

**Synopsis of the Work
of the Court of Justice
of the European Communities
in 1974**

LUXEMBOURG 1975

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FOREWORD

This synopsis of the work of the Court of Justice of the European Communities is intended for judges, lawyers and practitioners generally, as well as teachers and students of Community law.

It is issued for information only, and obviously must not be cited as an official publication of the Court, whose judgments are published officially only in the *European Court Reports*.

The synopsis is published in the working languages of the Communities (Danish, Dutch, English, French, German, Italian). It is obtainable free of charge on request (specifying the language required) from the information bureaux of the European Communities at the following addresses:

1 BERLIN 31
Kurfürstendamm 102
Federal Republic of Germany

53 BONN
Zitelmannstraße 22
Federal Republic of Germany

1049 BRUXELLES
Rue de la Loi 200
Belgium

's-GRAVENHAGE
Lange Voorhout 29
Netherlands

DUBLIN 2
29, Merrion Square
Republic of Ireland

1202 GENÈVE
37-39, rue de Vermont
Switzerland

1004 KØBENHAVN K
Gammeltorv 4
Denmark

LONDON W8 4QQ
20, Kensington Palace Gardens
United Kingdom

TOKYO 107
Akasaka 2-16-20 Minato-Ku
Japan

LUXEMBOURG
Centre européen du Kirchberg
Grand Duchy

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Calle Bartolomé Mitre, 1337
Uruguay

NEW YORK N.Y. 10017
277, Park Avenue
USA

75016 PARIS
61-63, rue des Belles-Feuilles
France

00187 ROMA
Via Poli, 29
Italy

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Edif. Torres de Tajamar-Apt. 403
Torre A, Casilla 10093
Avda Providencia 1072
Chile

ANKARA
13 Bogaz Sokak
Kavaklidere
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WASHINGTON D.C. 20037
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PROCEEDINGS OF THE COURT OF JUSTICE IN 1974

During 1974 the incidence of legal proceedings before the Court of Justice, as well as contacts between the European Court and national courts of the nine Member States, continued to increase and underwent further developments.

In fact, the past year saw the first direct action and the first reference for a preliminary ruling from the new Member States (from Ireland and the United Kingdom respectively).

In addition to the study days and seminars for judges which, for the past eight years, have been organized several times during each year by the Court of Justice, the latter was visited unofficially during 1974 by specialized national courts, groups of national judges and representatives of national training centres for judges.

In October 1974 the Court of Justice paid an official visit to the Edinburgh Court of Session, where it attended the ceremony marking the opening of the Scottish legal year. It had previously met judges of the Danish Supreme Court.

Members of the Court of Justice also attended the meeting of European Constitutional Courts at Baden-Baden and the meeting in Berlin of Conseils d'État and other administrative supreme courts.

The following pages contain a synopsis of Community case-law and its evolution in 1974, and an analysis of meetings between the European Court and national courts, as well as contacts with lawyers, universities and training centres, professional associations and the press.

* * *

I — CASES DECIDED BY THE COURT OF JUSTICE IN 1974

Judgments delivered

During 1974 the Court of Justice of the European Communities delivered 61 judgments: eight in direct actions, 40 in cases referred to the Court for preliminary rulings by the national courts of the Member States, and 13 in actions brought by officials of the Communities.

Documentation

The written procedure in these cases runs to some 50 000 pages, of which 28 000 have been translated by the language department into the six official languages of the Community. In addition, the translation of the case-law of the Court into English and Danish is progressing.

Hearings

These cases gave rise to 129 public hearings.

Lawyers

During these hearings, apart from the representatives or agents of the Council, the Commission and the Member States, the Court heard:

- 22 Belgian lawyers,
- 2 British lawyers,
- 6 French lawyers,
- 11 lawyers from the Federal Republic of Germany,
- 4 Italian lawyers,
- 5 Luxembourg lawyers ⁽¹⁾,
- 8 Netherlands lawyers.

Duration of proceedings

Proceedings lasted for the following periods of time:

In cases brought directly before the Court the average duration has been rather more than nine months, the shortest being six months and the longest having been exceptionally extended to 15 months by reason of procedural incidents.

In cases arising from questions referred by national courts for preliminary rulings, the average duration has been rather more than six months (including judicial vacations), the shortest having taken four months and the longest 11 months.

The judgments delivered during 1974 may be analysed as follows:

1. — Actions brought by Member States against the Commission	2
Italy	1
Ireland	1
2. — Action brought by the Commission for failure to fulfil an obligation (against France)	1
3. — Actions brought by natural or legal persons	5
— concerning aids granted by Member States and agricultural markets	1
— concerning cartels and dominant positions	2
— concerning non-contractual liability, cartels and concentra- tions	2

⁽¹⁾ This figure does not include the Luxembourg lawyers who are sometimes chosen as 'Addressees for Service' by the lawyers of parties who are not domiciled at the seat of the Court.

4. — Actions brought by officials of the Communities	13
5. — References made to the Court of Justice by national courts for preliminary rulings on the interpretation or the validity of provisions of Community law.....	40
	Total 61

The President of the Court also delivered eight orders for interim measures concerning competition.

Subject-matter of this case-law

During 1974 the broad areas covered by the case-law of the Court of Justice of the European Communities included competition, copyright, patent and trade-mark rights, freedom of establishment and freedom to provide services.

1. Competition

Joined Cases 6 and 7/73 (Istituto Chemioterapico Italiano SpA and Commercial Solvents Corporation v Commission of the European Communities) — Judgment of 6 March 1974. The Court of Justice stated, *inter alia*, that the prohibition on the abuse of a dominant position, in so far as it may affect trade between Member States, is intended to define the sphere of application of Community rules in relation to national laws. It cannot therefore be interpreted as limiting the field of application of the prohibition which it contains solely to commercial and industrial activities supplying the Member States. It is sufficient that the free movement of goods between the Community and third countries should be impeded. The two companies had requested the annulment of a Commission decision imposing on them fines and penalty payments for refusing to supply a competing company with pharmaceutical products.

Transocean Marine Paint Association v Commission of the European Communities — Judgment of 23 October 1974. This association of marine paint manufacturers consists of a group of medium-sized undertakings and has as its object the creation in common, in respect of marine paints, of a *world-wide* sales network necessary for the sale of this type of paint, the establishment of which would however greatly exceed the capacity of the individual members of the association.

By common agreement each member of the association is allocated a sales territory, and although any member may sell within the territory of another member it may do so only on payment of a commission to the member concerned.

This agreement enjoyed exemption from the prohibition laid down by Community law but, when application was made for its renewal, the Commission subjected exemption to certain conditions:

The members of the association were to inform the Commission without delay of any links by way of common directors or managers between a member of the association and any other company or firm in the paints sector or any financial participation by a member of the association in such other companies or *vice versa*, including all changes in such links or participation already in existence.

The Court annulled this part of the Commission's decision on the ground of a procedural defect, although it stated that the Commission must be in a position at any moment to check whether the conditions justifying the exemption were still present.

2. Copyright

Belgische Radio en Televisie and Société belge des auteurs, compositeurs et éditeurs v SV SABAM and NV Fonior — Judgment of 27 March 1974 This was a request for a preliminary ruling referred by the Tribunal de première instance, Brussels. The answers to the questions referred were intended to allow the Belgian court to assess the validity of contracts drawn up in 1963 and in 1967 by the Société belge des auteurs by which the latter assigned certain of their rights to SABAM. The principal question was whether the fact that an undertaking which enjoys a *de facto* monopoly in a Member State for the management of copyrights requires the comprehensive assignment of all such rights, without drawing any distinction between specific categories, for a period of five years following the withdrawal of the member, can be regarded as an abuse of its dominant position.

In its judgment the Court stated that such practices may constitute an abuse and that it is for the national court to decide whether and to what extent such abusive practices as may be established affect the interests of the authors or any third parties concerned.

The Court further ruled that an undertaking to which the State has not assigned any task and which manages private interests, even if these include intellectual property rights protected by law, is not covered by the provisions of Article 90 (2) of the EEC Treaty (and is not therefore protected by special provisions contained in the Treaty with regard to state monopolies).

3. Patent and trade-mark rights

An important judgment was given on 3 July 1974 in the so-called *Café Hag* case, on a preliminary reference from the Luxembourg Tribunal d'Arrondissement. This case was concerned with the problem of free movement of goods sold under trade mark. Here, the question was whether, following the sequestration and sale to a third party of the trade-mark in question at the end of the Second World War, the firm which originally held the trade-mark, which was established in Germany, could rely upon the principle of free movement of goods to enter the market in Belgium and Luxembourg. The Court of Justice decided that the national character of legislative systems relating to trade-mark protection cannot be relied upon in attempts to partition the Common Market, provided of course that the trade marks have the same origin.

The judgment in *Café Hag* was delivered in circumstances constituting a pleasant innovation. The Chamber of the Luxembourg Tribunal d'Arrondissement which had referred the case was present in the Court at Kirchberg to hear the judgment being delivered. The Judges of the European Court were therefore able, for the first time, to see before them one of the 'national courts' which are more and more frequently referring preliminary questions to the Court.

The Centrafarm cases — Wintthrop and Sterling Drug (two Judgments of 31 October 1974). Patents are not permitted to constitute an obstacle to the free movement of goods within the European Community; they may not be used to create new trade restrictions. This is what the Court of Justice of the European Communities decided in its ruling on a case concerning patents, the outcome of which had been awaited with great interest by the pharmaceutical industry. As it had already done in previous similar cases (*Parke Davis* or *Deutsche Grammophon* for example), the Court of Justice of the European Communities stated that protected products may also move freely within the whole of the Community.

This preliminary ruling by the Court was given in answer to questions referred to it by the Hoge Raad of the Netherlands. The Netherlands company Centrafarm, a pharmaceutical wholesale undertaking, had imported from the United Kingdom the medicine 'Negram', which was protected by patents. Prices of pharmaceutical products are lower in the United Kingdom than in some countries on the continent. The American parent company 'Sterling Drug', the holder of the patent, and its subsidiary instituted legal proceedings against these imports, relying on Netherlands patent law. In the spring of 1974 the Hoge Raad suspended the proceedings until such time as the Court of Justice of the European Communities had given its ruling.

The Court of Justice of the European Communities held that patents have as their sole object the prevention of infringement, but that they may not be used or abused for purposes of commercial policy. It matters little that, as in the case of pharmaceutical products, a wide margin of price difference exists between certain Member States. Moreover, the Court stated that, contrary to the argument adduced by the patent-holder, the pharmaceutical industry cannot claim to undertake tasks which are incumbent upon the public authorities, such as for example the protection of consumers. The Court of Justice has now therefore ruled, in agreement with the opinions put forward by the European Commission and the Advocates-General, that the principle of free movement of goods also constitutes the Community law applicable to pharmaceutical products, and the pharmaceutical industry now has new information to consider. The judgment allows pharmaceutical products protected by patent to be imported from any Member State.

4. Freedom of establishment

On 21 June 1974 the Court of Justice gave its judgment in *Reyners v Belgian State* (preliminary ruling requested by the Belgian Conseil d'État).

The plaintiff in the main action, a Netherlands national although born and educated in Belgium where he acquired a Doctorate in Law, was refused admission to the Belgian Bar by reason of his nationality. The Court of Justice confirmed the direct effect of the provisions of the EEC Treaty relating to freedom of establishment, notwithstanding the fact that the Council had not adopted in due time the directives required by the Treaty. At the same time, this judgment rules that the profession of avocat does not benefit from the reservation contained in Article 55 of the EEC Treaty which excepts from the principle of freedom of establishment those activities within the Member States which are connected, even occasionally, with the exercise of official authority. It was in fact the Court's view that the most representative activities of the profession of avocat do not warrant application of this exception since they leave intact the discretionary power of the court.

Another case relating to freedom of establishment: *Van Duyn v Home Office*. A Netherlands national was refused entry into the United Kingdom on the ground that she was a member of the Church of Scientology of California, which the British Government considers to be socially harmful. Although the Treaty of Rome does indeed prescribe freedom of movement and of establishment within the Common Market, it leaves to the governments of the Member States a certain latitude to control the establishment of persons for reasons of public policy, public security or public health. Moreover, in this field, the Council of the Communities has issued a directive creating subordinate Community law.

The Netherlands national pleaded this Community law, that is to say the EEC Treaty and the Council Directive, before the British courts. The Chancery Division of the High Court of Justice referred the case before the Court of Justice. This was the first reference by a British court. The basic problem at issue was that of delineating the scope both of Community law and of the relevant powers retained by the Member States.

In its judgment of 3 December 1974 the Court of Justice ruled that the provisions of the Treaty and those of the Council Directive are directly applicable in the legal systems of all the Member States and create individual rights which national authorities must protect. Moreover — since the British court had also requested an interpretation of the phrase 'measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned', as used in the Council Directive — the Court stated that the concept 'personal conduct', in this sense, was to be interpreted as covering the fact that an individual had been or was associated with an organization the activities of which the Member State considered to be socially harmful but which were not prohibited in that State according to national law.

5. Freedom to provide services

Van Binsbergen — *Judgment of 3 December 1974*. The *Centrale Raad van Beroep*, a Netherlands social court, referred to the Court of Justice of the Communities for a preliminary ruling a case similar to the Reyners case.

Legal advisers who are not advocates and are not members of any bar may appear before the Centrale Raad van Beroep. This was the position of Mr Kortmann when he represented his client, Mr van Binsbergen, before the Netherlands court. Both are Netherlands nationals and both lived within the Netherlands. However, during the course of the proceedings Mr Kortmann moved to Belgium, to the frontier town of Neeroeteren, and he wrote to the Centrale Raad van Beroep from his new place of residence requesting that the file on his client be sent to him. The court registry informed him that it could not accede to his request because Article 48 of the Law on procedure before the Centrale Raad van Beroep lays down that 'Only persons established within the Kingdom of the Netherlands may act as legal representatives or advisers'.

Mr Kortmann challenged this decision, claiming that it was contrary to Articles 59 and 60 of the Treaty of Rome concerning freedom to provide services which, in his opinion, were directly applicable and created individual rights in his favour. This was the question referred to the Court at Luxembourg by the Centrale Raad.

The Court ruled that the first paragraph of Article 59 and the third paragraph of Article 60 of the EEC Treaty were to be interpreted as meaning that a national law cannot, by imposing a requirement as to habitual residence within the territory of the State, deny to persons established in another Member State the right to provide services, where the provision of services is not subject to any special condition by the national law applicable; it further ruled that the first paragraph of Article 59 and the third paragraph of Article 60 have direct effect and may therefore be invoked before national courts, at least in so far as they seek to abolish any discrimination against the person providing the service by reason of his nationality or the fact that he resides in a Member State other than that in which the service is to be provided.

Cable television — Judgment of 30 April 1974. Ruling on a reference from the Tribunale di Biella (Italy), the Court of Justice stated that the transmission of television signals, including those in the nature of advertisements, comes, as such, within the rules of the Treaty relating to services, but that trade in articles, sound recordings, films, apparatus and other products used for the diffusion of television signals is subject to the rules relating to freedom of movement for goods. The grant of the exclusive right to transmit television signals does not, in itself, constitute a breach of the Treaty. However, discrimination by undertakings enjoying such exclusive rights against nationals of Member States by reason of their nationality is incompatible with the Treaty.

Decisions of national courts on Community law

This summary of Community case-law would be incomplete without some mention of the more important decisions given by national courts applying Community law. It is true that it is not always possible — despite the efforts made for several years in this direction — to obtain full information regarding

this case-law. However, a promising start has been made on a central collection thanks to the co-operation between the Library and Research Division of the Court of Justice and a very large number of national courts in this matter ⁽¹⁾.

The comparative table below indicates the number of Community cases decided directly by national courts, supreme or otherwise, in 1974, which have come to the notice of the above division, whether or not they involved the use of the procedure for preliminary rulings:

Member State	Supreme courts	Courts of appeal or of first instance	Total
Belgium	—	9	9
France	6	8	14
Germany	19	48	67
Italy	1	5	6
Luxembourg	1	—	1
Netherlands	10	5	15
United Kingdom	2	4	6
Total	39	79	118

⁽¹⁾ The Court of Justice is most interested in receiving a copy of any decision given by national courts on points of Community law, at the following address: Court of Justice of the European Communities, Boîte postale 1406, Luxembourg.

Member State	Number	Courts giving judgment		
Belgium	9	0 Judgments given by supreme courts	nil	
		9 Judgments given by appeal courts, courts of first instance and magistrates courts	Tribunal de première instance Bruxelles	1
			Tribunal du travail Liège	1
			Tribunal du travail Mons	1
			Arbeidshof Brussel	2
			Correctionele Rechtbank Antwerpen	1
			Vrederecht Antwerpen	2
			Tribunal de police Mons	1
			France	14
8 Judgments given by courts of appeal and of first instance	Cour d'appel de Paris	2		
	Cour d'appel de Bordeaux	1		
	Tribunal de grande instance de Paris	1		
	Tribunal d'instance de Lille	1		
	Tribunal administratif de Paris	1		
	Tribunal administratif de Lyon	1		
	Tribunal de commerce de Lyon	1		
	Germany	67		
Bundesgerichtshof 1				
Bundesarbeitsgericht 1				
Bundesfinanzhof 6				
Bundessozialgericht 3				
Bundesverwaltungsgericht 5				
48 Judgments given by courts of appeal or of first instance			Finanzgericht Baden-Württemberg 2	
			Finanzgericht Düsseldorf 2	
			Finanzgericht Hamburg 7	
			Hessisches Finanzgericht 22	
			Finanzgericht Nürnberg 1	
			Finanzgericht Rheinland-Pfalz 1	
			Verwaltungsgericht Köln 1	
			Verwaltungsgericht Frankfurt 7	
			Verwaltungsgericht Saarlouis 1	
			Landessozialgericht Baden-Württemberg 1	
			Landgericht Braunschweig 1	
			Landgericht Hamburg 1	
			Landgericht Köln 1	
Italy	6	1 Judgment given by a supreme court	Corte costituzionale 1	
		5 Judgments given by courts of appeal, courts of first instance and magistrates courts	Corte d'Appello di Napoli 1	
			Tribunale di Bolzano 1	
			Tribunale di Varese 1	
			Tribunale civile e penale di Trento 1	
			Pretura unificata di Roma 1	
Luxembourg	1	1 Judgment given by a supreme court	Cour supérieure de justice de Luxembourg 1	

Member State	Number	Courts giving judgment	
Netherlands	15	10 Judgments given by supreme courts	Raad van State 2 Centrale Raad van Beroep 3 Hoge Raad 2 College van beroep voor het Bedrijfsleven 3
		5 Judgments given by courts of appeal and of first instance	Arrondissementsrechtbank Haarlem 1 Arrondissementsrechtbank Utrecht 2 Gerechtshof 's-Gravenhage 1 Gerechtshof Amsterdam 1
United Kingdom	6	2 Judgments given by supreme courts	High Court of Justice 2
		4 Judgments given by courts of appeal or of first instance	Court of Appeal 2 National Insurance Commissioner 2

Decisions of national courts

Bundesverfassungsgericht

Second Senate — Order of 29 May 1974

By a majority of 5 to 3, the Second Senate of the Bundesverfassungsgericht decided that

‘Until the process of integration within the Community has reached a sufficiently advanced stage for Community law to include a current enumeration of fundamental rights, drawn up by a parliament and corresponding to the enumeration of fundamental rights enshrined in the Grundgesetz (Basic Law), a reference to the Bundesverfassungsgericht by a court of the Federal Republic of Germany in the context of the procedure for the purpose of reviewing the conformity with the constitution of laws and other measures adopted by public authorities (Normenkontrollverfahren), following a request for a decision of the Court of Justice of the European Communities pursuant to Article 177 of the Treaty, shall be admissible and obligatory where the said court considers that the provision of Community law which in its view is relevant, as interpreted by the Court of Justice of the European Communities, is inapplicable on the ground that and in so far as it conflicts with one of the fundamental rights enshrined in the Basic Law.’

The Verwaltungsgericht, Frankfurt am Main, has asked the Bundesverfassungsgericht whether, in its opinion, certain provisions of regulations of the Council and of the Commission could be examined for the purpose of ascertaining whether they conflicted with one of the fundamental rights enshrined in the Basic Law (constitution) of Germany.

In their dissenting opinions, the three minority Members of the Second Senate stated that such an appeal was not admissible before the Bundesverfassungsgericht:

In spite of the absence of an enumeration of fundamental rights, the legal order of the European Communities also guarantees, through the case-law of the Court of Justice — even if partially in a different form — the fundamental rights enshrined in the Basic Law.

.....
The legal order of the European Communities also comprises a system of legal protection designed to ensure that these fundamental rights are respected.

.....
The protection of fundamental rights which is ensured within the Community is neither materially nor structurally different from that accorded to the fundamental rights contained in the national constitution.

.....
The legal opinion held by the majority . . . leads moreover to unacceptable consequences. If the application of subordinate Community law were subject to the condition that it should correspond to the legal rules relating to fundamental rights laid down by the national constitution, it might happen — since the degree of protection accorded to fundamental rights differs as between the Member States — that certain provisions of Community regulations were applicable in certain Member States and not in others. This would lead to a fragmentation of Community law itself. To admit of this possibility amounts to the partial sacrifice of European legal unity, the endangering of the existence of the Community and the denial of the principle of European unification.

The point of view maintained by the majority in this Senate is also contrary to the established case-law of the Court of Justice of the European Communities. The Court of Justice has deduced from the text and spirit of the EEC Treaty that Community law, which springs from an independent legal source, cannot be frustrated by rules of national law of the Member States, of whatever sort — including provisions of national constitutional law . . . This idea has been expressed repeatedly by the European Parliament (Official Journal 1965, p. 2923, in conjunction with the Dehousse Report, document 43/65; Report of the Legal Affairs Committee of 28 February 1973, document 297/72).

It may be added that the Italian Constitutional Court has held in its judgment of 18 December 1973 (No 183/73) that it does not fall within its jurisdiction to examine whether Community regulations are compatible with Italian constitutional law.'

Court of Appeal, London

Judgment of 22 May 1974

Master of the Rolls: Lord Denning

On the subject of the impact of the EEC Treaty on English law, Lord Denning has emphasized that the fundamental point was that the Treaty concerns

only those matters which have a European element, that is to say matters affecting people or property in one or other of the nine Member States of the Community. The Treaty does not touch any matters concerned solely with the mainland of England and the people in it. But on matters with a European element the Treaty is like an incoming tide. It flows into the estuaries and up the rivers. It cannot be held back, Parliament has decreed that the Treaty is henceforward to be part of national law.

High Court of Justice of England

Chancery Division — 27 November 1973

Mr Justice Graham

On the occasion of the first case before the High Court, Chancery Division, during which the possibility of a reference pursuant to Article 177 was postulated, the English judge recorded that the power to refer to the European Court in Luxembourg was not limited either to courts whose decisions were final or to any particular stage of the case. Where a judge of the High Court feels, in a case heard at first instance or during interlocutory proceedings, that an interpretation of any provision of the EEC Treaty is called for, he has an unfettered power of reference. Clearly, if he feels that he can come to a decision without an authoritative interpretation of Community law, there is no need for him to make a reference.

Bundesgerichtshof

First Civil Senate — Judgment of 2 February 1973

In a case concerning trade-marks the German Bundesgerichtshof decided, in accordance both with its own case-law and with that of the European Court of Justice, that where a trade-mark owner authorizes its own subsidiaries or independent beneficiaries in other Member States to use that mark and to market goods bearing that mark, an undertaking in respect of which the same trade-mark has been registered in the same country with the agreement of the original owner of the mark cannot prohibit the importation of goods marketed abroad under the same trade-mark. This principle is also applicable where the goods are distinguished by certain characteristics from products marketed by the trade-mark owner within the importing countries.

Corte d' Appello, Bologna

Judgment No 512 of 26 May 1973

Community regulations take effect and are applicable within the national legal system without its being necessary to adopt any national implementing measure. They take precedence over all national legislative provisions.

II — CASES BROUGHT IN 1974

98 cases were brought before the Court of Justice in 1974. They concern:

1. — Actions for failure to fulfil an obligation brought by the Commission against:	
Germany	1
(common organization of the market in vine products)	
2. — Actions brought by natural or legal persons:	
— against the Commission	9
— against the Council	1
— against the Council and the Commission	5
	<hr/>
	Direct actions 15
3. — Actions brought by officials of the Communities	38
4. — References to the Court of Justice by national courts for preliminary rulings on the interpretation or validity of provisions of Community law	35

The origin of those references:

Belgium: 5 references from courts of first instance or of appeal:

— 1 from the Conseil d'État

— 4 from other courts

France: 6 references:

— 2 from the Conseil d'État

— 4 from other courts

Germany: 14 references:

— 1 from the Bundesgerichtshof

— 1 from the Bundesverwaltungsgericht

— 1 from the Bundesfinanzhof

— 2 from the Bundessozialgericht

— 9 from other courts

Italy: 4 references from courts of first instance or of appeal

- Netherlands*: 6 references:
- 2 from the Centrale Raad van Beroep
 - 1 from the College van Beroep
 - 1 from the Tarief Commissie
 - 2 from other courts

United Kingdom: 1 reference from the Chancery Division of the High Court of Justice, London

The subject matter of these references includes, *inter alia*:

Subject matter	Cases
Common Customs Tariff (Article 3)	1
Free movement of goods (Articles 9 — 11)	1
Customs duties (Articles 12 — 17)	2
Industrial property (Article 36)	3
Agricultural markets (Articles 38 — 47)	14
Free movement of workers (Article 48)	5
Social Security for Migrant Workers (Article 51)	4
Right of establishment (Articles 52 — 58)	2
Freedom to provide services (Articles 59 — 60)	1
Transport (Articles 74 — 84)	1
Cartels, dominant positions (Articles 85 — 90)	3
State aids (Articles 92 — 94)	1
Privileges and immunities	2
Jurisdiction of the Court	1

III — INFORMATION ON COMMUNITY LAW

As in previous years, the Court of Justice has welcomed a number of judges and lawyers from the Member States.

Study days for judges

As in other years, the Court of Justice, with the agreement of the Ministers of Justice of the Member States and at the request of some of the latter, has held two study days at the Court with high-ranking national judges. Those taking part included:

- 5 Belgian judges
- 7 British judges
- 5 Danish judges
- 14 French judges
- 15 German judges
- 5 Irish judges
- 13 Italian judges
- 2 Luxembourg judges
- 6 Netherlands judges

Seminar for judges

Those taking part in this five-day seminar included:

- 5 Belgian judges
- 14 British judges
- 5 Danish judges
- 14 French judges
- 13 German judges
- 5 Irish judges
- 14 Italian judges
- 2 Luxembourg judges
- 5 Netherlands judges

Other visits by members of the judiciaries or teachers of Community law:

As in 1973, the Court was visited by a delegation from the Consiglio Superiore della Magistratura of Italy.

Further visits for study days and exchanges included:

- the French Commission technique des ententes et positions dominantes,
- a delegation from the Bundeskartellamt of Berlin,
- some 30 British and French teachers of Community law,
- fifteen members of the High Court Journalists' Association of London,
- a number of students, trade unionists, politicians and journalists.

The details of these visits are set out in Annex I.

The decisions of the Court were published during 1974 in the following journals:

<i>Belgium</i>	Cahiers de Droit européen Journal des Tribunaux Rechtskundig Weekblad Jurisprudence commerciale de Belgique Revue belge de droit international Revue de droit fiscal Tijdschrift voor Privaatrecht
<i>Denmark</i>	Ugeskrift for Retsvæsen Juristen Nordisk Tidsskrift for internasjonal Rett
<i>France</i>	Annuaire français de droit international Droit rural Le Droit et les Affaires Droit social Gazette du Palais ⁽¹⁾ Jurisclasseur périodique (La semaine juridique) Recueil Dalloz Revue critique de droit international privé Revue internationale de la concurrence Revue trimestrielle de droit européen Sommaire de sécurité sociale La vie judiciaire
<i>Germany</i>	Außenwirtschaftsdienst des Betriebsberaters ⁽²⁾ Deutsches Verwaltungsblatt Europarecht Neue Juristische Wochenschrift Die öffentliche Verwaltung Vereinigte Wirtschaftsdienste (VWD) Wirtschaft und Wettbewerb Zeitschrift für das gesamte Handels- und Wirtschaftsrecht
<i>Italy</i>	Diritto dell'economia Foro Italiano Foro Padano Rivista di Diritto Europeo Rivista di Diritto Internazionale Rivista di Diritto privato e processuale
<i>Luxembourg</i>	Pasicrisie luxembourgeoise

⁽¹⁾ In collaboration with the 'Außenwirtschaftsdienst des Betriebsberaters'.

⁽²⁾ In collaboration with the 'Gazette du Palais'.

Netherlands Administratieve en Rechterlijke Beslissingen
Ars Aequi
Common Market Law Review
Nederlandse Jurisprudentie
Rechtspraak van de Week
Sociaal-economische Wetgeving

United Kingdom Common Market Law Reports
The Times (European Law Reports)
'Europe' International Press Agency
European Report (Agra, Brussels)
F.T. European Law Newsletter

Visits in 1974 (1)

ANNEX I

Description	Belgium	Denmark	France	FRG	Ireland	Italy	Luxembourg	Netherlands	UK	Third countries	Mixed	Total
Visits and individual seminars	-	2	14	22	3	-	12	1	9	5	7	75
Lawyers	-	-	-	40	-	-	-	-	54	1	54	151
Parliamentarians	-	-	-	20	13	-	-	-	6	4	-	43
Students	281	141	143	325	20	-	40	191	66	146	146	1 499
Journalists	-	17	1	41	6	-	6	-	15	-	30	116
Trainees from the Commission and European Parliament	-	-	-	-	-	-	-	-	-	-	264	264
Mixed	-	-	-	-	-	-	-	-	-	-	83	83
Teachers of Law	-	-	43	-	-	-	-	-	44	-	-	87
Trade Unionists	-	21	-	33	-	13	80	-	-	-	-	147
Total	281	181	201	481	42	13	138	192	194	156	586	2 465
Judges' days												78
Committee on Agreements and Dominant Positions												15
Lawyers' days												85
Cons. Sup. della Magistratura												33
President of Indonesian Supreme Court and party												4
Luxembourg judges												60
Judges' seminar												77
Centre de formation de Vaucresson												26
Latin-American experts												9
												2 852

(1) In all: 235 visits.

**Composition of the Court of Justice
for the judicial year 1974/75**

<i>President:</i>	R. LECOURT
<i>President of the First Chamber:</i>	J. MERTENS DE WILMARS
<i>President of the Second Chamber:</i>	LORD MACKENZIE STUART
<i>Judges:</i>	A. M. DONNER R. MONACO P. PESCATORE H. KUTSCHER M. SØRENSEN A. O'KEEFFE
<i>Advocates-General:</i>	A. TRABUCCHI H. MAYRAS J. P. WARNER G. REISCHL
<i>Registrar:</i>	A. VAN HOUTTE

Composition of the Chambers

<i>First Chamber</i>	<i>Second Chamber</i>
President: J. Mertens de Wilmars	President: Lord Mackenzie Stuart
Judges: A. M. Donner R. Monaco A. O'Keeffe	Judges: P. Pescatore H. Kutscher M. Sørensen
Advocates-General: J. P. Warner G. Reischl	Advocates-General: A. Trabucchi H. Mayras

Mr C. Ó Dálaigh has been elected President of Ireland and has been replaced as a Judge of the Court by Mr Andreas O'Keeffe, who took the oath on 12 December 1974.

Former Presidents of the Court of Justice

PILOTTI (Massimo) †	President of the Court of Justice of the European Coal and Steel Community from 4 December 1952 to 6 October 1958
DONNER (André)	President of the Court of Justice of the European Communities from 7 October 1958 to 7 October 1964
HAMMES (Charles-Léon) †	President of the Court of Justice of the European Communities from 8 October 1964 to 8 October 1967

Former Members of the Court of Justice

PILOTTI (Massimo) †	President and Judge at the Court of Justice from 4 December 1952 to 6 October 1958
SERRARENS (P. J. S.) †	Judge at the Court of Justice from 4 December 1952 to 6 October 1958
VAN KLEFFENS (A.) †	Judge at the Court of Justice from 4 December 1952 to 6 October 1958
CATALANO (Nicola)	Judge at the Court of Justice from 7 October 1958 to 8 March 1962
RUEFF (Jacques)	Judge at the Court of Justice from 4 December 1952 to 18 May 1962
RIESE (Otto)	Judge at the Court of Justice from 4 December 1952 to 31 January 1963
ROSSI (Rino) †	Judge at the Court of Justice from 7 October 1958 to 7 October 1964
DELVAUX (Louis)	Judge at the Court of Justice from 4 December 1952 to 8 October 1967
HAMMES (Charles-Léon) †	Judge at the Court of Justice from 4 December 1952 to 8 October 1967, President of the Court from 8 October 1964 to 8 October 1967
LAGRANGE (Maurice)	Advocate-General at the Court of Justice from 4 December 1952 to 7 October 1964
STRAUSS (Walter)	Judge at the Court of Justice from 1 February 1963 to 6 October 1970
GAND (Joseph) †	Advocate-General at the Court of Justice from 7 October 1964 to 6 October 1970
DUTHEILLET DE LAMOTHE (Alain) †	Advocate-General at the Court of Justice from 7 October 1970 to 2 January 1972
ROEMER (Karl)	Advocate-General at the Court of Justice from 4 December 1952 to 9 October 1973
Ó DÁLAIGH (Cearbhall)	Judge at the Court of Justice from 9 January 1973 to 12 December 1974, President of Chamber from October to December 1974.

Summary of types of procedure before the Court of Justice

It will be remembered that under the Treaties a case may be brought before the Court of Justice either by a national court with a view to determining the validity or interpretation of a provision of Community law, or directly by the Community institutions, Member States or private parties under the conditions laid down by the Treaties.

A — *References for preliminary rulings*

The national court submits to the Court of Justice questions relating to the validity or interpretation of a provision of Community law by means of a formal judicial document (decision, judgment of order) containing the wording of the question(s) which it wishes to refer to the Court of Justice. This document is sent by the registry of the national court to the registry of the Court of Justice ⁽¹⁾, accompanied in appropriate cases by a file intended to inform the Court of Justice of the background and scope of the questions referred.

During a period of two months the Commission, the Member States and the parties to the national proceedings may submit observations or statements of case to the Court of Justice, after which they will be summoned to a hearing at which they may submit oral observations, through their agents in the case of the Commission and the Member States or through lawyers who are members of a Bar of a Member State.

After the Advocate-General has presented his opinion, the judgment given by the Court of Justice is transmitted to the national court through the registries.

B — *Direct actions*

Actions are brought before the Court by an application addressed by a lawyer to the Registrar (B.P. 1406, Luxembourg) by registered post.

Any lawyer who is a member of the Bar of one of the Member States or a professor holding a chair of law in a university of a Member State, where the law of such State authorizes him to plead before its own courts, is qualified to appear before the Court of Justice.

The application must contain:

- the name and permanent residence of the applicant;
- the name of the party against whom the application is made;
- the subject-matter of the dispute and the grounds on which the application is based;
- the form of order sought by the applicant;
- the nature of any evidence offered;
- an address for service in the place where the Court has its seat, with an indication of the name of a person who is authorized and has expressed willingness to accept service.

The applicant should also be accompanied by the following documents:

- the decision the annulment of which is sought, or, in the case of proceedings against an implied decision, by documentary evidence of the date on which the request to the institution in question was lodged;
- a certificate that the lawyer is entitled to practise before a court of a Member State;
- where an applicant is a legal person governed by private law, the instrument or instruments constituting and regulating it, and proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorized for the purpose.

⁽¹⁾ Court of Justice of the European Communities, Kirchberg, B.P. 1406, Luxembourg; tel.: 4 76 21; telegrams: CURIALUX; telex: 2510 CURIA LU.

The parties must choose an address for service in Luxembourg. In the case of the Governments of Member States, the address for service is normally that of their diplomatic representative accredited to the Government of the Grand Duchy. In the case of private parties (natural or legal persons) the address for service — which in fact is merely a 'letter box' — may be that of a Luxembourg lawyer or any person enjoying their confidence.

The application is notified to defendants by the Registry of the Court of Justice. It calls for a statement of defence to be put in by them; these documents may be supplemented by a reply on the part of the applicant and finally a rejoinder on the part of the defence.

The written procedure thus completed is followed by an oral hearing, at which the parties are represented by lawyers or agents (in the case of Community institutions or Member States).

After the opinion of the Advocate-General, the judgment is given. It is served on the parties by the Registry.

INFORMATION AND DOCUMENTATION ON THE COURT OF JUSTICE AND ITS WORK

COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

Post Box 1406, Luxembourg. Telephone 4 76 21.
Telex (Registry): 2510 CURIA LU.
Telex (Court Information Service): 2771 CJ INFO LU.
Telegram: CURIA Luxembourg.

Complete list of publications giving information on the Court:

I — Information on current cases (for general use)

1. *Hearings of the Court*

The calendar of public hearings is drawn up each week. It is sometimes necessary to alter it subsequently; it is therefore for information only. This calendar may be obtained free of charge on request from the Court Registry. In French.

2. *Proceedings of the Court of Justice of the European Communities*

Weekly summary of the proceedings of the Court published in the six official languages of the Community. Free of charge. Available from the information service; please indicate language required. (Orders for the United States may be addressed to the Communities' information office in Washington or in New York).

3. *Judgment or orders of the Court, reports for hearings, opinions of Advocates-General;*

Photocopies of these documents are sent to the parties and may be obtained on request by other interested persons, after they have been read and distributed at the public hearing. Free of charge. Request for judgments, orders and reports for hearings should be made to the Registry. Opinions of the Advocates-General may be obtained from the information service. As from 1972 the London *Times* carries articles under the heading 'European Law Reports' covering the more important cases in which the Court has given judgment.

II — Technical information and documentation

1. *Information on the Court of Justice of the European Communities*

Quarterly bulletin published by the Publications Department, Directorate-General for Information, Commission of the European Communities, Brussels. It contains the title and a short summary of the more important cases brought before the Court of Justice and before national courts. Free of charge. May be obtained from the Communities' information offices.

2. *Annual synopsis of the activities of the Court*

In the six official languages. Free of charge. May be ordered from the Communities' information offices.

3. *Collection of texts on the organization, powers and procedures of the Court*

The 1967 edition is now out of print. A new edition has gone to press and will be available during the summer of 1975. Its price has not yet been decided.

Orders should be addressed, indicating the language required, to the Publications Office of the European Communities, or to the booksellers whose addresses are listed below.

4. *Legal publications on European integration (bibliography)*

	<i>BF</i>	<i>Dkr</i>	<i>DM</i>	<i>FF</i>	<i>Lit</i>	<i>Fl</i>	£
1966 (new edition)	300	46	24	29	3 750	22	3.20
1967 supplement	150	23	12	15	1 870	11	1.60
1968 supplement	150	23	12	15	1 870	11	1.60
1969 supplement	150	23	12	15	1 870	11	1.60
1970 supplement	150	23	11	17	1 900	11	1.60
1971 supplement	—	—	—	—	—	—	—
1975 supplement	available 1975						

On sale at the addresses set out below.

5. *Bibliography of European Case-law (1965)*

	<i>BF</i>	<i>Dkr</i>	<i>DM</i>	<i>FF</i>	<i>Lit</i>	<i>Fl</i>	£
1965 edition	100	16	8	10	1 250	7.25	1.10
1967 supplement	100	16	8	10	1 250	7.25	1.10
1968 supplement	100	16	8	10	1 250	7.25	1.10
1969 supplement	100	16	8	10	1 250	7.25	1.10
1970 supplement	100	16	7.50	11.50	1 250	7.25	1.10
1973 supplement	100	16	7.50	11.50	1 250	7.25	1.10
1975 supplement	available 1975						

On sale at the following addresses:

- BELGIUM:** Éts Émile Bruylant, Rue de la Régence 67,
1000 Bruxelles
- DENMARK:** J. H. Schultz — Boghandel — Møntergade 19,
1116 København K
- GERMANY:** Carl Heymann's Verlag, Gereonstraße 18-32,
5 Köln 1
- FRANCE:** Éditions A. Pedone, 13, rue Soufflot,
75005 Paris
- IRELAND:** Messrs. Greene & Co. Booksellers, 16 Clare Street,
Dublin 2
- ITALY:** Casa editrice Dott. A. Giuffré, Via Statuto 2,
20121 Milano
- LUXEMBOURG:** Office des publications officielles des Communautés européennes
Boîte postale 1003, Luxembourg
- NETHERLANDS:** NV Martinus Nijhoff, Lange Voorhout 9,
's-Gravenhage
- UNITED KINGDOM:** Sweet & Maxwell, Spon (Booksellers) Limited, North Way,
Andover, Hants — SP10 5BE
- OTHER COUNTRIES:** Office des publications officielles des Communautés européennes,
Boîte postale 1003, Luxembourg

6. *Compendium of case-law relating to the European Communities (Europäische Rechtsprechung)*

Extracts from cases relating to the Treaties establishing the European Communities decided between 1953 and 1972 (published in German and French, extracts from national judgments also being published in the original language), Carl Heymanns Verlag, Gereonstraße 18-32, 5 Köln 1, Federal Republic of Germany.

III — Official publications

The *Recueil de la jurisprudence de la Cour* is clearly the only authentic source for citations of judgments of the Court of Justice. These reports, covering 20 years of decided cases (1953 to 1973) are on sale at the same addresses as the publications listed under II above.

As from 1973, the reports are also published in English under the title 'Reports of Cases before the Court'. The volumes for 1962 and 1963 were published in 1974 and the volume for 1964 has also now appeared. The volumes for 1965 to 1969 inclusive are expected to be published during 1975. The volumes for 1953 to 1961 will be published after the volumes for 1965 to 1972 inclusive.

IV — Visits

Sessions of the Court are held on Tuesdays, Wednesdays and Thursdays every week, except during the Court's vacations (from 20 December to 6 January, the week preceding and the week following Easter, 15 July to 15 September. Please consult the full list of public holidays in Luxembourg set out below).

Visitors may attend public hearings of the Court or of the Chambers to the extent permitted by the seating capacity. No visitor may be present at cases heard *in camera* or during interlocutory proceedings.

Half an hour before the beginning of public hearings a briefing is given to visitors who have indicated their intention of attending the hearing.

PUBLIC HOLIDAYS IN LUXEMBOURG

In addition to the Court's vacations mentioned above the Court of Justice is closed on the following days:

New Year's Day	1 January
Carnival Monday	
Easter Monday	
Ascension Day	
Whit Monday	
Labour Day	1 May
Luxembourg national holiday	23 June
Assumption	15 August
'Schobermesse' Monday	First Monday of September
All Saints' Day	1 November
All Souls' Day	2 November
Christmas Eve	24 December
Christmas Day	25 December
Boxing Day	26 December
New Year's Eve	31 December

OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES

Boîte postale 1003 — Luxembourg

6746