



INTERNSHIP REPORT AND SUMMARY

Identification of the participant

Name: Behrend

First name: Nicola

Nationality: German

Country of exchange: Luxembourg

Identification of the exchange

Host jurisdiction/institution: Court of Justice of the European Union (Court of Justice and General Court)

City: Luxembourg

Country: Luxembourg

Dates of the exchange: 14/11/2022 to 18/11/2022



SUMMARY

I. Programme of the exchange

It was an excellently organized study programme that combined general presentations attended as well by other groups of judges and legal experts), hearings, and one-on-one conversations (see programme in the appendix). I was given a very warm welcome.

As the Court of Justice of the European Union comprises the Court of Justice ("Gerichtshof") and the General Court ("Gericht"), I had the opportunity to gain a deeper understanding of both courts and their supporting working units.

During the first two days, I participated in a programme of the EJNT ("European Judicial Network Training") that included general presentations about the Court of Justice, the General Court and more special presentations concerning the preliminary ruling proceedings, the role of the Advocate General, and the tasks of the Registrar of the Court.

I had very useful conversations with the German Advocate General, the German Judge at the Court of Justice as well as with the two German Judges at the General Court and their Legal Secretaries. These discussions were highly valuable towards a deeper understanding of the work of the two institutions, their "work-flow" and their decisions.

A Legal Secretary at the chambers of the President of the Court of Justice provided some ideas on how to rebalance the workload between the Court of Justice, composed of one Judge per Member State, and the General Court, which - since September 2019 - has consisted of two Judges per Member State. These considerations focused on preliminary rulings. 567 cases (of the 838 cases) brought to the Court of Justice in 2021 were preliminary ruling proceedings. Regarding this topic, a proposal to relieve the Court of Justice (by transferring a limited number of the preliminary rulings to the General Court <Art 256 (3) TFEU>) will be presented to the European Parliament. In addition, the Legal Secretary of the President of the Court of Justice described several projects of the Court of Justice of the European Union, in particular the project "Bringing justice closer to the citizen" and the transmission of oral proceedings of the Grand Chamber of the Court of Justice via web streaming.

I also attended four hearings, two of them with prior briefings conducted by Legal Secretaries of the chambers of the Reporting Judges. The hearings at the Court of Justice and the General Court gave me some very good practical insight. One such case was case C680/21 (Royal Antwerp Football Club), requested by the French-speaking Brussels Court of First Appeals (Belgium) for a preliminary ruling concerning the impact of Articles 45 and 101 TFEU on the "Home-Grown Player"- rules, laid down by UEFA, UEFA's member federations and the Union Royale Belge des Societes de Football. The preliminary ruling of the Tax Court of Cologne (Germany) examined whether a German law governing inheritance tax constitutes a restriction on the free movement of capital (C-670/21). One of the hearings before the

General Court concerned an action brought for the annulment of a decision of the European Parliament that had - at the initiative of the European Anti-Fraud-Office decided that a Member of the European Parliament had to pay back a sum of nearly 200,000 Euros, in connection with parliamentary assistance expenses unduly paid (T-249/21). In the fourth hearing (T-94/20), the applicant requested the General Court to order the European Commission to pay compensation for the default interest to comply with a previous judgment of the General Court and a temporary payment of the original fine.

In accordance with my request, the Directorate for Protocol and Visits organized meetings with a Legal Secretary at the chambers of Judge Biltgen, who has served as Reporting Judge in several cases involving labour and social law. I also had the opportunity to meet with members of the Research and Documentation Directorate and discuss issues of cooperation in the judicial network.

II. The host institution

The Court of Justice has the task of ensuring compliance with EU law by overseeing the uniform interpretation and application of the Treaties. The Legal Secretary at the chambers of the President of the Court of Justice provided some general information on the number of cases brought before the Court of Justice and on important rulings handed down (for example Rule of Law - Judgments of 16.2.2022 in Cases C-156/21 Hungary v Parliament and Council and C-157/21 Poland v Parliament and Council). He outlined the importance of the Court of Justice as a Constitutional Court responsible for overseeing the distribution of the power between the Union institutions and compliance with the Charter of Fundamental Rights (for example C- 709/20).

The General Court has jurisdiction for example in the area of hearing cases on and determining actions of the EU institutions, bodies, offices and agencies. It is also responsible for settling disputes between the •institutions of the European Union and their staff concerning employment issues and the social security system. Appeals against decisions of the General Court are possible according to Art 256 '(1) TFEU, Art 58 statute of the Court of Justice of the European Union.

III. The European aspect of the exchange

I was able to witness how provisions of the Court of Justice of the European Union (Art 251 to 281 TFEU) and the rules of procedure at the Court of Justice and the General Court were applied practically. In public disputes, procedural law at the European Court of Justice differs from German procedural law. Further investigations ex officio are rare, the Court relies to a large extent on the arguments and evidence that the parties submit.

It became clear to me that dealing with the EU legislative and regulatory framework in various languages and the multilingualism of the Judges pose particular challenges and opportunities. It appears that these challenges can contribute to very structured processes in the handling of cases and in hearings.

IV. "Good Practice" within the host jurisdiction

It was very interesting for me to attend hearings at the Court of Justice and the General Court. Both courts use a very structured process. It starts with slots, in which both parties are each given a limited amount of time to present and clarify their respective points of view. The legal discussion is based on legal aspects agreed among the Judges involved and partly with the Advocate General. On several occasions, these key points of the case are sent to the parties in advance. This is done to clarify which aspects of the case are relevant and is, in my view, conducive to a very structured and intensive legal discussion. .

But even before the hearings occur, the cases are dealt with in a structured manner. The general presentation given by the Administrator of Registry of the Court of Justice as well as my discussions with the German Judges and with the Research and Documentation Directorate helped me to gain insight into the procedure and timing of newly initiated proceedings. Upon being given a case, the Research and Documentation Unit draws up so called „pre-examination-sheet": a "preliminary analysis", in which relevant case-law is presented to provide initial orientation to which the Judges can then refer. This is the basis for determining the Reporting Judge (by the chambers of the President) and - where deemed necessary - the Advocate General. The preliminary report of the Reporting Judge is used to establish the further procedural treatment of the case (oral proceedings, necessity of a hearing, size of the chamber, necessity for a Grand Chamber), which is discussed at the weekly general meeting, consisting of all Judges and Advocates General at the Court of Justice ("the Court as a collegiate body").

V. Benefits of the exchange

Thus far, I have observed the use of case-law by the Court of Justice of the European Union solely in the context of requests for a preliminary ruling. Thanks to the exchange, however, I have been able to get a greater understanding of the functioning and competence of the General Court and its great importance, in particular, in disputes concerning acts of the European Parliament and the European Commission. The programme has also given me the opportunity to learn more about the unique position of the Advocate General in the EU judicial system and her/his tasks in the proceedings held before the Court of Justice. The Advocate General is not a member of the chamber; instead, she/he provides an opinion on the case from an impartial point of view.



My discussions with the Judges at the Court of Justice and the General Court and my participation in the hearings have revealed to me the challenges and opportunities of working with different legal cultures and languages. Due to the fact that the mandate of the Judges is one of only six-years, there are often, in addition, significant partial renewals in the Court of justice (arrival of nine new Judges in 2021) and the General Court (five new Judges in 2021).

These aspects shape the organisation of the work flow at the Court of Justice of the European Union as well as the deliberations and decision-making processes of the Judges. This background has made it possible for me to better understand the structure and drafting of the decisions in requests for preliminary rulings. I hope that the discussions that I was able to hold with the Judges and other members of the Court of Justice and the General Court can be continued in further professional exchanges.

VI. Recommendations

I have no specific recommendations. I would like to thank the Directorate for Protocol and Visits for her/his excellent organisation of my visit and for her/his hospitality. I also wish to extend my thanks to the ACA for giving me the opportunity to participate in this exchange programme.

