Synopsis of the work of the Court of Justice of the European Communities in 1982

Luxembourg 1983

Synopsis of the work of the Court of Justice of the European Communities in 1982

Luxembourg 1983

This publication is also available in the following languages:

DA ISBN 92-829-0065-7
DE ISBN 92-829-0066-5
GR ISBN 92-829-0069-X
FR ISBN 92-829-0068-1
IT ISBN 92-829-0070-3
NL ISBN 92-829-0071-1

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 *Reports of Cases Before the Court* (ECR).

The synopsis is published in the official languages of the Communities (Danish, Dutch, English, French, German, Greek, Italian). It is obtainable free of charge on request (specifying the language required) from the Information Offices of the European Communities whose addresses are listed in Annex 6.

Contents

I – Proceedings of the Court of Justice of the European Communities

1. Case-law of the Court

A — *Statistical information*

Judgments delivered

During 1982 the Court of Justice of the European Communities delivered 185 judgments and interlocutory orders (128 in 1981):

60 were in direct actions (excluding actions brought by officials of the Communities);

94 were in cases referred to the Court for preliminary rulings by the national courts of the Member States;

31 were in cases concerning Community staff law.

102 of the judgments were delivered by Chambers, of which:

56 were in cases referred to the Court for a preliminary ruling and assigned to the Chambers pursuant to Article 95(1) of the Rules of Procedure;

15 were in direct actions assigned to the Chambers pursuant to Article 95(1) and (2) of the Rules of Procedure; and

31 were in Community staff cases.

The Court made one order relating to the adoption of interim measures.

The President of the Court, or the Presidents of Chambers made 14 orders relating to the adoption of interim measures.

Public sittings

In 1982 the Court held 129 public sittings. The Chambers held 194 public sittings.

Cases pending

Cases pending are divided up as follows:

	31 December 1981	31 December 1982
Full Court	217	239
Chambers		
Actions by officials of the Communities	1 281[1]	866[2]
Other actions	36	34
Total number before the Chambers	1 317[1]	900[2]
Total number of current cases	1 534[1]	1 139[2]

[1] Including 1 112 cases belonging to 10 large groups of related cases.
[2] Including 691 cases belonging to eight large groups of related cases.

Length of proceedings

The average length of proceedings has become longer in the last few years as a result of the increasing number of actions which have been brought.

Proceedings lasted in 1982 for the following periods:

In cases brought directly before the Court the average length was approximately 13 months (the shortest being 7 months). In cases arising from questions referred to the Court by national courts for preliminary rulings, the average length was some 12 months (including judicial vacations).

Cases brought in 1982

In 1982, 345 cases were brought before the Court of Justice. They concerned:

1. Actions by the Commission for a failure to fulfil an obligation brought against:

Belgium	9
Denmark	1
France	8
Federal Republic of Germany	4
Ireland	3
Italy	14
Luxembourg	3
The Netherlands	2
United Kingdom	2
Carried forward	46

	Brought forward		46
2.	Actions brought by the Member States against the Commission:		
	Federal Republic of Germany	2	
	Italy	2	
	The Netherlands	3	
		—	
			7
3.	Actions between Community institutions:		
	Council against European Parliament	1	
	Council against Commission	1	
	Commission against Council	2	
		—	
			4
4.	Actions brought by natural or legal persons against:		
	Commission	71	
	Council	1	
	Commission and Council	2	
		—	
			74
5.	Actions brought by officials of the Communities . .	85	
		—	
			85
6.	References made to the Court of Justice by national courts for preliminary rulings on the interpretation or validity of provisions of Community law. Such references originated as follows:		
	Belgium	10	
	10 from courts of first instance or of appeal		
	Denmark	1	
	1 from a court of appeal		
		—	
	Carried forward	11	216
			9

	Brought forward	11	216
	France	39	
	2 from the Cour de cassation 2 from the Conseil d'État 35 from courts of first instance or of appeal		
	Federal Republic of Germany	36	
	1 from the Bundesverwaltungsgericht 4 from the Bundesfinanzhof 2 from the Bundessozialgericht 29 from courts of first instance or of appeal		
	Italy	18	
	3 from the Corte suprema di cassazione 15 from courts of first instance or of appeal		
	The Netherlands	21	
	1 from the Raad van State 4 from the Hoge Raad 4 from the College van Beroep voor het Bedrijfsleven 2 from the Tariefcommissie 10 from the courts of first instance or of appeal		
	United Kingdom	4	
	4 from courts of first instance or of appeal		
			129
			345
7.	Applications for the adoption of interim measures		21
8.	Interpretation		2
9.	Taxation costs		7
		Total	**375**

Lawyers

During the sittings held in 1982, apart from the representatives or agents of the Council, the Commission and the Member States the Court heard:

47 lawyers from Belgium,
2 lawyers from Denmark,
38 lawyers from France,
40 lawyers from the Federal Republic of Germany,
4 lawyers from Ireland,
17 lawyers from Italy,
18 lawyers from Luxembourg,
9 lawyers from the Netherlands,
23 lawyers from the United Kingdom.

TABLE 1

Cases brought since 1953 analysed by subject-matter[1]

Situation at 31 December 1982

(The Court of Justice took up its duties under the ECSC Treaty in 1953 and under the EEC and EAEC Treaties in 1958)

Type of case	Direct actions											
	ECSC				EEC							EAEC
	Scrap equalization	Transport	Competition	Other[2]	Free movement of goods and customs union	Right of establishment, freedom to supply services	Tax cases	Competition	Social security and free movement of workers	Agricultural policy	Other	
Cases brought	167	35	27	132	77	7	27	164	5	176	251	4
	–	–	–	(24)	(19)	(3)	(4)	(29)	–	(10)	(42)	–
Cases not resulting in a judgment	25	6	10	41	20	1	3	13	2	26	68	1
	–	–	–	(13)	(6)	–	–	(4)	–	(1)	(22)	–
Cases decided	142	29	17	65	34	1	19	119	3	137	132	3
	–	–	–	(11)	(2)	–	(1)	(3)	–	(10)	(39)	–
Cases pending	–	–	–	26	23	5	5	32	–	13	51	–

Note: The figures in brackets under the heading 'Cases brought' represent the cases brought during the year.
The figures in brackets under the other headings represent the cases dealt with by the Court during the year.

[1] Cases concerning several subjects are classified under the most important heading.
[2] Levies, investment declarations, tax charges, miners' bonuses.
[3] Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (the 'Brussels Convention').

Cases concerning Community staff law	References for preliminary rulings										
	Free movement of goods and customs union	Right of establishment, freedom to supply services	Tax cases	Competition	Social security and freedom of movement of workers	Agricultural policy	Transport	Convention, Article 220[3]	Privileges and immunities	Other	Total
1 979	250	27	51	49	215	337	19	37	8	85	4 129
(85)	(29)	(1)	(3)	(1)	(15)	(65)	(3)	(4)	–	(8)	(345)
576	11	2	1	4	12	11	3	2	2	6	846
(456)	(2)	–	–	–	(2)	(1)	–	–	(1)	–	(508)
520	212	24	47	44	190	290	15	31	6	64	2 144
(29)	(31)	(5)	(8)	(1)	(17)	(62)	(2)	(4)	–	(7)	(232)
883	27	1	3	1	13	36	1	4	–	15	1 139

TABLE 2

Cases brought since 1958 analysed by type (EEC Treaty)[1]

Situation at 31 December 1982

(The Court of Justice took up its duties under the EEC Treaty in 1958)

Type of case	Proceedings brought under													
			Article 173					Article 177						
	Arts 169 and 93	Art. 170	By governments	By Community institutions	By individuals	Total	Art. 175	Validity	Interpretation	Total	Art. 181	Art. 215	Protocols conventions Art. 220	Grand total[2]
Cases brought	211	2	42	8	266	316	21	158	879	1 037	5	171	37	1 800
Cases not resulting in a judgment	62	1	8	3	29	40	3	4	48	52	–	27	2	187
Cases decided	102	1	28	4	187	219	17	150	739	889	–	119	31	1 378
In favour of applicant[3]	93	1	6	2	49	57	–				–	9		160
Dismissed on the substance[4]	9	–	21	2	93	116	2				–	96		223
Dismissed as inadmissible	–	–	1	–	45	46	15				–	14		75
Cases pending	47	–	6	1	50	57	1	4	92	96	5	25	4	235

[1] Excluding proceedings by staff and cases concerning the interpretation of the Protocol on Privileges and Immunities and of the Staff Regulations (see Table 1).

[2] Totals may be smaller than the sum of individual items because some cases are based on more than one Treaty article.

[3] In respect of at least one of the applicant's main claims.

[4] This also covers proceedings rejected partly as inadmissible and partly on the substance.

TABLE 3

Cases brought since 1953 under the ECSC Treaty[1] and since 1958 under the EAEC Treaty[1]

Situation at 31 December 1982

(The Court of Justice took up its duties under the ECSC Treaty in 1953 and under the EAEC Treaty in 1958)

Type of case	Number of proceedings instituted									Total	
	By governments		By Community institutions		By individuals (undertakings)		Art. 41 ECSC	Art. 150 EAEC	Art. 153 EAEC	ECSC	EAEC
	ECSC	EAEC	ECSC	EAEC	ECSC	EAEC	Questions of validity	Questions of interpretation			
Cases brought	22	–	1	1	338	1	1	3	2	362	7
Cases not resulting in a judgment	9	–	–	–	73	–	–	–	1	82	1
Cases decided	12	–	–	1	240	1	–	3	1	252	6
In favour of applicants[2]	5	–	–	1	43	1			–	48	2
Dismissed on the substance[3]	7	–	–	–	147	–			1	154	1
Dismissed as inadmissible	–	–	–	–	50	–			–	50	–
Cases pending	1	–	1	–	25	–	1	–	–	28	–

[1] Excluding proceedings by staff and cases concerning the interpretation of the Protocol on Privileges and Immunities and of the Staff Regulations (see Table 1).

[2] In respect of at least one of the applicant's main claims.

[3] This also covers proceedings rejected partly as inadmissible and partly on the substance.

TABLE 4(a)

Cases dealt with by the full Court and the Chambers analysed according to the type of proceedings

Nature of proceedings	Cases brought in 1982	Cases dealt with in 1982			Judgments and interlocutory judgments	Opinions	Orders	Cases pending	
		(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1981	31 Dec. 1982
Art. 177 EEC Treaty	124	139	134	5	90	–	1	111	96
Art. 169 EEC Treaty	46	44	23	21	24	–	–	45	47
Art. 173 EEC Treaty	49	26	16	10	15	–	–	28	51
Arts 173 & 175 EEC Treaty	1	1	1	–	1	–	–	1	1
Arts 173 & 215 EEC Treaty	4	2	1	1	1	–	–	4	6
Arts 175 & 215 EEC Treaty	1	–	–	–	–	–	–	–	1
Art. 181 EEC Treaty	2	–	–	–	1	–	–	3	5
Arts 178 & 215 EEC Treaty	4	15	14	1	10	–	–	29	18
Protocol and Convention on Jurisdiction	4	4	4	–	4	–	–	4	4
Art. 33 ECSC Treaty	24	23	11	12	7	–	–	24	25
Art. 38 ECSC Treaty	–	–	–	–	–	–	–	1	1
Art. 41 ECSC Treaty	1	–	–	–	–	–	–	–	1
Art. 88 ECSC Treaty	–	1	–	1	–	–	–	1	–
Interim measures	21	21	17	4	–	–	15	3	3
Interpretation	2	1	1	–	1	–	–	–	1
Taxation of costs	7	7	7	–	–	–	1	–	–
Legal aid	5	3	3	–	–	–	3	–	2
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	85	485	29	456	31	–	–	1 283	883
Total	380	772	261	511	185	–	20	1 537	1 145
Cases kept on the Register or adjourned *sine die*	53	454	9	445	–	–	–	1 194	755

TABLE 4(b)

Cases dealt with by the full Court analysed according to the type of proceedings

Nature of proceedings	Cases brought before the full Court in 1982	Cases brought before a Chamber and referred to the full Court in 1982	Cases dealt with in 1982			Judgments and inter-locutory judgments	Opinions	Orders	Cases assigned to a Chamber in 1982	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register					31 Dec. 1981	31 Dec. 1982
Art. 177 EEC Treaty	124	–	53	48	5	36	–	1	79	82	74
Art. 169 EEC Treaty	46	–	44	23	21	24	–	–	–	45	47
Art. 173 EEC Treaty	49	1	17	7	10	6	–	–	9	25	49
Arts 173 & 175 EEC Treaty	1	–	–	–	–	–	–	–	1	1	1
Arts 173 & 215 EEC Treaty	4	–	2	1	1	1	–	–	1	4	5
Arts 175 and 215 EEC Treaty	1	–	–	–	–	–	–	–	–	–	1
Art. 181 EEC Treaty	2	–	–	–	–	–	–	–	1	2	3
Arts 178 & 215 EEC Treaty	4	–	12	11	1	7	–	–	1	27	18
Protocol and Convention on Jurisdiction	4	–	2	2	–	2	–	–	2	3	3
Art. 33 ECSC Treaty	24	–	19	10	9	6	–	–	10	24	19
Art. 38 ECSC Treaty	–	–	–	–	–	–	–	–	–	1	1
Art. 41 ECSC Treaty	1	–	–	–	–	–	–	–	–	–	1
Art. 88 ECSC Treaty	–	–	1	–	1	–	–	–	–	1	–
Interim measures	13	–	13	12	1	–	–	10	–	–	–
Interpretation	1	–	1	1	–	1	–	–	–	–	–
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	–	15	–	–	–	–	–	–	–	2	17
Total	274	16	164	115	49	83	–	11	104	217	239
Cases kept on the Register or adjourned *sine die*		–	2	–	2	–	–	–	5	14	8

TABLE 4(c)

Cases dealt with by the First Chamber analysed according to the type of proceedings

Nature of proceedings	Cases brought before the First Chamber	Cases brought before the full Court or Chamber and assigned to the First Chamber in 1982	Cases dealt with in 1982			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1982	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1981	31 Dec. 1982
Art. 177 EEC Treaty	–	40	46	46	–	20	–	–	9	3
Art. 173 EEC Treaty	–	2	2	2	–	2	–	–	1	1
Art. 181 EEC Treaty	–	1	–	–	–	1	–	–	1	2
Arts 178 & 215 EEC Treaty	–	–	2	2	–	2	–	–	2	–
Protocol and Convention on Jurisdiction	–	–	1	1	–	1	–	–	1	–
Interim measures	3	–	3	2	1	–	1	–	1	1
Legal aid	2	–	1	1	–	–	1	–	–	1
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	19	–	472	21	451	23	–	21	1 212	738
Total	24	43	527	75	452	49	2	21	1 227	746
Cases kept on the Register or adjourned *sine die*	–	8	443	–	443	–	–	–	1 140	696

TABLE 4(d)

Cases dealt with by the Second Chamber analysed according to the type of proceedings

Nature of proceedings	Cases brought before the Second Chamber	Cases brought before the full Court or Chamber and assigned to the Second Chamber in 1982	Cases dealt with in 1982			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1982	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec 1981	31 Dec. 1982
Art. 177 EEC Treaty	–	20	25	25	–	20	–	1	11	5
Art. 173 EEC Treaty	–	6	5	5	–	5	–	1	1	1
Arts 173 & 175 EEC Treaty	–	1	1	1	–	1	–	–	–	–
Protocol and Convention on Jurisdiction	–	1	1	1	–	1	–	–	–	–
Art. 33 ECSC Treaty	–	4	4	1	3	1	–	–	–	–
Interim measures	3	–	3	1	2	–	1	–	2	2
Taxation of costs	7	–	7	7	–	–	1	–	–	–
Legal aid	1	–	–	–	–	–	–	–	–	1
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	60	–	6	3	3	3	–	17	58	95
Total	71	32	52	44	8	31	2	19	72	104
Cases kept on the Register or adjourned *sine die*	41	–	–	–	–	–	–	–	40	47

TABLE 4(e)

Cases dealt with by the Third Chamber analysed according to the type of proceedings

Nature of proceedings	Cases brought before the Third Chamber	Cases brought before the full Court or Chamber and assigned to the Third Chamber in 1982	Cases dealt with in 1982			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1982	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1981	31 Dec. 1982
Art. 177 EEC Treaty	–	16	15	15	–	14	–	1	9	9
Art. 173 EEC Treaty	–	2	2	2	–	2	–	1	1	–
Arts 178 & 215 EEC Treaty	–	1	1	1	–	1	–	–	–	–
Interim measures	2	–	2	2	–	–	2	–	–	–
Interpretation	1	–	–	–	–	–	–	–	–	1
Legal aid	2	–	2	2	–	–	2	–	–	–
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	38	–	7	5	2	5	–	9	11	33
Total	43	19	29	27	2	22	4	11	21	43
Cases kept on the Register or adjourned *sine die*	4	–	–	–	–	–	–	–	–	4

TABLE 4(f)

Cases dealt with by the Fourth Chamber analysed according to the type of proceedings[1]

Nature of proceedings	Cases brought before the Fourth Chamber	Cases brought before the full Court or Chamber and assigned to the Fourth Chamber in 1982	Cases dealt with in 1982			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1982	Cases pending
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1982
Art. 177 EEC Treaty	–	2	–	–	–	–	–	–	2
Art. 33 ECSC Treaty	–	6	–	–	–	–	–	–	6
Total	–	8	–	–	–	–	–	–	8

[1] The Court decided to create, with effect from 7 October 1982, a Fourth and Fifth Chamber, each composed of five judges.

TABLE 4(g)

Cases dealt with by the Fifth Chamber analysed according to the type of proceedings[1]

Nature of proceedings	Cases brought before the Fifth Chamber	Cases brought before the full Court or Chamber and assigned to the Fifth Chamber in 1982	Cases dealt with in 1982			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1982	Cases pending
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1982
Art. 177 EEC Treaty	–	3	–	–	–	–	–	–	3
Arts 173 & 215 EEC Treaty	–	1	–	–	–	–	–	–	1
Protocol and Convention on Jurisdiction	–	1	–	–	–	–	–	–	1
Total	–	5	–	–	–	–	–	–	5

[1] The Court decided to create, with effect from 7 October 1982, a Fourth and Fifth Chamber, each composed of five judges.

TABLE 5

Judgments delivered by the Court and Chambers analysed by language of the case

1976–1982

Judgments	Year	Danish	Dutch	English	French	German	Greek	Italian	Total
Full Court									
Direct actions	1976	–	–	–	4	3	–	4	11
	1977	–	2	–	4	4	–	1	11
	1978	–	3	2	5	5	–	5	20
	1979	–	4	7	7	10	–	9	37
	1980	1	1	7	8	2	–	11	30
	1981	–	1	3	2	3	–	11	20
	1982	1	4	6	18	7	–	9	45
References for a preliminary ruling	1976	1	6	2	9	19	–	13	50
	1977	–	17	3	17	17	–	10	64
	1978	2	7	6	10	20	–	6	51
	1979	2	11	4	12	21	–	8	58
	1980	1	7	5	11	10	–	6	40
	1981	1	11	6	4	7	–	7	36
	1982	1	10	4	12	9	–	2	38
Staff cases	1976	–	–	–	2	–	–	–	2
	1977	–	–	–	–	–	–	–	–
	1978	–	–	–	–	–	–	–	–
	1979	–	–	–	–	–	–	–	–
	1980	–	–	–	–	–	–	–	–
	1981	–	–	–	–	–	–	–	–
	1982	–	–	–	–	–	–	–	–
Chambers									
Direct actions	1980	–	–	–	1	1	–	2	4
	1981	–	–	–	1	–	–	–	1
	1982	–	–	3	5	4	1	2	15
References for a preliminary ruling	1976	–	–	–	1	2	–	–	3
	1977	–	1	–	–	10	–	–	11
	1978	–	1	1	1	8	–	–	11
	1979	–	8	–	6	10	–	1	25
	1980	–	3	3	9	14	–	6	35
	1981	1	7	2	7	11	–	1	29
	1982	–	7	1	14	30	–	4	56
Staff cases	1976	1	2	1	17	–	–	1	22
	1977	–	1	–	11	1	–	1	14
	1978	–	1	1	12	1	–	–	15
	1979	–	–	–	17	–	–	1	18
	1980	–	–	–	23	–	–	–	23
	1981	–	2	4	28	4	–	4	42
	1982	–	–	2	21	5	–	3	31

B – *Summary of cases decided by the Court*

It is not possible within the confines of this brief synopsis to present a full report on the case-law of the Court of Justice.

Although there is always a danger that a selective presentation may be influenced by subjective factors, this synopsis presents a selection of judgments worthy of particular attention.

(a) **Effect of directives**

Judgment of 19 January 1982, Case 8/81 *Ursula Becker* v *Finanzamt Münster-Innenstadt* [Tax Office, Münster Central] ([1982] ECR 53)

The Finanzgericht [Finance Court] Münster referred to the Court for a preliminary ruling a question on the interpretation of Article 13B of the Sixth Council Directive in order to determine whether that provision might be regarded as having been directly applicable in the Federal Republic of Germany from 1 January 1979 when that Member State failed to adopt within the period laid down the measures necessary in order to ensure its implementation.

The background to the dispute

Under the provisions of the Sixth Directive the Member States were required to adopt by 1 January 1978 at the latest the necessary laws, regulations and administrative provisions in order to modify their systems of value-added tax in accordance with the requirements of the directive.

The Federal Republic of Germany implemented the Sixth Directive by the Law of 26 November 1979, which took effect on 1 January 1980.

In her monthly returns in respect of value-added tax for the period from March to June 1979 Mrs Becker, the plaintiff in the main proceedings, who carries on the business of a self-employed credit negotiator, requested that her transactions be exempted from tax, claiming that Article 13B(d) of the Sixth Directive, which compels the Member States to exempt from value-added tax *inter alia* 'the granting and the negotiation of credit', had already been incorporated into national law since 1 January 1979.

Consequently, in each case Mrs Becker declared the amount of tax payable and the deduction in respect of input tax to be 'nil'.

The Finanzamt did not accept those returns and, in its provisional notices of assessment for the months in question, formally charged turnover tax on the transactions of the plaintiff in the main proceedings, subject to a deduction in respect of input tax. Against those assessments the plaintiff in the main proceedings relied upon the Sixth Directive.

Those circumstances led the Finanzgericht to refer to the Court the following question:

'Has the provision contained in Title X, Article 13B(d)1 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value-added tax: uniform basis of assessment, concerning the exemption from turnover tax of transactions consisting of the negotiation of credit, been directly applicable in the Federal Republic of Germany from 1 January 1979?'

Substance

The Finanzamt, the Government of the Federal Republic of Germany and the Government of the French Republic do not dispute the fact that the provisions of directives may be relied upon by individuals in certain circumstances but maintain that the provision in question in the main proceedings cannot be endowed with such effect.

The French Republic considers that the directives on fiscal matters seek to achieve the progressive harmonization of the various national systems of taxation but not the replacement of those systems by a Community system of taxation. The French Government is of the opinion that the directive is not, in its entirety, capable of having any effects whatsoever in the Member States before the adoption of appropriate national legislative measures.

The Federal Republic of Germany supports the view that no direct effect can be bestowed upon the provisions of Article 13 owing to the margin of discretion, the rights and the options which that article contains.

The Finanzamt, emphasizing the problems arising from the chain of taxation, which is a characteristic of value-added tax, takes the view that it is not possible to remove an exemption from its context without disrupting the entire mechanism of the fiscal system concerned.

The effect of directives in general

'A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods' (Article 189 of the EEC Treaty). Thus, Member States to

which a directive is addressed are under an obligation to achieve a result, which must be fulfilled before the expiry of the period laid down by the directive itself.

However, special problems arise where a Member State has failed to implement a directive correctly and, more particularly, where a directive has not been implemented within the prescribed period.

A Member State which has not adopted the implementing measures required by the directive within the prescribed period may not rely against individuals upon its own failure to fulfil the obligations contained therein.

The question of the Finanzgericht seeks to determine whether Article 13B(d)1 of the directive, which provides that the Member States 'shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions and of preventing any possible evasion, avoidance or abuse: ... (d) the following transactions: 1. The granting and the negotiation of credit', can be regarded as having a content which is unconditional and sufficiently precise.

The scheme of the directive and the context

Inasmuch as it specifies the exempt supply and the person entitled to the exemption, the provision of itself is sufficiently precise to be relied upon by persons concerned and applied by a court.

It remains to be considered whether the right to exemption which it confers may be considered to be unconditional.

The first argument to be considered is that based on the fact that the provision referred to by the national court is an integral part of a harmonizing directive which in various respects reserves to the Member States a margin of discretion entailing rights and options.

The binding nature of the obligation imposed on the Member States by the third paragraph of Article 189 of the Treaty would be deprived of any effect if the Member States were permitted to annul by their default the very effects which certain provisions of a directive were capable of producing by virtue of their content.

The Federal Republic of Germany and the French Republic draw attention to the margin of discretion reserved to the Member States by the introductory sentence of that article, where it is stated that exemption is to be granted by the Member States 'under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions and of preventing any possible evasion, avoidance or abuse.'

A Member State may not rely against a taxpayer who is able to show that his tax position actually falls within one of the categories of exemption laid down by the

directive upon its failure to adopt the provisions which are specifically intended to facilitate the application of that exemption.

Moreover, the term 'conditions' covers measures intended to prevent any possible evasion, avoidance or abuse. A Member State which has failed to take the precautions necessary for that purpose may not plead its own failure to do so in order to refuse to grant to a taxpayer an exemption which he may legitimately claim under the directive.

The argument based on the introductory sentence of Article 13B must be rejected.

In support of the view that the provision in question may not be relied upon the Finanzamt, the Federal Republic of Germany and the French Republic also refer to Part C of Article 13, which reads as follows: 'Options. Member States may allow taxpayers a right of option for taxation in cases of: ... (b) the transactions covered in B (d) ... Member States may restrict the scope of this right of option and shall fix the details of its use.' The Court considers that Article 13C in no way confers upon the Member States the right to place conditions on or restrict in any manner whatsoever the exemptions provided for by Part B. It merely reserves the right to the Member States to allow to a varying extent persons entitled to exemptions to opt for taxation themselves, if they consider that it is in their interest to do so.

The provision relied upon in order to prove the conditional nature of the exemption is not relevant to this case.

The system of value-added tax

The Finanzamt considers that the severing of the normal chain of value-added tax by the effect of an exemption would be likely adversely to affect the interests both of the actual person entitled to the exemption and of the taxpayers who follow or even precede him in the chain of supply.

The Court points out that the scheme of the directive is such that on the one hand, by availing themselves of an exemption, persons entitled thereto necessarily waive the right to claim a deduction in respect of input tax and on the other hand, having received exemption, they are unable to pass any charge whatsoever on to persons following them in the chain of supply, with the result that the rights of third parties are in principle unlikely to be affected.

The arguments put forward by the Finanzamt and the Federal Government as to a disruption of the normal pattern of carrying forward the charge to value-added tax are unfounded.

In reply to the question raised the Court ruled as follows:

'As from 1 January 1979 it was possible for the provision concerning the exemption from turnover tax of transactions consisting of the negotiation of credit contained in

Article 13B(d)1 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value-added tax: uniform basis of assessment to be relied upon, in the absence of the implementation of that directive, by a credit negotiator where he had refrained from passing that tax on to persons following him in the chain of supply, and the State could not claim, as against him, that it had failed to implement the directive.'

Sir Gordon Slynn, Advocate General, delivered his opinion at the sitting on 18 November 1981.

(b) Turnover tax on the import of goods delivered by private persons

Judgment of 5 May 1982, Case 15/81 *Gaston Schul Douane Expediteur BV* v *Inspecteur der Invoerrechten en Accijnzen, Rosendaal* ([1982] ECR 1409)

The limited liability company Gaston Schul, customs forwarding agents, imported a second-hand pleasure and sports boat on the instructions and on behalf of a private person resident in the Netherlands who had bought it in France from a private person.

The Netherlands revenue authority thereupon levied value-added tax at the rate of 18% on the sale price which was the normal rate applicable within the country on the delivery of goods for valuable consideration. The main action is concerned with the levying of that tax.

The Netherlands authorities relied on the Netherlands law of 1968 which provides that turnover tax applies on the one hand to goods delivered and services rendered within the country by traders in the course of their business and on the other hand to imports of goods.

The company Gaston Schul brought the matter before the Gerechtshof, 's-Hertogenbosch. It claimed that the tax was contrary to the provisions of the EEC Treaty and in particular to Articles 12 and 13 on the one hand and Article 95 on the other.

The case led the national court to put to the Court of Justice a number of questions inquiring basically whether it was compatible with the provisions of the Treaty and in particular Articles 12, 13 and 95, for a Member State to levy, pursuant to Community directives, turnover tax in the form of value-added tax on imports of products from another Member State delivered by a non-taxable person (hereinafter referred to as 'a private person').

The plaintiff in the main action alleges that the tax is incompatible with the Treaty because similar deliveries within a Member State by a private person are not subject to value-added tax. It maintains further that the levying of value-added tax

on the importation of products from another Member State delivered by a private person gives rise to aggregation of tax since in contrast to deliveries made by persons liable there is no exemption from value-added tax levied in the exporting Member State. In consequence value-added tax levied on the importation of such products must be regarded as a charge having an effect equivalent to a customs duty or as discriminatory internal taxation.

The common system of value-added tax

The principle of the common system is to levy on goods and services up to and including the retail stage a general consumer tax exactly proportional to the price of the goods and services whatever the number of transactions which have taken place in the process of production and distribution prior to the stage of levy. Nevertheless value-added tax is chargeable on each transaction only after deducting the amount of value-added tax which has been payable directly on the cost of the various items making up the price. The mechanism of deduction is such that only those liable are allowed to deduct from the value-added tax for which they are liable the value-added tax previously charged on the goods.

The following are liable to value-added tax: 'The supply of goods or services effected for consideration within the territory of the country by a taxable person acting as such' and 'the importation of goods'.

'Taxable person' means any person who independently carries out in any place any economic activity, namely that of producer, trader and person supplying services.

It is right to stress that the directives bring about only a partial harmonization of the system of value-added tax. At the present stage of Community law Member States are free to fix the rate of value-added tax, it nevertheless being understood that the rate applicable to the importation of goods must be that applicable within the country on the delivery of similar goods.

The event giving rise to the tax is the delivery of goods for valuable consideration by a taxable person acting as such whereas as regards imports the event giving rise to the tax is the sole entry of goods into a Member State whether or not there is a transaction, whether the transaction is for valuable consideration or free of charge and whether by a taxable person or a private person.

Although deliveries for export themselves are exempt from value-added tax whether made by taxable persons or private persons, only taxable persons are authorized to make deduction. From that follows that goods delivered for export by private persons or on their behalf remain liable to value-added tax proportional to their value at the time of export.

Since all imports are subject to value-added tax in the importing country there is in such case aggregation of taxes both in the exporting and importing States.

First question: The interpretation of Articles 12 and 13 of the Treaty

The national court asks in substance whether the levying of value-added tax on the importation of products from another Member State delivered by a private person is compatible with Articles 12 and 13 of the Treaty when no such tax is levied on the delivery of similar products by a private person within the importing Member State.

The essential characteristic of a charge having an effect equivalent to a customs duty distinguishing it from internal taxation is that the first is payable solely on imported products as such whereas the second is payable both on imported products and domestic products.

A tax of the kind referred to by the national court does not have the characteristics of a charge having effect equivalent to a customs duty on imports within the meaning of the Treaty. Such a tax is part of the common system of value-added tax the main structure and terms of which were adopted by Council directives on harmonization. They established a uniform revenue procedure systematically covering according to objective criteria both transactions made within Member States and import transactions.

The tax in question must therefore be regarded as an integral part of the general system of internal taxation within the meaning of Article 95 of the Treaty and judged in that light.

The Court held in answer to the first question that:

'Value-added tax which a Member State levies on the importation of products from another Member State supplied by a private person where no such tax is levied on the supply of similar products by a private person within the territory of the Member State of importation does not constitute a charge having an effect equivalent to a customs duty on imports within the meaning of Articles 12 and 13(2) of the Treaty.'

Second question: The interpretation of Article 95 of the Treaty

The national court asks in substance whether the levying of value-added tax on the importation of products from another Member State delivered by a private person is compatible with Article 95 of the Treaty where no such tax is payable on the delivery of similar products by a private person within the importing Member State.

> The plaintiff in the main action considers that such difference in the treatment is contrary to Article 95 since on the one hand it prejudices the delivery of products between private persons resident in different Member States in relation to that by private persons resident in the importing Member State and on the other hand it gives rise to aggregation of tax as regards products delivered by private persons across the frontier.

The Member States, Council and Commission contend that the elimination of aggregation of taxation within the Community, however desirable it may be, can be achieved only by means of progressive harmonization of the national taxation systems pursuant to Article 99 or 100 of the Treaty and not by applying Article 95.

The aim of Article 95 of the Treaty is to ensure free movement of goods within the Community under normal conditions of competition by eliminating all form of protection which may arise from the application of discriminatory internal taxation against products from other Member States.

Article 95 does not prevent value-added tax from being chargeable on an imported product where the delivery of a similar product within the country is also liable.

It is necessary to consider whether the importation of a product may be liable to value-added tax when the delivery of a similar product within the country, in the present case delivery by a private person, is not so liable.

The Member States, the Council and the Commission maintain that value-added tax may be chargeable upon imports provided that the rate of the value-added tax, its basis and terms of levy are the same as those for the delivery of a similar product by a taxable person within that Member State.

The plaintiff in the main action alleges that there is breach of the principle of equal treatment since the products imported by private persons are already burdened with value-added tax in the exporting Member State and there is no refund on export.

It may be observed that at the present stage of Community law Member States are free pursuant to Article 95 to charge the same duty on imports as the value-added tax which they charge on similar domestic products. Nevertheless, such tax is justified only in so far as the imported products are not already burdened with value-added tax in the exporting Member State since otherwise the tax on import would in fact be an additional charge burdening imported products more heavily than domestic products.

That interpretation accords with the need to take account of the objectives of the Treaty including primarily the establishment of a common market, that is to say the elimination of all obstacles to intra-Community trade in order to fuse the national markets into a single market. Apart from trade circles, private persons who are likely to engage in business transactions across national frontiers must also be able to enjoy the benefits of that market.

Consequently, it is necessary also to take into account value-added tax levied in the exporting Member State in considering the compatibility with the requirements of Article 95 of a charge to value-added tax on products from another Member State

delivered by private persons where the delivery of similar products within the importing Member State is not so liable.

Therefore in so far as the imported product delivered by a private person may not lawfully benefit from a refund on export and so remains burdened on import with part of the value-added tax paid in the exporting Member State, the amount of value-added tax payable on import must be reduced by the residual part of the value-added tax of the exporting Member State which is still contained in the value of the product on import.

The Member States objected that the value-added tax paid in the exporting Member State is difficult to check.

With regard to that it must be pointed out that it is for the person who seeks exemption from or a reduction in the value-added tax usually payable on import to establish that he satisfies the conditions for such exemption or reduction.

The Court ruled with regard to the second question that:

'Value-added tax which a Member State levies on the importation of products from another Member State supplied by a private person where no such tax is levied on the supply of similar products by a private person within the territory of the Member State of importation constitutes internal taxation in excess of that imposed on similar domestic products within the meaning of Article 95 of the Treaty, to the extent to which the residual part of the value-added tax paid in the Member State of exportation which is still contained in the value of the product on importation is not taken into account. The burden of proving facts which justify the taking into account of the tax falls on the importer.'

Third question: The validity of Article 2, point 2, of the Sixth Directive

The third question concerns the validity of Article 2, point 2, of the Sixth Directive in so far as it imposes value-added tax on products imported from another Member State and delivered by a private person.

The requirements of Article 95 of the Treaty are mandatory but nevertheless in a general way they do not prohibit the levying of value-added tax on imported products even though the delivery of similar domestic products within the importing Member State is not so subject but it simply requires that the part of the value-added tax paid in the exporting Member State and still burdening the product on import should be taken into account.

On the third issue the Court rules:

'Article 2, point 2, of the Sixth Council Directive 77/388 of 17 May 1977 is compatible with the Treaty and therefore valid since it must be interpreted as not

constituting an obstacle to the obligation under Article 95 of the Treaty to take into account, for the purpose of applying value-added tax on the importation of products from another Member State supplied by a private person where no such tax is levied on the supply of similar products by a private person within the territory of the Member State of importation, the residual part of the value-added tax paid in the Member State of exportation and still contained in the value of the product when it is imported.'

Fourth question: The direct effect of Article 95 of the Treaty

The national court is basically inquiring whether Article 95 of the Treaty has direct effect and if so the consequences thereof on national laws and their terms of application.

On this last question the Court ruled:

'Article 95 of the Treaty prohibits Member States from imposing value-added tax on the importation of products from other Member States supplied by a private person where no such tax is levied on the supply of similar products by a private person within the territory of the Member State of importation, to the extent to which the residual part of the value-added tax paid in the Member State of exportation and still contained in the value of the product when it is imported is not taken into account.'

Mrs Advocate General Simone Rozès delivered her opinion at the sitting on 16 December 1981.

(c) **Legal privilege**

Judgment of 18 May 1982, Case 155/79 *AM & S Europe Limited*, supported by the United Kingdom and the Consultative Committe of the Bars and Law Societies of the European Community v *Commission of the European Communities* supported by the French Republic ([1982] ECR 1575)

The company Australian Mining & Smelting Europe Limited instituted proceedings to have Article 1(b) of an individual decision notified to it, namely Commission Decision 79/760/EEC of 6 July 1979, declared void. That provision required the applicant to produce for examination by officers of the Commission charged with carrying out an investigation all documents for which legal privilege was claimed, as listed in the appendix to AM & S Europe's letter of 26 March 1979 to the Commission.

The application is based on the submission that in all the Member States written communications between lawyer and client are protected by virtue of a general principle common to all those States. It follows from that principle which also applies in Community law that the Commission may not when undertaking an

investigation in relation to competition claim production, at least in their entirety, of written communications between lawyer and client if the undertaking claims protection and shows that its claim to legal privilege is well founded.

The applicant concedes that the Commission has a *prima facie* right to see documents in the possession of an undertaking and that by virtue of that right it is still the Commission that takes the decision whether the documents are protected or not, but on the basis of a description of the documents and not on the basis of an examination of the whole of such documents by its inspectors.

The contested decision, based on the principle that it is for the Commission to determine whether a given document should be used or not, requires AM & S Europe to allow the Commission's authorized inspectors to examine the documents in question in their entirety. Claiming that those documents satisfy the conditions for legal protection the applicant requested the Court to delcare Article 1(b) of the above-mentioned decision void.

The United Kingdom maintains that the principle of legal protection of written communications between lawyer and client is recognized as such in the various countries of the Community, even though there is no single, harmonized concept the boundaries of which do not vary.

The view taken by the Consultative Committee of the Bar and the Law Societies of the European Community is that a right of confidential communication between lawyer and client (in both directions) is recognized as a fundamental, constitutional or human right, accessory or complementary to other such rights which are expressly recognized and applied as part of the Community law.

To all those arguments the Commission replies that even if there exists in Community law a general principle protecting confidential communications between lawyer and client, the extent of such protection is not to be defined in general and abstract terms, but must be established in the light of the special features of the relevant Community rules, having regard to their wording and structure, and to the needs which they are designed to serve.

The Commission concludes that, on a correct construction of Article 14 of Regulation No 17/62, the principle on which the applicant relies cannot apply to documents the production of which is required in the course of an investigation which has been ordered under that article, including written communications between the undertaking concerned and its lawyers.

The applicant's argument is, the Commission maintains, all the more unacceptable inasmuch as in practical terms it offers no effective means whereby the inspectors may be assured of the true content and nature of the contested documents.

The Government of the French Republic supports the conclusions of the Commission and observes that as yet Community law does not contain any provisions for the protection of documents exchanged between a legal adviser and

his client. Therefore, it concludes, the Commission must be allowed to exercise its powers under Article 14 of Regulation No 17/62 without having to encounter the objection that certain documents are confidential.

It is apparent from the application, as well as from the legal basis of the contested decision, that the dispute in this case is essentially concerned with the interpretation of Article 14 of Regulation No 17/62 of the Council of 6 February 1962 for the purpose of determining what limits, if any, are imposed upon the Commission's exercise of its powers of investigation.

(a) *The interpretation of Article 14 of Regulation No 17/62*

The purpose of Regulation No 17/62 of the Council is to ensure compliance with the prohibitions laid down in Article 85(1) and in Article 86 of the Treaty and to lay down detailed rules for the application of Article 85(3). It confers on the Commission wide powers of investigation and of obtaining information 'as are necessary.'

Article 14(1) empowers the Commission to require production of business records, that is to say, documents concerning the market activities of the undertaking, in particular as regards compliance with those rules.

Written communications between lawyer and client, fall, in so far as they have a bearing on such activities, within the category of documents referred to in Articles 11 and 14.

The Commission may require documents whose disclosure it considers 'necessary' from which it follows that in principle it is for the Commission itself and not the undertaking to decide whether or not any document must be produced to it.

(b) *Applicability of the protection of confidentiality in Community law*

However, the above rules do not exclude the possibility of recognizing that certain business records are of a confidential nature. Community law must take into account the principles and concepts common to the laws of those States concerning the observance of confidentiality, in particular, as regards certain communications between lawyer and client.

As far as the protection of written communications between lawyer and client is concerned, all Member States recognize the principle but vary the scope and the criteria for its application. In some of the Member States the protection against disclosure afforded to written communications between lawyer and client is based principally on a recognition of the very nature of the legal profession, inasmuch as it contributes towards the maintenance of the rule of law. In other Member States the same protection is justified by the more specific requirements that the rights of the defence must be respected.

The Member States have, however, one criterion in common to the effect that confidentiality is protected provided that it relates to correspondence from an independent lawyer, that is to say one not bound to the client by a relationship of employment.

Viewed in that context Regulation No 17/62 must be interpreted as protecting, in its turn, the confidentiality of written communications between lawyer and client subject to those two conditions, and thus incorporating such elements of that protection as are common to the laws of the Member States.

Regulation No 17/62 (the eleventh recital and Article 19) itself is concerned to ensure that the rights of the defence may be exercised to the full and the protection of the confidentiality of written communications between lawyer and client is an essential corollary to those rights. Such protection must, if it is to be effective, be recognized as covering all written communications exchanged after the initiation of the administrative procedure and extending to earlier written communications which have a relationship to the subject-matter of that procedure.

It should be stated that the requirement as to the position and status as an independent lawyer is based on a conception of the lawyer's role as collaborating in the administration of justice. The counterpart of that protection lies in the rules of professional ethics and discipline which are laid down and enforced in the general interest by institutions endowed with the requisite powers for that purpose.

Having regard to the principles of the Treaty concerning freedom of establishment and the freedom to provide services the protection thus afforded by Community law must apply without distinction to any lawyer entitled to practise his profession in one of the Member States, regardless of the Member State in which the client lives.

In view of all these factors it must therefore be concluded that although Regulation No 17/62, and in particular Article 14 thereof, empowers the Commission to require, in the course of an investigation within the meaning of that article, production of the business documents, the disclosure of which it considers necessary, including written communications between lawyer and client, for proceedings in respect of any infringement of Articles 85 and 86 of the Treaty, that power is, however, subject to a restriction imposed by the need to protect confidentiality, on the conditions defined above and provided that the communications in question are exchanged between an independent lawyer, that is to say one who is not bound to his client by a relationship of employment, and his client.

(c) *The procedures relating to the application of the principle of confidentiality*

If an undertaking refuses, on the ground that it is entitled to protection of the confidentiality of information, to produce, among the business records demanded by the Commission, written communications between itself and its lawyer, it must nevertheless provide the Commission's authorized agents with relevant material of

such a nature as to demonstrate that the communications fulfil the conditions for being granted legal protection, although it is not bound to reveal the contents of the communications.

Where the Commission is not satisfied that such evidence has been supplied, the appraisal of those conditions is not a matter which may be left to an arbitrator or to a national authority. The solution must be sought at a Community level. It is for the Commission to order production of the communications in question. Although by virtue of Article 185 of the EEC Treaty any action brought by the undertaking concerned against such decisions does not have suspensory effect, its interests are safeguarded by the possibility which exists under Article 185 and 186 of the Treaty, as well as under Article 83 of the Rules of Procedure of the Court, of obtaining an order suspending the application of the decision which has been taken, or any other interim measure.

(d) *The confidential nature of the documents at issue*

It is apparent from the documents which the applicant lodged at the Court that almost all the communications which they include were made or are connected with legal opinions which were given towards the end of 1972 and during the first half of 1973.

The communications were drawn up when the United Kingdom joined the Community and are principally concerned with how far it might be possible to avoid conflict between the applicant and the Community authorities over application of the Community rules on competition.

In so far as the written communications emanate from an independent lawyer entitled to practise his profession in a Member State they must be considered as confidential and on that ground beyond the Commission's power of investigation under Article 14 of Regulation No 17/62.

The Court in its judgment:

'1. Declares Article 1(b) of Commission Decision 76/760 of 6 July 1979 void inasmuch as it requires the applicant to produce the documents which are mentioned in the appendix to the letter from the applicant to the Commission of 26 March 1979 and listed in the schedule of documents lodged at the Court on 9 March 1981 under numbers 1(a) and (b), 4(a) to (f), 5 and 7;

2. For the rest, dismisses the application.'

Sir Gordon Slynn, Advocate General, delivered his opinion at the sitting on 26 January 1982.

(d) **Public undertakings – Transparency of financial relations with the State**

Judgment of 6 July 1982, Joined Cases 188 to 190/80 *French Republic, Italian Republic and United Kingdom* v *Commission of the European Communities* ([1982] ECR 2545)

The French Republic, the Italian Republic and the United Kingdom brought three actions for a declaration that Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings is void.

The Federal Republic of Germany and the Kingdom of the Netherlands intervened in support of the conclusions of the Commission. The directive, which was adopted on the basis of Article 90 of the Treaty, requires the Member States to keep at the Commission's disposal for five years information concerning public funds made available by public authorities to public undertakings and also concerning the use to which the funds are actually put by those undertakings. The essential objective is to promote the effective application to public undertakings of the provisions contained in Articles 92 and 93 of the Treaty concerning State aids.

The applicant governments relied upon five submissions:

First submission: Commission's lack of competence

According to the *United Kingdom*, by adopting the contested directive the Commission committed a breach of the very principles which govern the division of powers and responsibilities between the Community institutions. It is clear from the Treaty that all original law-making power is vested in the Council, whilst the Commission has only powers of surveillance and implementation.

The provisions of the Treaty which confer on the Commission the power to issue directives must be interpreted in the light of the foregoing considerations. Commission directives are not of the same nature as those adopted by the Council.

Council directives may contain general legislative provisions which may, where applicable, impose new obligations on Member States, whereas the aim of Commission directives is merely to deal with a specific situation in one or more Member States.

There is, however, no basis for that argument in the Treaty provisions governing the institutions. Article 155 provides, in terms which are almost identical to those used in Article 145 to describe the same function of the Council, that the Commission is to have its own power of decision in the manner provided for by the Treaty. Article 189 does not distinguish between directives which have general application and others which lay down only specific measures. According to that article, the Commission, just like the Council, has the power to issue directives in accordance with the provisions of the Treaty.

It follows that the limits of the powers conferred on the Commission by a specific provision of the Treaty are to be inferred not from a general principle, but from an interpretation of the particular wording of the provision in question, in this case Article 90, analysed in the light of its purpose and its place in the scheme of the Treaty.

The three applicant governments claim that the rules contained in the contested directive could have been adopted by the Council. Such rules fall within the powers of the Council by virtue of Article 213 or, alternatively, Article 235. Since this is therefore a sphere in which the Council is competent, it is not possible, according to the applicant governments, to acknowledge that the Commission has concurrent powers under the provisions of the Treaty.

Those arguments must be rejected. Indeed, Article 213, which is to be found in the part of the Treaty governing general and final provisions, does not affect the powers which are conferred upon the Commission by particular provisions of the Treaty. Article 235 cannot, since it presupposes that there is no other power of action, be considered to be applicable in this case.

The three applicant governments rely upon the powers conferred on the Commission and the Council by Articles 93(3) and 94 of the Treaty. Article 94 authorizes the Council to make any appropriate regulations for the application of Articles 92 and 93. The power conferred on the Commission by Article 90(3) is limited to the directives and decisions which are necessary to perform effectively the duty of surveillance imposed upon it by that paragraph.

The Commission's power to issue the contested directive therefore depends on the needs inherent in its duty of surveillance provided for in Article 90 and the possibility that rules might be laid down by the Council by virtue of its general power under Article 94, containing provisions impinging upon the specific sphere of aid granted to public undertakings, does not preclude the exercise of that power by the Commission.

The first submission relied upon by the applicant governments must be rejected.

Second submission: absence of necessity

The *French and Italian Governments* deny that the rules contained in the directive are necessary to enable the Commission effectively to perform the task of surveillance conferred upon it by Article 90. They consider that there is total legal separation between the State and public undertakings in relation to finance.

In a democratic society information is available concerning the State's relations with public undertakings which is at least as complete as that concerning its relations with private undertakings and much more detailed than that concerning relations between private undertakings.

The Commission, on the other hand, states that a fair and effective application of the aid rules in the Treaty to both public and private undertakings will be possible only if those financial relations are made transparent.

In view of the diverse forms of public undertakings in the various Member States and the ramifications of their activities, it is inevitable that their financial relations with public authorities should themselves be very diverse and difficult to supervise, even with the assistance of the sources of published information to which the applicant governments have referred (legislative budgetary measures and annual accounts and reports of undertakings).

In those circumstances there is an undeniable need for the Commission to seek additional information on those relations, so that the submission concerning the absence of necessity must be rejected.

Third submission: discrimination against public undertakings as compared with private undertakings

The *French and Italian Governments* claim that it is clear both from Article 222 and from Article 90 that public and private undertakings must be treated equally. The effect of the directive is to place the former in a less favourable position than the latter, in so far as it imposes on public undertakings special obligations in relation to accounts.

The principle of equality presupposes that the two are in comparable situations. Private undertakings determine their industrial and commercial strategy by taking into account in particular requirements of profitability. Decisions of public undertakings may be affected by factors of a different kind within the framework of the pursuit of objectives of public interest. As the directive concerns precisely those special financial relations, the submission relating to discrimination cannot be accepted.

Fourth submission: infringement of Articles 90, 92 and 93, inasmuch as the directive defines the concepts of public undertaking and State aid

The *French and Italian Governments* maintain that Articles 2 and 3 of the directive amplify the provisions of Articles 90, 92 and 93 of the Treaty without any legal foundation, inasmuch as they define the concept of public undertaking and determine the financial relations which, in the Commission's opinion, may constitute State aids.

According to Article 2 of the directive, the expression 'public undertakings' means any undertaking over which the public authorities may exercise directly or indirectly a predominant influence.

The reason for the inclusion in the Treaty of the provisions of Article 90 is precisely

the influence which the public authorities are able to exert over the commercial decisions of public undertakings. That influence may be exerted on the basis of financial participation or of rules governing the management of the undertaking. By choosing the same criteria to determine the financial relations on which it must be able to obtain information in order to perform its duty of surveillance under Article 90(3), the Commission has remained within the limits of the discretion conferred upon it by that provision.

The fourth submission must also be rejected.

Fifth submission: failure to respect the rules defining the scope of the EEC, ECSC and EAEC Treaties

The *French Government* emphasizes that the definition of public undertakings which appears in Article 2 of the directive is totally general in character and that the exemption laid down in Article 4 concerning the energy sector (nuclear energy, production of uranium, re-processing of irradiated fuels) implies that, subject to that reservation, the directive applies to public undertakings covered by the ECSC and EAEC Treaties.

Since a measure of secondary law adopted within the framework of the EEC Treaty cannot regulate a matter governed by positive rules in the other Treaties, the French Government claims in the alternative that the directive should be declared void in so far as it covers undertakings within the purview of the ECSC and EAEC Treaties.

The Court does not accept that submission.

Sixth submission: failure to state the reasons on which the directive is based and to respect the principle of equality in relation to the exemptions under the directive

Article 4 of the directive excludes from its scope, apart from the energy sector, public undertakings whose turnover excluding taxes has not reached a total of 40 000 000 European units of account during the two preceding financial years, undertakings which supply services without affecting trade between Member States to an appreciable extent and undertakings in the areas of water, transport, post and telecommunications and credit.

In the *Italian Government's* opinion, those exemptions involve discrimination in respect of which the reasons are not stated. It takes the view that exemptions according to sector may be permitted only in the absence of competition within the Community in the sector in question. Apart from the fact that that submission tends, if anything, to widen the scope of the directive, it is unfounded.

Indeed, the twelfth recital in the preamble to the directive states that activities which stand outside the sphere of competition or which are already covered by

specific Community measures which ensure adequate transparency should be excluded, as well as public undertakings belonging to sectors of activity for which distinct provision should be made and those whose business is not conducted on such a scale as to justify the administrative burden of ensuring transparency. All of those considerations contains sufficiently objective criteria to justify an exemption from the scope of the directive.

The applications made by the three governments have not revealed any factors capable of justifying a declaration that the contested directive is void, even in part.

The Court dismissed the applications.

Mr Advocate General Reischl delivered his opinion at the sitting on 4 May 1982.

(e) Obligation to make a reference for a preliminary ruling

Judgment of 6 October 1982, Case 283/81 *Srl CILFIT* (in liquidation) *and Lanificio di Gavardo SpA* v *Italian Ministry of Health* ([1982] ECR 3415)

The Italian Corte Suprema di Cassazione [Supreme Court of Cassation] submitted to the Court a preliminary question on the interpretation of the third paragraph of Article 177 of the EEC Treaty.

The question was raised within the framework of a dispute between companies importing wool and the Italian Ministry of Health with regard to the payment of a fixed health-inspection levy on wool imported from non-member countries.

The companies relied upon a regulation establishing a common organization of the market in certain products listed in Annex II to the Treaty which prohibits the Member States from imposing charges having an effect equivalent to customs duties on imported 'animal products' not elsewhere specified. The Ministry of Health met that claim with the argument that wool is not listed in Annex II to the Treaty.

In these circumstances the Ministry of Health took the view that the interpretation of the measure adopted by the institutions of the Community was so clear that it ruled out the possibility of doubt as to the interpretation, thereby excluding the need for referring a preliminary question to the Court of Justice.

The companies concerned maintain that since a question of interpretation has been raised before the Court of Cassation in accordance with the provisions of the third paragraph of Article 177 it may not evade its obligation to refer the matter to the Court of Justice.

In view of these contradictory arguments the Supreme Court of Cassation referred the following question to the Court of Justice:

'Does the third paragraph of Article 177 of the EEC Treaty, which provides that where any question of the same kind as those listed in the first paragraph of that article is raised in a case pending before a national court or tribunal against whose decisions there is no judicial remedy under national law that court or tribunal must bring the matter before the Court of Justice, lay down an obligation so to submit the case which precludes the national court from determining whether the question raised is justified or does it, and if so within what limits, make that obligation conditional on the prior finding of a reasonable interpretative doubt?'

In accordance with the third paragraph of Article 177, where a question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal 'shall' bring the matter before the Court of Justice.

That provision is intended *inter alia* to prevent the development of divergent case-law within the Community on matters of Community law. It should be remarked that the relationship between the second and third paragraphs of Article 177 shows that the courts and tribunals referred to in the third paragraph enjoy the same power of appraisal as all other national courts in ascertaining whether a decision on a question of Community law is necessary to enable them to give judgment.

Such courts or tribunals are not bound to refer a question of the interpretation of Community law if the question is not relevant.

On the other hand if they find that it is necessary to refer to Community law in order to decide a case pending before them Article 177 requires them to submit any question of interpretation which arises to the Court of Justice.

The question submitted by the Supreme Court of Cassation is intended to establish whether in certain circumstances the requirement laid down by the third paragraph of Article 177 may nevertheless be subject to restrictions.

The prior case-law of the Court of Justice has already set out restrictions in that field:

> If the question raised is substantially identical to a question which has already formed the subject-matter of a preliminary ruling in a similar case there is no obligation to refer the question to the Court.
>
> The position is the same where the settled case-law of the Court resolves the point at issue.

Nevertheless, in all these cases the national courts remain fully empowered to bring the matter before the Court of Justice if they consider it appropriate.

> Finally, where the due application of Community law is so clear that it does not leave any reasonable doubt as to the answer to the question submitted.

Before deciding that such a situation exists the national court must be convinced that the same evidence would be accepted as equally decisive by the courts of the other Member States and by the Court of Justice.

Nevertheless the existence of that possibility must be appraised in terms of the characteristics of Community law and of the particular difficulties which its interpretation presents: versions in different languages, its own individual terminology and the particular context.

The Court of Justice gave a ruling on the question submitted to it by declaring that:

'The third paragraph of Article 177 of the EEC Treaty must be interpreted as meaning that a court of tribunal against whose decisions there is no judicial remedy under national law is required, where a question of Community law is raised before it, to comply with its obligation to bring the matter before the Court of Justice, unless it has established that the question raised is irrelevant or that the Community provision in question has already been interpreted by the Court of Justice or that the correct application of Community law is so obvious as to leave no scope for any reasonable doubt. The existence of such a possibility must be assessed in the light of the specific characteristics of Community law, the particular difficulties to which its interpretation gives rise and the risk of divergences in judicial decisions within the Community.'

Mr Advocate General Capotorti delivered his opinion at the sitting on 13 July 1982.

(f) **Effects of free-trade agreements – Tax discrimination**

Judgment of 26 October 1982, Case 104/81 *Hauptzollamt* [Principal Customs Office] *Mainz* v *Christian Kupferberg & Cie. KG a.A* ([1982] ECR 3641)

The Bundesfinanzhof [Federal Finance Court] referred to the Court for a preliminary ruling a number of questions concerning the interpretation of Article 95 of the Treaty and the first paragraph of Article 21 of the Agreement between the European Economic Community and the Portuguese Republic, which was signed on 22 July 1972.

The main dispute is between a German importer and the German customs authorities and concerns the rate at which the tax known as the Monopolausgleich [monopoly equalization duty] was applied to a consignment of port wine from Portugal when cleared for home use.

The monopoly equalization duty is charged on imported alcohol and alcohol products (that is to say, products having an alcohol content greater than 14% by volume).

In calculating the duty at issue the Finanzgericht assimilated imported port wines to local liquer wines to which alcohol produced by cooperative fruit farm distilleries had been added.

The dispute led the Bundesfinanzhof to refer the following questions to the Court for a preliminary ruling:

'1. (a) Is the first paragraph of Article 21 of the Agreement between the European Community and the Portuguese Republic of 22 July 1972, adopted and published by Regulation (EEC) No 2844/72 of the Council of 19 December 1972, directly applicable law and does it give rights to individual Common Market citizens?

(b) If so, does it contain a prohibition of discrimination in like terms to the first paragraph of Article 95 of the EEC Treaty?

and

(c) Does it also apply to the importation of port wines?

2. If Question (1) is answered in the affirmative:

(a) Is there discrimination, within the meaning of the prohibition of discrimination contained in the first paragraph of Article 95 of the EEC Treaty or the first paragraph of Article 21 of the EEC-Portugal Agreement, if under national tax provisions it is possible purely as a matter of legal theory for similar domestic products to be treated more favourably (potential discrimination), or does discrimination within the meaning of those provisions exist only if in an actual tax comparison similar domestic products are in practice found to be treated more favourably from the point of view of tax?

(b) Does Article 95 of the EEC Treaty or the first paragraph of Article 21 of the EEC-Portugal Agreement require a product from another Member State or Portugal, which on importation is taxed at the same rate as a directly similar domestic product, to be taxed at the lower rate of taxation which national law imposes on another product which is equally to be regarded as similar, within the meaning of the first paragraph of Article 95 of the EEC Treaty, to the imported product?

The first question

There are three parts to the question.

First part :

The Bundesfinanzhof wished to know whether the German importer might rely on Article 21 of the Agreement between the EEC and Portugal in the action which it had brought before the German courts against the decision of the tax authorities.

The Danish, German, French and United Kingdom Governments placed most emphasis on the issue of whether a provision contained in one of the free-trade agreements concluded by the Community with member countries of the European Free Trade Association may have direct effect in the Member States of the Community.

The Court stated that the Treaty establishing the Community conferred upon the institutions not only the power to adopt measures applicable within the Community but also the power to conclude agreements with non-member countries and with international organizations. Both the institutions and the Member States were therefore responsible for ensuring compliance with any obligations deriving from such agreements.

Since the provisions contained in such agreements had a Community aspect it would not be permissible for their effects in the Community to vary depending on whether they fell to be applied in practice by the Community institutions or by the Member States and, in the latter case, on how the law in each of the Member States regarded the effects produced in the internal legal order by international agreements which they had entered into.

The Court must ensure, it said, that they were applied uniformly throughout the Community. According to the general principles of international law the terms of any agreement must be performed by the parties in good faith. Each contracting party is responsible for performance in full of the commitments undertaken by it, and the corollary of this is that it must determine the appropriate legal means for achieving that end within its own legal system unless the agreement itself determines those methods.

As was emphasized by the govenments, the free-trade agreements contained provisions for joint committees which were responsible under the terms of the agreements for the administration of the latter and for ensuring that they were properly carried out.

The fact that the contracting parties had created a special institutional framwork for conducting consultations and negotiations between themselves in connection with the performance of the Agreement was not sufficient to preclude any application of the Agreement by the Courts.

As far as the safety clauses permitting the parties to derogate from certain provisions in the Agreement were concerned, they applied only in specially defined circumstances and, as a general rule, only after consideration by all parties in the joint committee.

As a result, the Court said, neither the nature nor the general scheme of the Agreement made with Portugal was such as to preclude undertakings from relying on one of the terms of the Agreement before a court in the Community.

Nevertheless, whether the term in question was unconditional and sufficiently clear to have direct effect was a point which must be assessed in the light of the agreement of which it was part.

In order to reply to the question which was asked as to its direct effect, Article 21 of the Agreement must be examined in the light of both the aim and the purpose of the Agreement and its context.

The Agreement was designed to create a free-trading system within which rules restricting trade were to be eliminated for the main body of trade in products originating from the territories of the parties, in particular by abolishing customs duties and charges having an equivalent effect and by eliminating quantitative restrictions and measures having an equivalent effect.

In that context, the first paragraph of Article 21 of the Agreement was designed to ensure that the liberalization of trade in products brought about by abolishing customs duties and charges having an equivalent effect together with quantitative restrictions and measures having an equivalent effect was not frustrated by the fiscal practices of the contracting parties.

Paragraph 1 of Article 21 of the Agreement, therefore, imposed on the contracting parties an unconditional obligation not to discriminate in tax matters, subject to the single requirement of similarity between the products affected by a particular system of taxation, and the limits of that obligation may be inferred directly from the purpose of the Agreement.

The Court held that the first paragraph of Article 21 of the Agreement was directly applicable.

Second part:

The question was whether the provision at issue contained a prohibition of discrimination similar to that laid down in the first paragraph of Article 95 of the EEC Treaty. The Court observed that although Article 21 of the Agreement and Article 95 of the Treaty had the same aim inasmuch as they were intended to eliminate tax discrimination, each of those provisions, which were not, moreover, drafted in the same terms, must be considered and interpreted in its own context.

Thus the first paragraph of Article 21 was to be interpreted on the basis of its wording and in the light of its aim within the framework of the free trading system established by the Agreement.

Third part:

The German court sought to know whether the rule against discrimination in fiscal matters contained in Article 21 of the Agreement extended to imports of port wines.

The Court replied in the affirmative.

Second question

The purpose of this question was to obtain for the Bundesfinanzhof the elements of interpretation it required in order to decide whether the taxation applied by the national authorities to imported port wines was contrary to the first paragraph of Article 21 of the Agreement.

The substance of the question, noted the Court, was whether the first paragraph of Article 21 of the Agreement permitted the Federal Republic of Germany to apply, to alcohol added to port wines, the tax applicable to alcohol at the fuel rate, or whether the Member State was obliged by that provision to apply the reduced rate of taxation provided for in the second paragraph of Article 79 of the Branntwein-monopolgesetz [law on the monopoly in spirits] for alcohol produced by fruit farm cooperative distilleries within their distillation allowance. It appeared, the Court said, that there was no alcohol on the market in the Federal Republic of Germany of the kind which might be added to wine in order to produce the liqueur wine similar to port wine and which might be entitled to the reduction in taxation provided for in the case of fruit farm cooperative distilleries.

In the circumstances the fact that such a reduction was not applied to port wine was not capable of hindering the liberalization of trade between the Community and Portugal which was the subject of the Agreement.

The Court considered, therefore, that there was no discrimination within the meaning of the first paragraph of Article 21 of the Agreement.

The second part of the question asked whether Article 21 of the Agreement was to be interpreted as extending the concept of similar products beyond products which were 'directly similar' to other products also to be regarded as similar.

The Court held that there was no reason to consider there to be any similarity within the meaning of Article 21 between products which differed in both method of manufacture and characteristics.

Therefore liqueur wines to which alcohol had been added, on the one hand, and wines which were the result of natural fermentation, on the other, were not to be regarded as similar within the meaning of the provisions in question.

In reply to the questions which had been referred to it the Court declared that:

'1. The first paragraph of Article 21 of the Agreement between the Community and Portugal is directly applicable and capable of conferring on individual traders rights which the courts must protect.

2. It must be interpreted according to its wording and in the light of the objective which it has in the context of the system of free trade established by the Agreement.

3. The provision also applied to the importation of port wines.

4. It must be interpreted as follows:

   (a) There is no discrimination within the meaning of the first paragraph of Article 21 of the Agreement between the Community and Portugal where a Member State does not apply to products originating in Portugal a tax reduction provided for certain classes of producers or kinds of products if there is no like product on the market of the Member States concerned which has in fact benefited from such reduction.

   (b) Products which differ both as regards the method of their manufacture and their characteristics may not be regarded as like products.'

Mrs Advocate General Simone Rozès delivered her opinion at the sitting on 5 May 1982.

(g) **Advertising of alcoholic beverages**

Judgment of 14 December 1982, Joined Cases 314 to 316/82 and 83/82 *Procureur de la République and Comité National de Défense contre l'Alcoolisme* v *Alex Waterkeyn and Others* ([1982] ECR 4337)

The Tribunal de Grande Instance, Paris, referred to the Court for a preliminary ruling questions on the interpretation of Article 171 of the EEC Treaty to obtain guidance on the necessary inferences to be drawn from the judgment of 10 July 1980 in which the Court declared that 'by subjecting advertising in respect of alcoholic beverages to discriminatory rules and thereby maintaining obstacles to the freedom of intra-Community trade, the French Republic has failed to fulfil its obligations under Article 30 of the EEC Treaty.'

The main proceedings relate to a criminal charge brought against advertising agents or publishers for infringement of the provisions of the Code on the retail sale of alcoholic beverages as a result of advertising campaigns mounted for various alcoholic drinks, namely the apéritif made in France Saint Raphaël (Case 314/81), two brands of port imported from Portugal (Cases 315 and 316/81) and a brand of whisky imported from the United Kingdom (Case 83/82).

The defendants contended before the national court that the judgment of 10 July 1980 had declared the provisions of the Code which they were alleged to have infringed to be incompatible with Community law and that therefore all proceedings against them ought to be dropped.

The dispute prompted the Tribunal de Grande Instance to request the Court to explain the effect of its judgment of 10 July 1980 having regard to the provisions of Article 171 of the Treaty.

The defendants advanced the view that the judgment of 10 July 1980 had 'absolute effect' inasmuch as the Court had condemned in its entirety the French legislation on the advertising of alcoholic drinks as laid down in the Code. They said that a distinction must not therefore be drawn depending on the origin of the products.

That view was contested by the Comité National de Défense contre l'Alcoolisme, the Commission and the French Government which pointed out that the Court had found the French legislation to be incompatible with Article 30 of the Treaty only in so far as the marketing of alcoholic products originating in other Member States was subject *de facto* or *de jure* to more stringent provisions than those applying to competing national products.

Scope of the judgment of 10 July 1980

The Commission's application which gave rise to the judgment of 10 July 1980 sought a declaration that by regulating the advertising of alcoholic beverages in a way discriminatory to products originating in other Member States the French Republic had failed to fulfil its obligations under Article 30 of the EEC Treaty. The French legislation had been drafted in such a way that the advertising of certain imported alcoholic products was prohibited or subject to restrictions whilst the advertising of competing national products was entirely unrestricted or less restricted.

In its judgment the Court found that the French legislation comprised an indirect restriction on the importation of alcoholic products originating in other Member States. It said that by being treated as wine for tax purposes French natural sweet wines enjoyed unrestricted advertising whilst imported sweet wines and liqueur wines were subjected to a system of restricted advertising. Similarly, whilst distilled spirits typical of national produce (rum, spirits obtained from grapes) enjoyed entirely unrestricted advertising, it was prohibited in regard to similar products which were mainly imported products, notably grain spirits such as whisky and geneva.

Contrary to the contention advanced by the defendants the judgment of 10 July 1980 covers only the treatment of products imported from other Member States.

The only inference to be drawn from the judgment referred to in that preliminary question is therefore that as far as advertising is concerned the French Republic is under the duty to treat alcoholic products originating in other Member States on the same footing as competing national products and consequently to review the classification of products in Article L 1 of the Code in so far as it has the effect of putting at a disadvantage, *de facto* or *de jure*, certain products imported from other Member States.

Effect of the judgment of 10 July 1980

Article 171 states that 'if the Court of Justice finds that a Member State has failed to

fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.'

All the institutions of the Member States concerned are obliged, in accordance with that provision, to make sure that judgments of the Court are complied with so far as their respective powers allow them. The authorities exercising legislative power are under the duty to amend the provisions in question in order that they may comply with the requirements of Community law.

The purpose of Articles 169 to 171 is to define the duties of Member States should they fail to fulfil their obligations. Rights for the benefit of individuals flow from the actual provisions of Community law having direct effect in the internal legal order of the Member States (such as Article 30 prohibiting quantitative restrictions and measures having equivalent effect).

Nevertheless where the Court has found that a Member State has failed to fulfil its obligations under such a provision, it is incumbent on the national court, by virtue of the authority attached to the judgment of the Court, to take account where necessary of the legal findings in that judgment in order to determine the scope of the provisions of Community law which it has the task of applying.

In answer to the question submitted the Court ruled that:

'If the Court finds in proceedings under Articles 169 to 171 of the EEC Treaty that a Member State's legislation is incompatible with the obligations which it has under the Treaty the courts of that State are bound by virtue of Article 171 to draw the necessary inferences from the judgment of the Court. However, it should be understood that the right accruing to individuals derives not from that judgment, but from the actual provisions of Community law having direct effect in the internal legal order.'

Mrs Advocate General Simone Rozès delivered her opinion at the sitting on 17 November 1982.

Visits to the Court of Justice during 1982[1]

	Belgium	Denmark	FR of Germany	France	Greece	
Judges of national courts[3]	1	–	58	58	–	
Lawyers, trainees, legal advisers	3	49	85	169	5	
Professors, lecturers in Community law	–	1	49	50	8	
Members of Parliament, national civil servants, political groups	111	–	428	90	1	
Journalists	1	–	–	4	–	
Students, schoolchildren, trainees from the EEC or the Parliament	494	140	517	174	6	
Professional associations	98	–	51	–	–	
Others	–	31	370	–	–	
Total	708	221	1 558	545	20	

[1] In all, 439 individual or group visits.

[2] The column headed 'Mixed groups' shows groups comprising delegates of different nationalities (Member States and/or non-member countries).

[3] This column shows, for each Member State, the number of national judges who visit the Court in national groups. The column headed 'Mixed groups' shows the total number of judges from all Member States who attended the study days or courses for judges. These study days and courses have been arranged each year by the Court of Justice since 1967.

	Ireland	Italy	Luxem-bourg	The Nether-lands	United Kingdom	Non-member countries	Mixed groups[2]	Total
	4	–	66	–	19	32	200	438
	–	6	–	3	36	98	63	517
	–	6	20	72	41	33	–	280
	70	52	–	1	116	45	60	974
	–	–	6	1	27	–	16	55
	57	187	45	381	1 498	287	416	4 202
	–	149	100	–	89	40	90	617
	–	–	3	1	18	64	95	582
	131	400	240	459	1 844	599	940	7 665

In 1982 the following numbers took part:

Belgium	: 14
Denmark	: 11
Federal Republic of Germany	: 32
France	: 35
Greece	: 17
Ireland	: 10
Italy	: 32
Luxembourg	: 4
The Netherlands	: 13
United Kingdom	: 32

2. Meetings and visits

The Court of Justice has maintained its contacts with judges in the Member States by organizing for them two study days on 22 and 23 March and a course from 18 to 22 October 1982.

The Court has also established contact with Spanish judges. On 2 and 3 March it received a visit from a delegation of Spanish judges led by His Excellency Senor Frederico Carlos Sainz de Robles, who is President of the General Council of the Judiciary and President of the Spanish Supreme Court.

On 21 April 1982, the President of the Court, Mr J. Mertens de Wilmars, gave a lecture to the Real Academia de Jurisprudencia y Legislación in Madrid, on the case-law of the Court of Justice as an instrument of European integration.

The Court of Justice has also received visits from delegations of other courts and tribunals, namely the Oberstes Rückerstattungsgericht [Supreme War Damages Tribunal] on 1 October 1982 and the Court of the Organization of Arab Petroleum Exporting Countries on 13 and 14 December 1982.

The Court has not neglected its contacts with the Bar. On 24 November 1982 the Association des Jeunes Avocats held a study day at the Court of Justice, and on 1 December 1982 a delegation from the International Bar Association came to Luxembourg.

The Court of Justice has been represented at various European events. On 9 March 1982 the President represented the Court at the ceremonies in Brussels marking the 25th anniversary of the Treaties of Rome, and made a speech; on 15 May 1982 he attended at the award of the Karlspreis in Aachen. A delegation from the Court was present on 15 May 1982 at the Eighth Congress of the State Councils in Copenhagen; on 1 July 1982 at the ceremonies for the 450th anniversary of the Court of Session in Edinburgh; on 3 June 1982 at the Conference of the Bundeskartellamt [Federal Office for the Supervision of Cartels] in Berlin, and from 24 to 27 June 1982 at the International Congress of Italian Judges, held in Mondovi.

A large delegation from the Court also took part in the work of the Congress of the International Federation for European Law, which was held in Dublin in June 1982.

3. Composition of the Court

The composition of the Court changed during 1982.

On 9 February 1982 Mr Van Houtte relinquished his post as Registrar which he had held since 1953. The Court appointed Mr Heim as Registrar for the period from 10 February 1982 to 9 February 1988. The formal sitting during which the Court said farewell to Mr Van Houtte and welcomed Mr Heim took place on 9 February 1982. Mr Heim took up office on 10 February 1982.

On 6 October 1982, the First Advocate General, Mr Capotorti, the President of the Chamber, Mr Touffait, and Judge Grévisse relinquished their posts. At a formal sitting held on 6 October 1982, the Court said farewell to Messrs Capotorti, Touffait and Grévisse, and welcomed Judge Bahlmann, Mr Advocate General Mancini, and Judge Galmot, who took up office on the following day, 7 October 1982.

It was also on 6 October 1982 that Mr Mertens de Wilmars was re-elected as President of the Court for the period from 7 October 1982 to 6 October 1985.

By a decision of the Court of 6 October 1982 Mrs Rozès on the one hand and Judges O'Keeffe, Everling and Chloros on the other were designated respectively First Advocate General and Presidents of Chambers for the judicial year 1981/82.

The President of Chamber Mr Chloros, who had been appointed as a judge in 1981 following the accession of Greece to the European Communities, died on 15 November 1982. A formal sitting in memory of Mr Chloros was held on 1 December 1982.

Composition of the Court of Justice of the European Communities for the judicial year 1981/82

from 1 January to 9 February 1982

Josse MERTENS DE WILMARS, President
Francesco CAPOTORTI, First Advocate General
Giacinto BOSCO, President of the First Chamber
Adolphe TOUFFAIT, President of the Third Chamber
Ole DUE, President of the Second Chamber
Pierre PESCATORE, Judge

Lord Alexander J. MACKENZIE STUART, Judge
Gerhard REISCHL, Advocate General
Andreas O'KEEFFE, Judge
Thymen KOOPMANS, Judge
Ulrich EVERLING, Judge
Alexandros CHLOROS, Judge
Sir Gorden SLYNN, Advocate General
Simone ROZÈS Advocate General
Pieter VERLOREN VAN THEMAAT, Advocate General
Fernand GRÉVISSE, Judge
Albert VAN HOUTTE, Registrar

Composition of the First Chamber

Giacinto BOSCO, President
Andreas O'KEEFFE, Judge
Thymen KOOPMANS, Judge

Composition of the Second Chamber

Ole DUE, President
Pierre PESCATORE, Judge
Alexandros CHLOROS, Judge
Fernand GRÉVISSE, Judge

Composition of the Third Chamber

Adolphe TOUFFAIT, President
Lord Alexander J. MACKENZIE STUART, Judge
Ulrich EVERLING, Judge

Advocates General

Francesco CAPOTORTI, First Advocate General
Gerhard REISCHL, Advocate General
Sir Gordon SLYNN, Advocate General
Simone ROZÈS, Advocate General
Pieter VERLOREN VAN THEMAAT, Advocate General

from 10 February to 6 October 1982

Josse MERTENS DE WILMARS, President
Francesco CAPOTORTI, First Advocate General
Giacinto BOSCO, Presidnent of the First Chamber
Adolphe TOUFFAIT, President of the Third Chamber
Ole DUE, President of the Second Chamber
Pierre PESCATORE, Judge
Lord Alexander J. MACKENZIE STUART, Judge
Gerhard REISCHL, Advocate General
Andreas O'KEEFFE, Judge
Thymen KOOPMANS, Judge
Ulrich EVERLING, Judge
Alexandros CHLOROS, Judge
Sir Gordon SLYNN, Advocate General
Simone ROZÈS, Advocate General
Pieter VERLOREN VAN THEMAAT, Advocate General
Fernand GRÉVISSE, Judge
Paul HEIM, Registrar

from 7 October to 15 November 1982

Josse MERTENS DE WILMARS, President
Andreas O'KEEFFE, President of Chamber
Ulrich EVERLING, President of Chamber
Alexandros CHLOROS, President of Chamber
Simone ROZÈS, First Advocate General
Pierre PESCATORE, Judge
Lord Alexander J.MACKENZIE STUART, Judge
Gerhard REISCHL, Advocate General
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge
Ole DUE, Judge
Sir Gorden SLYNN, Advocate General
Pieter VERLOREN VAN THEMAAT, Advocate General
Kai BAHLMANN, Judge
Federico MANCINI, Advocate General
Yves GALMOT, Judge
Paul HEIM, Registrar

Composition of the First Chamber

Andreas O'KEEFFE, President
Giancinto BOSCO, Judge
Thymen KOOPMANS, Judge

Composition of the Second Chamber

Alexandros CHLOROS, President
Ole DUE, Judge
Kai BAHLMANN, Judge

Composition of the Third Chamber

Ulrich EVERLING, President
Pierre PESCATORE, Judge
Yves GALMOT, Judge
Lord Alexander J. MACKENZIE STUART, Judge

Composition of the Fourth Chamber

Andreas O'KEEFFE, President
Pierre PESCATORE, Judge
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge
Kai BAHLMANN, Judge

Composition of the Fifth Chamber

Ulrich EVERLING, President
Lord Alexander J. MACKENZIE STUART, Judge
Ole DUE, Judge
Alexandros CHLOROS, Judge
Yves GALMOT, Judge

Advocates General

Simone ROZÈS, First Advocate General
Gerhard REISCHL, Advocate General
Sir Gordon SLYNN, Advocate General
Pierre VERLOREN VAN THEMAAT, Advocate General
Federico MANCINI, Advocate General

from 17 November 1982 to 31 December 1982

Josse MERTENS DE WILMARS, President
Pierre PESCATORE, President of Chamber
Andreas O'KEEFFE, President of Chamber
Ulrich EVERLING, President of Chamber
Simone ROZÈS, First Advocate General
Lord Alexander J. MACKENZIE STUART, Judge
Gerhard REISCHL, Advocate General
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge
Ole DUE, Judge
Sir Gordon SLYNN, Advocate General
Pieter VERLOREN VAN THEMAAT, Advocate General
Kai BAHLMANN, Judge
Federico MANCINI, Advocate General
Yves GALMOT, Judge
Paul HEIM, Registrar

Composition of the First Chamber

Andreas O'KEEFFE, President
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge

Composition of the Second Chamber

Pierre PESCATORE, President
Ole DUE, Judge
Kai BAHLMANN, Judge

Composition of the Third Chamber

Ulrich EVERLING, President
Lord Alexander J. MACKENZIE STUART, Judge
Yves GALMOT, Judge

Composition of the Fourth Chamber

Andreas O'KEEFFE, President
Pierre PESCATORE, Judge
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge
Kai BAHLMANN, Judge

Composition of the Fifth Chamber

Ulrich EVERLING, President
Lord Alexander J. MACKENZIE STUART, Judge
Ole DUE, Judge
Yves GALMOT, Judge

Former Presidents and members of the Court of Justice

Former Presidents

PILOTTI, Massimo (died on 29 April 1962)	President of the Court of Justice of the European Coal and Steel Community from 10 December 1952 to 6 October 1958
DONNER, Andreas Matthias	President of the Court of Justice of the European Communities from 7 October 1958 to 7 October 1964
HAMMES, Charles-Léon (died on 9 December 1967)	President of the Court of Justice of the European Communities from 8 October 1964 to 7 October 1967
LECOURT, Robert	President of the Court of Justice of the European Communities from 8 October 1967 to 6 October 1976
KUTSCHER, Hans	President of the Court of Justice of the European Communities from 7 October 1976 to 30 October 1980

Former members

PILOTTI, Massimo (died on 29 April 1962)	President and Judge at the Court of Justice from 10 December 1952 to 6 October 1958
SERRARENS, Petrus J.S. (died on 26 August 1963)	Judge at the Court of Justice from 10 December 1952 to 6 October 1958
VAN KLEFFENS, Adrianus (died on 2 August 1973)	Judge at the Court of Justice from 10 December 1952 to 6 October 1958
CATALANO, Nicola	Judge at the Court of Justice from 7 October 1958 to 7 March 1962
RUEFF, Jacques (died on 24 April 1978)	Judge at the Court of Justice from 10 December 1952 to 17 May 1962
RIESE, Otto (died on 4 June 1977)	Judge at the Court of Justice from 10 December 1952 to 5 February 1963
ROSSI, Rino (died on 6 February 1974)	Judge at the Court of Justice from 7 October 1958 to 7 October 1964
LAGRANGE, Maurice	Advocate General at the Court of Justice from 10 December 1952 to 7 October 1964
DELVAUX, Louis (died on 24 August 1976)	Judge at the Court of Justice from 10 December 1952 to 9 October 1967
HAMMES, Charles-Léon (died on 9 December 1967)	Judge at the Court of Justice from 10 December 1952 to 9 October 1967, President of the Court from 8 October 1964 to 7 October 1967
GAND, Joseph (died on 4 October 1974)	Advocate General at the Court of Justice from 8 October 1964 to 6 October 1970
STRAUSS, Walter (died on 1 January 1976)	Judge at the Court of Justice from 6 February 1963 to 27 October 1970
DUTHEILLET DE LAMOTHE, Alain (died on 2 January 1972)	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 2 February 1953 to 8 October 1973

Ó DÁLAIGH, Cearbhall (died on 21 March 1978)	Judge at the Court of Justice from 9 January 1973 to 11 December 1974
MONACO, Riccardo	Judge at the Court of Justice from 8 October 1964 to 2 February 1976
LECOURT, Robert	Judge at the Court of Justice from 18 May 1962 to 7 October 1976, President of the Court from 8 October 1967 to 6 October 1976
TRABUCCHI, Alberto	Judge at the Court of Justice from 8 March 1962 to 8 January 1973, Advocate General at the Court from 9 January 1973 to 6 October 1976
DONNER, Andreas Matthias	Judge at the Court of Justice from 7 October 1958 to 29 March 1979, President of the Court from 7 October 1958 to 7 October 1964
SØRENSEN, Max (died on 11 October 1981)	Judge at the Court of Justice from 9 January 1973 to 8 October 1979
KUTSCHER, Hans	Judge at the Court of Justice from 28 October 1970 to 30 October 1980, President of the Court from 7 October 1976 to 30 October 1980
WARNER, Jean-Pierre	Advocate General at the Court of Justice from 9 January 1973 to 26 February 1981
MAYRAS, Henri	Advocate General at the Court of Justice from 22 March 1972 to 18 March 1981
VAN HOUTTE, Albert	Registrar at the Court of Justice from 26 March 1953 to 9 February 1982
CAPOTORTI, Francesco	Judge at the Court of Justice from 3 February 1976 to 6 October 1976, Advocate General from 7 October 1976 to 6 October 1982
TOUFFAIT, Adolphe	Judge at the Court of Justice from 26 October 1976 to 6 October 1982
GRÉVISSE, Fernand	Judge at the Court of Justice from 4 June 1981 to 6 October 1982
CHLOROS, Alexandros (died on 15 November 1982)	Judge at the Court of Justice from 12 January 1981 to 15 November 1982

4. Library, Research and Documentation Directorate

This directorate includes the Library and the Research and Documentation Division.

The Library

This division is responsible for the organization and operation of the Library of the Court which is primarily a working instrument for the members and the officials of the Court. At present it contains approximately 38 100 bound volumes (books, series and bound journals), 7 900 unbound booklets and brochures and 398 current legal journals and law reports supplied on subscription.

It may be mentioned as a guide that in the course of 1982 new acquisitions amounted to 920 books (1 100 volumes), 400 booklets and 11 new subscriptions.

All these works may be consulted in the reading-room of the Library. They are lent only to the members and the officials of the Court. No loan to persons outside the institutions of the Community is permitted. Loan of works to officials of other Community institutions may be permitted through the library of the institution to which the official seeking to borrow a book belongs.

The division draws up a quarterly list of new acquisitions, both books and journal articles. The complete record of the Community's case-law is, furthermore, stored in the Court's computer. The division also publishes a yearly bibliographic list of those books and articles which have been added during the previous year to its collection on European law, especially Community law. The list is supplied with an index including a key-word thesaurus which is cumulative for all previous years. The volumes available at present cover the years 1981 and 1982.

The Research and Documentation Division of the Court of Justice

The primary task of this division is, at the request of members of the Court, to prepare documentation concerning Community law, international law and comparative law for the purposes of preparatory inquiries.

The division is also responsible for drawing up the alphabetical index of subject-matter in the *Reports of Cases before the Court* which, since 1981, appears not merely in the form of an annual index but also as a monthly index inserted in

each part of the *Reports of Cases before the Court*. It also collates a periodical bulletin on the recent case-law of the Court of Justice for internal use.

The division has completed the work of drawing up the first issue of the 'A' series of the Community case-law digest. The series covers the case-law of the Court for 1977 to 1980 inclusive, dealing with Community law other than the staff cases of the European institutions. The issue has now gone to press and will be published in loose-leaf format in the official languages of the European Communities. It will be joining the first issue of the 'D' series of the digest, published in 1981, which contains the case-law of the Court until 1979 inclusive dealing with the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, together with a selection of national case-law on the subject, covering the years 1973 to 1978 inclusive. The preparation of the second issue of the 'D' series is nearing completion.

Lastly, the division has been continuing its work on drawing up the 'B' series of the digest, which collates national case-law relating to Community law, and the 'C' series, consisting of the case-law of the Court in Community staff matters. It is envisaged that work on the 'C' series will have been completed by the autumn of 1983.

Information Section

The section runs a computerized retrieval system for the case-law of the Court of Justice, giving rapid access to the whole of the Court's case-law including the opinions of the Advocates General. The system, known as CJUS, forms part of the Celex inter-institutional system of computerized documentation for Community law. The data base is no longer available exclusively to the members and the staff of the Court but may be consulted by the public, from inquiry terminals set up in the Member States.

Since 1982 the section has been linked to the legal data bases known as Juris (Federal Republic of Germany), Credoc (Belgium), Sydoni (France), Italgiure (Italy), NLEX (Netherlands) and Eurolex (United Kingdom). Access to those bases, yielding rapid information on national case-law, legislation and doctrine, is restricted to the staff of the Court.

It is also since 1982 that the section has periodically drawn up lists (the 'A-Z Index') of all the cases brought before the Court since 1954, including those in which the judgments have not yet been published in the European Court Reports. Whenever the decisions have been published, the list gives the reference in the European Court Reports.

At the same time the legal information section has set up a new data base for internal use, comprising information relating to cases pending before the Court. It regularly publishes a systematic synopsis of such cases, known as 'Tables A.P.', which categorizes them according to subject-matter under the various headings of Community law.

5. Translation Directorate

The Translation Directorate is at present composed of 92 lawyer-linguists who are divided up as follows into the seven translation divisions and the Terminology Branch:

Danish Language Division	15	German Language Division	10
Dutch Language Division	13	Greek Language Division	15
English Language Division	15	Italian Language Division	9
French Language Division	14	Terminology Branch	1

The total number of staff is 136. Since 1981 it has increased by 4 persons.

The principal task of the Translation Directorate is to translate into all the official languages of the Communities for publication in the *Reports of Cases before the Court* the judgments of the Court and the opinions of the Advocates General. In addition it translates any documents in the case into the language or languages required by members of the Court.

In 1982 the Translation Directorate translated some 71 000 pages as against 62 500 pages translated during the previous year.

The relative importance of the various official languages of the Community as languages into which texts are translated on the one hand and as source languages on the other may be seen from the following table. The first column of the table at the same time shows the amount of work done in 1982 by each of the seven translation divisions.

Translations:

into Danish:	10 500 pages;	from that language:	300 pages
into Dutch;	10 000 pages;	from that language:	7 000 pages
into English:	9 800 pages;	from that language:	6 150 pages
into French:	12 200 pages;	from that language:	42 700 pages
into German	8 800 pages;	from that language:	9 450 pages
into Greek:	10 000 pages;	from that language:	200 pages
into Italian:	9 700 pages;	from that language:	5 200 pages
	71 000 pages		71 000 pages

6. Interpretation Division

The Interpretation Division provides interpretation for all sittings and other meetings organized by the institution. A good deal of an interpreter's work is devoted to the preparation of the interpretation. This requires reading, understanding and assimilation of the written procedure as well as terminological and document research.

II – Decisions of national courts on Community law

A – *Statistical information*

The Court of Justice endeavours to obtain as full information as possible on decisions of national courts on Community law.[1]

The tables below show the number of national decisions, with a breakdown by Member State, delivered between 1 July 1981 and 30 June 1982 entered in the card-indexes maintained by the Library, Research and Documentation Directorate of the Court. The decisions are included whether or not they were taken on the basis of a preliminary ruling by the Court.

A separate column headed Brussels Convention contains the decisions on the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, known as the Brussels Convention, which has led to a considerable increase in the number of cases coming before the national courts.

It should be emphasized that the tables are only a guide as the card-indexes on which they are based are necessarily incomplete.

[1] The Library, Research and Documentation Directorate of the Court of Justice of the European Communities, L-2920 Luxembourg, welcomes copies of any such decisions

General table, by Member State, of decisions on Community law
(from 1 July 1981 to 30 June 1982)

Member State	Supreme Courts	Cases in previous column on Brussels Convention	Courts of appeal or of first instance	Cases in previous column on Brussels Convention	Total	Cases in previous column on Brussels Convention[1]
Belgium	12	2	49	27	61	29
Denmark	3	–	2	–	5	–
France	33	8	71	6	104	14
Federal Republic of Germany	53	3	76	17	129	20
Greece	–	–	–	–	–	–
Ireland	1	–	–	–	1	–
Italy	32	4	20	4	52	8
Luxembourg	1	–	1	–	2	–
The Netherlands	6	2	120	9	126	11
United Kingdom	1	–	19	–	20	–
Total	142	19	358	63	500	82

[1] This table does not include decisions merely authorizing enforcement under the Convention. Those decisions are included in the statistics appearing in the *Digest of Community Case-law, D series, Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters.*

Detailed table, broken down by Member State and by court, of decisions on Community law

Member State	Number	Court giving judgment	
		Supreme Courts	
Federal Republic of Germany	129	Bundesverfassungsgericht	1
		Bundesgerichtshof	8
		Bundesverwaltungsgericht	5
		Bundesfinanzhof	33
		Bundessozialgericht	4
		Bundesarbeitsgericht	1
		Bundespatentgericht	1
		Courts of appeal or first instance	
		Oberlandesgericht Düsseldorf	1
		Oberlandesgericht Frankfurt	1

Member State	Number	Court giving judgment	
Federal Republic of Germany (*continued*)	129	Oberlandesgericht Hamm	3
		Oberlandesgericht Karlsruhe	2
		Oberlandesgericht Koblenz	2
		Oberlandesgericht Köln	2
		Bayerischer Vertwaltungsgerichtshof	1
		Hessischer Verwaltungsgerichtshof	2
		Verwaltungsgerichtshof Baden-Württemberg	2
		Finanzgericht Berlin	1
		Finanzgericht Bremen	1
		Finanzgericht Düsseldorf	2
		Finanzgericht Hamburg	16
		Finanzgericht Köln	1
		Finanzgericht München	3
		Finanzgericht Münster	1
		Finanzgericht Rheinland-Pfalz	4
		Finanzgericht des Saarlandes	1
		Hessisches Finanzgericht	2
		Bayerisches Landessozialgericht	1
		Landgericht Aachen	2
		Landgericht Dortmund	1
		Landgericht Duisburg	1
		Landgericht Frankfurt	3
		Landgericht Hamburg	2
		Landgericht Koblenz	1
		Landgericht Mainz	1
		Landgericht München	1
		Landgericht Waldshut-Tiengen	1
		Verwaltungsgericht Frankfurt	9
		Verwaltungsgericht Neustadt an der Weinstrasse	1
		Verwaltungsgericht Stuttgart	1
		Sozialgericht Schleswig	1
		Sozialgericht Stuttgart	1
		Amtsgericht Rosenheim	1
Belgium	61	*Supreme Courts*	
		Cour de cassation	6
		Hof van cassatie	2
		Conseil d'État	4
		Courts of appeal or first instance	
		Cour d'appel de Bruxelles	2
		Cour d'appel de Mons	2
		Hof van beroep Antwerpen	3
		Hof van beroep Brussel	1
		Hof van beroep Gent	1
		Cour du travail de Mons	1

Member State	Number	Court giving judgment	
Belgium (*continued*)		Tribunal de première instance de Bruxelles	7
		Tribunal de première instance de Charleroi	4
		Tribunal de première instance de Liège	2
		Tribunal de première instance de Tournai	1
		Rechtbank van eerste aanleg Antwerpen	1
		Rechtbank van eerste aanleg Brugge	1
		Rechtbank van eerste aanleg Brussel	2
		Rechtbank van eerste aanleg Gent	2
		Rechtbank van eerste aanleg Ieper	1
		Rechtbank van eerste aanleg Turnhout	1
		Tribunal du travail de Bruxelles	1
		Tribunal du travail de Charleroi	2
		Tribunal du travail de Liège	1
		Tribunal du travail de Mons	1
		Tribunal de commerce de Bruxelles	7
		Rechtbank van koophandel Gent	3
		Rechtbank van koophandel Kortrijk	1
		Justice de paix du 4e canton de Bruxelles	1
Denmark	5	*Supreme Courts*	
		Højesteret	3
		Courts of appeal or first instance	
		Østre Landsret	2
France	104	*Supreme Courts*	
		Cour de cassation	23
		Conseil d'État	10
		Courts of appeal or first instance	
		Cour d'appel d'Agen	1
		Cour d'appel d'Aix-en-Provence	1
		Cour d'appel d'Angers	1
		Cour d'appel de Besançon	1
		Cour d'appel de Colmar	1
		Cour d'appel de Paris	11
		Cour d'appel de Rennes	16
		Cour d'appel de Rouen	1
		Cour d'appel de Versailles	2
		Tribunal administratif de Châlons-sur-Marne	1
		Tribunal administratif d'Orléans	1
		Tribunal administratif de Paris	6

Member State	Number	Court giving judgment	
France (*continued*)	104	Tribunal administratif de Strasbourg	1
		Tribunal de grande instance d'Angers	1
		Tribunal de grande instance de Bayonne	9
		Tribunal de grande instance de Bressuire	1
		Tribunal de grande instance de Foix	1
		Tribunal de grande instance de Laval	1
		Tribunal de grande instance de Lure	1
		Tribunal de grande instance de Mulhouse	1
		Tribunal de grande instance de Paris	5
		Tribunal de grande instance de Versailles	1
		Tribunal de grande instance de Saint-Étienne	1
		Tribunal d'instance de Lille	1
		Tribunal de commerce de Bourg-en-Bresse	1
		Tribunal de police de Strasbourg	1
		Tribunal de police de Tourcoing	1
		Tribunal de police de Troyes	1
Ireland	1	*Supreme Courts*	
		High Court Dublin	1
Italy	52	*Supreme Courts*	
		Corte Costituzionale	4
		Corte di Cassazione	28
		Courts of appeal or first instance	
		Corte d'appello di Bologna	1
		Corte d'appello di Genova	2
		Corte d'appello di Milano	2
		Corte d'appello di Napoli	1
		Corte d'appello di Torino	1
		Corte d'appello di Trento	1
		Corte d'appello di Venezia	1
		Tribunale amministrativo regionale Abruzzo-Pescara	1
		Tribunale di Bari	1
		Tribunale di Bolzano	1
		Tribunale di Firenze	1
		Tribunale di Milano	3
		Tribunale di Ravenna	2
		Tribunale di Trento	2

Member State	Number	Court giving judgment	
Luxembourg	2	*Supreme Courts*	
		Conseil d'État, Comité du contentieux	1
		Courts of appeal or first instance	
		Cour d'appel de Luxembourg	1
The Netherlands	126	*Supreme Courts*	
		Hoge Raad	5
		Raad van State	1
		Courts of appeal or first instance	
		Centrale Raad van beroep	10
		College van beroep voor het bedrijfsleven	53
		Gerechtshof Amsterdam	2
		Gerechtshof 's-Gravenhage	1
		Gerechtshof 's-Hertogenbosch	2
		Tariefcommissie	26
		Arrondissementsrechtbank Amsterdam	5
		Arrondissementsrechtbank Arnhem	2
		Arrondissementsrechtbank Breda	1
		Arrondissementsrechtbank Maastricht	1
		Arrondissementsrechtbank Roermond	3
		Arrondissementsrechtbank Rotterdam	5
		Arrondissementsrechtbank 's-Gravenhage	1
		Arrondissementsrechtbank 's-Hertogenbosch	1
		Arrondissementsrechtbank Utrecht	2
		Arrondissementsrechtbank Zwolle	1
		Kantongerecht Rotterdam	1
		Kantongerecht 's-Gravenhage	1
		Raad van beroep Amsterdam	2
United Kingdom	20	*Supreme Courts*	
		House of Lords	1
		Courts of appeal or first instance	
		Court of Appeal	5
		High Court of Justice	1

Member State	Number	Court giving judgment	
United Kingdom (*continued*)		Employment Appeal Tribunal	2
		Social Security Commissioner (previously called : National Insurance Commissioner)	3
		Commissioners for Special Purpose of the Income Tax Acts	1
		Parliamentary Commissioner for Administration	2
		Value Added Tax Tribunal London	3
		Value Added Tax Tribunal Manchester	1
		Plymouth Magistrates' Court	1

B – *Remarks on some specific decisions*

The judgments both of the High Court (Queen's Bench Division) of 28 May 1982, of the Italian Court of Cassation of 9 March 1982 and of the Court of Appeal Amsterdam of 15 September 1982 reflect the care with which national courts observe and enforce Community law when the latter is invoked to settle domestic legal issues.

Thus the High Court, in returning its judgment on a case concerning the freedom of movement for workers, was guided by the principle that Community law constitutes the legal basis for any law on the subject.

The Italian Court of Cassation defines a fundamental problem in Community law on which the Constitutional Court has given its judgment in 1973. The latter, departing from the dualistic theory – generally accepted by Italian doctrine – governing the relationship between domestic and international law, had acknowledged the self-executing character of Community regulations in domestic Italian law.

Further, the judgment of the Court of Appeal Amsterdam admitted the provisional validity of a clause in restraint of competition, but only so far as the Commission has made no final ruling on the point. In so holding, the Court adapted the wording of its judgment to the Commission's administrative practice in the matter.

Corte di Cassazione [Court of Cassation]; judgment of 9 March 1982, No 1470 – Frontini v Ministero delle Finanze [Finance Ministry]

An Italian forwarding agent named Mr Frontini had imported into Italy three consignments of mascarpone on behalf of a company known as Commercio Prodotti Alimantari, between 27 and 29 December 1967; he had paid the appropriate agricultural levies of the Community to the Italian customs authorities.

The same customs authorities subsequently demanded payment from Mr Frontini and from Commercio Prodotti Alimentari of an additional sum, on account of the increase in the agricultural levy introduced by Regulation (EEC) No 1028/67 of 21 December 1967, which entered into force on 24 December of that year.

That is how the litigation arose. On the one hand the Amministrazione delle Finanze, arguing the direct and immediate applicability of the regulation in question, sought payment of the total amount of the levy. On the other hand, Mr

Frontini and Commercio Prodotti Alimentari maintained that they were not liable for payment of the increased levy inasmuch as Regulation No 1028/67 could not have legislative force in Italy without a specific implementing instrument issued by the Italian legislature. In that connection, the importers stated that Regulation No 1028/67 had at all events to be held to be inapplicable in that, at the time when the goods were imported, the rates enabling the amount of the levy to be determined had not yet been fixed and published by the Italian authorities; in the absence of any national administrative provision establishing those rates, Regulation No 1028/67 was thus devoid of any binding force.

The Corte di Cassazione, giving a literal application of judgment No 183/73 of the Corte Costituzionale [Constitutional Court], held that:

(i) Community rules have full, direct and binding effect in all Member States without the need for legislation to embody or to adapt them, so that they may enter into force everywhere simultaneously and may be applied equally and even-handedly in respect of all persons envisaged by them.

(ii) It is unnecessary to resort to national provisions to reproduce, supplement or enact EEC regulations, as long as the provisions thereof are complete, as is normally required of rules directly creating rights and obligations between legal persons, on the grounds that such national provisions might in any case delay the regulation's entry into force, or subject it to conditions.

Turning to the criterion of completeness, the Corte di Cassazione therefore held that an examination of Regulation No 1028/67 disclosed that the amount of the new levy was quite definite in all its arithmetical components. Consequently, the ministerial circular which was published once Regulation No 1028/67 had entered into force, and in which the amount of the levies was specified in Italian lire, served merely to implement the Community provision and neither had nor could have the character of a component part of the instrument itself, nor could it supplement it or give effect to it.

Judgment of the Gerechtshof [Regional Court of Appeal] Amsterdam of 15 September 1982

When the shares in Remia, a Netherlands undertaking which manufactured food products, were being assigned between two other Netherlands entities in 1979, a further Netherlands company, called Luycks Producten BV, was forbidden to manufacture or sell a number of sauces in the Netherlands for the period of 10 years. In 1981 the assignment, together with the anti-competition clause submitted to by Luycks, was notified to the Commission of the European Communities, where the Director of Restrictive Practices and Abuse of Dominant Positions informed Remia in March 1982 that the duration of the anti-competition clause should be limited to three years. The communication expressed the provisional standpoint of the administrative authorities of the Commission, and its adoption

had taken account of the nature of the product and the Commission's administrative policy, in particular the decision in the case of *BASF* v *Reuter* of 26 July 1976.

When, in May 1982, Luycks none the less began marketing in the Netherlands some sauces to which the clause had referred, the undertakings having been parties to the 1979 assignment, especially Remia itself, sought an interim injunction to restrain it from so doing. Luycks contended in its defence that the assignment had to be considered null and void as being inconsistent with Article 85(1) of the EEC Treaty, since Remia had failed to follow the Commission's proposal to limit the prohibition on competition.

At first instance the request was acceded to. The President of the Arrondissementsrechtbank [District Court] Amsterdam held that in view of the provisional nature of the Commission's viewpoint the nullity of the agreement of assignment should not be inferred *a priori*, with the result that the plaintiffs were able, in principle, to require its observance. He granted a provisional injunction and at the same time ordered a stay of proceedings so as to enable the parties to obtain a definitive ruling from the Commission.

At the appeal stage the judgment was upheld, although the Gerechtshof limited the injunction to the period within which a decision from the Commission might be expected. The Gerechtshof found that Luycks had held, prior to the disputed assignment, a large share of the Netherlands market in the sauces in question, and that it exported a great deal to the Federal Republic of Germany. The Court considered that Community law was applicable to the case, in spite of the territorial limits of the anti-competition clause, because the prohibition on manufacuture in the Netherlands and the loss of its home market could also hamper Luycks in its sales abroad. The criterion formulated in the *Haecht II* judgment of the Court of Justice (6 February 1973, [1973] ECR 77), namely that there must be a contract capable of materially affecting competition or trade between Member States, was therefore satisfied. That conclusion was not altered by the fact that, under the assignment, Luycks passed into the ownership of a company which in turn belonged to the Campbell group in America, the latter being at liberty to produce sauces for the Netherlands market. Desite that, Luycks was an independent company.

As to the applicability of Article 85 of the Treaty, the Gerechtshof held that there was sufficient consistency between the case before it and the *BASF* case, in which the Commission had given the decision which underlay the provisional standpoint of the Directorate of Restrictive Practices and Abuse of Dominant Positions. For that reason it had to be allowed that Article 85(1) could not be applied without qualification to the contract at issue (with the exception of the excessive duration of the protection agreed against competition) and that the voiding provision of Article 85(2) was not unreservedly applicable either. A declaration that the competition clause was totally void, at a time when the Commission had not finally decided on its attitude, would be all the less justified since that standpoint is not divulged to the parties concerned either straightforwardly or speedily. As a result, there would be uncertainty as to the validity of the clause during the period immediately following

the conclusion of the contract in 1979. In that way the possibility of agreeing such clauses would be severely restricted, which runs counter to the need to permit them, acknowledged by the Commission in the BASF decision.

The Gerechtshof shares the opinion of the judge of first instance, namely that there are grounds for taking proper account of the possibility of obtaining an exemption, by virtue of Article 85(3) of the Treaty, of the agreement notified, in respect of the period prior to the limitation of the competition clause to three years. However, in order to prevent the prohibition from being sanctioned for a period longer than the Commission might later consider acceptable, the Gerechtshof confined itself to ordering Luycks to comply with the prohibition for a period of eight months commencing on 15 September 1982.

High Court (Queen's Bench Division), judgment of 28 May 1982, Regina v Secretary of State for the Home Office ex parte Sandhu

Mr Sandhu, an Indian national, married a German national in 1975. The couple settled in England where they got leave to stay for a period of five years. A year after the marriage, a son was born to the couple in England, thereby becoming a British subject. Mr Sandhu found employment with the Post Office, but failed to find satisfactory accommodation for the family, whereupon his wife returned to Germany with their son. Although the parting was initially contemplated as a temporary measure, it later transpired that Mrs Sandhu did not wish to return to the United Kingdom, and was instead contemplating divorce proceedings.

Towards the end of his five-year period of leave to remain in the United Kingdom, Mr Sandhu applied to have the conditions upon his permission revoked and for unrestricted leave to remain. His application was refused by the Home Office, and his appeal to the adjudicator was dismissed, in both instances on the ground that having originally entered the United Kingdom by virtue of his marriage to a non-British EEC national, he lost all immigration rights once his wife was no longer living with him and did not appear to be likely to live with him in the immediately foreseeable future. Considering that the relevant Immigration Rules were contrary to the Treaty of Rome, Mr Sandhu applied for an order to quash the decisions of the Home Office and of the adjudicator.

Comyn J. found that the rules did not infringe EEC law, but considered it 'plain and entirely clear that (the) rules must be read in the light of the EEC law which is the foundation stone of all the law on this matter.'

Rejecting the contention that subsequent to the initial entry, a non-EEC spouse had no rights other than those stemming from the EEC spouse, the judge considered that the provisions of the Treaty relating to freedom of movement of workers were based on the foundation of the family which in all civilized States is the basic unit. Protection of the family unit was achieved by the effect of EEC law in 'gathering the family of a spouse under its cloak, not the spouse's cloak.' To hold otherwise would in the judge's view 'add a new terror to marriage', in admitting

that by unilateral act one spouse could strip the other of EEC privileges, cause him to lose his job and be expelled from the country.

Considering that there was no hard and fast rule in cases of separation or divorce of spouses of whom one was not an EEC national, but that Community law required that the question of the continued stay of the non-EEC partner be judged objectively and fairly in all the circumstances, the judge concluded that Mr Sandhu had not lost his right to remain in the United Kingdom when his wife returned to Germany. Of particular importance in the appreciation of the circumstances of this case were the period of blameless residence of the applicant in the United Kingdom, and the birth of his son there which tended to show that his was not a marriage of convenience.

III – Annexes

ANNEX 1

Organization of public sittings of the Court

As a general rule, sittings of the Court are held on Tuesdays, Wednesdays and Thursdays every week, except during the Court's vacations (from 22 December to 8 January, the week preceding and two weeks following Easter, and 15 July to 15 September) and three weeks each year when the Court also does not sit (the week following Carnival Monday, the week following Whit Monday and the week of All Saints).

See also 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 visitors who have indicated that they will be attending the hearing are supplied with relevant documents.

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
Easter Monday	
Ascension Day	
Whit Monday	
May Day	1 May
Luxembourg national holiday	23 June
Assumption	15 August
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

ANNEX 2

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 or 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 to it.

During a period of two months the Council, 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 Council, the Commission and the Member States, through lawyers who are members of a Bar of a Member State or through university teachers who have a right of audience before the Court pursuant to Article 36 of the Rules of Procedure.

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[1] 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:

(i) the name and permanent residence of the applicant;

(ii) the name of the party against whom the application is made;

(iii) the subject-matter of the dispute and the grounds on which the application is based;

(iv) the form of order sought by the applicant;

(v) the nature of any evidence offered;

(vi) 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.

[1] Court of Justice of the European Communities, L-2920 Luxembourg. Telephone: 43031. Telegrams: CURIA. Telex: 2510 CURIA LU.

The application should also be accompanied by the following documents:

(i) the decision the annulment of which is sought, or, in the case of proceedings against an implied decision, documentary evidence of the date on which the request to the institution in question was lodged;

(ii) a certificate that the lawyer is entitled to practise before a court of a Member State;

(iii) 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.

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 of Luxembourg. 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 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 has been heard, the judgment is given. It is served on the parties by the Registry.

ANNEX 3

Notes for the guidance of Counsel at oral hearings[1]

These notes are issued by the Court with the object of making it possible, with the assistance of Counsel for the parties, to ensure that the Court may dispose of its business in the most effective and expeditious manner possible.

1. *Estimates of time*

The Registrar of the Court always requests from Counsel an estimate in writing of the length of time for which they wish to address the Court. It is most important that this request be promptly complied with so that the Court may arrange its timetable. Moreover, the Court finds that Counsel frequently underestimate the time likely to be taken by their address – sometimes by as much as 100%. Mistaken estimates of this kind make it difficult for the Court to draw up a precise schedule of work and to fulfil all its commitments in an orderly manner. Counsel are accordingly asked to be as accurate as possible in their estimates, bearing in mind that they may have to speak more slowly before this Court than before a national court for the reasons set out in point 4 below.

2. *Length of address to the Court*

This inevitably must vary according to the complexity of the case but Counsel are requested to remember that:

(i) the members of the Court will have read the papers;
(ii) the essentials of the arguments presented to the Court will have been summarized in the Report for the Hearing and
(iii) the object of the oral hearing is, for the most part, to enable Counsel to comment on matters which they were unable to treat in their written pleadings or observations.

Accordingly, the Court would be grateful if Counsel would keep the above considerations in mind. This should enable Counsel to limit their address to the essential minimum. Counsel are also requested to endeavour not to take up with their address the whole of the time fixed for the hearing, so that the Court may have the opportunity to ask questions.

3. *The Report for the Hearing*

As this document will normally form the first part of the Court's judgment Counsel are asked to read it with care and, if they find any inaccuracies, to inform the Registrar before the hearing. At the hearing they will be able to put forward any amendment which they propose for the drafting of the part of the judgment headed 'Facts and Issues'.

4. *Simultaneous translation*

Depending on the language of the case not all the members of the Court will be able to listen directly to the Counsel. Some will be listening to an interpreter. The interpreters are highly skilled but their task is a difficult one and Counsel are particularly asked, in the interests of justice, to speak *slowly* and into the microphone. Counsel are also asked so far as it is possible to simplify their presentation.

[1] These notes are issued to Counsel before the hearing

A series of short sentences in place of one long and complicated sentence is always to be preferred. It is also helpful to the Court and would avoid misunderstanding if, in approaching any topic, Counsel would first state very briefly the tenor of their arguments, and, in an appropriate case, the number and nature of their supporting points, before developing the argument more fully.

5. *Written texts*

For simultaneous translation it is always better to speak *freely* from notes rather than to read a prepared text. However, if Counsel has prepared a written text of his address which he wishes to *read* at the hearing it assists the simultaneous translation if the interpreters can be given a copy of it some days before the hearing. It goes without saying that this recommendation does not in any way affect Counsel's freedom to amend, abridge, or supplement his prepared text (if any) or to put his points to the Court as he sees fit. Finally it should be emphasized that any reading should not be too rapid and that figures and names should be pronounced clearly and slowly.

6. *Citations*

Counsel are requested, when citing in argument a previous judgment of the Court, to indicate not merely the number of the case in point but also the names of the parties and the reference to it in the *Reports of Cases before the Court* (ECR). In addition, when citing a passage from the Court's judgment or from the opinion of its Advocate General, Counsel should specify the number of the page on which the passage in question appears.

7. *Documents*

The Court wishes to point out that under Article 37 of the Rules of Procedure all documents relied on by the parties must be annexed to a pleading. Save in exceptional circumstances and with the agreement of the parties, the Court will not admit any documents produced after the close of pleadings, except those produced at its own request; this also applies to any documents submitted at the hearing.

Since all the oral arguments are recorded, the Court also does not allow notes of oral arguments to be lodged.

ANNEX 4

Information and documentation on the Court of Justice and its work

COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

L-2920 Luxembourg
Telephone: 43031
Telex (Registry): 2510 CURIA LU
Telex (Information Office of the Court): 2771 CJ INFO LU
Telegrams: CURIA

Complete list of publications:

A – Texts of judgments and opinions and information on current cases

1. *Judgments or orders of the Court and opinions of Advocates General*

Orders for offset copies, provided some are still available, may be made to the Internal Services Branch of the Court of Justice of the European Communities. L-2920 Luxembourg, on payment of a fixed charge of BFR 100 for each document. Copies may no longer be available once the issue of the *European Court Reports* containing the required judgment or opinion of an Advocate General has been published.

Anyone showing he is already a subscriber to the *Reports of Cases before the Court* may pay a subscription to receive offset copies in one or more of the Community languages.

The annual subscription will be the same as that for *European Court Reports*, namely BFR 3 000 for each language.

Anyone who wishes to have a complete set of the Court's cases is invited to become a regular subscriber to the *Reports of Cases before the Court* (see below).

2. *Calendar of the sittings of the Court*

The calendar of public sittings is drawn up each week. It may be altered and is therefore for information only.

This calendar may be obtained free of charge on request from the Court Registry.

B – Official publications

1. *Reports of Cases before the Court*

The *Reports of Cases before the Court* are the only authentic source for citations of judgments of the Court of Justice.

The volumes for 1954 to 1980 are published in Dutch, English, French, German and Italian.

The Danish edition of the volumes for 1954 to 1972 comprises a selection of judgments, opinions and summaries from the most important cases.

Since 1973, all judgments, opinions and summaries are published in their entirety in Danish.

The *Reports of Cases before the Court* are 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.
FRANCE:	Éditions A. Pedone, 13, rue Soufflot, 75005 Paris.
FEDERAL REPUBLIC OF GERMANY:	Carl Heymann's Verlag, Gereonstraße 18-32, 5000 Köln 1.
IRELAND:	Stationery Office, Dublin 4, or Government Publications Sales Office, GPO Arcade, Dublin 1.
ITALY:	CEDAM – Casa Editrice Dott. A. Milani, Via Jappelli 5, 35100 Padova (M-64194).
LUXEMBOURG:	Office for Official Publications of the European Communities, 2985 Luxembourg.
NETHERLANDS:	NV Martinus Nijhoff, Lange Voorhout 9,2501 AX's-Gravenhage.
UNITED KINGDOM:	Hammick, Sweet & Maxwell, 16 Newman Lane, Alton, Hants GU34 2PJ.
OTHER COUNTRIES:	Office for Official Publications of the European Communities, 2985 Luxembourg.

2. *Selected Instruments Relating to the Organization, Jurisdiction and Procedure of the Court (1975 edition)*

   Orders, indicating the language required, should be addressed to the Office for Official Publications of the European Communities, L-2985 Luxembourg.

C – General legal information and documentation

I – Publications by the Information Office of the Court of Justice of the European Communities

Applications to subscribe to the following three publications may be sent to the Information Office (L-2920 Luxembourg) specifying the language required. They are supplied free of charge.

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

   Weekly information sheet on the legal proceedings of the Court containing a short summary of judgments delivered and a brief description of the opinions, the oral procedure and the cases brought during the previous week.

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

   Quarterly bulletin containing the summaries and a brief résumé of the judgments delivered by the Court of Justice of the European Communities.

3. *Annual synopsis of the work of the Court*

   Annual publication giving a synopsis of the work of the Court of Justice of the European Communities in the area of case-law as well as of other activities (study courses for judges, visits, study groups, etc.). This publication contains much statistical information.

4. *General information brochure on the Court of Justice of the European Communities*

This brochure provides information on the organization, jurisdiction and composition of the Court of Justice of the European Communities.

II – Publications by the Research and Documentation Division of the Court of Justice

1. *Digest of Community Case-law*

The Court of Justice has commenced publication of the *Digest of Community Case-law* which will systematically present not only the whole of the case-law of the Court of Justice of the European Communities but also selected judgments of national courts. In its conception it is based on the *Répertoire de la Jurisprudence relative aux traités instituant les Communautés européennes* (see below under 2.) The digest will appear in all the languages of the Communities. It will be published in the form of loose-leaf binders and supplements will be issued periodically.

The digest comprising four series each of which will appear and may be obtained separately, will cover the following fields:

A series:	Case-law of the Court of Justice of the European Communities excluding the matters covered by the C and D series.
B series:	Case-law of the courts of Member States excluding the matters covered by the D series.
C series:	Case-law of the Court of Justice of the European Communities relating to Community staff law.
D series:	Case-law of the Court of Justice of the European Communities and of the courts of Member States relating to the EEC Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters. (This series replaces the *Synopsis of case-law* which was published in instalments by the Documentation Division of the Court but has now been discontinued.)

The first issue of the A series will be published during 1983 and will begin with the French edition. That issue will cover the judgments delivered by the Court of Justice of the European Communities during the years 1977 to 1980. Periodic supplements will be issued.

The first issue of the D series was published in 1981. It covers the case-law of the Court of Justice of the European Communities from 1976 to 1979 and the case-law of the courts of Member States from 1973 to 1978. The first supplement will cover the case-law of the Court of Justice in 1980 and judgments of national courts in 1979.

Orders may be addressed, either to the Office for Official Publications of the European Communities, L-2985 Luxembourg, or to one of the addresses given for the sale of *Reports of Cases before the Court* under B 1 above.

2. *Répertoire de la jurisprudence relative aux traités instituant les Communautés européennes – Europäische Rechtsprechung*
(published by H.J. Eversen and H. Sperl)

This *répertoire* which has ceased publication contains extracts from judgments of the Court of Justice of the European Communities and from judgments of national courts and covers the years 1954 to

1976. The German and French versions are on sale at:

Carl Heymann's Verlag
Gereonstraße 18-32
D-5000 Köln 1
(Federal Republic of Germany)

Compendium of case-law relating to the European Communities
(published by H.J. Eversen, H. Sperl and J.A. Usher)

In addition to the complete collection in French and German (1954 to 1976) an English version is now available for 1973 to 1976. The English version is on sale at:

Elsevier - North Holland
PO Box 211
Amsterdam (The Netherlands)

ANNEX 5

Information on Community law

Community case-law[1] is published in the following journals amongst others:

Belgium:
Administration publique
Cahiers de droit européen
Info-Jura
Journal des tribunaux
Journal des tribunaux du travail
Jurisprudence du Port d'Anvers
Pasicrisie belge
Rechtskundig weekblad
Recueil des arrêts et avis du Conseil d'État
Revue belge du droit international
Revue belge de sécurité sociale
Revue critique de jurisprudence belge
Revue de droit commercial belge (anc. Jurisprudence commerciale de Belgique)
Revue de droit fiscal
Revue de droit intellectuel – 'L'Ingénieur-conseil'
Revue de droit international et de droit comparé
Revue de droit social
Sociaal-economische wetgeving
Tijdschrift rechtsdocumentatie
Tijdschrift voor privaatrecht
Tijdschrift voor vreemdelingenrecht (TVR)

Denmark:
Juristen & Økonomen
Nordisk Tidskrift for International Ret
Ugeskrift for Retsvæsen

France:
Actualité juridique
Annales de la propriété industrielle, artistique et littéraire
Annuaire français de droit international
Bulletin des arrêts de la Cour de cassation – Chambres civiles
Bulletin des arrêts de la Cour de cassation – Chambres criminelles
Le Droit et les affaires CEE-International
Droit fiscal
Droit rural
Droit social
Gazette du Palais
Journal du droit international (Clunet)
Propriété industrielle, bulletin documentaire
Le Quotidien juridique
Recueil Dalloz-Sirey
Recueil des décisions du Conseil d'État
Revue critique de droit international privé
Revue du droit public et de la science politique en France et à l'étranger
Revue internationale de la concurrence
Revue internationale de la propriété industrielle artistique (RIPIA)

[1] Community case-law means the decisions of the Court as well as those of national courts concerning a point of Community law.

	Revue trimestrielle de droit européen
	La Semaine juridique – Juris-classeur périodique, Édition commerce et industrie
	La Semaine juridique – Juris-classeur périodique, Edition générale
	La Vie judiciaire
Federal Republic of Germany:	Agrarrecht
	Bayerische Verwaltungsblätter
	Der Betrieb
	Der Betriebs-Berater
	Deutsches Verwaltungsblatt
	Entscheidungen der Finanzgerichte
	Entscheidungen der Oberlandesgerichte in Zivilsachen
	Entscheidungen des Bundesfinanzhofs
	Entscheidungen des Bundesgerichtshofs in Zivilsachen
	Entscheidungen des Bundessozialgerichts
	Entscheidungen des Bundesverwaltungsgerichts
	Europäische Grundrechte-Zeitschrift (EuGRZ)
	Europarecht
	Gewerblicher Rechtsschutz und Urheberrecht
	Gewerblicher Rechtsschutz und Urheberrecht, Internationaler Teil
	Juristenzeitung
	Jus-Juristische Schulung
	Monatsschrift für deutsches Recht
	Neue juristische Wochenschrift
	Die Öffentliche Verwaltung
	Recht der internationalen Wirtschaft (Außen wirtschaftsdienst des Betriebs-Beraters)
	Sammlung von Entscheidungen der Sozial versicherung (Breithaupt)
	Wettbewerb in Recht und Praxis
	Wirtschaft und Wettbewerb
	Zeitschrift für das gesamte Handels- und Wirtschaftsrecht
	Zeitschrift für Zölle und Verbrauchsteuern
Greece:	Ἑλληνική Ἐπιθεώρηση Εὐρωπαϊκοῦ Δικαίου
	Ἐπιθεώρηση τῶν Εὐρωπαϊκῶν Κοινοτήτων
Ireland:	The Gazette of the Incorporated Law Society of Ireland
	The Irish Jurist
	The Irish Law Reports Monthly (formerly: The Irish Law Times)
Italy:	Affari sociali internazionali
	Il Consiglio di Stato
	Diritto comunitario e degli scambi internazionali
	Il Foro amministrativo
	Il Foro italiano
	Il Foro padano
	Giurisprudenza costituzionale
	Giustizia civile
	Giustizia penale
	Giurisprudenza italiana
	Il Massimario delle decisioni penali
	Massimario di giurisprudenza del lavoro
	Nuove leggi civili commentate
	Rassegna dell'avvocatura dello Stato
	Le Regioni – Rivista di documentazione e giurisprudenza
	Rivista di diritto agrario

	Rivista di diritto europeo
	Rivista di diritto industriale
	Rivista di diritto internazionale
	Rivista di diritto internazionale privato e processuale
	Rivista di diritto processuale
Luxembourg:	Pasicrisie luxembourgeoise
The Netherlands:	Ars aequi
	Bijblad bij de industriële eigendom
	BNB – Beslissingen in Nederlandse belastingzaken
	Common Market Law Review
	Nederlandse jurisprudentie – Administratieve en rechterlijke beslissingen
	Nederlandse jurisprudentie – Uitspraken in burgerlijke en strafzaken
	Rechtsgeleerd magazijn Themis
	Rechtspraak sociale verzekering
	Rechtspraak van de week
	Sociaal-economische wetgeving
	TVVS – Ondernemingsrecht
	UTC – Uitspraken van de Tariefcommissie
	WPNR – Weekblad voor privaatrecht, notariaat en registratie
United Kingdom:	All England Law Reports
	Cambridge Law Journal
	Common Market Law Reports
	Current Law
	European Commercial Cases
	European Competition Law Review
	European Court of Justice Reporter
	European Intellectual Property Review
	European Law Digest
	European Law Letter
	European Law Review
	Fleet Street Patent Law Reports
	Industrial Cases Reports
	Industrial Relations Law Reports
	International and Comparative Law Quarterly
	The Journal of the Law Society of Scotland
	The Law Reports
	The Law Society's Gazette
	Legal Issues of European Integration
	Modern Law Review
	New Law Journal
	Scottish Current Law
	Scots Law Times
	Weekly Law Reports

Press and Information Offices of the European Communities

BELGIQUE — BELGIË

Rue Archimède 73 -
Archimedesstraat 73
1040 Bruxelles — 1040 Brussel
Tél. : 235 11 11

DANMARK

Højbrohus
Østergade 61
Postbox 144
1004 København K
Tlf. 14 41 40
Telex 16402 COMEUR DK

BR DEUTSCHLAND

Zitelmannstraße 22
5300 Bonn
Tel. : 23 80 41

Kurfürstendamm 102
1000 Berlin 31
Tel. : 8 92 40 28

ΕΛΛΑΣ

'Οδός Βασιλίσσης Σοφίας 2
Καί 'Ηρώδου 'Αττικοῦ
'Αθήνα 134
τηλ: 743 982/743 983/743 984

FRANCE

61, rue des Belles Feuilles
75782 Paris Cedex 16
Tél. : 501 58 85

IRELAND

39 Molesworth Street
Dublin 2
Tel. : 71 22 44

ITALIA

Via Poli, 29
00187 Roma
Tel. : 678 97 22

Corso Magenta, 61
20123 Milano
Tel. 805 92 09

GRAND-DUCHÉ DE LUXEMBOURG

Centre européen
Bâtiment Jean Monnet B/0
L-2920 Luxembourg
Tél. : 43011

NEDERLAND

Lange Voorhout 29
Den Haag
Tel. : 46 93 26

UNITED KINGDOM

20, Kensington Palace Gardens
London W8 4QQ
Tel. : 727 8090

Windsor House
9/15 Bedford Street
Belfast
Tel. : 407 08

4 Cathedral Road
Cardiff CF1 9SG
Tel. : 37 1631

7 Alva Street
Edinburgh EH2 4PH
Tel. : 225 2058

ESPAÑA

Calle de Serrano 41
5A Planta-Madrid 1
Tel. : 474 11 87

PORTUGAL

35, rua do Sacramento à Lapa
1200 Lisboa
Tel. : 66 75 96

TÜRKIYE

13, Bogaz Sokak
Kavaklidere
Ankara
Tel. : 27 61 45/27 61 46

SCHWEIZ - SUISSE - SVIZZERA

Case postale 195
37-39, rue de Vermont
1211 Genève 20
Tél. : 34 97 50

UNITED STATES

2100 M Street, NW
Suite 707
Washington, DC 20037
Tel. : 862 95 00

1 Dag Hammarskjöld Plaza
245 East 47th Street
New York, NY 10017
Tel. : 371 38 04

CANADA

Inn of the Provinces
Office Tower
Suite 1110
Sparks' Street 350
Ottawa, Ont. KIR 7S8
Tel. : 238 64 64

AMERICA LATINA

Avda Ricardo Lyon 1177
Santiago de Chile 9
Chile
Adresse postale : Casilla 10093
Tel. : 25 05 55

Quinta Bienvenida
Valle Arriba
Calle Colibri
Distrito Sucre
Caracas
Venezuela
Tel. : 91 47 07

NIPPON

Kowa 25 Building
8-7 Sanbancho
Chiyoda-Ku
Tokyo 102
Tel. : 239 04 41

ASIA

Thai Military Bank Building
34 Phya Thai Road
Bangkok
Thailand
Tel. : 282 14 52


OFFICE FOR OFFICIAL PUBLICATIONS
OF THE EUROPEAN COMMUNITIES

ISBN 92-829-0067-3

L – 2985 Luxembourg

Catalogue number: DX-37-83-457-EN-C