European Court of Justice Cases Codebook

August 02, 2010

This document contains all of our codebook information. We organize the document by tables in the Access files. Most of the Access files have a common format. Where there are differences, we note them in the codebook. This codebook is "in progress" and will be refined over the next several weeks.

Form 1:   General Case Characteristics

Question 1: Coder

- This entry indicates the identity of the coder.

Question 2: Case Number

- The number of the case, consisting of a number indicating the order the case was placed on the docket in that year, a slash, and a number indicating the year the case was placed on the docket.
- Note that some coders included extra information beyond just the actual number. For example, some cases include the C- reference at the beginning of the case number.
- When a case actually consisted of multiple referrals, the coders were instructed to reference the first number in the case field. We believe there may be some inconsistency here that we are still catching and cleaning. For example, some coders may have referenced the highest case number listed in the case field instead.

Question 3: Judgement Title

- The title in the form "plaintiff v defendant." If the full title did not fit, the coder entered a reasonable abbreviation. If both plaintiff and defendant are mentioned, the title of the case as it appears in the heading of an interior page of the case report was used. Note that some coders inputted this information in the original language and some translated it into English.

Question 3: Date of Judgement

- The date the judgement was rendered.

Question 4: Plaintiff

- The name of the plaintiff in the case, which is the first name appearing in the case title.
- We also provide a numeric code for the identity of the plaintiff.
    1. Private Litigant
    2. National Government
    3. Administrative Agency
    4. Commission
    5. European Parliament
    6. Council of Ministers

    49. Commission and National Government
    50. Commission and Council
    51. National Government and Agency
    52. National Government and Private Actor
    53. Multiple National Governments
    54. More than one Council
    55. Commission and European Parliament

56. Council, Commission and European Parliament
57. Commission and Other European Union Actor
58. National Government and Other European Union Actor
59. Commission and Private Litigant

60. Private Litigant and Administrative Agency
61. Ex Parte
62. Public Prosecutor
63. Public Prosecutor and Administrative Agency
64. Public Prosecutor and Private Litigant

95. European Court of Justice
96. Commission of the EAEC
97. High Authority of the ECSC
98. European Economic Community
99. Unknown

- Note that for criminal cases in which the plaintiffs are "Regina" or "the Queen" we code the plaintiff as a national government, except see below.
- For all ex parte cases (primarily "the Queen" or in one instance "Regina") are coded as 61 "ex parte."
- Note "Public Prosecutor" includes cases in which the Chief Police Commissioner is acting on behalf of the Public Prosecutor.

Question 5: Defendant

- The name of the defendant, which is the second name (plaintiff v defendant) in the case title at the beginning of the case report.
- Coding of the identity of the defendant is the same as above.

Question 6: Advocate General's Name

- The name of the Advocate General assigned to the case. The Advocate General is an officer of the court who reviews the case and provides an opinion before the court itself decides, and his/her report can usually be found in the case report.

Question 7: Chamber Name

- The name of the chamber hearing the case.
- For orders of the court, the chamber is coded as the grand plenum unless a specific chamber was referenced (e.g. president of the second chamber).
- While we allowed coders to indicate if the chamber hearing the case was a "Grand Plenum" or a "Small Plenum," this coding proved surprisingly difficult. We recommend simply treating these two categories as "plenum" and not try to distinguish. All cases in which no chamber name was provided was treated as a plenum unless we could indentify in some other fashion the identity of the sitting chamber. Note that we instructed coders to not include Orders of the Court, so we do not have consistent coverage of these cases.

0. Order of the Court
1. Grand Plenum
2. Small Plenum
3. First Chamber
4. Second Chamber
5. Third Chamber
6. Fourth Chamber
7. Fifth Chamber
8. Sixth Chamber

Question 9: Chamber Size

- The number of judges hearing the case, which was determined by counting the names listed after the judgement is summarized.

Question 10: Treaty Article Base

- The treaty article under which the case was brought to the ECJ. If the coder could not find this information, they entered "other". For those cases in which more than one treaty article basis is recorded, the coders were instructed to code the most general one (e.g. the basis for the claimed substantive violation rather than the request for damages).
- Cases dismissed before a decision was rendered are not included in the dataset. A sample of Presidential Orders (orders of the court) is coded for some years.
- Annulment proceedings are coded as article 173 references unless article 33 was specifically referenced.
- The default coding on staff regulations is article 179.
- Some of the cases are appeals from the Court of First Instance (CFI). For example, article 173 challenges made by member state governments can be brought directly to the ECJ, but those brought by private parties must first be brought to the CFI. Since whether it was an appeal or not can be inferred from the litigants (i.e. a private defendant or plaintiff will be an appeal), we code the treaty basis as the type of challenge, not the fact that it was an appeal.

1. Article 169
2. Article 170
3. Article 171
4. Article 172
5. Article 173
6. Article 175
7. Article 177
8. Article 178
9. Article 179
10. Article 33
20. Other/Unidentified

Form 2: Issue Area

Question 1: Case Number

- Same as above.

Question 2: Issue Area

- The general issue areas involved in the case. This information is coded from the first page of the case report, where it is listed in the format "general issue area – detailed issue area – more detailed issue area." Example issue areas might include "Procedure," "Customs Duties," or "Social Policy." Coders were initially asked to list all relevant seeming issue areas, however, afterwards we decided to just code the primary general issue area. The choice of terms from the ECJ case books, it turns out, is not based upon a well-defined coding scheme from the Court. We have correspondence from the Court to this effect. Until cross-validated, we would recommend not using this information at this point.

Form 3: Issues and Positions

Question 1: Case Number

- The case number as previously listed.

Question 2: Legal Issue

- A legal issue consider in the case. In general, we instructed the coders to code one legal issue per bulleted point addressed by the Court at the end of the case. These points were listed in bold. Note that we followed this default rule to minimize coder discretion and risks of inter-coder reliability problems.
- The coders were asked, where possible to translate the legal issue into an interpretable statement if necessary. Where the description of the legal issue entered by the coder was too long, it was truncated in the database.
- Coding rule exceptions (a supplemental file lists all cases that these exceptions apply towards):
  - If an enumerated legal issue had lettered subpoints, we included each as a separate legal issue if each subpoint mapped to separate previously raised legal issues as presented to the Court. When lettered subpoints provide multiple conditions relating to a single question, they are not included as individual legal issues.
  - If a bolded concluding point simply was a necessary consequence of another bolded concluding point, and the coder could determine that it had no additional consequences for either the plaintiff or the defendant beyond the related bolded concluding point, the bolded concluding point was not included as a separate legal issue. Equivalent to these legal issues are those that are included but agreement with plaintiff is coded as not applicable (4). Note that the coder only employed this rule if they had a high level of confidence in omitting the point.
  - Sometimes the bolded concluding point summarized two or more legal issues over which the AG and the Court were split. Again, applying a very conservative decision rule, the coder split these bolded points to allow more precise coding of AG/ECJ agreement. These cases most often occurred when the opinion of the court was presented in a single paragraph rather than enumerated issues. Few of these cases arose and they are evenly distributed across the years of the data.

Question 3: AG Position on the Issue

- A brief summary of the position of the Advocate General on the legal issue in question.

Question 5: AG-Plaintiff Agreement on the Issue?

- Whether the AG and the plaintiff agreed in their opinions on the issue.

  1. Yes
  2. No
  3. Partial
  4. Not Applicable/Unsure

- Note that AG-plaintiff agreement is unavailable for orders of the court and so are coded as a 4 for that sample.

Question 5: ECJ Ruling on the Issue

- A brief summary of the ECJ ruling on the legal issue.

Question 6: ECJ-AG Agreement on the Issue?

- Whether the ECJ and the AG agreed in their opinions on the issue.

    5. Yes
    6. No
    7. Partial
    8. Not Applicable/Unsure

- After the initial database was designed, we decided to add additional agreement variables, including ECJ-Plaintiff agreement. We added this variable because sometimes a coder could not tell if the AG agreed with the Plaintiff, but could tell if the ECJ did or not. We have been updating the Access files to include this variable, but not all files have it at the present. The variable is coded with the same scheme as the ECJ-AG agreement variable.

Question 7: Clarity of Positions on Legal Issue

- A self-report by the coder on how confident they were that they correctly captured the Court positions on the legal issue. A code of 1 implied low clarity, a code of 2 medium clarity and a code of 3 high clarity. In cleaning the data, the cleaners were asked to review all reports of a clarity other than high. These cleaners then entered their own clarity report.

Form 4: Observations

Question 1: Case Number

- The case number is the same as listed above.

Question 2: Legal Issue

- The legal issue is the same as listed above.

Question 3: Observation Source

- The name of the party making a written observation in the case. Observations are the means by which interested parties express their opinions on the case. Both the plaintiff and the defendant usually make observations on a case (not surprisingly), and frequently others, including the European Commission and other member states, express their views as well. We instructed the coders to not code observations by the litigants, so this information is intended to only capture third party observations. They did, however, code the stated positions of interveners. The cases in which interventions occurred are enumerated in a supplemental file.
- We also had the coders enter the identity of the observer. The coding scheme is the same as the type of litigant coding scheme.
- Note that as per correspondence with the European Court of Justice, the actual filed observations are private property and not available for distribution. As such, we relied upon the published *Reports of the Cases before the Court* for this information. Until 1993, each case summarized the written observations. However, afterwards the Court stopped providing these summaries. Thus, we relied upon the AG and ECJ's discussion of the case for positions of the observers. We recommend being careful with this data as a result. How well post 1993 information can be used depends upon the purpose to which one wishes to apply the data.
- Also note that we did not include oral observations because they did not appear to be consistently reported in the Court Reports (e.g. some cases would summarize oral observations with the written observations and some would not).

Question 4: Observation Position on the Legal Issue

- A brief summary of the observation's position on the legal issue.

Question 5: Agreement with ECJ?

- Coding that indicates whether the observation was in agreement with the ECJ ruling. This variable was added after the initial database was designed and so is not present in all of the Access databases. The coding scheme is the same as the other agreement variables.

Question 6: Agreement with AG?

- Coding that indicates whether the observation was in agreement with the AG's position on the legal issue. The coding scheme is the same as the other agreement variables.

Question 7: Clarity of Observation Position

- Coding that indicates the coder's judgment of the clarity of the observation's position of the legal issue. As before, we ensured sure that low and medium clarity coding was reviewed by subsequent data cleaners.

Form 5: Referral

Question 1: Case Number

- The case number is the same as above.

Question 2: Referral Date

- The date when the case was referred to the ECJ from the national court.

Question 3: Referring Court

- The name of the national court that referred the case to the ECJ.

Question 4: Referring Nation

- The member state from which the dispute was referred to the ECJ.