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THE EUROPEAN COURT AND THE EUROPEAN CITIZEN

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IN THIS ISSUE

The European Court and the European Citizen

Editor and coordinator : Jean Pirlot

INTRODUCTION

Michel S. was born in Italy and moved to Belgium at the age of three when his father went to work there. Unfortunately, Michel suffered from serious mental deficiency. When he reached the age of sixteen, his father applied to register him with the Belgian National Foundation for Rehabilitation of the Handicapped. Under Belgian law, however, foreigners are eligible for such help only if they are recognized as handicapped after their arrival in Belgium. The Belgian authorities claimed that this was not the case with Michel and refused to allow him to register.

When Michel's father took the matter to the Belgian courts on the grounds that it constituted unfair discrimination against a migrant worker and his family moving within the Community, the case was referred to the Court of Justice of the European Communities for a ruling. The European Court held that it is very important that the handicapped children of migrant workers should enjoy the same advantages as nationals if they are to become truly integrated members of society in the host country. Michel S. was therefore admitted to the Belgian Foundation for special occupational training.

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Willy Hakenberg is a Frenchman resident in France. In 1973 he was employed by a French bicycle company as a travelling salesman. He spent nine months travelling round Germany in a caravan selling his firm's products and for the remaining three returned to France to make contact with his company and take his annual holidays.

The question then arose as to which law - French, German or both ? - applied to Mr. Hakenberg for social security purposes.

Mr. Hakenberg's company claimed that it was not obliged to pay social security contributions in France for an employee who spent most of his time working in Germany. But Mr. Hakenberg would not have been covered under German law which, unlike French law, makes no provision for the common social security scheme being applied to travelling salesmen. He argued that he had his permanent residence in France and had not emigrated to Germany. The case was referred to the European Court of Justice, which declared that a worker whose activities extended to two Member States should be subject to the social security system of the country in which he had his permanent residence and in which his company's registered offices were located. Mr. Hakenberg was therefore affiliated to the French social security system.

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Gerald Fiege is a German who worked in Germany then in France before taking up a post in Algeria. A number of years later, while still in Algeria, he contracted poliomyelitis and was consequently granted a disability pension by his social security organization in Oran a few months after Algeria gained its independence from France in 1962.

Mr Fiege decided that he should return home to Germany, whereupon his Algerian insurance organization informed him that he would forfeit his pension rights if he did so. As the French government had passed a law assuming responsibility after independence for the payment of benefits acquired by French nationals in Algeria while it had been part of French territory, Mr Fiege asked the French social security organization with which he had been insured before he went to Algeria to transfer his disability pension to him in Germany. His request, which was quite in order under Community regulations, was turned down by the French organization on the grounds that it was not responsible for payment of pensions acquired by foreign nationals after Algerian independence.

When the case was eventually referred to the European Court of Justice for a ruling, the Court pointed out that although Algeria became independent in 1962, it only ceased to be part of the Community as far as the rights of Community nationals were concerned in 1965. Accordingly, since Community legislation outlawed discrimination between the nationals of the different Member States in the matter of social security, French institutions had to honour rights acquired in Algeria by a migrant worker from a Community country before that date, Mr Fiege's pension was duly paid to him in Germany.

I. THE COMMUNITY AND THE MAN-IN-THE-STREET

The architects of the European Community were primarily concerned with re-building Europe from the ruins left by the Second World War. The emphasis in the years following the Schuman Declaration was on economic reconstruction ; it was hardly surprising therefore that the Treaties which gave birth to the European Community as we know it today were essentially economic in character. The ECSC and EEC(1) Treaties in particular sought not only to bind the Member States in a way which would make future armed conflict impossible, but also to establish economic ties which would generate growing prosperity and lead eventually to full economic integration.

The Treaties, however, are not just a blueprint for industrial and economic integration : they also define a number of longer-term social aims including "the constant improvement of the living and working conditions" of Community citizens.

These social aims were re-affirmed in 1972 when the Heads of State or Government of the enlarged Community met in Paris for their first summit conference ; the Nine emphasized that they "attached as much importance to vigorous action in the social field as to the achievement of economic and monetary union" and stressed that "economic expansion is not an end in itself ... it should result in an improvement in the quality of life as well as in standards of living."

Taking its cue from the Paris Summit, the enlarged Community embarked on policies designed to give a human face to a rather economic-minded Community. A social action programme was drawn up and the Nine set themselves the task of implementing the many social provisions of the Treaties which had remained in the background during the period of rapid economic expansion.

It should not be assumed, however, that it took until 1972 for the Community to become relevant or important to the man-in-the-street. As we shall see, Community law, of its very nature, began to influence the life of the individual long before the Nine pledged themselves to implement a social action programme.

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(1) The European Coal and Steel Community and the European Economic Community.
The third European community is the European Atomic Energy Community.

II. COMMUNITY LAW AND THE COMMUNITY CITIZEN

When the Six (Belgium, France, West Germany, Italy, Luxembourg and the Netherlands) signed the Treaty of Rome they created an entirely new order of international law.

Under international law, as it is normally understood, only states can be bound by international treaties. The originality of Community law stems from the fact that much of it applies directly to the individual citizen, imposing clearly-defined obligations as well as granting certain rights. These rights and obligations must be upheld in the first instance by national courts and in the second instance by the European Court of Justice.

Not all Community legislation applies directly to the individual citizen, however. Certain Treaty provisions impose obligations on the Member States to enact implementing legislation ; but if they fail to do so within the time limit specified, the provisions in question become "directly applicable" : this means that individuals or bodies can refer directly to the Treaties to protect their rights. Similarly, legislation adopted by the Community in the form of "regulations" is directly applicable too.

The Community citizen is affected by Community law in certain areas only. It has very little impact on his private life for example : laws on marriage, divorce, succession, private contracts, tort and so on remain the legal domain of national parliaments. In the rare cases where Community law does affect the individual in his private capacity, it is to create freedoms, such as freedom of movement.

By contrast the citizen is very much affected by Community legislation where his relations with the state and its agencies are involved. In the sphere of public law, as in all the other legal spheres it touches Community law prevails over national law - a principle which is fundamental if common goals are to be achieved.

The supremacy of Community law over national law is a principle which has always been upheld not only by the Court of Justice but also by national courts themselves ; it means that if a Community citizen considers that national law is being applied to him in a way that is incompatible with Community law, he can appeal to the national courts to ensure that Community law is applied to his case.

Since the primacy and direct applicability of Community law were not clearly defined in the Treaties establishing the European Communities, one of the Court's major functions has been to clarify and interpret the Treaties on this point. But as member countries have sometimes proved reluctant to apply Community law, particularly where financial considerations are involved, the Court has found itslef playing the role of watchdog and guardian of the Treaties on many occasions.

Individuals are at liberty to bring direct proceedings in the Court of Justice via a lawyer appointed to represent them, but the procedure most frequently used for the settlement of disputes involving individuals is the request for a preliminary ruling.

The authors of the Treaty of Rome recognized that, if Community law were to be administered by a large number of courts throughout the Member States, differences of interpretation were bound to occur. They therefore provided (in Article 177 of the EEC Treaty and Article 150 of the Euratom Treaty) a device whereby cases in which the interpretation of Community law is open to doubt can be referred to the European Court of Justice. In practice national courts often refer cases to the Court of Justice before the final appeal court is reached.

The Court cannot intervene directly in cases pending in national courts. But the preliminary ruling procedure allows it to interpret the point of Community law in question, the national court being expected to follow this interpretation in its judgment.

The number of cases referred to the Court of Justice for preliminary ruling has grown steadily over the years and cases of this kind are playing an increasingly important part in its activities. In 1969 only seventeen requests for preliminary rulings were put to the Court, as compared with forty-five in 1975. The Court has no physical means of enforcing its judgments but in practice they are never ignored.

III. HOW THE COURT OF JUSTICE WORKS

The Court of Justice created by the European Treaties acts for all three Communities - the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community.

Since enlargement in January 1973, the Court has been composed of nine judges chosen from amongst nationals of the Member States by common consent of the nine governments. At present all the Member States are represented in the Court, although in theory, all nine judges could come from one Member State. The judges are appointed for a period of six years on a renewable mandate.

The judges elect a President from among their number for a renewable period of three years. The President can make "orders" in matters of procedure and rule on questions of admissibility. Since he has no casting vote, the Court must always sit in uneven numbers of nine, seven or five.

The Court has four Advocates-General who are appointed by the national governments in the same way as the judges. Their task is to deliver impartial submissions on each of the cases before the Court.

The judges and the Advocates-General nominate a Registrar of the Court who acts as clerk of the court and Secretary-General of the entire institution. He is appointed for a six-year period.

The Court normally sits three days a week in public session. Its official language are the six official languages of the European Community but cases are usually conducted in the language of the applicant.

Cases may be brought before the Court by private individuals, national courts, Member States or Community institutions. The Court assumes some of the functions of an international court in that it has sole jurisdiction in the area of international law governed by the Treaties. It is also sole judge of the rights and obligations of the Community institutions. It has power to review the decisions of public authorities to ensure that they do not violate European law. It also functions as a civil court when for example it makes good damage caused to third parties by Community institutions or by their officials in the course of their duties. It may act as a court of appeal against fines imposed by the European Commission and, finally, it gives preliminary rulings on points of Community law put to it for interpretation. This, as we have said is now one of its major functions.

Since the European Communities have no law enforcement agency of their own the Court must rely on the law enforcement bodies of the Member States.

IV. THE EFFECTS OF THE COURT'S DECISIONS IN THE SOCIAL FIELD

In 1975 seventeen out of the forty-five cases brought before the Court of Justice dealt with social matters. The Court has thus acquired a very important role in the interpretation of social legislation deriving from the Treaties. In so doing it has generally given an extremely wide and liberal rendering of Community law.

Most of the cases referred to the Court of Justice relate to the social protection of migrant workers, an area in which some national administrations are inclined to give a rather narrow interpretation to Community law. Not unnaturally, since Italy supplies a large part of the Community's migrant labour force, many of these cases involved Italians.

One of the fundamental social provisions of the Treaty of Rome is that there should be free movement of workers within the Community. If workers are not to be deterred from moving within the Community they must be secure in the knowledge that they will not be discriminated against on grounds of nationality in the country in which they choose to settle, i.e. that they will not lose their rights to old age pension, disability pension, unemployment benefits or sickness benefit, or to widow's pensions for their wives, or to an education for their children. Only when all these barriers have been broken down can there be a true Community of European citizen.

(a) What is a "worker" ?

Since the ultimate aim is free movement of workers throughout the Community, one of the very early tasks facing the Court of Justice was to decide what Community legislation meant by "workers". This it had an opportunity to do with the Unger case, which came before it in 1963.

Mrs Unger had an employment contract with a Dutch company in Amsterdam and was therefore insured under the Dutch health insurance scheme. When her contract expired, she did not sign another one immediately as she was expecting a baby ; instead she took up the option offered to her under Dutch law to carry on her health insurance on a voluntary basis, on the understanding that she would return to work as soon as she possibly could.

While visiting her parents in Germany, however, Mrs Unger fell ill and needed urgent medical treatment. When she returned to the Netherlands, she claimed reimbursement of her German medical expenses, but was refused on the grounds that people who were voluntarily insured were entitled to reimbursement of medical expenses incurred abroad only if they had received prior authorization from the insurance organization to go abroad to convalesce ; this had not been the case with Mrs Unger.

Mrs. Unger appealed against this decision in the Dutch courts and pointed out that under Community legislation, a "wage-earner or assimilated worker" covered by national health insurance in one Member State is automatically entitled to repayment of medical expenses if he falls ill and needs medical attention while temporarily visiting another Member State (1).

The Dutch court was in some doubt as to whether Mrs Unger could be considered a "wage-earner or assimilated worker" and referred the matter to the Court of Justice for a preliminary ruling. The Court ruled that "worker" meant any person covered by any of the different national social security systems, irrespective of whether it was voluntary or not, that Mrs. Unger came into this category and that she was entitled to reimbursement of her expenses. The Court also pointed out that Community legislation precludes national law from making the grant of benefit to a person temporarily visiting another Community country subject to more stringent conditions than would apply if he were in his own country. Dutch law was therefore rendered invalid by Community law.

(b) Non-discrimination between Community nationals

Discrimination between Community nationals is recurrent theme in social cases referred to the Court of Justice for preliminary ruling. The Court has had to reaffirm time and time again the principle laid down in the Treaty of Rome that there should be no discrimination between workers from Community countries as regards employment, remuneration or other conditions of employment In reaffirming this principle it has given an extremely wide interpretation to the concept of equality in its concern to ensure that migrant workers are not unfavourably treated and that their integration into society in the host country is as complete as possible.

In 1969 the Court was asked to give a preliminary ruling on the case of Mr Ugliola, an Italian employed by the German company, Südmilch. Mr Ugliola was recalled from Germany to do his military service in Italy.Under German law, a worker called up for national service should be able to return to his former job, and the time spent in the army should not be deducted in calculating his period of employment. But when Mr. Ugliola returned to his job at Südmilch he had to go to the German courts to ask that his fifteen months spent in the army be taken into account for seniority purposes.

Mr. Ugliola invoked an EEC regulation (2) which states that " a worker who is a national of a Member State may not, in the territory of another Member State, be treated differently from

(1) regulation No 3 of 25 September 1958 ; Official Journal of the European Communities No 30, 16 December 1958

(2) regulation (EEC) No 1612/68 of 15 October 1968, Article 7 (1); Official Journal of the European Communities No L 257, 19.10.68

national workers by reason of his nationality in respect of any conditions of employment and work, in particular as regards remuneration and dismissal". The German court however maintained that the German provisions on military service were the domain of public, not labour law and therefore did not fall within the scope of the Community provisions.

An appeal was finally made to the Court of Justice which ruled that periods of military service carried out by Community nationals should be taken into account in calculations of senority in the same way as they would be for Germans. Any other solution would mean unfair discrimination against foreign workers and could deter workers from settling in another Community country.

Examples of the Community principle of non-discrimination on grounds of nationality crop up again and again in Court rulings in this field.

(c) Pensions for migrant workers

The European Court of Justice has dealt with numerous cases involving the grant of pensions to migrant workers within the Community. Pension calculations can be tricky and often give rise to disputes. For example, what old age pension is paid to an Italian worker who has spent nine years working in Germany and twelve years working in Italy ?

There are two possibilities. If he has worked (and paid contributions) in Germany for long enough to be entitled to an old age pension under German legislation, and if the same applies to his time in Italy, he will be entitled to two pensions, one payable in Germany, the other payable in Italy. If on the other hand he has not paid enough contributions to be entitled to an old age pension under national legislation, Community law provides for aggregation of the two periods (the one worked in Germany, the other in Italy) for purposes of calculating pension entitlement. Under Community legislation the German and Italian social security organizations would each pay a part of the total pension in proportion to the period during which contributions were paid in the two countries. The European Court of Justice has been asked for preliminary rulings in a large number of cases of this kind.

Another principle which the Court is frequently called upon to uphold in this field is based on the Treaty of Rome and defined in an EEC regulation (1) guaranteeing migrant workers from Community countries "the same social and tax advantes as national workers".

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(1) Regulation (EEC) 1612/68 of 15 October 1968, article 7 (2); Official Journal of the European Communities No L 257 of 19 October 1968.

This issue was raised in the case of Mrs Rita Frilli, an Italian woman who worked in Belgium for two years before she suddenly fell ill at the age of sixty and found herself an invalid, left with a pension of Bfrs 350 a month on the basis of two years'work in Belgium.

Shortly afterwards the Belgian government introduced legislation granting a minimum old age pension to everyone irrespective of whether they had been mage-earners or not and Mrs Frilli applied to the Belgian autorities for payment of this extra pension. She was refused on the grounds that the pension was nos related to employment and therefore constituted a form of social assistance which was payable to foreign nationals only if there was a reciprocal agreement to that effect with the migrant's own government. No such agreement existed in the case of Italy.

When the case was eventually referred to Luxembourg, the European Court of Justice had to decide whether the guaranteed minimum income for old age pensioners was in fact a form of social security, in which case it should clearly be granted to all eligible Community nationals, or whether it was a form of social assistance, which is not covered by Community legislation. The Court in fact ruled that the non-contributory old age pension is a form of social security and that it should therefore be granted to Mrs Frilli on the basis of Community legislation on social security for migrant workers.

(d) Railway concession fares for large families

The same legislation was recently invoked by the European Court of Justcie when it in its ruling in the Cristini case. This particular ruling has far-reaching implications in that it extended the concept of "social advantages" to encompass advantages not directly connected with employment, such as the granting of cheap railway fares to large families. By way of justifying such a wide interpretation the Court referred directly to Article 7 of the EEC Treaty, which prohibits "discrimination on grounds of nationality".

Mrs Cristini was the Italian widow of an Italian migrant worker who had been killed in an industrial accident in France. She was not employed herself, but continued to live in France with her children after her husband's death. Three years after his death, she applied to the French national railways for a special card issued to large families entitling them to cheap railway fares, but her application was refused on the grounds that she was not of French nationality. Under a long-standing French law, these cards are granted to foreign nationals only if a reciprocal agreement to that effect has been made with the migrant worker's government ; this was not the case with Italy.

Mrs. Cristini took the matter to the French courts, where a judgment was given against her, and finally the French Court of Appeal asked the Court of Justice for a ruling. The Court referred to Community legislation which stipulates that migrant workers must be given the same social and tax advantages as nationals and ruled that these social advantages included the special card which Mrs Cristini was seeking. The Court went on to state that under Community legislation a worker's family who has accompanied him to another member country is entitled to remain there after his death and to be granted the same social concessions as the survivors of a French worker.

The European Court of Justice thus gave a wide interpretation of Community law by eliminating the need for a specific connection between a social benefit and employment ; this is bound to have far-reaching repercussions.

(e) Education of migrant workers' children

EEC legislation states that the children of migrant workers should be admitted to educational courses under the same conditions as nationals.

A certain number of disputes have arisen in national courts as to what is meant by "under the same conditions". It could apply to the terms on which a child is admitted to a school or to the whole range of educational advantages to which children are entitled. In the end a decision had to be taken by the Court of Justice, which has always taken the wider of the two views to eliminate all discrimination between the children of different Community countries.

The Court upheld this view in the case of Mr. Alaimo, an Italian national working in Villeurbanne in France. Mr Alaimo's daughter had been admitted to a French school and received a state grant towards the cost of her education. When she had to change schools, however, she found that she was not entitled to a state grant at the new school, but had to claim one instead from her 'département'. The local authority refused on the grounds that, since its funds were limited, it had decided to restrict its aid to children of French nationality.

The matter was taken to the French courts by Mr. Alaimo, who claimed that such discrimination was illegal under Community law, and eventually the court in Lyon appealed to the Court of Justice.

In its ruling the Court of Justice recalled that previous decisions in matter of social security had been based on the principle that the law of each Member State should ensure that nationals of other Member States employed in its territory received all the benefits that it granted to its own nationals. Community legislation should therefore guarantee not just

admission to educational courses, but also access to educational grants and other advantages available to children of nationals. Mr Alaimo's daughter was therefore given a grant towards the cost of her education.

(f) The handicapped

The Community's provisions on education for migrant workers extend to education of the handicapped, if the handicapped person concerned is or has been a worker, or if he is a dependant of a migrant worker.

The Court's judgment in the case of Michal S. referred to earlier established the fact that social benefits for the handicapped, including the provision of occupational training, fall within the scope of Community legislation on equal educational opportunities for the children of migrant workers.(1)

The Court's judgment in the Callemeyn case refers to other Community provisions, this time the provision to the effect that freedom of movement for workers who are Community nationals should contribute to the improvement of their standard of living and conditions of employment, and that both they and their dependants should be guaranteed social security benefits. The Court's ruling confirmed that this section of Community legislation extended to benefits granted to the handicapped and that workers therefore had a legally protected right to such benefits.

In a more recent case the Court took this judgment even further by extending the right to benefits for the handicapped to the children of migrant workers, and by declaring that a handicapped child is entitled to continue receiving benefit even after he attains his majority.

The case was that of Mr and Mrs F. an Italian couple who had lived in Belgium since 1947. Mr F had been employed in Belgium since that date and had a son who was born handicapped in 1959. When their son was fourteen, Mr and Mrs F. applied to the Belgian Ministry of Social Security for a benefit granted under Belgian law to Belgian citizens who are handicapped and have reached the age of 14. The application was rejected on the grounds that, under the European Interim Agreement (1953) on social security schemes, a handicapped person who is not a Belgian national is not entitled to benefit until he has lived in Belgium for fifteen years as from the age of twenty. At that rate, Mr. and Mrs. F.'s son would be ineligible for benefit until he was 35.

The case reached the Belgian courts and was eventually referred by them to the Court of Justice. The question which the Belgian court put to the Community court was whether, under Community legislation, a handicapped child could acquire entitlement to benefit through his employed father and if so, whether he could continue to receive that benefit after he reached his majority.

(1) Regulation (EEC) No 1612/68, Article 12

(g) Equal pay for men and women

Article 119 of the Treaty of Rome lays down that men and women should receive equal pay for equal work, a principle which should have been incorporated into national legislation by 1962. However, this deadline was not met, and it is only recently that equal pay has become a legal reality throughout the Community.

In a recent decision the Court of Justice ruled that the provisions of the EEC Treaty on equal pay for men and women have been "directly applicable" to Community nationals since 1962. The case in question involved Miss Defrenne, a Belgian air hostess employed by Sabena, Belgium's national airline, who took legal action against her employers for discrimination on grounds of sex in respect of salary, pension and severance grant. Air stewards with the same seniority and qualifications were receiving more than she was on all three counts.

Miss Defrenne based her case on the equal pay provisions of the Treaty of Rome, but her claims in respect of pension and severance grant were rejected by the Belgian courts on the grounds that these did not count as remuneration and were therefore not covered by the Treaty. (Both have since been incorporated in the recent Council directive on equal treatment for men and women.)

The Belgian court referred the case to the Court of Justice for a ruling on whether or not a private citizen could invoke Article 119 of the Treaty in the absence of national implementing legislation. If Article 119 was directly applicable, the Belgian court wanted to know from what date it took effect.

The Court ruled that Community provisions on equal pay for men and women could be invoked directly by Community citizens since the Member States had failed to introduce implementing legislation within the required time limit. Since this should have been done by 1962, the provisions became directly applicable as from that date.

As a result of the Court's decision in the Defrenne case, Community citizens can now invoke the principle of equal pay as laid down in Article 119 before national courts, and national courts have a duty to uphold the principle, especially in cases of legislative discrimination, discrimination in collective agreements, or discrimination by a public or private company.

V. FREEDOM OF ESTABLISHMENT

As we have seen, freedom of movement one of the fundamental principles of the Treaty of Rome. But freedom of establishment is equally important principle. In simple terms it means that Community citizens should be free to work as self-employed persons or to set up companies or firms in any Community country.

This principle was upheld by the Court of Justice in its ruling in the case involving Mr Reyners, a Dutch citizen born and brought up in Belgium. Despite the fact that Mr. Reyners had a Belgian law degree, he was barred from practising in Belgium by virtue of his nationality. Under Belgian law foreign nationals can be admitted to the bar only if they fulfil a number of conditions, one of which is that there must be a reciprocal agreement with the other country concerned. Unfortunately for Mr Reyners no such agreement existed with the Netherlands.

Mr Reyners brought a case in the Belgian courts against the Belgian law society claiming that this rule violates the provisions of the Treaty of Rome on freedom of establishment and non-discrimination on grounds of nationality, but the judgment went against him; the court held that Community rules on freedom of establishment did not apply to activities involving the exercise of official authority and hence to the legal profession.

The case eventually went before the Court of Justice which ruled that freedom of establishment is a fundamental Community principle which Community citizens can invoke directly in the courts. It conceded that freedom of establishment did not apply to activities involving the exercise of official authority but held that the profession of "advocat", which involves matters such as legal consultation and assistance and the defence of clients in court did not fall into this category.

The Belgian bar was therefore obliged to revise its conditions for the admission of nationals from other member countries, and Mr Reyners was free to practise in Belgium.

VI. FREEDOM TO PROVIDE SERVICES

Articles 59 and 60 of the Treaty of Rome lay down that Community citizens should be free to provide services in member countries other than their own, services in this sense including activities carried out by craftsmen, professional people and business men in return for payment. This means for example that a Danish plumber from Denmark or an Irish interior decorator should be free to set up shop in the countries of their choice.

The Court of Justice has had to uphold this principle on a number of occasions most recently in the case of Robert Coenen, a Dutch citizen who moved to Belgium. After his move, Mr. Coenen intended to carry on working as an insurance broker on behalf of two Dutch insurance companies, of which he was the managing director.

Under Dutch law, however, insurance brokers are required to register before they can set up business and one of the conditions of registration is that the person involved should live in the Netherlands or, failing this, that the person responsible for the management of his activities in the Netherlands should do so. Since both these functions were carried out by Mr. Coenen, his application was turned down.

Mr. Coenen took the matter to the Dutch courts, and they in turn referred the case to the Court of Justice to see whether there was a chance that EEC Community rules on the freedom to provide services might invalidate the Dutch restrictions.

The Court of Justice ruled that the Dutch residence requirements were in fact contrary to Community regulations and that no Member State should adopt laws which made it impossible for a Community national living in another member country to provide services for which he is professionally qualified.

VII. AGRICULTURE

Agriculture is one of the vital areas of Community policy and the common agricultural market is already an everyday reality. As the organization of the market lies largely in the hands of member governments and intervention agencies, there have been very few instances in which the Court of Justice has been called upon to give rulings in cases involving individual farmers. Nevertheless, when such cases have arisen, the Court has been ready to defend the interests of the small farmer. This was clearly demonstrated in the case of Mrs Leonesio.

In 1969 in an effort to cut back milk production the Community's Council of Ministers adopted two regulations under which farmers who owned more than two milk cows and slaughtered some of their dairy herd would be paid a premium if they complied with certain formalities.

The following year Mrs Leonesio, an Italian farmer, killed five of her milk cows and applied to the local authorities for payment of the premium. The authorities replied that they could not pay the premium, as the Italian Government had not yeat made the budgetary arrangements necessary to implement the Community regulations.

Mrs Leonesio subsequently took her case to the Italian court and from there it was referred to the Court of Justice.

The Court found that the Community provisions in question were in the form of regulations and as such took immediate effect, conferring rights on the individual which Member States are obliged to protect. The fact that the Italian government had not taken the necessary steps to implement them was irrelevant. Mrs Leonesio was therefore quite entitled to claim payment of the slaughter premium. By virtue of this ruling, all farmers can claim immediate payment of similar premiums provided for under Community regulations.

VIII. CONCLUSION

The above examples, which are only a few of the many cases referred to the Court of Justice, demonstrate convincingly that Community law in general and the Court of Justice in particular play a vital role in ensuring that the rights conferred on Community citizens by the Treaties are fully upheld. Community policies are constantly evolving and will continue to confer rights and impose obligations on countries, organizations and citizens alike. It will be for the Court of Justice to ensure that the interests of the individual are safeguarded at all times and that the Community retains the "human face" which is essential if it is to be directly accessible to the man (and woman) in the street.