

# Viktor Luszcz, *European Court Procedure: A Practical Guide* (Book Review)

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The lead author of the book, Viktor Luszcz is attorney at law and partner at Danubia Legal – Luszcz Law Firm. He is Vice President of the European Patent Office's Board of Appeal, former President of the Hungarian Intellectual Property Office and former *référéndaire* of the CJEU. Viktor Luszcz and his co-authors Martin Farley, Viktor Bottka, Alexandre Geulette, Vivien Terrien and Milan Kristof have a combined experience of 70 years working as *référéndaires* at the EU Courts or as officials of the European Commission Legal Service. The book, *European Court Procedure: A Practical Guide* published by Hart is a gap-filling and comprehensive work, indispensable for anyone interested in litigation before the CJEU.

The book is structured into five parts. Part 1 is an introduction to the enforcement of EU law and the judicial system of the EU, such as the CJEU's powers and organizational structure, the Courts' main formations, governing principles and the specific roles of the staff and members of the Courts. Part 2 discusses the enforcement of EU law against Member States and private parties through infringement proceedings and claims before national courts based on EU law. In addition, preliminary rulings are also discussed as avenues to determine the correct interpretation of EU law in the context of national judicial proceedings. Remedies against EU acts are presented in Part 3, including actions for annulment, failure to act, damages and other procedures. Part 4 provides an overview of the procedure before the Court of Justice and General Court, introducing their relevant rules of procedure, the applicable case-law on procedural issues and the elements of applications. Finally, Part 5 covers 'Incidental and Ancillary Procedural Issues', such as obtaining documents held by EU institutions to build the case, the treatment of evidence and confidential information, seeking interim relief and useful information on the important subject of interventions, among others.

A comprehensive work on EU court practice, the book provides important clarifications and definitions for EU procedural law concepts, while also bringing examples from CJEU practice to illustrate notions and procedural exigencies. Requirements concerning admissibility and standing are clearly laid out in respect of the different procedures, helping legal practitioners make sense of the applicable rules of procedure and the relevant case-law to bring successful actions.

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Perhaps the most exciting part of the book is the subchapter on ‘How to Construct Pleas in Law?’, which promises “a simple and efficient method of drafting pleas in law”,<sup>1</sup> proposing a clear structure and the following of certain substantive drafting requirements. In particular, this subchapter repeatedly refers back to the fact that submissions will be translated into French (the working language of the EU Courts). Indeed, this element of multilingualism may be foreign to attorneys or even referring national courts used to the typically monolingual context of domestic proceedings. Instead, they must contend with the issue of not only presenting their pleadings or questions in a comprehensible form in their own language but employ certain strategies to ensure that their submission will be properly translated and then considered in another language. In fact, as the authors imply, a part of the responsibility for the clarity of pleadings in the target language lies with the drafter of the submission in the original language. The authors therefore encourage the use of proper and precise terminology in the pleadings. This means that to the degree possible, the terms of EU legislation and case-law should be applied, since these already have their multilingual equivalences in the EU terminological databases (e.g. the CuriaTerm developed by the lawyer-linguists of the Directorate-General for Multilingualism and the terminologists from the Projects and Terminological Coordination Unit of the CJEU; the database has now been migrated to IATE, the EU’s standardized terminology database). Besides suggesting that applications be kept brief (allowing for speedier translations into French and other official languages, and in turn, allowing for the Court to deal with the case swiftly), the authors encourage that the wording of the briefs be as clear and concise as possible. They encourage the use of short, straightforward sentences, avoiding synonyms and explaining any and all technical terms that are specific to the national legal system in order to forego confusion or mistranslations. Yet, as clearly set forth in the case-law: in the balancing act between clarity, brevity and elaborateness,

“it is for the applicant and its lawyer to set out the factual and legal grounds on which the action is based and not for the Court to do their work by trying to locate and identify, from all the evidence to which the application makes general reference, the information which may support the claims formulated in the application.”<sup>2</sup>

The book, long time coming, is highly topical, bringing the reader up to date on the latest developments in EU court procedure: it integrates not only the General Court’s 2015 Rules of Procedure, but also the new Practice Rules of the General Court of 2018, as well as the most recent CJEU Practice Directions of the 2020. As Judge Marc van der Woude, President of the General Court writing the foreword to the book notes: the authors

1 Viktor Luszcz, *European Court Procedure: A Practical Guide*, Hart Publishing, 2020, p. 443 *et seq.*

2 Order of 29 November 1993, *Case T-56/92, Koelman v Commission*, ECLI:EU:T:1993:105, para 23.

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“have conducted a near-unrivalled work of research, based on the raw material of EU procedures that is the case-law, by analyzing thousands of decisions, with a particular focus on those adopted since the new structure governing litigation before the EU courts was adopted. More than just another theoretical study, this book really is a practical and useful tool.”<sup>3</sup>

The book is a must have for all agents and attorneys appearing before the EU Courts, referring national judges, legal scholars and professors researching and teaching EU law and finally, law students interested in broadening their knowledge of EU litigation.

3 Luszcz 2020, p. vi.