

SPECIALIZED COURTS OF THE EUROPEAN UNION

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Abstract

Treaty of Lisbon entered into force on 1 December 2009, improved functioning judicial system European Union (EU). Court of Justice of the EU has been reformed, said Treaty changing the EU courts so very name : Court of Justice of the EU, the Court referred to above, the Court of First Instance, and specialized courts, known previously, judicial panels. The paper shows the first part of his creation, composition and competence of the specialized courts, and as a manifestation of them in the second part examines the Civil Service Tribunal, the same point of view. EU specialized courts may be set up in specific areas, specializing in some technical disputes. These specialized courts have jurisdiction to hear and decide the cases in the first instance with the possibility that their decision subject to appeal to the General Court . In this context, to resolve disputes between the Union and its officials was established Tribunal.

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JEL Classification: *K33, K40*

I. Introduction

European judicial system consists of the Court of Justice, General Court, formerly called the Lisbon Treaty, the Court of First Instance and specialized courts, formerly called the said Treaty, judicial panels³. Court of Justice of the European Union, which is based in Luxembourg, is unique since 1957 for the three European Communities under the Convention on Certain Institutions Common⁴ to the creation of the Court of First Instance, by decision of 24 October 1988⁵. Court of Justice of the EU aggregates a whole jurisdiction, under which states, in principle, the first and last instance, with certain exceptions prescribed by the subsequent creation of the Court of First Instance⁶. Diversification Community jurisdiction in the presence of Union resulted, for example, by redistributing the previous powers held by the Court for the benefit of other EU jurisdictions, provided, of course, to be protected supreme control of the Court⁷. So it was impossible to imagine, for some materials, ex civil action community, the application of competition rules to establish special courts that are subordinate to Court on appeal or cassation⁸ way. Commission presented on 31 July 1978 a proposal to the Council - on the creation of a Court - a project that was abandoned.

In the context of these worries for proposals leading to further diversification of Community jurisdiction of the Union, and the increasing number of cases, by enlargement , the question of reform of the Court. This has translated into the establishment of the General Court (formerly called the Lisbon Treaty, the Court of First Instance) and specialized courts (formerly Treaty, the judicial panel). Thus, the Council acting unanimously on request the Court of Justice and after consulting the European Parliament, the decision made in October 1988 by the Court of First Instance Court tasked to examine at first instance certain categories of disputes subject to appeal before the ECJ limited points of law, under conditions laid down by statute.

Number of cases that dealt with the disputes between the Community and its servants led to the possibility of setting up by the Treaty of Nice on 26 February 2001, of independent specialized judicial panel, called the Lisbon Treaty specialized courts.

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³ See John Nely Militaru, EU Law, Second Edition, Publishing Legal Universe, Bucharest, 2011, p. 261 et seq.

⁴ It was signed in Rome in 1957.

⁵ JOCE no. L.319 / 1 of 25 November 1988.

⁶ See Dragos Marian Radulescu, European Union, Pro University Publishing House, 2012, p. 59; Popescu Cruceru Anca, Seuciu Eurgenia Gabriela, Viorel Bănulescu, *The role of Economical Concentrations in the Contemporary Competitive Ecquation* International Journal of Advances in Management and Economics, India, September-October, 2012, Vol. I, no. 5, p. 95-98.

⁷ See Mark Guy Isaac et Blanquet, Droit communautaire generally 8 ed., Dalloz, Paris, 2001, p. 256.

⁸ JOCE no. 225/6 of 22.09.1978.

II. Specialized courts of the European Union

II.1. The art establishment of specialized courts

Suited to 225a TEC (version revisited by the Treaty of Nice), the Council, acting unanimously 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, may create judicial to hear and determine at first instance certain classes of action or proceeding brought in specific⁹ areas.

This provision of the Treaty of Nice was completed by the Lisbon Treaty through article. 257, that the European Parliament and the Council, acting by means of regulations (either on a proposal from consulting the Court of Justice or at the request of the Court of Justice and after consulting the Commission) in conformity with the ordinary legislative procedure, may establish specialized courts attached to the General Court, which competent to settle at first instance certain classes of actions in specific areas.

II.2. Composition and specialized court jurisdiction

Rules of the court and the extent of the powers conferred are set by regulation establishing the specialized cour. The members of the specialized courts shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They are appointed by the Council acting unanimously.

Specialized courts have jurisdiction at first instance certain classes of action in specific areas (art. 257 TFEU). Decisions given by specialized courts may be appealed to the General Court on points of law or if the regulation establishing the specialized court provides, and on matters of facts.

The specialized courts shall establish their Rules of Procedure in agreement with the Court of Justice. This regulation is approved by the Council.

Provisions of the Treaties relating to the Court of Justice of the EU and the ECJ Statute provisions apply to the specialized courts, unless the regulation provides otherwise its establishment.

The provisions of the Treaties relating to the EU Court of Justice and the General Court, on the Status of Judges and Advocates-General, including the language of the ECJ, properly apply to the specialized courts (Title I and Art. 66 of the Statute of the ECJ).

A specialized court is the European Union Civil Service Court.

The Treaty of Nice was intended setting up independent specialized judicial panels in some technical disputes¹⁰. On this line concerns enroll declaration annexed to the Treaty of Nice on the request to the Conference of Member States, the Court of Justice or the Commission, to prepare as soon as possible a draft decision to create a competent judicial panel in the first instance to resolve disputes between the Community and its servants¹¹.

These rooms judicial decisions could be appealed limited to issues of law or the decision to set the camera to do so, an appeal bearing on questions of fact, the Court of First Instance (art. 225a par. 3 TEC).

⁹ See Dan Vataman, *EU Institutions*, Law Publishing House, 2011, Bucharest, 154 et seq.

¹⁰ Thus, "the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or the Court's request and after consulting the European Parliament and the Commission, may create judicial panels in the first instance responsible for the settlement of certain categories of actions brought in specific areas "(Article 225a TEC).

¹¹ In legal literature has shown that intellectual property disputes could be transferred to the ICC in a judicial power, for example, actions relating to Community trade marks or to confer on the Community patent disputes. See O. Manolache *Treaty of Community law*, Vth ed., CH Beck Publishing House, Bucharest, 2006, p 151.

III. European Union Civil Service Tribunal (TFPUE)

Following the Declaration - Annex to the Treaty of Nice on the article you consider judicial chambers (225a TEC) was adopted Council Decision. 2004 of 2 November 2004 governing the establishment Tribunal, dropping the name of judicial panel. It was designed to be held before the Court of First Instance, now the Tribunal.

Tribunal is governed by the Annex to the Statute of the Court of Justice of the European Union.

III.1. Composition of Tribunal EU

☞ Court consists of seven judges, their number can be increased by the Council (qualified majority) at the request of the Court. The term of office of judges shall be six years with the possibility of renewal. Any vacancy shall be filled by the appointment of a new judge for six years.

TFPUE members are chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office, after consultation with a committee established by art. 3 para. 3 of the Annex to the Statute of the ECJ, according to art. 257 par. 4 TFEU. Once the above conditions are met, judges are appointed by the Council. When appointing judges, the Council provides a balanced composition of TFPUE the widest possible geographical basis from among nationals of Member States regarding national legal systems represented (Art. 3 para. 1 of the Statute of the ECJ).

May submit an application for Judge TFPUE any person who is a Union citizen who satisfies the conditions referred to in art. 257 par. 4 TFEU. The Council, acting on the recommendation of the ECJ determines the terms and conditions for the submission and processing of such applications (Article 3 para. 2 of the Annex to the Statute of the ECJ).

Committee consulted TFPUE Council in the appointment of judges is composed of seven persons chosen from among former members of the Court of Justice and the General Court and lawyers of recognized competence. The committee's membership and operating rules shall be determined by the Council, acting on the recommendation of the President of the ECJ (Article 3 para. 3 of the Annex to the Statute of the ECJ).

Committee gives its opinion on candidates' suitability to perform the duties of judge of TFPUE¹².

☞ President elect one of their Tribunal for a term of three years. The President may be re-elected.

III . 2. Operation and power TFPUE

TFPUE sit in chambers of three judges. Rules of Procedure provides in certain circumstances the trial of cases in plenary, the chamber of five judges or a single judge.

Tribunal is supported by the services of the Court of Justice and the Court.

President of the Court of Justice or, where appropriate, the President shall agree with President TFPUE the conditions under which officials and other servants attached to the Court or Tribunal shall contribute to the operation of the Civil Service Tribunal. Certain officials or other servants shall be responsible to the Registrar TFPUE under the authority of his president.

TFPUE appoint its Registrar and sets its status.

Judges, Advocates-General and Registrar TFPUE resident at the Court of Justice.

☞ Tribunal is specialized court in civil matters litigation European Union. This power was exercised previously by the Court of Justice, since its creation in 1989, the Court of First Instance, that the Tribunal.

¹² Committee append to its opinion a list of candidates having the most suitable high-level experience. A list containing the names of at least twice as many candidates as there are judges to be appointed by the Council (Article 3 para. 4 of standing ECJ).

EU Civil Service Tribunal in the first instance¹³:

- Disputes between the Union and its officials under article 270 TFEU and 152 TEuratom. These disputes concern not only questions relating to labor relations proper (pay, career development, recruitment, disciplinary measures, etc.) but also social security (sickness, old age, disability, work accidents, family allowances, etc.)¹⁴.

- Disputes between all bodies or agencies and their officials, on which the Court had jurisdiction to the Tribunal setting. For example, the Tribunal judge disputes between Europol, the Office for Harmonization in the Internal Market (OHIM) or Investment European Bank (EIB) and their agents¹⁵.

☞ decisions rendered by the Tribunal in the exercise of its jurisdiction may be appealed before the Court, which is limited to points of law.

According to article 11 para. 1 of the Statute of the ECJ - Annex, an appeal may be based on the following reasons:

- Lack of competence of the Tribunal;
- Breach of procedure before it which adversely affects the interests of the party concerned;
- Infringement of Union law by the Tribunal.

If the appeal is well founded, the Court annuls the decision TFPUE and decide the dispute itself. It sends the case back to TFPUE if the dispute is not ready for judgment.

When a case is referred back to TFPUE it is bound by the decision of the Court on points of law (art. 13 para. 2 of the Annex to the Statute of the ECJ).

IV. Conclusions

The evolution of the European judicial system determined by increase in the number of cases and number of Member States as well as the creation of the second instance, the Court, by reference to the Court of Justice of the European Union has led to specialization in the European Courts. This specialization has been translated by setting specialize courts as a materialization of which is the Tribunal. This court can even try the procedure that takes place in front of him to obtain an amicable settlement of the dispute between the parties.

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8. Treaty of Lisbon, signed on 13 December 2009 entered into force on 1 December 2011 amending the Treaty on European Union and the Treaty establishing the European Community, called Operation Treaty of the European Union.

¹³ Tribunal at first instance resolves disputes between the European Union and its agents, according to art. 270 TFEU, which is about 120 cases per year, while the EU institutions' staff consists of about 35 000 people, see in this respect curia.europa.eu / JCMS / upload / docs / Application / pdf/2009-03/ro_tfp.pdf

¹⁴ Idem

¹⁵ Idem