

**Anna Marcisz-Dynia<sup>1</sup>**

**European Union Citizens' Direct Access to Court in  
the Light of Procedural Regulations of the Court of  
Justice and the General Court – Selected Issues**

**Keywords:** right to court, CJEU Statute, Rules of Procedure of CJEU and the General Court, body of judicial decisions, acts of derivative law

**Słowa kluczowe:** prawo do sądu, Statut TSUE, regulamin Trybunał i Sądu, orzecznictwo, akty prawa pochodnego

**Abstract**

The subject of the study is to analyze EU citizens' right to court in the light of the procedural regulations of the court of Justice and the General Court included in the CJEU Statute and court regulations. The study analyzes also, to a necessary extent, the body of previous judicial decisions of CJEU as well as the provisions of relevant acts of derivative law concerning the issues in question. Considering the complexity of the analyzed subject and the limitations of the size of the present study, the focus was put on questions related to legal aid and rules of representation. Upon through analysis, the study confirms that in proceedings before EU courts EU citizens have limited possibilities in the scope of the capacity to act in legal proceedings, which constitutes one of the most basic factors limiting their right to court.

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<sup>1</sup> ORCID ID: 0000-0003-2117-0685, PhD, Department of International and European Law, Institute of Law Science, College of Social Sciences, University of Rzeszów. E-mail: amarcisz@poczta.onet.eu.

## Streszczenie

### **Bezpośredni dostęp do sądu obywateli Unii Europejskiej na tle uregulowań proceduralnych Trybunału Sprawiedliwości i Sądu – wybrane zagadnienia**

Przedmiotem tego opracowania jest analiza prawa do sądu obywateli Unii Europejskiej w świetle uregulowań proceduralnych Trybunału Sprawiedliwości i Sądu zawartych w Statucie Trybunału i regulaminach sądowych. Przeanalizowano również w niezbędnym zakresie orzecznictwo TSUE jak i postanowienia istotnych aktów prawa pochodnego dotyczących omawianej problematyki. Z uwagi na złożoność zagadnienia i na ograniczenia objętościowe niniejszej publikacji skupiono się na kwestiach związanych z pomocą prawną jak i zasadach reprezentacji. Na podstawie dokonanych rozważań potwierdzono, że w postępowaniu przed sądami unijnymi obywatelom UE przysługują ograniczone możliwości w zakresie zdolności postulacyjnej, które stanowią niewątpliwie jeden z podstawowych elementów ograniczających ich prawo do sądu.

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## I.

Treaty of Lisbon currently in force<sup>2</sup>, similarly to its preceding treaty, grants the citizens of EU member states personal rights and legal means to defend them. They can defend these rights before national courts, the Court of Justice and the General Court. However, it has to be noted that almost all proceedings before the Court of Justice are subject to compulsory representation by a lawyer, therefore the success of Polish citizens before courts in Luxemburg depends on thorough knowledge of the material law and the body of previous judicial decisions of the Court of Justice and on the proficient compliance with the procedure before CJEU and the General Court attained by Polish lawyers<sup>3</sup>.

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<sup>2</sup> *Traktat z Lizbony. Podstawy prawne Unii Europejskiej*, ed. J. Barcz, Warsaw 2010, pp. 51–247. Treaty of Lisbon is another revisionary treaty amending the Treaty on European Union (TEU) and the Treaty Establishing the European Community (TEC). The later is also renamed as the Treaty on the Functioning of the European Union (TFEU).

<sup>3</sup> O. Kopiczko, *Postępowanie przed Europejskim Trybunałem – wybrane aspekty*, część II, "Prawo Unii Europejskiej" 2004, No. 11, p. 35; A.B. Capik, *Trybunał Sprawiedliwości Unii*

It may be relevant especially in light of the fact that the TEU and TFEU currently in force basically do not mention the subject of court proceedings<sup>4</sup>. This gap seems to be filled by the Statute<sup>5</sup> regulating the mode of proceedings before CJEU and also the Rules of Procedure of the Court of Justice<sup>6</sup> and the General Court<sup>7</sup>. The mentioned acts are particularly significant from the perspective of EU citizens as a party appearing before the EU court has to remember about various distinctive features of such proceedings. Additionally, the EU law does not stipulate the duty to instruct parties about the legal measures they are entitled to. Admittedly, in most EU member states there is a rule to instruct about legal measures, derived from the principle of a legal state. Still, according to the opinion of the Court of Justice, due to the lack of clear regulations, there is no “general duty of EU administration or courts to instruct the citizens of the Community about the possible means of appeal and the premises of filing them”<sup>8</sup>.

EU courts are not burdened with the duty to properly and exhaustively inform parties about the factual or legal situation. Judicial bodies do not monitor

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*Europejskiej*, Kraków 2013, pp. 3–29; A. Hauser, *Prawo jednostki do sądu europejskiego*, Warsaw 2017, pp. 165–170.

<sup>4</sup> Article 19 TEU and 256 TFEU.

<sup>5</sup> For more on this subject see: The Resolution of the European Parliament and Council (EU, Euratom) No. 741/2012 of August 11, 2012 amending the Protocol on the Statute of the EU Court of Justice and Schedule I to the protocol (Official Journal of EU L 228/1 of July 23, 2012), the Resolution of the European Parliament and Council (EU, Euratom) 2015/2422 of December 16, 2015, amending the Protocol No. 3 on the Statute of the EU Court of Justice (Official Journal of EU L 341/14 of December 24, 2015), the Resolution of the European Parliament and Council (EU, Euratom) 2016/1192 of July 6, 2016 on the transfer to the General Court of jurisdiction at first instance in disputes between the European Union and its servants (Official Journal of EU L 200/137 of July 26, 2016), the Resolution of the European Parliament and Council (EU, Euratom) 2019/629 of April 17, 2019 amending the Protocol No. 3 on the Statute of the EU Court of Justice (Official Journal of EU L 111/1 of April 25, 2019).

<sup>6</sup> Rules concerning proceedings before the Court of Justice (Official Journal of EU L 265/1 of September 29, 2012), correction (Official Journal L 173 of June 30, 2016), as amended on June 18, 2013 (Official Journal L 173 of 26.6.2013, p. 65), on July 19, 2016 (the Official Journal L 217 of 12.8.2016, p. 69) and on April 9, 2019 (Official Journal L 111 of 25.4.2019, p. 73). Internal Rules. CJEU Supplementary Rules (Official Journal of EU L 32/37 of February 1, 2014).

<sup>7</sup> Rules of procedure before the General Court (Official Journal 2015, L 105 of March 4, 2015).

<sup>8</sup> Ch. Zacker, S. Wernicke, *Prawo europejskie w pytaniach i odpowiedziach*, Warsaw 2000, p. 382.

whether parties and other persons participating in proceedings suffer losses related to unfamiliarity with the law. Undoubtedly, the lack of knowledge of the law can have a negative impact on the procedural steps taken by parties. In order to improve the course of the proceedings in the scope of direct actions and appeals, parties to the proceedings can additionally refer to practice directions<sup>9</sup> explaining and supplementing the provisions of the rules.

It may be indicated that proceedings before courts in Luxembourg have certain common features with proceedings before national courts<sup>10</sup>, i.e. inquisitiveness, contradictoriness and privileging of the written form.

As a rule, EU citizens before CJEU and the General Court use their own native languages. According to the applicable regulations, the language of the proceedings is one of the official languages of the EU<sup>11</sup>, i.e. currently 24 languages (still the working language is French, the language of internal administration of EU courts). The initiator of legal action makes an independent choice with some exceptions related to joinders and cases when the defendant is a member state, a legal or natural person. In this case the language of the proceedings is the official language of such a state and the initiator of the action makes the choice only when there is more than one official language in the territory of such a state.

It can be seen that in proceedings related to the interpretation of questions of law, the language of the proceedings becomes the language of the national court of a given member state which requested a preliminary ruling. Also, to enhance the course of proceedings, member states can use their own lan-

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<sup>9</sup> Practice directions to parties concerning cases brought before the Court (Official Journal of the EU L 31/1 of 31.1.2014).

<sup>10</sup> More on the subject of proceedings: A. Wentkowska, *Sądowy system ochrony prawnej*, [in:] *Prawo Unii Europejskiej po Traktacie z Lizbony*, eds. J. Barcik, A. Wentkowska, Warsaw 2011, pp. 239–244; A. Zawadzka, M. Taborowski, *Sądownictwo Wspólnotowe po Nicei*, “Palestra” 2002, No. 5–6, pp. 230–233; A. Zawadzka, M. Taborowski, *Postępowanie przed sądami wspólnotowymi*, “Palestra” 2003, No. 7–8, pp. 210–214; T.T. Koncewicz, *Postępowanie przed Trybunałem Sprawiedliwości*, [in:] *Wymiar sprawiedliwości w Unii Europejskiej. Wybrane zagadnienia*, ed. M. Perkowski, Warsaw 2003, pp. 120–195; P. Pęcak, *Europejski Trybunał Sprawiedliwości-struktura i procedury*, “Edukacja Prawnicza” 2002, No. 2, p. 15.

<sup>11</sup> In the EU there are currently 24 official languages: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish.

guages when they join a case or participate in proceedings to obtain an interpretation of questions of law<sup>12</sup>. I.C. Kamiński points out that although it complicates and extends the course of proceedings, especially due to the necessity to render translations, the existing rule is a consequence of the principle of equality of member states and will ensure that the Court of Justice will be perceived by the claimant as its own court<sup>13</sup>.

Courts in Luxemburg respect the basic rules of proceedings concerning both judicial bodies and parties to the proceedings (so important from the perspective of an individual) shaped in the substantial body of previous decisions. In this case the broadly understood principle of material truth is commonly referred to as its task is to create conditions in which it will be possible to make valid factual findings. Both CJEU and the General Court conduct evidentiary proceedings in order to determine all the contested matters. Additionally, in CJEU procedure it is possible to discern the following procedural principles: the principle unity of proceedings in case of all direct actions, the principle of contradictoriness, inquisitiveness, principles of mixed procedure, principle of open court, principle of free-of-charge proceedings, principle of indirectness, principle of disposition and also principle of procedural formalism<sup>14</sup>.

## II.

The issue of EU citizens' access to the court in Luxemburg entails matters related to free-of-charge legal aid<sup>15</sup>. It is commonly believed that the right

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<sup>12</sup> Article 37 §3 of the Rules of CJEU, Article 45 of the General Court Rules. On the subject of using one's native language by a person whom the proceedings concern, see more in: K. Kowalik-Bańczak, *Prawo do obrony w unijnym postępowaniu antymonopolowym w kierunku unifikacji standardów proceduralnych w Unii Europejskiej*, Warsaw 2012, p. 403.

<sup>13</sup> I.C. Kamiński, *Wymiar Sprawiedliwości we Wspólnocie Europejskiej, Praktyczny komentarz i przepisy*, Warsaw 2004, p. 36.

<sup>14</sup> B. Kurcz, *Zasady i przebieg postępowania przed Trybunałem Sprawiedliwości Wspólnot Europejskich*, "Przegląd Prawa Europejskiego" 2003, No. 2, pp. 65–66.

<sup>15</sup> Legal aid – this term includes in its scope the provision of legal counsel, preparation of legal acts, preparation of legal opinions and acting before courts and offices. The duties of lawyers result both from the rules of the law and the principles of professional ethics.

to court, being one of the basic human rights, consists of three particular entitlements, that is: a) right to access to court, b) right to use a reliable court procedure, c) right to be obtain a court ruling<sup>16</sup>.

Evaluating access to court, it is necessary to consider not only the formal possibility to take legal action but also the actual provision of such a possibility to all persons; also, to those whose financial situation does not allow to bear costs related to the proceedings. To achieve this goal, institutions of exemption from court costs and the provision, if necessary, of free-of-charge legal aid have been introduced within a particular system<sup>17</sup>.

Access to the European judiciary system obviously is connected with institutionalized legal aid for people who do not possess sufficient resources to effectively exercise their rights before courts<sup>18</sup>.

It is worth noting that EU citizens do not have to use lawyers' services with regard to obtaining free-of-charge legal aid; such an application is not conditional upon the type of action or proceedings. Such aid is granted to everybody without any exceptions if they can prove that it is impossible for them to cover all or part of the costs of proceedings<sup>19</sup>. Without a doubt, it constitutes a way of providing an effective access to the judiciary system since, for the purpose of proceedings before EU courts, aid is granted in the scope of costs of proceedings, including, in whole or partially, costs related to counselling and representation in court<sup>20</sup>.

Costs, in the understanding of the mentioned provisions, are only expenses "subject to reimbursement", i.e. costs of legal representation (lawyers' fees), amounts owed to witnesses and mail and telecommunication expenses etc. incurred by the parties. As regards the obligation to incur costs in direct actions, one rule remains in force: the losing party bears its own costs and the

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<sup>16</sup> A. Zieliński, *Prawo do sądu a struktura sądownictwa*, "Państwo i Prawo" 2003, No. 4, p. 20 along with the body of judicial decisions.

<sup>17</sup> K. Scheuring, *Ochrona praw jednostek w postępowaniu przed sądami wspólnotowymi*, Warsaw 2007, p. 177.

<sup>18</sup> S. Trociuk, *Pomoc prawna dla osób ubogich jako forma zapewnienia skutecznego dostępu do krajowego i europejskiego wymiaru sprawiedliwości*, [in:] *Dostęp obywateli do europejskiego wymiaru sprawiedliwości*, eds. H. Izdebski, H. Machińska, Warsaw 2005, p. 141.

<sup>19</sup> Article 1 section 2, Article 2 pts. 2, Article 40 of the Act of July 5, 2002 on Legal Assistance Provided by Foreign Lawyers in the Republic of Poland (Dz.U. No. 126, item 1069).

<sup>20</sup> Article 133 of the General Court Rules.

costs of any other parties, excluding the costs of EU member states and EU institutions which cover their own costs, if they are involved in a case as an intervening party. This manner of cost distribution requires proper applications for costs in lawsuit documents. In case of lack of proper applications, each party covers its own costs<sup>21</sup>. Costs subject to reimbursement are limited to those which were incurred in relation to court proceedings as a necessary measure for this purpose<sup>22</sup>.

Before granting an aid, a court should perform certain verifying activities. The examination of the validity of the application submitted by a person proceeds on the basis of objective factors. EU citizens can apply before or after legal action is taken. It seems to be an important aspect since if an application for court cost exemption is submitted before taking legal action, it is necessary to consider the subject of the action, factual circumstances of a case and the reasoning provided as legal grounds for the action<sup>23</sup>. In this respect the court prepared a special application form for granting legal aid in the scope of proceedings costs, which includes detailed blank spaces to be filled with the personal data of the applicant, such as: the entity against which legal action will be taken (it does not concern cases when legal action has already been taken), description of the subject of the action along with any documents of evidentiary nature, the financial situation of the applicant, i.e. the available resources of the applicant, their spouse or cohabitant, resources of another person residing in a common household (a child or another dependant person), lack of income, remuneration, net salary before taxation, income from the applicant's own economic activity, family benefits, unemployment benefits, other benefits (related to an illness, maternity leave, occupational disease, an accident at work), old age pension, disability pension, pre-retirement benefit, alimony, other resources (collected rents, income from securities), etc.

If the applicant selected a lawyer, entitled to appear before courts of one of EU member states or another state being a party to the EEA Agreement, they are also obliged to provide information about their lawyer, their address required to summon them before the court, and to sign a declaration stating

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<sup>21</sup> Guidelines for the agents of both parties.

<sup>22</sup> Ruling T-38/95, *DEP, Groupe Origny SA v. Commission of the European Communities*, Zb. Orz. SPI 2002, p. II-00217.

<sup>23</sup> The costs of proceedings and court fees Article 133–141 of the CJEU Rules.

that the information provided in the form is true. The form can be filled directly in a digital form, sent via the Internet or by mail<sup>24</sup>.

Undoubtedly, the fact that the court introduced an obligatory form releases the applicant from the duty and difficulty to prepare the document by themselves, constituting a certain simplification for EU citizens. Obviously, legal aid cannot be granted for the purpose of an activity which is unacceptable or unjustified<sup>25</sup>.

The court, by making a ruling in the scope of costs which are not subject to appeal<sup>26</sup>, determines a lawyer responsible for representation and also, as a rule, determines the amount which will be paid to the agent or determines the upper limit which, in principle, cannot be exceeded by lawyers' fees<sup>27</sup>. At the same time, it can be inferred from the previous body of judicial decisions that it is not the duty of the EU court to establish the amount of remuneration paid by the parties to their attorneys but to determine the limit up to which such remuneration can be reimbursed by the party burdened with covering the costs of the proceedings. Simultaneously, the court, deciding on an application for determination of costs, does not have to consider the going na-

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<sup>24</sup> The form of the application for granting legal aid (Journal of Laws EU L 306/61 of 30.11.2018).

<sup>25</sup> Ruling T-328/06, AJ, B, S the application for granting legal aid of January 16, 2007. In this case the court ruled that the action for which legal aid is requested is aimed at appealing against the rulings of national courts and decisions of public administration bodies of various levels and at appealing against the alleged idleness of central state bodies to which the claimant at first directed their claims and demands. The court noticed that neither natural persons nor legal ones can address the court with claims the subject of which are provisions, decisions or actions of national authorities of a member state. Moreover, the court is not an appellate institution in relation to national courts, the rulings of which cannot be repealed or altered. As a result, the claim filed by a natural person, the subject of which was to appeal against the rulings of national courts, would be rejected as inadmissible. For those reasons, the application to grant legal aid was rejected without the necessity to hear comments of other parties as the claim in relation to which the application for granting legal aid would be filed, was inadmissible; ruling available in unpublished files.

<sup>26</sup> Article 150 of the General Court Rules, a decision concerning the refusal to provide legal aid should include legal grounds although it is not subject to appeal.

<sup>27</sup> In cases when a party causes the court to incur costs which could have been avoided; upon considering the advocate general's opinion, the court can order the party to return the costs. Also, in cases when prepared descriptions or translations are considered by the head of office to be unnecessary, a party to proceedings can be charged with such costs.



tional rates as the basis to determine attorneys' fees nor any agreement made in this respect by the parties or their agents or advisors<sup>28</sup>.

The President of the Court, *ex officio* or following a request, can withdraw an aid if there is a considerable change in the circumstances constituting the basis of granting it. It is also essential that EU citizens, granted the aid but losing their case before the court, can become burdened with certain costs of the proceedings. The court can decide so, for reasons of equity, in the final ruling in a case, adjudicating that the party has to bear its own costs or these costs will be covered in whole by the treasury of the Court within the granted aid<sup>29</sup>.

It is worth noting that the efficient access to the judicial system is also a subject of interest for EU institutions and bodies, which is reflected in the Directive 2003/8/EC of January 27, 2003<sup>30</sup>, adopted to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. The purpose of this directive is to encourage persons with insufficient resources to apply for legal aid in cross-border disputes, when such aid is necessary to ensure efficient access to the judicial system<sup>31</sup>.

### III.

Another aspect which is worth noting for the purpose of the present study is the issues related to the principles of representation of parties in proceedings before courts in Luxemburg. Parties appearing before the Court of Justice are represented by agents who are not always lawyers, as stipulated in the Statute of the Court, which applies the subjective criteria, differentiat-

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<sup>28</sup> Ruling T-120/89, *Stahlwerke Peine-Salzgitter AG v. Commission of the European Communities* (Zb.Orz. SPI 1991, pp. II – 00279).

<sup>29</sup> See Article 150 § 1 of the General Court Rules.

<sup>30</sup> Directive of the Council 2003/8/EC of January 27, 2003 to improve access to justice in cross-border disputes by establishing minimum common rules related to legal aid for such disputes; (Official Journal of the EU L 026 of 31.1.2003).

<sup>31</sup> S. Trociuk, *Pomoc prawna dla osób ubogich...*, pp. 143–144, Decision of the Commission of November 9, 2004, establishing the template of the form of the application for legal aid according to the Directive of the Council 2003/8/EC 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (Official Journal of EU L 365/97 of 10.12.2004).

ing agents of EU states or institutions from agents of legal or natural persons<sup>32</sup>. According to Article 19 of the CJEU Statute in proceedings before EU courts, member states and EU institutions are represented by agents appointed for each case. Other parties have to be represented by lawyers. Additionally, university teachers, being nationals of a member state which law grants them a right of audience shall have the same rights before the Court as are accorded by this article to lawyers<sup>33</sup>. University teachers, being nationals of a member state, can also be agents for parties if they possess *veniam legendi*. In Poland this right is possessed by habilitated doctors; consequently, they do not have to be educated in law<sup>34</sup>. Their participation in practice boils down to presenting an opinion about a particular theoretical matter, directly related to the case. Such an opinion will be attached to the documents submitted in the pleadings in the written part of the proceedings. Moreover, if applicable, it is possible to refer to the opinion in the oral stage of the proceedings. Then, the panel of judges can be advised of specific problems which, according to the professor appearing in court, deserve special attention<sup>35</sup>.

Unprivileged parties have to be represented before EU courts by persons meeting specific criteria. This requirement constitutes a basic procedural principle, which, if not complied with, results in the inadmissibility of the action. It may be justified by the fact that a lawyer is considered to be a person cooperating with the judicial system. Therefore, although they retain full independence and the higher interest of the system is taken into account, they are required to provide such legal aid as demanded by the client. On the other hand, this protection is subjected to the principles of professional discipline required and supervised in the general interest by institutions created for this purpose. This concept corresponds to legal traditions common for member states and is reflected also in the EU legal order<sup>36</sup>.

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<sup>32</sup> Z.J. Pieraś, *Prawo wspólnotowe a integracja europejska*, Lublin 2006, p. 350.

<sup>33</sup> Article 19 of the CJEU Statute; Article 51 of the General Court Rules.

<sup>34</sup> Z.J. Pietraś, *Prawo...*, p. 350.

<sup>35</sup> T.T. Koncewicz, *Zasady reprezentacji stron w postępowaniu przed Trybunałem Sprawiedliwości Wspólnot Europejskich*, "Przeгляд Prawa Europejskiego" 2001, No. 1, p. 22.

<sup>36</sup> T-445/04, *Energy Technologies ET SA vs. Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Zb.Orz. SPI 2005, pp. II-677.

The unconditionally compulsory legal representation i.e. the duty to replace a party to the proceedings with agents in making specific procedural acts undoubtedly means depriving a party of the capacity to act in legal proceedings. Unquestionably, it is a premise which hampers the direct access of EU citizens to EU courts<sup>37</sup>.

The compulsory legal representation concerns even these parties to the proceedings which, admittedly, meet the requirements specified in the Article 19 of the mentioned Statute, i.e. they are lawyers, but want to appear in their own case in such a character<sup>38</sup>. The term “represented” used in the mentioned article means that, in order to start court proceedings, a party, according to the article, has to use services of a third party, entitled to appear before a member state court or a court of a state which is a party to the European Economic Area Agreement<sup>39</sup>.

The mentioned article cannot be interpreted broadly; it mentions lawyers while e.g. a patent agent, authorized to represent parties in certain disputes before national courts, still is not a lawyer as stipulated by the mentioned article and is not entitled to represent parties before EU courts<sup>40</sup>.

As can be inferred from the Article 43 of the Rules of Procedure of Court of Justice, agents, advisors and university teachers<sup>41</sup> appearing before the Court of Justice (as well as before the General Court) or another body, which the Court of Justice referred to by way of judicial assistance, enjoy immunity including oral and written statements concerning cases or the parties involved in the cases. The stipulation can be applied in the form of various facilitations and privileges. First of all, files and documents concerning proceedings are excluded from search and seizure; still, in case of any dispute, customs officers or police officers can preserve them. However, they bear the responsibility to immediately hand them over to the Court of Justice which

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<sup>37</sup> The capacity to act in legal proceedings is understood as the capacity to act independently without the necessity to use legal representation.

<sup>38</sup> Case C-126/90 P, *Pedro Bocos Viciano v. Commission of the European Communities* (Zb. Orz. TS 1991, pp. I-00781).

<sup>39</sup> Case T184/04, *Sulvida – Companhia de alienação de terrenos v. the Commission of the European Communities* (Zb. Orz. SPI 2005, p. II-85).

<sup>40</sup> Ruling in the case T-14/04, *Alto de Casablanca, SA v. Office for Harmonisation in the Internal Market* (Trade Marks and Designs) (OHIM) (Zb.Orz. SPI 2004, pp. II-3077).

<sup>41</sup> Articles 43–45 of the CJEU Rules.

acknowledges their receipt in the presence of the head of office and the person concerned. Secondly, agents, advisors and lawyers can travel without any obstacles. It has to be remembered that the facilitations and privileges are granted in order to secure the proper course of the proceedings. Moreover, the court of Justice has the authority to repeal the immunity in case of the occurrence of certain irregularities, conduct not consistent with the dignity of the court or the utilization of the entitlements for purposes other than the ones for which they were granted. The court of Justice has the competence to exclude such persons from the proceedings by way of a resolution, which becomes effective immediately<sup>42</sup>.

The lack of proper representation brings far-reaching consequences for a party since a court in such cases rejects the suit based on its inadmissibility, with one exception: the party's application for legal aid.

In case of proceedings to obtain the interpretation of questions of law, the principles of compulsory representation of parties by a lawyer is valid, however, in a modified form since court rules take into consideration procedural rules of a national court, which submitted the question for interpretation. If particular provisions applied before a national court do not stipulate compulsory legal representation, the parties undoubtedly have the capacity to act in legal proceedings before EU courts as they can independently present their statements in writing or orally<sup>43</sup>.

Undoubtedly, the advantage of the presented state of affairs is that an attorney representing a party does not have to have the same citizenships as the party itself. Furthermore, the possible national regulations imposing such a requirement would contradict one of the basic rules of the EU law: the prohibition of discrimination based on nationality. Lack of restrictions concerning the necessity to represent a party before the General Court by a lawyer of the same nationality or otherwise related to its country may result in competitiveness between lawyers from EU member states since a party can choose its lawyer in a country where e.g. legal representation is cheaper or more competent<sup>44</sup>.

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<sup>42</sup> Ibidem.

<sup>43</sup> Case C-19/92, *Dieter Kraus v. Land Baden-Württemberg* (Zb.Orz. TS 1993, pp. I-1663).

<sup>44</sup> I.C. Kamiński, *Wymiar sprawiedliwości...*, p. 34.

To summarize, one may venture the statement that EU citizens possess limited right to court, which results from both the CJEU Statute and the mentioned court rules of procedure. EU citizens cannot unaidedly file lawsuits in the court in Luxemburg. Independently they can only file an application for legal aid. On the other hand, the duty to be represented by a lawyer constitutes a guarantee of proper representation before the court of this international organization.

## Literature

- Capik A.B., *Trybunał Sprawiedliwości Unii Europejskiej*, Kraków 2013.
- Hauser A., *Prawo jednostki do sądu europejskiego*, Warsaw 2017.
- Kamiński I.C., *Wymiar Sprawiedliwości we Wspólnocie Europejskiej, Praktyczny komentarz i przepisy*, Warsaw 2004.
- Koncewicz T.T., *Postępowanie przed Trybunałem Sprawiedliwości*, [in:] *Wymiar sprawiedliwości w Unii Europejskiej. Wybrane zagadnienia*, ed. M. Perkowski, Warsaw 2003.
- Koncewicz T.T., *Zasady reprezentacji stron w postępowaniu przed Trybunałem Sprawiedliwości Wspólnot Europejskich*, "Przegląd Prawa Europejskiego" 2001, No. 1.
- Kopiczko O., *Postępowanie przed Europejskim Trybunałem – wybrane aspekty*, "Prawo Unii Europejskiej" 2004, No. 11.
- Kowalik-Bańczak K., *Prawo do obrony w unijnym postępowaniu antymonopolowym w kierunku unifikacji standardów proceduralnych w Unii Europejskiej*, Warsaw 2012.
- Kurcz B., *Zasady i przebieg postępowania przed Trybunałem Sprawiedliwości Wspólnot Europejskich*, "Przegląd Prawa Europejskiego" 2003, No. 2.
- Pęcak P., *Europejski Trybunał Sprawiedliwości-struktura i procedury*, "Edukacja prawnicza" 2002, No. 2.
- Pieraś Z.J., *Prawo wspólnotowe a integracja europejska*, Lublin 2006.
- Scheuring K., *Ochrona praw jednostek praw jednostek w postępowaniu przed sądami wspólnotowymi*, Warsaw 2007.
- Traktat z Lizbony. Podstawy prawne Unii Europejskiej*, ed. J. Barcz, Warsaw 2010.
- Trociuk S., *Pomoc prawna dla osób ubogich jako forma zapewnienia skutecznego dostępu do krajowego i europejskiego wymiaru sprawiedliwości*, [in:] *Dostęp obywateli do europejskiego wymiaru sprawiedliwości*, eds. H. Izdebski, H. Machińska, Warsaw 2005.
- Wentkowska A., *Sądowy system ochrony prawnej*, [in:] *Prawo Unii Europejskiej po Traktacie z Lizbony*, eds. J. Barcik, A. Wentkowska, Warsaw 2011.
- Zacker Ch., Wernicke S., *Prawo europejskie w pytaniach i odpowiedziach*, Warsaw 2000.

Zawidzka A., Taborowski M., *Postępowanie przed sądami wspólnotowymi*, "Palestra" 2003, No. 7–8.

Zawidzka A., Taborowski M., *Sądownictwo Wspólnotowe po Nicei*, "Palestra" 2002, No. 5–6.

Zieliński A., *Prawo do sądu a struktura sądownictwa*, "Państwo i Prawo" 2003, No. 4.