

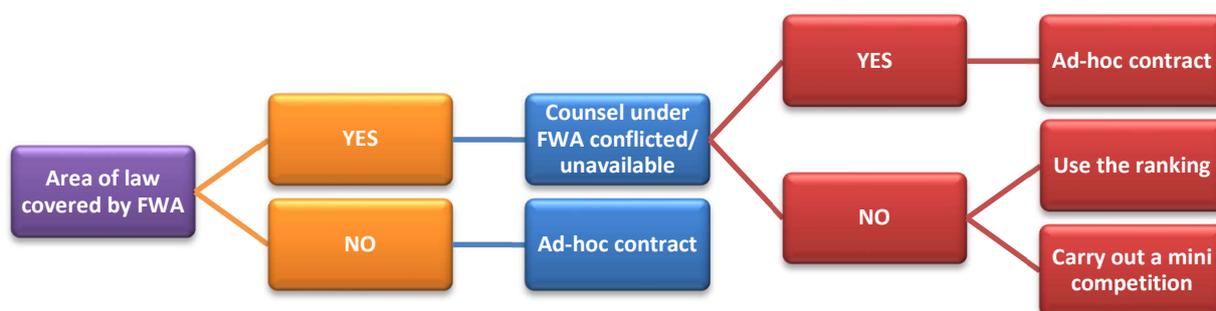
3. Involving external counsel and collaboration with law firms

Where it has been decided to involve external counsel in a court case, the agents launch the formal process to put a law firm on the case. The procedure to be followed depends on whether DG/L has a **contract or framework agreement** in place covering the relevant field of law.

The Legal Advice Team checks that there is sufficient unused budget, and can help with the implementation of the procurement and signature process¹.

3.1. Finding an external counsel

The ECB has entered into a number of contracts or framework agreements with external law firms for the provision of legal services. The scope of these agreements usually includes support in litigation.



3.1.1. Cases covered by an existing contract or framework agreement

If the case is covered by a framework agreement or contract with a **single law firm** the law firm is COMed in line with the process and terms set out in the agreement.

If the case falls under the scope of a [framework agreement](#) with **several law firms**, the external counsel is selected and COMed in line with the process and terms set out in the framework agreement, i.e. either in order of the ranking, or via a mini-competition among the law firms.

In either case, the lead partners and contact persons for the ECB are requested to review the application, carry out a conflict check and submit a fee quote based on the framework agreement. They should also specify the names of the lawyers who will advise the ECB in the court case, and specific deliverables if applicable. On this basis, the contract parties agree on the exact scope of work, deliverables, timeline and prices, all of which will be included in a cost order under the framework agreement. The Legal Advice Team prepares a formal Order as soon as the lead lawyer has agreed with the law firm on the terms of engagement.

3.1.2. Cases not covered by an existing contract or framework agreement

If the case is not covered by any existing contract or framework agreement, or if the law firm(s) cannot work on the case e.g. due to a conflict of interest or lack of availability, an external law firm can be

¹ E.g. with the registration of the procurement with the Central Procurement Office, or preparation of an order form under a framework agreement.

selected for the case by way of direct appointment irrespective of the volume of work needed². The selection should take into account quality and cost aspects, language skills, CJEU experience and similarities to past cases. It should be properly documented with a short cover note showing value for money. It is recommended (but it is not legally required) to compare offers from a small sample of external law firms. When the law firm has been selected, an ad-hoc contract needs to be issued based on the DG-L [standard contract](#) and agreed with the law firm. The cover note and the agreed contract are first sent to the ECB signatories³ and subsequently to the law firm for signature.

It goes without saying that all correspondence relating to the selection of an external counsel should be carefully stored in Darwin.

3.2. Logistics

External counsel should use Darwin ASTRA for communication with the ECB. Communication with the external counsel should be done as much as possible via Darwin ASTRA or other secure channels.

When an external counsel supports the ECB in litigation, all correspondence with the court (other than the letter appointing the agents) is in principle done by external counsel and uploaded to e-curia. Correspondence as well as all other submissions that may be prepared by the law firm must follow the ECB's house style.

While a law firm can dedicate a team of lawyers to the case depending on the circumstances, **only one external lawyer** should be **formally nominated** vis-à-vis the Court as representative of the ECB.

3.3. Invoicing

Once the law firm has completed its work on the court case, or on an ongoing basis as agreed with the law firm, the Legal Advice Team processes the invoices. Agents are expected to check and verify the correctness of invoices.

The team will also link the respective order form into the sub-folder entitled "Correspondence with an external counsel" for the respective court case, in order to keep an overview of the expenses.

² Article 2(3)(j) of [Decision ECB/2016/2](#) laying down the Rules on Procurement (recast).

³ Service contracts with external legal counsel, and orders under an existing framework agreement, are signed in line with the signatory rules in the Business Practice Handbook (being updated in 2019).