

## **PRACTICE DIRECTIONS**

### **relating to direct actions and appeals**

This version consolidates the practice directions relating to direct actions and appeals adopted on 15 October 2004 (OJ 2004 L 361, p. 15) and the amendments to those directions adopted on 27 January 2009 (OJ 2009 L 29, p. 51).

This version has no legal status. Accordingly, the preamble has been omitted.

### **USE OF TECHNICAL MEANS OF COMMUNICATION**

1. A copy of the signed original of a procedural document may be transmitted to the Registry in accordance with Article 37(6) of the Rules of Procedure either:
  - by telefax (to fax number: + 352 43 37 66);or
  - as an attachment to an electronic mail (email address: [ecj.registry@curia.europa.eu](mailto:ecj.registry@curia.europa.eu)).
2. Where transmission is by electronic mail, only a scanned copy of the signed original will be accepted. An ordinary electronic file or one bearing an electronic signature or a computer-generated facsimile signature will not be treated as complying with Article 37(6) of the Rules of Procedure.

Documents should be scanned at a resolution of 300 DPI and, wherever possible, in PDF format (images plus text), using Acrobat or Readiris 7 Pro software.

3. A document lodged by telefax or electronic mail will be treated as complying with the relevant time-limit only if the signed original itself reaches the Registry within 10 days following such

lodgment, as specified in Article 37(6) of the Rules of Procedure. The signed original must be sent without delay, immediately after the despatch of the copy, without any corrections or amendments, even of a minor nature. In the event of any discrepancy between the signed original and the copy previously lodged, only the date of lodgment of the signed original will be taken into consideration.

4. Where, in accordance with Article 38(2) of the Rules of Procedure, a party agrees to be notified by telefax or other technical means of communication, the statement to that effect must specify the telefax number and/or the electronic mail address to which the Registry may send that party documents to be served. The recipient's computer must be equipped with suitable software (for example, Acrobat or Readiris 7 Pro) for reception and display of communications from the Registry, which will be transmitted in PDF format.

## **PRESENTATION OF PLEADINGS**

5. Pleadings and other procedural documents lodged <sup>1</sup> by the parties must be submitted in a form which can be processed electronically by the Court and which, in particular, makes it possible to scan documents and to use character recognition.

For that purpose, the following requirements must be complied with:

- (1) The paper must be white, unlined and A4 size, with text on one side of the page only.
- (2) Pages of pleadings and annexes, if any, must be assembled in such a way as to be easily separable. They must not be bound together or permanently attached by means such as glue or staples.

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<sup>1</sup> – The Court's postal address is:  
Court of Justice of the European Communities  
L-2925 LUXEMBOURG

- (3) The text must be in a commonly-used font (such as Times New Roman, Courier or Arial), in at least 12 pt in the body of the text and at least 10 pt in the footnotes, with 1.5 line spacing and upper, lower, left and right margins of at least 2.5 cm.
  - (4) The pages of the pleading must be numbered consecutively in the top right-hand corner. That numbering must also cover all the pages of any annexes to the pleading, so as to make it possible to check that all the pages of the annexes have been duly scanned.
6. The following information must appear on the first page of the pleading:
  - (1) the title of the pleading (application, appeal, defence, response, reply, rejoinder, application for leave to intervene, statement in intervention, observations on the statement in intervention, objection of inadmissibility, etc.);

where a response seeks an order setting aside in whole or in part the decision of the Court of First Instance on a plea in law not raised in the appeal, the title of the pleading must indicate that the document is a response and cross-appeal.
  - (2) the case number (C-.../..), if it has already been notified by the Registry;
  - (3) the names of the applicant (appellant) and defendant (respondent) and, in appeals, the identification of the decision under appeal and the parties before the Court of First Instance;
  - (4) the name of the party on whose behalf the pleading is lodged.
7. Each paragraph of the pleading must be numbered.

8. The signature of the agent or lawyer acting for the party concerned must appear at the end of the pleading.

## **FORM AND CONTENT OF THE PRINCIPAL TYPES OF PLEADING**

### **A. Direct actions**

#### **Application initiating proceedings**

9. An application must contain the statements prescribed by Article 38(1) and (2) of the Rules of Procedure.
10. The following must appear at the beginning of each application:
  - (1) the applicant's name and address;
  - (2) the name and capacity of the applicant's agent or lawyer;
  - (3) the identity of the party or parties against whom the action is brought;
  - (4) the statements referred to in Article 38(2) of the Rules of Procedure (address for service in Luxembourg and/or agreement to service by telefax or any other technical means of communication).
11. In the case of an application for annulment, a copy of the contested measure must be annexed to the application and identified as such.
12. Each application should be accompanied by a summary of the pleas in law and main arguments relied on, intended to facilitate publication in the Official Journal of the notice prescribed by Article 16(6) of the Rules of Procedure, which will be prepared by the Registry. The summary in question must not be more than two pages long.

13. The precise wording of the forms of order sought by the applicant must be specified either at the beginning or the end of the application.
14. The introductory part of the application must be followed by a brief account of the facts giving rise to the dispute.
15. The structure of the legal argument must reflect the pleas in law relied upon. After the account of the facts giving rise to the dispute, a summary outline of those pleas in law should be given.

### **Defence**

16. The defence must contain the statements prescribed by Article 40(1) of the Rules of Procedure.
17. In addition to the case-number and the applicant's name, the following must appear at the beginning of each defence:
  - (1) the defendant's name and address;
  - (2) the name and capacity of the defendant's agent or lawyer;
  - (3) an address for service in Luxembourg and/or agreement to service by telefax or other technical means of communication (second subparagraph of Article 40(1) of the Rules of Procedure).
18. The precise wording of the forms of order sought by the defendant must be specified either at the beginning or at the end of the defence.
19. The structure of the legal argument must, so far as is possible, reflect that of the pleas in law put forward in the application.
20. The factual and legal background is to be recapitulated in the defence only in so far as its presentation in the application is disputed or calls for further particulars. If any fact alleged by the

other party is contested it must be clearly indicated and the basis on which it is challenged must be stated explicitly.

### **Reply and rejoinder**

21. The reply and rejoinder must not recapitulate the factual and legal background except in so far as its presentation in the previous pleadings is disputed or, exceptionally, calls for further particulars. If any fact alleged by the other party is contested it must be clearly indicated and the basis on which it is challenged must be stated explicitly.

### **Statement in intervention**

22. The statement in intervention must develop no arguments that are not new in relation to those put forward by the main party. It may be confined to a mere reference to the other arguments.

The statement in intervention must not recapitulate the factual and legal background except in so far as its presentation in the previous pleadings is disputed or, exceptionally, calls for further particulars. If any fact alleged by the other party is contested it must be clearly indicated and the basis on which it is challenged must be stated explicitly.

## **B. Appeals**

### **The appeal**

23. An appeal must contain the statements prescribed by Article 112(1) of Rules of Procedure.
24. The following must appear at the beginning of each appeal:
  - (1) the appellant's name and address;
  - (2) the name and capacity of the appellant's agent or lawyer;

- (3) the identification of the decision of the Court of First Instance appealed against (type of decision, formation of the Court, date and number of the case) and the names of the parties before the Court of First Instance;
  - (4) the date on which the decision of the Court of First Instance was notified to the appellant;
  - (5) an address for service in Luxembourg and/or agreement to service by telefax or other technical means of communication.
23. A copy of the decision of the Court of First Instance appealed against must be annexed to the appeal.
26. The appeal should be accompanied by a summary of the grounds of appeal and main arguments relied on, intended to facilitate publication in the Official Journal of the notice prescribed by Article 16(6) of the Rules of Procedure. The summary in question must not be more than two pages long.
27. The precise wording of the forms of order sought by the appellant must be specified either at the beginning or at the end of the appeal (Article 113(1) of Rules of Procedure).
28. It is not generally necessary to set out the background to the dispute or its subject-matter; it will be sufficient to refer to the decision of the Court of First Instance.
29. The structure of the legal arguments must reflect the grounds, in particular errors of law, relied upon in support of the appeal. A summary outline of those grounds should be given at the beginning of the appeal.

### **Response**

30. A response must contain the statements prescribed by Article 115(1) of the Rules of Procedure.

31. The following must appear at the beginning of each response, in addition to the case number and the appellant's name:
  - (1) the name and address of the party lodging it;
  - (2) the name and capacity of the agent or lawyer acting for that party;
  - (3) the date on which notice of the appeal was served on the party;
  - (4) an address for service in Luxembourg and/or agreement to service by telefax or any other technical means of communication.
32. The precise wording of the forms of order sought by the party lodging the response must be specified either at the beginning or at the end of the response.
33. If the response seeks an order setting aside, in whole or in part, the decision of the Court of First Instance on a plea in law not raised in the appeal, that fact must be indicated in the title of the pleading ('Response and Cross-appeal').
34. The structure of the legal arguments must, so far as is possible, reflect the grounds of appeal put forward by the appellant and/or, as appropriate, the grounds put forward by way of cross-appeal.
35. Since the factual and legal background has already been set out in the judgment under appeal, it is to be recapitulated in the response only quite exceptionally, in so far as its presentation in the appeal is disputed or calls for further particulars. Any fact challenged must be clearly indicated, and the point of fact or law in question indicated explicitly.

### **Reply and rejoinder**



36. As a rule, the reply and rejoinder will not recapitulate any more the factual and legal background. Any fact challenged must be clearly indicated, and the point of fact or law in question indicated explicitly.

### **Statement in intervention**

37. The statement in intervention must develop no arguments that are not new in relation to those put forward by the main party. It may be confined to a mere reference to the other arguments.

The statement in intervention must not recapitulate the factual and legal background except in so far as its presentation in the previous pleadings is disputed or, exceptionally, calls for further particulars. Any fact challenged must be clearly indicated, and the point of fact or law in question indicated explicitly.

### **ANNEXES TO PLEADINGS**

38. Legal argument submitted for consideration by the Court must appear in the pleadings and not in the annexes.
39. Only documents mentioned in the actual text of a pleading and necessary in order to prove or illustrate its contents may be submitted as annexes.
40. Annexes will be accepted only if they are accompanied by a schedule of annexes (Article 37(4) of the Rules of Procedure). That schedule must indicate for each document annexed:
- (1) the number of the annex;
  - (2) a short description of the document (e.g. 'letter', followed by its date, author and addressee and its number of pages);
  - (3) a reference to the page and paragraph in the pleading at which the document is mentioned and from which the need to produce it is apparent.

41. If, for the convenience of the Court, copies of judgments, legal writings or legislation are annexed to a pleading, they must be separate from the other annexes.
42. Each reference to a document lodged must state the relevant annex number as given in the schedule of annexes in which it appears and indicate the pleading to which it is annexed. In appeal proceedings, where the document has already been produced before the Court of First Instance, the identification used for that document before the Court of First Instance must also be given.

### **DRAFTING AND LENGTH OF PLEADINGS**

43. With a view to avoiding delay in proceedings, when drafting pleadings the following points in particular must be taken into consideration:
  - the case is examined on the basis of the pleadings; in order to facilitate that examination, documents must be structured and concise and must avoid repetition;
  - pleadings will, as a general rule, be translated; in order to facilitate translation and to make it as accurate as possible sentences should be simple in structure and vocabulary should be simple and precise;
  - the time needed for translation and for examination of the case-file is proportionate to the length of the pleadings lodged, so that the shorter the pleadings, the swifter the disposal of the case.
44. It is the Court's experience that, save in exceptional circumstances, effective pleadings need not exceed 10 or 15 pages and replies, rejoinders and responses can be limited to 5 to 10 pages.

### **APPLICATIONS FOR EXPEDITED PROCEDURE**

45. A party applying by separate document under Article 62a of the Rules of Procedure for a case to be decided by the Court by expedited procedure must briefly state the reasons for the special urgency of the case. Save in exceptional circumstances, that application must not exceed 5 pages.
46. As the expedited procedure is largely oral, the pleading of the party requesting it must be confined to a summary of the pleas relied upon. Such pleadings must not, save in exceptional circumstances, exceed 10 pages.

#### **APPLICATIONS FOR LEAVE TO LODGE A REPLY IN APPEAL PROCEEDINGS**

47. The President may, on application, allow a reply to be lodged if it is necessary in order to enable the appellant to defend its point of view or in order to provide a basis for the decision on the appeal.

Save in exceptional circumstances such an application must not exceed 2 to 3 pages and must be confined to summarising the precise reasons for which, in the appellant's opinion, a reply is necessary. The request must be comprehensible in itself without any need to refer to the appeal or the response.

#### **APPLICATIONS FOR HEARING OF ORAL ARGUMENT**

48. The Court may decide not to hear oral argument where none of the parties has applied to be heard (Articles 44a and 120 of the Rules of Procedure). In practice, it is rare for a hearing to be organised in the absence of such an application.

The application must specify why the party wishes to be heard. That reasoning must be based on a real assessment of the benefit of a hearing to the party in question and must indicate the documentary elements or arguments which that party considers it necessary to develop or disprove more fully at a hearing. It is not sufficient to provide a general statement of reasons referring to the importance of the case or of the questions to be decided.

## PREPARATION AND CONDUCT OF HEARINGS

49. The notification of the hearing informs the parties of any measures of organisation of the hearing decided upon by the Court. Those measures may consist, in particular, in requesting the parties to answer certain questions at the hearing, to define their position at the hearing on specific issues, to concentrate their oral submissions on certain aspects of the case or specific points or in requesting parties upholding the same view to consult each other for the purposes of the hearing.

Before the hearing begins the agents or lawyers are called to a short meeting with the relevant formation of the Court about the organisation of the hearing. At that meeting the Judge-Rapporteur and the Advocate General may provide information on the matters they particularly wish to hear developed in the oral submissions.

50. The hearing generally has three parts: oral submissions, questions from the members of the Court and replies.

In the light of the knowledge which the Court already has of the documents lodged during the written procedure, the aim of *oral submissions* is to highlight or elaborate on the issues which Counsel considers to be particularly important for the Court's decision. Oral submissions should avoid reiterating what has already been put forward in the written procedure. It is normally not necessary to recite the factual or legal background to the case.

Oral submissions should begin by outlining the plan to be followed.

The answers to any questions put in advance by the Court and to be answered at the hearing must be given during those oral submissions.

Where the Court has requested the participants in the hearing to concentrate their oral submissions on certain specified points, Counsel should not deal with other aspects of the case, unless they consider them to be particularly important for the Court's decision.

As far as possible, Counsel who uphold similar arguments should not expound again arguments already made at the same hearing.

As regards the duration of oral submissions see point 51 below.

*Questions from the members of the Court* are normally designed to enable Counsel, in the light both of their oral submissions and of the documents lodged during the written procedure, to clarify or elaborate upon certain issues.

*Replies* are designed to enable Counsel to react succinctly, and only if they consider it to be necessary, to observations made during the hearing. A reply must be confined to responding to those observations and must not go any further.

51. Oral submissions are limited to *20 minutes* maximum for hearings before the full Court, the Grand Chamber or a Chamber of five Judges and to *15 minutes* maximum for hearings before a Chamber of three Judges. Before any formation an intervener's submissions are limited to *15 minutes* maximum.

Speaking time may exceptionally be extended on submission of an application together with a detailed statement of reasons. Such an application must reach the Court at the latest two weeks before the date of the hearing.

The notification of the hearing requests the agents and lawyers to inform the Registry of the likely duration of their oral submissions. The information supplied is used in the planning of the business of the Court, and it is not possible to exceed the speaking time indicated.

52. Very frequently the Judges and Advocate General will listen to oral argument via simultaneous interpretation. In order to make that interpretation possible, agents and lawyers should speak at a natural and unforced pace and use short sentences of simple structure.

It is inadvisable to read out a text prepared in advance. It is preferable to speak on the basis of properly structured notes. If the oral argument is, nevertheless, prepared in writing, account should be taken in drafting the text of the fact that it is to be delivered orally and ought therefore to

come as close as possible to oral exposition. To facilitate interpretation, agents and lawyers are requested to send the text or written outline of their oral argument by fax or email in advance to the Interpretation Directorate (fax + 352 43 03 36 97 or email: [interpret@curia.europa.eu](mailto:interpret@curia.europa.eu)).