decisions in competition cases, or regulatory decisions, in the area of intellectual property, for example).

The Civil Service Tribunal deals mainly with EU staff cases.

EC/EU Treaty provisions explicitly providing for individuals (“natural or legal persons”) to enforce rights derived from EU law and obtain redress for an infringement of those rights are limited in scope. According to the Treaties, individuals have to wait for the Commission to initiate a procedure against a Member State. The CJEU has developed through its case law principles which have widened this scope, although the legal basis for many of these principles remains controversial. Thus, although the Treaties were not intended to grant rights to individuals, the concept of “direct effect” acknowledged in the *Van Gend en Loos* judgment in 1963¹ established rights for individuals under EC law if certain conditions were met (known as the ‘Van Gend Criteria’: see Appendix 2).

Following the implementation of the *Treaty of Lisbon* in December 2009, the CJEU has acquired jurisdiction to give preliminary rulings in the Area of Freedom, Security and Justice (previously in the intergovernmental ‘Third Pillar’), which includes measures in the areas of immigration, asylum and crime. The CJEU also has jurisdiction to deal with complaints concerning the *Charter of Fundamental Rights of the European Union*, although the Charter cannot be invoked against the United Kingdom or Poland, which have a derogation.

The deliberations of the CJEU are secret and there is no concept of binding precedent in its case law, although the Court tends to follow the main principles of previous decisions.

2 Different kinds of complaints

2.1 Article 258 TFEU (Member State failure to fulfil Treaty obligation)

Individuals, firms or other private parties whose interests have been harmed by a Member State’s failure to implement Community law or to fulfil Community obligations have no direct remedy in the CJEU. Proceedings against a Member State for a ruling that the State has not complied with its Treaty obligations can only be brought by the Commission or by another Member State, after certain conditions have been met.

There are limited courses of action open to an individual, however, which might result in an action being brought to the Court. An individual can lodge a complaint with the Commission against a Member State for any law, regulation, administrative action or practice which they consider incompatible with a provision or a principle of EU law.

Article 258 TFEU (formerly Article 226) states:

If the Commission considers that a Member State has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

¹ Case 26/62, *NV Algemene Transporten Expeditie Onderneming van Gend en Loos v. Nederlandse Administratie der Belastingen* [1963] ECR 1; [1963] CMLR 105, 5 February 1963

This does not give an individual direct access to the Court; any action must be instigated by the Commission, but it is estimated that around half of infringement procedures are initiated on the basis of citizens complaining to the Commission about alleged violations of EU law by Member States. Individuals can address their complaints to the Commission on a specific form or in any other way, but the Commission is not obliged to act on the complaint and the individual has no control over the Commission's decision in this respect.² The Commission website sets out the procedure as follows:

1. Methods of submitting a complaint

Complaints must be submitted in writing, by letter, fax or e mail.

It is very important for the complaint papers to be complete and accurate, particularly as regards the facts complained of in relation to the Member State in question, any steps which you have already taken at any level and, as far as possible, the provisions of Community law which you consider to have been infringed and any involvement of a Community funding scheme.

Any correspondence denouncing measures or practices by a Member State which it considers incompatible with a provision or principle of Community law must be examined within a month regarding the decision to classify it as a complaint. The Secretariat-General of the Commission shall issue an initial acknowledgement of all correspondence within fifteen working days of receipt. Where there is any doubt as to the status of the correspondence, the Secretariat-General consults the department or departments concerned within fifteen calendar days of its arrival.

Correspondence likely to be investigated as a complaint shall be recorded in the central registry of complaints kept by the Secretariat-General of the Commission. Registered complaints shall be acknowledged again by the Secretariat-General within one month from the date of dispatch of the initial acknowledgement. This acknowledgement shall state the case number of the complaint, which must be quoted in any correspondence.

The responsibility for the examination of the subject matter of any correspondence or complaint lies with the Commission departments. Cases that denounce the same infringement in the same Member State are merged and processed under the same reference.

2. Stages of infringement proceedings

Your complaint might lead to the following actions:

2.1. Information gathering

In response to your complaint, it may be necessary to gather further information to determine the points of facts and of law concerning your case.

Should the Commission contact the authorities of the Member State against which you have made your complaint, it will not disclose your identity unless you have given it your express permission to do so.

If necessary, you will be asked to supply further information.

After examining the facts and in the light of the rules and priorities established by the Commission for opening and pursuing infringement proceedings, the Commission's services will decide whether further action should be taken on your complaint.

² The Commission has discretion to decide whether to enforce EU law against a violating State.

2.2. Opening of an infringement procedure: formal contacts between the Commission and the Member State concerned

If the Commission considers that there may be an infringement of Community law which warrants the opening of an infringement procedure, it addresses a "letter of formal notice" to the Member State concerned, requesting it to submit its observations by a specified date.

The Member State has to adopt a position on the points of fact and of law on which the Commission bases its decision to open the infringement procedure.

In the light of the reply or absence of a reply from the Member State concerned, the Commission may decide to address a "reasoned opinion" to the Member State, clearly and definitively setting out the reasons why it considers there to have been an infringement of Community law and calling on the Member State to comply with Community law within a specified period (normally two months). The purpose of those formal contacts is to determine whether there is indeed an infringement of Community law and, if so, to resolve the case at this stage without having to take it to the Court of Justice.

In the light of the reply, the Commission may also decide not to proceed with the infringement procedure, for example where the Member State provides credible assurances as to its intention to amend its legislation or administrative practice. Most cases can be resolved in this way.

2.3. Referral to the Court of Justice of the European Communities

If the Member State fails to comply with the reasoned opinion, the Commission may decide to bring the case before the Court of Justice of the European Communities.

On average, it takes about two years for the Court of Justice to rule on cases brought by the Commission. Judgments of the Court of Justice differ from those of national courts.

At the close of the procedure, the Court of Justice delivers a judgment stating whether there has been an infringement. The Court of Justice can neither annul a national provision which is incompatible with Community law, nor force a national administration to respond to the request of an individual, nor order the Member State to pay damages to an individual adversely affected by an infringement of Community law.

It is up to a Member State against which the Court of Justice has given judgment to take whatever measures are necessary to comply with it, particularly to resolve the dispute which gave rise to the procedure. If the Member State does not comply, the Commission may again bring the matter before the Court of Justice seeking to have periodic penalty payments until such time as it puts an end to the infringement and/or a lump sum payment imposed on the Member State.

3. National means of redress

It is national courts and administrative bodies that are primarily responsible for ensuring that the authorities of the Member States comply with Community law.

Therefore, if you consider a particular measure (law, regulation or administrative action) or administrative practice to be incompatible with Community law, you are invited, either prior to or in parallel with your complaint to the Commission, to seek redress from national administrative or judicial authorities (including national or regional ombudsmen) and/or through the arbitration and conciliation procedures available.

The Commission advises you to use those national means of redress because of the advantages they may offer for you.

By using the means of redress available at national level you should, as a rule, be able to assert your rights more directly and more personally than you could following infringement proceedings successfully brought by the Commission which may take some time.

Only national courts can issue orders to administrative bodies and annul a national decision. It is also only national courts which have the power, where appropriate, to order a Member State to make good the loss sustained by individuals as a result of the infringement of Community law attributable to it.³

The Commission also makes a number of administrative guarantees, such as an assumption of confidentiality and the protection of personal data; that it will try to take a decision on the substance of the complaint within twelve months of its registration; and to keep the applicant informed about progress on the complaint.

As noted above, under Article 260 TFEU, if the Commission considers that a Member State has not taken measures to comply with a judgment of the CJEU, it (the Commission) may bring the case to the CJEU and specify a lump sum or penalty payment to be paid by the Member State. The stages leading to a reference to the CJEU for the imposition of a fine on the Member State have been shortened under the Lisbon Treaty. Under Article 260(2) there is no longer a need to issue a reasoned opinion or wait for Member State compliance with that opinion before the Commission can ask the CJEU to impose a fine. It is sufficient to issue a formal notice and obtain the observations of the Member State. Also, under Article 260(3) the CJEU can impose a fine at the moment of declaring the Member State non-compliant with EU law for a failure to notify the non-transposition of a Directive into national law.

2.2 Article 263 TFEU (legality of acts of the EU institutions)

Individuals have the right to bring actions in the CJEU for judicial review of the acts of EU institutions under Article 263 TFEU (formerly Article 230). The legal basis for this is clearly set out in the Treaty, but as a means of enforcing individual rights, this Article has – until now - been of limited use, because individual applicants have been required to demonstrate that the measure was a matter of “direct and individual concern” to them.

Lisbon Treaty amendments have eased the conditions for the admissibility of actions brought by individuals against decisions of the institutions, bodies, offices or agencies of the EU. Individuals can now challenge a regulatory act if they are directly affected by it,⁴ and if it does

³ European Commission, “[Application of Community law](#)”, See also Commission communication to the European Parliament and the European ombudsman on relations with the complainant in respect of infringements of community law , [COM/2002/0141 final](#), Official Journal 244 10 October 2002 pp 0005 – 0008; and “[Practice Directions relating to direct actions and appeals](#)”

⁴ Direct effect or concern is where there is a direct causal link between the EU measure and the effect of that measure on the legal position of the individual applying for its annulment. In practice, the Court has interpreted this to mean where the addressee of the measure had no discretion in implementing it or where any discretion was merely theoretical. See, for example, the following complaints brought against the Commission: [Toepfer](#) (1965), [International Fruit Company](#) (1971), [Simmenthal](#) (1979), [Eridania](#) (1969) and [Bock](#) (1971). For comment see Anthony Arnall, “Private Applicants and the Action for Annulment under Article 173 EEC”, *Common Market Law Review* 7, 1995, pp 44-9.

not entail implementing measures (which would be a matter for national courts). They no longer need to establish individual concern.⁵

How “regulatory act” is defined by the Court and how strictly it will apply the “directly affected” test and the requirement that the act “does not entail implementing measures” remains to be seen.

2.3 Article 265 TFEU (failure to act by EU institution)

Claims that the EP, Council or Commission have acted illegally through lack of competence, infringement of the Treaty or of any law relating to it, or through misuse of powers, can be brought by natural or legal persons under Article 265 TFEU (formerly Article 232).

An Article 265 action may be brought only after the Institution has been called upon to act under the Treaties.⁶ If the failure to act is found to be unlawful, the Institution concerned must remedy the failure by taking “the necessary measures” (Article 266 TFEU).

The Law Societies note that “These actions are rarely successful”.⁷

2.4 Article 267 TFEU (preliminary ruling procedure)

Article 267 TFEU (formerly Article 234) states that if a question about “the interpretation of the Treaties” or “the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union” is raised in a national court or tribunal, and a decision is necessary to enable it to give judgment, that court or tribunal may ask the CJEU to give a ruling

This Article was extended by the Lisbon Treaty to include acts of the EU bodies, offices and agencies, rather than just the EU institutions and the European Central Bank. The Court emphasises that its role in this procedure “is to give an interpretation of European Union law or to rule on its validity, not to apply that law to the factual situation underlying the main proceedings, which is the task of the national court.”⁸

The *Curia* website describes the preliminary ruling requirements as follows:

20. The decision by which a national court or tribunal refers a question to the Court of Justice for a preliminary ruling may be in any form allowed by national law as regards procedural steps. It must however be borne in mind that it is that document which serves as the basis of the proceedings before the Court and that it must therefore contain such information as will enable the latter to give a reply which is of assistance to the national court. Moreover, it is only the actual reference for a preliminary ruling which is notified to the interested

⁵ In *Plaumann & Co. v. Commission*, Case 25/62, 1963 E.C.R. 95, the Court of Justice required that in order to allow individuals to challenge a regulation, this regulation should affect them “by reason of certain attributes, which are particular to them or by reason of circumstances in which they are differentiated from all other persons and by virtue of these factors distinguishes them individually.” See also *Greenpeace v. Commission*, Case C-321/95 P, 1998 E.C.R. I-1651

⁶ For example, in 1982 the EP brought an action against the Council for failing to establish the framework for the common transport policy (Case 13/83 *Parliament v. Council* ([1985] ECR 1513, see also [Parliament resolution](#)). In 1993 the EP brought an action against the Commission for failure to present proposals for the establishment of the free movement of persons within the internal market (*EP v Commission*, C 445/93, Order of 1 July 1996 concluding that no decision on the case was necessary).

⁷ Law Societies Joint Brussels Office Update Series: “[Developments from the Court of Justice of the European Union](#)”, January 2010.

⁸ [Information Note on references from national courts for a preliminary ruling](#), OJC 297, 5 December 2009

persons entitled to submit observations to the Court, in particular the Member States and the institutions, and which is translated.

21. Owing to the need to translate the reference, it should be drafted simply, clearly and precisely, avoiding superfluous detail.

22. A maximum of about 10 pages is often sufficient to set out in a proper manner the context of a reference for a preliminary ruling. The order for reference must be succinct but sufficiently complete and must contain all the relevant information to give the Court and the interested persons entitled to submit observations a clear understanding of the factual and legal context of the main proceedings. In particular, the order for reference must:

— include a brief account of the subject-matter of the dispute and the relevant findings of fact, or, at least, set out the factual situation on which the question referred is based;

— set out the tenor of any applicable national provisions and identify, where necessary, the relevant national case-law, giving in each case precise references (for example, a page of an official journal or specific law report, with any internet reference); EN 5.12.2009 Official Journal of the European Union C 297/3

— identify the European Union law provisions relevant to the case as accurately as possible;

— explain the reasons which prompted the national court to raise the question of the interpretation or validity of the European Union law provisions, and the relationship between those provisions and the national provisions applicable to the main proceedings;

— include, if need be, a summary of the main relevant arguments of the parties to the main proceedings.

In order to make it easier to read and refer to the document, it is helpful if the different points or paragraphs of the order for reference are numbered.

23. Finally, the referring court may, if it considers itself able, briefly state its view on the answer to be given to the questions referred for a preliminary ruling.

24. The question or questions themselves should appear in a separate and clearly identified section of the order for reference, generally at the beginning or the end. It must be possible to understand them without referring to the statement of the grounds for the reference, which will however provide the necessary background for a proper assessment.⁹

It must be emphasised that the individual cannot make a direct reference for a preliminary ruling; it must come from a national court or tribunal, and a question is referred to the CJEU only if a decision on it is considered “necessary” for the national court to give judgment. If there is no further judicial remedy (e.g. appeal or judicial review) in national law against the decision of the court which has the final say on an issue, then that court must refer the matter to the CJEU. The CJEU will act swiftly if the question relates to a person in custody.

⁹ See [ECJ Information Note](#)

The national court or tribunal sends its ruling to the CJEU, describing the case to date, summarising the relevant facts, stating the legal issues before the national court and the exact questions which it needs answered. Member States, the Commission and Council are notified of the action and have two months to submit written observations.

The oral stage of the CJEU's proceedings consists of a public hearing, at which a report is presented by the judge rapporteur, summarising the facts and the submissions of the parties and any interveners. The parties and those entitled to submit written observations may present oral arguments.¹⁰

Around four to six weeks later, the Advocate General makes his/her submission to the CJEU, analysing in detail the facts and the legal authorities involved, and proposing a solution to the issues raised. The Advocate General's opinion is not binding on the Court, but it is an authoritative document (it is often referred to by UK courts when applying decisions of the CJEU).

The judge rapporteur prepares a draft judgment for the CJEU's consideration. The final judgment briefly states the reasons upon which it is based. In the case of preliminary rulings, the CJEU's judgment is sent to the initiating national court, which has responsibility for applying the ruling to the case before it.

3 Court procedure

3.1 Stages of proceedings

Proceedings before the CJEU comprise a written phase followed by an oral phase. The oral procedure includes the presentation of oral argument at the hearing and the Advocate General's Opinion, which is delivered in open court. The CJEU may dispense with a hearing of oral argument and, if it considers that the case raises no new point of law and after hearing the Advocate General, it may decide to proceed to judgment without a formal Opinion from the Advocate General.¹¹

3.2 Legal representation

Under Article 19 of the [Court Statute](#), apart from Member States, European Economic Area (EEA) States and the EU institutions, which are represented by their Agents, parties must be represented in all proceedings by a lawyer entitled to practise before a court of a Member State or other EEA State. This requirement does not apply to applications for legal aid, and, in certain circumstances, to preliminary ruling proceedings, where any person empowered to represent or assist a party in proceedings before the national court may also do so before the CJEU.

3.3 Use of language

The official working language of the Court is French. However, any of the official languages of the EU Member States can be the language of the case. Each case has its "own" language, except where cases are joined and the language in each case is different. In direct

¹⁰ See "[Notes for the guidance of Counsel in written and oral proceedings before the Court of Justice of the European Communities](#)", February 2009.

¹¹ A detailed description of the written and oral procedures is available in the Court's Guidance Note.

actions¹² the applicant can choose the language of the case unless the defendant is a Member State or a natural or legal person who is a national of a Member State, in which case the language of the case is the official language of that State. In preliminary rulings the language of the case is that of the national court making the reference.

3.4 General Court procedure

The procedure of the General Court, which has its own [Rules of Procedure](#), is as follows:

An application, drawn up by a lawyer or agent and sent to the Registry, opens the proceedings. The main points of the action are published in a notice, in all official languages, in the Official Journal of the European Union. The Registrar sends the application to the other party to the case, which then has a period within which to file a defence. The applicant may file a reply, within a certain time-limit, to which the defendant may respond with a rejoinder.

Any person and any body, office or agency of the European Union, who/which can prove an interest in the outcome of a case before the General Court, as well as the Member States and the institutions of the European Union, may intervene in the proceedings. The intervener submits a statement in intervention, supporting or opposing the claims of one of the parties, to which the parties may then respond. In some cases, the intervener may also submit its observations at the oral phase.

During the oral phase a public hearing is held. When the lawyers are heard, the Judges can put questions to the parties' representatives. The Judge-Rapporteur summarises, in a report for the hearing, the facts relied on and the arguments of each party and, if applicable, of the interveners. This document is available to the public in the language of the case.

The Judges then deliberate on the basis of a draft judgment prepared by the Judge-Rapporteur and the judgment is delivered at a public hearing.

4 Costs and legal aid

Legal aid is sometimes available from the national legal aid authorities for cases in the CJEU, and if not, the CJEU also has the power to grant legal aid itself. Its [Information Note](#) on costs and legal aid states:

27. Preliminary ruling proceedings before the Court of Justice are free of charge and the Court does not rule on the costs of the parties to the main proceedings; it is for the national court to rule on those costs.

28. If a party has insufficient means and where it is possible under national rules, the national court may grant that party legal aid to cover the costs, including those of lawyers' fees, which it incurs before the Court. The Court itself may also grant legal aid where the party in question is not already in receipt of legal aid under national rules or to the extent to which that aid does not cover, or covers only partly, costs incurred before the Court.

In England and Wales, in the case of a referral in a criminal legal case, legal aid will extend to proceedings before the CJEU. In the case of a civil action, legal aid may be available to

¹² Direct actions may be brought by individuals seeking to challenge the validity of EU legislation that affects them.

cover the cost of a referral by a domestic court to the CJEU, although it will not be available automatically, even if legal aid has already been granted in respect of the domestic proceedings. The person seeking legal aid will need to apply to the Legal Services Commission for prior approval or, if they are already in receipt of legal aid, an extension of their existing legal aid certificate to cover representation by an EU lawyer or a reference to the CJEU. The *Access to Justice Act 1999* makes no provision for legal aid in respect of direct actions.”

An application to the CJEU for legal aid must be accompanied by a document from the “competent authority” in the Member State certifying a lack of means. The CJEU makes the order without giving reasons and there is no right of appeal. When the CJEU makes its decision on costs after the hearing, it can order a recipient of legal aid to repay some or all back to the CJEU. The CJEU provides the following guidance on costs and legal aid.

a. Costs

Proceedings before the Court are free, in that no charge or fee of any kind is payable to the Court.

The costs referred to in Article 69 et seq. of the RP [Rules of Procedure] are only those costs which are described as “recoverable”, namely lawyers’ fees, payments to witnesses, post and telephone costs, and so forth, incurred by the parties themselves.

The rule concerning the award of costs is simple: the unsuccessful party is ordered to pay the costs and thus bears its own costs and those of the other parties, except Member States and institutions, which, when intervening, bear their own costs. For costs to be awarded on that basis, a request to that effect must be included as one of the orders sought (“conclusions”) - if no such request is made the parties bear their own costs.

However, the Court may, according to the circumstances of the case, either order that the parties bear their own costs wholly or in part or even award costs against the successful party.

Special conditions apply to proceedings brought by officials (see Article 70 of the RP).

The Court gives a decision on costs in the judgment or order which brings the proceedings to an end.

With regard to costs incurred in preliminary ruling cases, the Court’s decision incorporates a standard form of words referring to the final decision to be taken by the national court which made the reference to the Court of Justice. Institutions, Member States, other EEA States and any non-member States which submit observations bear their own costs.

b. Legal aid

Article 76 of the RP provides for legal aid. The Court has a limited budget for that purpose.

Any party may at any time apply for legal aid if he is “wholly or in part unable to meet the costs of the proceedings”. The right to make such an application is not conditional upon the nature of the action or procedure. Thus, legal aid may also be applied for in a preliminary ruling case. However, in such a case, the

party concerned must first seek legal aid from the competent authorities in his own country. In order to establish his lack of means, the person concerned must provide the Court with all relevant information, in particular a certificate from the competent authority to that effect.

Where legal aid is applied for before the commencement of proceedings, the party must give a brief description of the subject matter of the application in order to enable the Court to consider whether the application is not manifestly unfounded.

The obligation to be represented by Counsel does not apply to applications for legal aid.

An order granting or withholding legal aid is not subject to appeal. Where the application for legal aid is refused in whole or in part, the order will state the reasons for that refusal.

It must be emphasised that the grant of legal aid does not mean that the recipient of it cannot, if appropriate, be ordered to pay the costs. Moreover, the Court may take action to recover sums disbursed by way of legal aid.¹³

5 Other bodies which help with individuals' complaints

5.1 European Ombudsman

An individual who considers that an EU institution has been guilty of maladministration may refer a complaint to the European Ombudsman.¹⁴ The Ombudsman can try to resolve the complaint through conciliation, and if this fails he/she can make recommendations, including that compensation be paid. If the institution does not accept the recommendations, the Ombudsman can make a special report to the European Parliament.

5.2 Commission "Solvit" system

SOLVIT is an on-line problem solving network in which EU Member States work together to solve without legal proceedings problems caused by the misapplication of Internal Market law by public authorities. There is a SOLVIT centre in every European Union Member State (as well as in Norway, Iceland and Liechtenstein). SOLVIT Centres can help with handling complaints from both **citizens** and **businesses**. They are part of the national administration and are committed to providing real solutions to problems within ten weeks. Using SOLVIT is free of charge.¹⁵

There is a Solvit centre in all the EU Member States. The [Department for Business, Innovation and Skills Solvit team](#) helps UK businesses which have problems operating in certain Member States. There are examples of the kind of work it has done on its UK SOLVIT [Success Stories page](#).

5.3 Citizens Signpost Service (CSS)

The [Citizens' Signpost Service](#) describes itself as "a team of independent legal experts providing free and personalised advice on your rights in the EU - in your own language and

¹³ "Notes for the guidance of Counsel in written and oral proceedings before the Court of Justice of the European Communities", February 2009

¹⁴ The [Ombudsman's homepage](#) provides information on [how to lodge a complaint](#). For rules on procedures and time limits for complaints see [Official Journal 244](#), 10 October 2002 pp 0005 – 0008.

¹⁵ [Commission "Solvit" site](#).

within a week of your request". It offers to clarify EU law, explain how a person can exercise EU rights and obtain redress, "signpost" a person to a body that can offer further help if needed, and advise on consumer problems.

5.4 European Consumer Centres Network (ECC-Net)

The [ECC-Net](#) describes itself as "a tool to have better informed and educated consumers and also to help them in getting the appropriate redress in case of a violation of their rights as consumers in cross-border transactions".

5.5 The Aire Centre

The [AIRE Centre](#) (Advice on Individual Rights in Europe) is a registered charity, which provides:

- Information and advice throughout Europe on international human rights law, including the rights of individuals under the provisions of European Community Law;
- Direct legal advice and assistance on a case by case basis to legal practitioners or advisers;
- Expert resource persons and teaching materials to organisers of workshops and conferences;
- General advice on international human rights law to public authorities. We do not, however, provide assistance to such bodies in litigating against individuals.

Appendix I Procedure flowcharts

Procedure before Court of Justice¹⁶

Procedure before the Court of Justice		
<i>Direct actions and appeals</i>		<i>References for a preliminary ruling</i>
Written procedure		
Application Service of the application on the defendant by the Registry Notice of the action in the Official Journal of the EU (C Series) [Interim measures] [Intervention] Defence/Response [Objection to admissibility] [Reply and Rejoinder]	[Application for legal aid] Designation of Judge-Rapporteur and Advocate General	National court's decision to make a reference Translation into the other official languages of the European Union Notice of the questions referred for a preliminary ruling in the Official Journal of the EU (C Series) Notification to the parties to the proceedings, the Member States, the institutions of the European Union, the EEA States and the EFTA Surveillance Authority Written observations of the parties, the States and the institutions
The Judge-Rapporteur draws up the preliminary report General meeting of the Judges and the Advocates General Assignment of the case to a formation [Measures of inquiry]		
Oral stage		
[Hearing; Report for the Hearing] [Opinion of the Advocate General] Deliberation by the Judges Judgment		

Optional steps in the procedure are indicated in brackets.

Words in bold indicate a public document.

<p>Optional stages are shown in brackets. Documents which, in principle, are public are shown in bold type.</p>
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¹⁶ [Curia Procedure before the Court of Justice](#)

Procedure before General Court¹⁷

Direct actions and appeals		
Written procedure		
Application Service of the application on the defendant by the Registry Notice of the application in the Official Journal of the EU (C Series) Assignment of the case to a formation Nomination of the Judge-Rapporteur Defence [Objection of inadmissibility] [Reply and rejoinder] [Other pleadings] The Judge-Rapporteur prepares the preliminary report Chamber conference of the Judges [Measures of inquiry]	[Application for legal aid] [Interventions]	[Interim measures] [Assignment of the case to a formation composed of a different number of Judges (single Judge, 3, 5, 13 or 27 Judges)]
Oral phase		
[Report for the hearing; hearing] Judges' deliberation Judgment		

¹⁷ [Curia Procedure before the General Court](#)

Appendix 2 Direct and indirect, vertical and horizontal effect

Direct effect

If an EU measure has direct effect, it creates rights which individuals may rely on before their domestic courts and it can be used in legal proceedings, whether or not it has been incorporated into national law. According to the *Van Gend en Loos* criteria, to have direct effect the measure must be clear and precise, unconditional and confer a specific right on individuals. EU instruments with direct effect include Treaty principles (e.g. freedom of movement of workers or equal pay for men and women),¹⁸ EU Regulations, CJEU case law and sometimes Directives.

Indirect effect

If an EU measure has indirect effect, it cannot directly impose obligations on individuals. It is implemented via a national law and does not have legal force in the Member States until it has been incorporated into domestic law, although it can have persuasive effect and be referred to in legal proceedings. Indirect effect is applied mainly to Directives. National courts must interpret domestic law consistently with EU Directives and in the light of the purpose of the legislation. The doctrine of indirect effect was developed to ensure that Directives would have some effect even in they had not been properly implemented.¹⁹

Vertical and horizontal effect

In *Defrenne v. SABENA* the European Court of Justice decided that there were two varieties of direct effect: vertical direct effect and horizontal direct effect, depending on whom the right was enforced against.

An EU measure has vertical effect if it confers rights on individuals against the State or an “emanation of the state” (e.g. a government department, a local authority, a quango or bodies subject to state control or a high level of state regulation, such as the police or water companies). Vertical effect concerns the state's obligation to observe and comply with EU law, thereby allowing citizens to rely on EU law in actions against the state. If a Member State has not incorporated a Directive into domestic law and the implementation date has passed, the Directive can be held to have direct vertical effect.²⁰

An EU measure has horizontal direct effect if it confers rights and obligations on individuals and can be used by an individual or a company in a complaint against another person or company. Some Treaty provisions and EU Regulations are capable of having horizontal direct effect. Directives usually are not, because they are only enforceable against the State. The Court has stated explicitly that a Directive “may not of itself impose obligations on an individual” and that “a provision of a directive may not be relied on as such against such a person”.²¹

¹⁸ There is a list of Treaty Articles (pre-Lisbon) which the Court deems to have direct effect on the [Europa website](#).

¹⁹ Important case law on the indirect effect of EU law is Case 14/83, *Von Colson and Kamman*, Case 80/86, *Kolpinghuis Nijmegen* and C-106/89, *Marleasing*.

²⁰ *Pubblico Ministero v. Ratti*, (Case 148/78) [1979] ECR 1629

²¹ Case 152/84 *Marshall I* [1986] ECR 723, paragraph 48