Synopsis of the work of the Court of Justice of the European Communities in 1983

Luxembourg 1984

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Foreword

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

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

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

1. Case-law of the Court

A — *Statistical information*

Judgments delivered

During 1983 the Court of Justice of the European Communities delivered 151 judgments and interlocutory orders (185 in 1982):

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

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

39 were in cases concerning Community staff law;

1 concerned the revision of a judgment.

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

44 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;

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

39 were in Community staff cases;

1 concerned the revision of a judgment.

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

The President of the Court, or the Presidents of Chambers made 13 orders relating to the adoption of interim measures.

Public sittings

In 1983 the Court held 131 public sittings. The Chambers held 234 public sittings.

Cases pending

Cases pending are divided up as follows:

	31 December 1982		31 December 1983	
Full Court		239		233
Chambers				
Actions by officials of the Communities	866[1]		790[2]	
Other actions	34		73	
Total number before the Chambers		900[1]		863[2]
Total number of current cases		1 139[1]		1 096[2]

[1] Including 691 cases belonging to eight large groups of related cases.
[2] Including 617 cases belonging to seven large groups of related cases.

Length of proceedings

Proceedings lasted in 1983 for the following periods:

In cases brought directly before the Court the average length was approximately 14 months (the shortest being 6 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 1983

In 1983, 297 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	4
Denmark	3
Federal Republic of Germany	4
Greece	2
France	12
Ireland	1
Italy	13
The Netherlands	3
United Kingdom	1
Carried forward	43

Brought forward		43
2. Actions brought by the Member States against the Commission:		
Federal Republic of Germany	1	
Greece	1	
Italy	3	
Luxembourg	1	
	—	
		6
3. Action by a Member State against the European Parliament		
Luxembourg		1
4. Actions between Community institutions European Parliament against Council		1
5. Actions brought by natural or legal persons against:		
Commission	70	
Council	3	
Commission and Council	3	
European Parliament	4	
	—	
		80
6. Actions brought by officials of the Communities		68
7. 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	9	
2 from the Court of Cassation 7 from courts of first instance or of appeal		
Denmark	4	
1 from the Højesteret 3 from courts of first instance or of appeal		
	—	—
Carried forward	13	199

	Brought forward	13	199
Federal Republic of Germany		36	
3 from the Bundesgerichtshof 1 from the Bundesverwaltungsgericht 3 from the Bundesfinanzhof 29 from courts of first instance or of appeal			
France		15	
3 from the Cour de Cassation 12 from courts of first instance or of appeal			
Ireland		2	
1 from the Ard-Chúirt 1 from a court of appeal			
Italy		7	
1 from the Corte suprema di cassazione 6 from courts of first instance or of appeal			
The Netherlands		19	
2 from the Hoge Raad 3 from the Centrale Raad van Beroep 5 from the College van Beroep voor het Bedrijfsleven 1 from the Tariefcommissie 8 from the courts of first instance or of appeal			
United Kingdom		6	
1 from the House of Lords 5 from courts of first instance or of appeal		—	
			98
	Carried forward		297

	Brought forward	297
8.	Applications for the adoption of interim measures	12
9.	Interpretation	1
10.	Taxation costs	1
11.	Revisions	3
12.	Legal aid	5
	Total	**319**

Lawyers

During the sittings held in 1983 apart from the representatives or agents of the Council, the Commission and the Member States the Court heard:

80 lawyers from Belgium,
3 lawyers from Denmark,
52 lawyers from the Federal Republic of Germany,
21 lawyers from France,
3 lawyers from Greece,
4 lawyers from Ireland,
20 lawyers from Italy,
19 lawyers from Luxembourg,
20 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 1983

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

	Direct actions											
	ECSC				EEC							EAEC
Type of case	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	171	91	16	32	172	9	202	276	5
	–	–	–	(39)	(14)	(9)	(5)	(8)	(4)	(26)	(25)	(1)
Cases removed from the Register	25	6	10	45	25	3	4	14	4	27	70	1
	–	–	–	(4)	(5)	(2)	(1)	(1)	(2)	(1)	(6)	–
Cases determined by judgment or order	142	29	17	83	45	4	21	138	4	144	146	3
	–	–	–	(18)	(11)	(3)	(2)	(19)	(1)	(7)	(10)	–
Pending cases	–	–	–	43	21	9	7	20	1	31	60	1

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').

	References for preliminary rulings										
Cases concerning Community staff law	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
2 047	273	31	55	52	235	358	21	43	8	100	4 426
(68)	(23)	(4)	(4)	(3)	(20)	(21)	(2)	(6)	–	(15)	(297)
671	11	1	2	4	14	20	3	2	1	4	965
(95)	–	–	(1)	–	(2)	(9)	–	(1)	–	–	(130)
584	232	27	49	45	200	315	16	36	7	76	2 365
(64)	(20)	(2)	(2)	(1)	(10)	(25)	(1)	(4)	–	(10)	(210)
792	30	3	4	3	21	23	2	5	–	20	1 096

TABLE 2

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

Situation at 31 December 1983

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

Type of case	Proceedings brought under													
	Arts 169 and 93	Art. 170	Article 173				Art. 175	Article 177			Art. 181	Art. 215	Protocols conventions Art. 220	Grand total[2]
			By governments	By Community institutions	By individuals	Total		Validity	Interpretation	Total				
Cases brought	254	2	47	8	289	344	25	167	961	1 128	5	192	43	1 993
Cases not resulting in a judgment	75	1	8	3	32	43	3	4	56	60	–	27	3	212
Cases decided	122	1	32	5	211	248	18	153	810	963	1	121	35	1 509
In favour of applicant[3]	110	1	7	2	56	65	–	–	–	–	1	9	–	186
Dismissed on the substance[4]	12	–	24	3	107	134	2	–	–	–	–	97	–	245
Dismissed as inadmissible	–	–	1	–	48	49	16	–	–	–	–	15	–	80
Cases pending	57	–	7	–	46	53	4	10	95	105	4	44	5	272

[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 1983

(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	Questions of validity	Questions of interpretation		ECSC	EAEC
Cases brought	23	–	1	1	375	2	2	3	2	401	8
Cases not resulting in a judgment	9	–	–	–	77	–	–	–	1	86	1
Cases decided	13	–	–	1	256	1	1	3	1	270	6
In favour of applicants[2]	5	–	–	1	47	1	–	–	–	52	2
Dismissed on the substance[3]	8	–	–	–	159	–	–	–	1	167	1
Dismissed as inadmissible	–	–	–	–	50	–	–	–	–	50	–
Cases pending	1	–	1	–	42	1	1	–	–	45	1

[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 1983	Cases dealt with in 1983			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. 1982	31 Dec. 1983
Art. 177 EEC Treaty	91	82	70	12	54	–	–	96	105
Art. 169 EEC Treaty	43	36	22	14	22	–	–	47	54
Art. 173 EEC Treaty	25	31	28	3	15	–	1	51	45
Arts 173 & 175 EEC Treaty	–	–	–	–	–	–	–	1	1
Arts 173 & 215 EEC Treaty	2	1	1	–	1	–	1	6	7
Art. 175 EEC Treaty	2	1	–	1	–	–	–	–	1
Arts 175 & 215 EEC Treaty	1	–	–	–	–	–	–	1	2
Art. 181 EEC Treaty	–	1	1	–	1	–	–	5	4
Arts 178 & 215 EEC Treaty	18	1	1	–	1	–	–	18	35
Protocol and Convention on Jurisdiction	6	5	4	1	3	–	1	4	5
Art. 33 ECSC Treaty	38	21	17	4	12	–	1	25	42
Art. 38 ECSC Treaty	1	1	1	–	1	–	–	1	1
Art. 41 ECSC Treaty	1	1	1	–	1	–	–	1	1
Arts 146 & 188 EAEC Treaty	1	–	–	–	–	–	–	–	1
Interim measures	12	15	14	1	–	–	14	3	–
Taxation of costs	1	–	–	–	–	–	–	–	1
Interpretation	1	1	1	–	–	–	1	1	1
Revisions	3	1	1	–	1	–	–	–	2
Legal aid	5	6	5	1	–	–	5	2	1
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	68	159	64	95	39	–	1	883	792
Total	319	363	231	132	151	–	25	1 145	1 101
Cases kept on the Register or adjourned *sine die*	–	68	–	68	–	–	–	755	670

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 1983	Cases brought before a Chamber and referred to the full Court in 1983	Cases dealt with in 1983			Judgments and inter-locutory judgments	Opinions	Orders	Cases assigned to a Chamber in 1983	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register					31 Dec. 1982	31 Dec. 1983
Art. 177 EEC Treaty	91	–	27	16	11	13	–	–	65	74	73
Art. 169 EEC Treaty	43	–	36	22	14	22	–	–	–	47	54
Art. 173 EEC Treaty	25	1	28	25	3	12	–	1	7	49	40
Arts 173 & 175 EEC Treaty	–	–	–	–	–	–	–	–	–	1	1
Arts 173 & 215 EEC Treaty	2	–	–	–	–	–	–	–	3	5	4
Art. 175 EEC Treaty	2	–	1	–	1	–	–	–	–	–	1
Arts 175 and 215 EEC Treaty	1	–	–	–	–	–	–	–	1	1	1
Art. 181 EEC Treaty	–	–	–	–	–	–	–	–	2	3	1
Arts 178 & 215 EEC Treaty	18	–	1	1	–	1	–	–	10	18	25
Protocol and Convention on Jurisdiction	6	–	2	2	–	1	–	1	3	3	4
Art. 33 ECSC Treaty	38	1	5	1	4	–	–	1	29	19	24
Art. 38 ECSC Treaty	1	–	1	1	–	1	–	–	–	1	1
Art. 41 ECSC Treaty	1	–	1	1	–	1	–	–	–	1	1
Arts 146 & 188 EAEC Treaty	1	–	–	–	–	–	–	–	–	–	1
Interim measures	8	–	8	7	1	–	–	7	–	–	–
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	–	2	15	–	15	–	–	–	2	17	2
Total	237	4	125	76	49	51	–	10	122	239	233
Cases kept on the Register or adjourned *sine die*	–	–	–	–	–	–	–	–	–	8	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 in 1983	Cases brought before the full Court or Chamber and assigned to the First Chamber in 1983	Cases dealt with in 1983			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1983	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec 1982	31 Dec 1983
Art. 177 EEC Treaty	–	18	6	6	–	6	–	–	3	15
Art. 173 EEC Treaty	–	–	–	–	–	–	–	–	1	1
Art. 181 EEC Treaty	–	2	1	1	–	1	–	–	2	3
Arts 175 & 215 EEC Treaty	–	1	–	–	–	–	–	–	–	1
Arts 178 & 215 EEC Treaty	–	1	–	–	–	–	–	–	–	1
Art. 33 ECSC Treaty	–	4	–	–	–	–	–	–	–	4
Interim measures	–	–	1	1	–	–	1	–	1	–
Revisions	1	–	1	1	–	1	–	–	–	–
Legal aid	1	–	2	1	1	–	1	–	1	–
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	16	–	80	6	74	5	–	1	738	673
Total	18	26	91	16	75	13	2	1	746	698
Cases kept on the Register or adjourned *sine die*	–	–	68	–	68	–	–	–	696	617

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 in 1983	Cases brought before the full Court or Chamber and assigned to the Second Chamber in 1983	Cases dealt with in 1983			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1983	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1982	31 Dec. 1983
Art. 177 EEC Treaty	–	15	15	15	–	13	–	–	5	5
Art. 173 EEC Treaty	–	1	1	1	–	1	–	–	1	1
Arts 178 & 215 EEC Treaty	–	1	–	–	–	–	–	–	–	1
Art. 33 ECSC Treaty	–	6	3	3	–	1	–	–	–	3
Interim measures	3	–	5	5	–	–	5	–	2	–
Interpretations	1	–	1	1	–	–	1	–	–	–
Legal aid	1	–	1	1	–	–	1	–	1	1
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	35	–	38	36	2	17	1	2	95	90
Total	40	23	64	62	2	32	8	2	104	101
Cases kept on the Register or adjourned *sine die*	–	–	–	–	–	–	–	–	47	45

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 in 1983	Cases brought before the full Court or Chamber and assigned to the Third Chamber in 1983	Cases dealt with in 1983			Judgments and inter-locutory judgments	Orders	Cases referred to the Court or a Chamber in 1983	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1982	31 Dec. 1983
Art. 177 EEC Treaty	–	8	13	12	1	12	–	–	9	4
Art. 173 EEC Treaty	–	2	2	2	–	2	–	–	–	–
Protocol and Convention on Jurisdiction	–	1	1	1	–	1	–	–	–	–
Art. 33 ECSC Treaty	–	1	–	–	–	–	–	1	–	–
Interim measures	1	–	1	1	–	–	1	–	–	–
Taxation of costs	1	–	–	–	–	–	–	–	–	1
Interpretations	–	–	–	–	–	–	–	–	1	1
Revisions	2	–	–	–	–	–	–	–	–	2
Legal aid	3	–	3	3	–	–	3	–	–	–
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	20	–	26	22	4	17	–	–	33	27
Total	27	12	46	41	5	32	4	1	43	35
Cases kept on the Register or adjourned *sine die*	–	–	–	–	–	–	–	–	–	–

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 in 1983	Cases brought before the full Court or Chamber and assigned to the Fourth Chamber in 1983	Cases dealt with in 1983			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1983	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1982	31 Dec. 1983
Art. 177 EEC Treaty	–	7	5	5	–	4	–	–	2	4
Art. 173 EEC Treaty	–	2	–	–	–	–	–	–	–	2
Protocol and Convention on Jurisdiction	–	2	1	1	–	1	–	–	–	1
Art. 33 ECSC Treaty	–	12	8	8	–	6	–	–	6	10
Total	–	23	14	14	–	11	–	–	8	17
Cases kept on the Register or adjourned *sine die*	–	–	–	–	–	–	–	–	–	–

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 in 1983	Cases brought before the full Court or Chamber and assigned to the Fifth Chamber in 1983	Cases dealt with in 1983			Judgments and inter-locutory judgments	Orders	Cases referred to the Court or a Chamber in 1983	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the Register				31 Dec. 1982	31 Dec 1983
Art. 177 EEC Treaty	–	17	16	16	–	6	–	–	3	4
Art. 173 EEC Treaty	–	2	–	–	–	–	–	1	–	1
Arts 173 & 215 EEC Treaty	–	3	1	1	–	1	1	–	1	3
Arts 178 & 215 EEC Treaty	–	8	–	–	–	–	–	–	–	8
Protocol and Convention on Jurisdiction	–	–	1	–	1	–	–	–	1	–
Art. 33 ECSC Treaty	–	6	5	5	–	5	–	–	–	1
Total	–	36	23	22	1	12	1	1	5	17
Cases kept on the Register or adjourned *sine die*	–	–	–	–	–	–	–	–	–	–

TABLE 5

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

Judgments	Year	Danish	Dutch	English	French	German	Greek	Italian	Total
Full Court									
Direct actions	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
	1983	1	4	5	9	7	–	10	36
References for a preliminary ruling	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
	1983	–	2	1	2	3	–	6	14
Staff cases	1977	–	–	–	–	–	–	–	–
	1978	–	–	–	–	–	–	–	–
	1979	–	–	–	–	–	–	–	–
	1980	–	–	–	–	–	–	–	–
	1981	–	–	–	–	–	–	–	–
	1982	–	–	–	–	–	–	–	–
	1983	–	–	–	–	–	–	–	–
Chambers									
Direct actions	1980	–	–	–	1	1	–	2	4
	1981	–	–	–	1	–	–	–	1
	1982	–	–	3	5	4	1	2	15
	1983	–	1	2	5	7	1	1	17
References for a preliminary ruling	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
	1983	1	10	3	11	15	–	4	44
Staff cases	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
	1983	2	1	–	32	–	1	3	39

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) Measures having equivalent effect
Failure of a Member State to fulfil its obligations

Judgment of 8 February 1983 in Case 124/81 *Commission of the European Communities, supported by the French Republic*, v *United Kingdom of Great Britain and Northern Ireland* [1983] ECR 203

The Commission of the European Communities brought an action for a declaration that the United Kingdom of Great Britain and Northern Ireland had failed to fulfil the obligations imposed on it by Article 30 of the EEC Treaty by placing restrictions on the importation of milk and cream treated by the UHT process and on the sale of those products in its territory.

The UHT process consists in retaining a product at a temperature considerably in excess of 100° Centigrade for a short time and thus enables the product to be kept for a long period.

The United Kingdom legislation governing the importation, packaging and sale of milk and milk products treated by that process may be summarized as follows:

(i) Imports into the United Kingdom are subject to the authorization of the competent authority evidenced by an import licence (save in the case of UHT milk and cream imported from Ireland directly into Northern Ireland).

(ii) UHT milk may be marketed in England, Wales and Scotland only by approved distributors holding a dealer's licence.

(iii) Since the adoption of new regulations in Northern Ireland UHT milk and cream may only be offered for sale in Northern Ireland if produced in accordance with the requirements in force there.

(The Commission had requested that its application for a declaration be extended to cover those new regulations but the Court declared that request to be inadmissible.)

The substance of the application

1. *The contested provisions in general*

The United Kingdom contends that in the absence of common rules it is for the Member States to regulate all matters relating to the production and marketing of milk on their own territory and that therefore the contested national provisions relating to UHT milk and cream do not fall within the purview of Article 30 of the Treaty.

That contention must be rejected since the prohibition of measures having effect equivalent to quantitative restrictions applies to all trading rules capable of hindering, whether directly or indirectly, actually or potentially intra-Community trade.

2. *The requirement of a specific import licence*

Freedom of movement is a right whose enjoyment may not be dependent upon a discretionary power or on a concession granted by the national authorities. The system of import licences therefore constitutes a restriction on imports prohibited by Article 30 of the Treaty.

However, those provisions, whilst constituting measures having an effect equivalent to quantitative restrictions, must be examined to see whether they are permissible under Article 36 of the Treaty, which permits exceptions to Article 30 on the grounds of the protection of health and life of humans or animals.

In justifying its claim to the exception contained in Article 36, the United Kingdom states that the system of specific import licences which it operates enables it to impose conditions as to the heat treatment of imported milk varying according to the disease status of the exporting country (heat treatment at a higher or lower temperature according to the time which has elapsed since the last outbreak of foot-and-mouth disease). Finally, only a system of specific licences enables consignments to be identified and traced.

It must therefore be ascertained whether the machinery employed in the present case by the United Kingdom constitutes a measure which is disproportionate in relation to the objective pursued or whether such a system is necessary and justified under Article 36.

The Court finds that the United Kingdom system results in an impediment to intra-Community trade which, in the present case, could be eliminated without prejudice to the effectiveness of the protection of animal health and without increasing the administrative or financial burden imposed by the pursuit of that objective.

That result could be achieved if the United Kingdom authorities abandon the practice of issuing licences and confine themselves to obtaining the information which is of use to them, for example, by means of declarations signed by the importers, accompanied if necessary by the appropriate certificates.

It follows that the requirement of import licences, which is incompatible with Article 30 of the Treaty, is not saved by the exception contained in Article 36.

3. *The system of dealer's licences and the requirement that imported UHT milk be packed on premises within the United Kingdom*

It is not disputed that the United Kingdom regulations, which require UHT milk imported into the United Kingdom to be packed on premises within the United Kingdom, make it necessary to treat that milk again, since it is technically impossible to open the packs and then repack the milk without causing it to lose the characteristics of 'Ultra Heat Treated' milk.

Therefore the need to subject that product to a second heat treatment caused delays in the marketing cycle, involves the importer in considerable expense and is likely to lower the organoleptic qualities of the milk. In fact it constitutes in practice a total prohibition on imports, as the United Kingdom has expressly acknowledged.

The Court therefore finds that the system of dealers' licences constitutes a measure having an effect equivalent to a quantitative restriction prohibited by Article 30 of the Treaty.

The United Kingdom claims, however, that in the present state of Community law such a prohibition is the only effective means of protecting the health of consumers and is therefore justified under Article 36. The United Kingdom bases its view essentially on the disparities in the laws of the Member States relating to the production and treatment of UHT milk. Those arguments cannot be upheld.

In the first place, it is clear from the evidence before the Court that the laws, regulations and administrative practices governing the production of UHT milk in the different Member states are very similar.

Secondly UHT milk is produced in the different Member States with machines manufactured by a very small number of firms in accordance with comparable technical characteristics.

Thirdly, the very characteristics of UHT milk, which may be kept for long periods at normal temperatures, obviate the need for control over the whole production cycle of such milk.

Under those circumstances, the United Kingdom, in its concern to protect the health of humans, could ensure safeguards equivalent to those which it has prescribed for its domestic production of UHT milk, without having recourse to the measures adopted, which amount to a total prohibition on imports.

Therefore, the Court:

1. Declares the Commission's conclusions to be inadmissible in so far as they relate to the new legislation applicable in Northern Ireland with effect from 31 July 1981 (SR 1981 Nos 233 and 234);
2. Declares that, by prescribing a system of prior individual licences for imports on to its territory of milk and cream which have undergone 'Ultra Heat Treatment' on the territory of other Member States, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under Article 30 of the EEC Treaty;
3. Declares that, by making the distribution in England, Wales and Scotland of UHT milk imported from other Member States subject to a system involving a second heat treatment and the repacking of the milk, the United Kingdom has failed to fulfil its obligations under Article 30 of the EEC Treaty;
4. Declares that, by prohibiting all sales of UHT milk or cream in Northern Ireland until the adoption of the new regulations on milk in 1981 (SR 1981 Nos 233 and 234), the United Kingdom has failed to fulfil its obligations under Article 30 of the EEC Treaty;
5. Orders the United Kingdom to pay the costs.

The opinion of Mr Advocate General VerLoren van Themaat was delivered on 7 December 1982.

(b) Seat and working place of the European Parliament

Judgment of 10 February 1983 in Case 230/81 *Grand Duchy of Luxembourg v European Parliament* [1983] ECR 255

By application of 7 August 1981, the Grand Duchy of Luxembourg brought an action for a declaration that the resolution of the European Parliament of 7 July 1981 on the seat of the institutions of the European Community and in particular of the European Parliament is void.

The Treaties provide that the seat of the institutions of the Community is to be determined by common accord of the Member States.

The Treaty establishing a Single Council and a Single Commission of the European Communities, which entered into force on 1 July 1967, led to a regrouping of the offices of those institutions.

The governments of the Member States adopted a decision on the provisional location of certain institutions which lays down in Article 1 that 'Luxembourg, Brussels and Strasbourg shall remain the provisional places of work of the institutions of the Communities', in Article 4 that 'the General Secretariat of the Assembly

and its departments shall remain in Luxembourg' and in Article 12 that 'this decision shall not affect the provisional places of work of the institutions and departments of the European Communities'.

Following the introduction of various practices as a result of which it held its sittings in Luxembourg or in Strasbourg, the Parliament adopted in March 1981 a proposal which provided that certain part-sessions were to be held exclusively in Strasbourg.

On 23 and 24 March 1981 in Maastricht, the Heads of State or Government of the Member States decided unanimously 'to confirm the *status quo* in regard to the provisional places of work of the European institutions'.

On 7 July 1981, the Parliament adopted the contested resolution in which it calls upon the governments of the Member States to comply with their obligation under the Treaties and fix a single seat for the institutions, considers it essential to concentrate its works in one place and decides:

(a) to hold its part-sessions in Strasbourg;

(b) to organize the meetings of its committees and political groups in Brussels;

(c) that the operation of the Secretariat and technical services of the Parliament must be reviewed to meet the requirements set out in (a) and (b) above, (and, with that end in view, the resolution advocates the use of the latest means of communication, the improvement of road, rail and air links, and provides for the preparation of a report evaluating the cost involved if the institution is to function more effectively).

Admissibility

The Parliament raises several objections of inadmissibility against the application:

1. *Right of action in respect of measures of the Parliament*

According to the Parliament, neither Article 38 of the ECSC Treaty, nor Article 173 of the EEC Treaty nor Article 136 of the EAEC Treaty confers a right of action in respect of the measures of the Parliament.

Article 38 of the ECSC Treaty provides that 'the Court may, on application by a Member State or the High Authority, declare an act of the Assembly or of the Council to be void'.

Since the single Parliament is an institution common to the three Treaties, it follows that the jurisdiction of the Court and the proceedings provided for by Article 38 are applicable to measures such as the contested resolution which relate simultaneously and indivisibly to the spheres of the three Treaties. That objection must therefore be dismissed.

2. *Capacity of the Grand Duchy of Luxembourg to bring an action*

The Parliament contends that the action is inadmissible because it has been brought by a single Member State whereas the right to determine the seat belongs to all the governments of the Member States or, in default, to the Commission.

The Court emphasizes that Article 38 of the ECSC Treaty provides that an act of the Assembly or of the Council may be declared void 'on application by a Member State or the High Authority'. The excercise of the right of action by a Member State or the High Authority is not subject to any additional condition involving proof of an interest or capacity to bring proceedings. That objective must therefore also be dismissed.

3. *The legal nature of the contested resolution*

According to the Parliament the contested resolution does not constitute an act within the meaning of Article 38 of the ECSC Treaty because it concerns only its internal organization and that of its departments and therefore has no legal effect.

The Court observes that the determination of the legal effect of the contested resolution is inseparably associated with consideration of its content and observance of the rules on competence. It is therefore necessary to proceed to consideration of the substance of the case.

Substance

1. *Lack of competence*

The Luxembourg Government claims, in the first place, that the European Parliament has no power to take decisions in relation to the seat of the institution since that matter is reserved to the Member States.

By reason both of its title and of its content the contested resolution relates to the seat of the Parliament, a matter which lies completely outside the powers of the Parliament. That resolution infringes the decisions adopted by the governments of the Member States in relation to the provisional places of work of the institutions.

Moreover, in abandoning the practice of holding part-sessions in Luxembourg, the Parliament infringed the decision confirming the *status quo* adopted in Maastricht in March 1981.

The Parliament contends that the governments of the Member States made no use of their power to fix the seat and there can be therefore no usurpation of that power. The contested resolution constitutes on the one hand a request of a political nature addressed to the States and on the other hand a measure of organization of its internal administration.

(a) Competence relating to the seat and place of work

It is necessary first of all to consider the respective powers of the governments of the Member States and of the Parliament on the subject.

It is for the governments of the Member States to determine the seat of the institutions (Article 77 of the ECSC Treaty, Article 216 of the EEC Treaty and Article 189 of the EAEC Treaty). The Member States have not only the right but also the duty to exercise that power.

It is common ground that the governments of the Member States have not yet discharged their obligation to determine the seat of the institutions. However, they have at different times taken decisions fixing the provisional places of work of the institutions.

It must nevertheless be emphasized that when the governments of the Member States make provisional decisions, they must, in accordance with the rule imposing on the Member States and on the Community institutions mutual duties of sincere cooperation, have regard to the power of the Parliament to determine its own internal organization. They must ensure that such decisions do not impede the due functioning of the Parliament.

The Parliament for its part is authorized by the Treaties to adopt appropriate measures to ensure the due functioning and conduct of its proceedings, provided that it has regard to the power of the governments of the Member States to determine the seat of the institutions and to provisional decisions taken in the meantime.

It must be emphasized that the powers of the governments of the Member States in the matter does not affect the right inherent in the Parliament to discuss any question concerning the Communities, to adopt resolutions on such questions and to invite the governments to act.

It follows that the Parliament cannot be considered to have exceeded its powers solely because it has adopted a resolution 'on the seat of the institutions of the European Community and in particular of the European Parliament' and dealing with the question of the place of work.

(b) Plenary sittings

The contested resolution decides that pending a final decision on a single meeting place of the European Parliament, part-sessions will be held in Strasbourg.

It must be observed that since the decision of 8 April 1965 which provides that Luxembourg, Brussels and Strasbourg are to remain the provisional places of work of the institutions of the Community, the Assembly usually met in Strasbourg.

It is true that as from 1967 the Parliament adopted the practice of holding up to half its plenary sittings in Luxembourg. It is on that practice that the Luxembourg Government relies in claiming that the decision to hold all the plenary sittings in Strasbourg is contrary to the decisions of the Member States in the matter.

It is appropriate to observe that the practice had been decided upon by the Parliament of its own motion and had never been approved either expressly or by implication by the Member States. It was even expressly challenged by the French Government. The Luxembourg Government is therefore wrong in alleging that a custom had been created in favour of this practice.

The declaration to maintain the *status quo* made at the conference on the seat of the institutions held in 1981 does not prevent the Parliament from abandoning a practice which it had begun of its own motion. It follows that the decision of the Parliament to hold in future all plenary sittings in Strasbourg is not contrary to the decisions of the governments of the Member States in the matter and is not beyond the powers of the Parliament.

(c) The holding of meetings of committees and political groups in Brussels

The disputed resolution records the decision to organize the meetings of committees and political groups of the Parliament as a general rule in Brussels. That practice, developed in the exercise of its independent powers, to hold meetings in Brussels, has never been called in question by any Member State: the Parliament has therefore not exceeded its powers.

(d) The location of the General Secretariat and other departments

The contested resolution concerns the operation of the Secretariat and technical services of the Parliament which must be reviewed to meet the requirements of holding the part-sessions in Strasbourg and the meetings of the committees and political groups in Brussels, particularly with a view to avoiding the need for a substantial number of staff of the Parliament to travel constantly.

Article 4 of the Decision of 8 April 1965 provides that 'the General Secretariat of the Assembly and its departments shall remain in Luxembourg'. Since certain meetings are held in Brussels, the Parliament maintained there the minimum level of staffing required for the holding of such meetings.

In the absence of a seat or even of a single place of work, the Parliament must be in a position to maintain in the various places of work outside the place where its Secretariat is established the infrastructure essential for ensuring that it may fulfil in all those places the tasks which are entrusted to it by the Treaties. Transfers of staff may not, however, exceed the limits mentioned above.

In the light of those considerations, it is necessary to consider whether the contested resolution, in so far as it provides that the operation of the Secretariat and technical

services 'must be reviewed' to meet the requirements of the work done in Luxembourg, Brussels and Strasbourg, has regard to the limits which are placed on the powers of the Parliament to determine its own internal organization.

The contested resolution in fact envisages at least a partial transfer of staff of the General Secretariat to the other places of work but it is necessary to bear in mind that it also advocates the use of means of telecommunications and the improvement of road, rail and air links between the main centres of activity of the Community.

It must be declared that the Parliament has not exceeded its powers. The submission of lack of competence is thus unfounded.

2. *Infringement of essential procedural requirements*

The Luxembourg Government has further relied on infringement of essential procedural requirements inasmuch as the governments have not given their assent to any decision on the subject of the seat nor did the Parliament consult its Legal Affairs Committee.

It suffices to observe that the Luxembourg Government has not established the infringement of any essential procedural requirements which must be observed by the Parliament before it adopts a resolution such as that in dispute. That submission is therefore unfounded.

The Court hereby:

1. Dismisses the application;

2. Orders the parties to bear their own costs.

The opinion of Mr Advocate General Mancini was delivered on 7 December 1982.

(c) Tax treatment of goods in transit – Effects of GATT in the framework of Community law

Judgment of 16 March 1983 in Case 266/81 *Società Italiana per l'Oleodotto Transalpino (SIOT)* v *Ministero delle Finanze, Ministero della Marina Mercantile, Circoscrizione Doganale di Trieste* and *Ente Autonomo del Porto di Trieste* [1983] ECR 731

The Corte Suprema di Cassazione [Supreme Court of Cassation], Italy, referred to the Court for a preliminary ruling a number of questions concerning:

> On the one hand, the interpretation of Articles 90, 113 and 177 of the EEC Treaty, of Regulation No 542/69 of the Council of 18 March 1969 on Community transit (Official Journal, English Special Edition 1969, (I), p. 125) and of Regulation No 2813/72 of the Council of 21 November 1972 on the conclusion of an agreement between the European Economic Community and the Republic of Austria on the application of the rules of Community transit (Journal Officiel, L 294, p. 86); and

> On the other hand, the effect within the Community of the General Agreement on Tariffs and Trade (GATT) of 30 October 1947 and the interpretation of Article V of GATT on freedom of transit,

in order to enable it to determine the compatibility with Community law and, if necessary, with the rules of GATT of the application of charges on loading and unloading of goods imposed by virtue of Decree-Law No 47 of 28 February 1974, converted into Law No 117 of 16 April 1974 (hereinafter referred to as 'Decree-Law No 47'), to oil carried by the transalpine oil pipeline to the Federal Republic of Germany and the Republic of Austria.

It appears from the file that those questions arose in connection with a number of disputes between, on the one hand, Società Italiana per l'Oleodotto Transalpino [hereinafter referred to as 'the Company'], a company governed by Italian law which was responsible for the construction and operation of the section of the transalpine oil pipeline in Italian territory between Trieste and the Austrian border, and, on the other hand, the Ministry of Finance, the Ministry of Shipping, Trieste Customs Authority and Trieste Independent Port Authority, in relation to the levying of the contested charges on crude oil discharged into the Company's installations for consignment to refineries in the Federal Republic of Germany and the Republic of Austria.

From the entry into force of Decree-Law No 47, the Italian tax authority required the payment of the two charges – the revenue charge and the port charge – in respect of crude oil discharged into the Company's installations and transmitted through the transalpine oil pipeline. The Company brought several actions challenging those charges before the Tribunal [District Court], Trieste, in relation to periods spread over 1974 and 1975. It subsequently paid the charges without prejudice, pending the outcome of those actions. The applications were dismissed by the Tribunale, Trieste, and the Company appealed to the Corte d'Appello, [Court of Appeal], Trieste, which in turn dismissed the appeals in successive judgments. After those judgments, several appeals in cassation were brought before the Corte Suprema di Cassazione.

The Corte Suprema di Cassazione considered that problems of interpretation arose under Community law in relation to the regulation on Community transit, the transit agreement with Austria, the rules on the common commercial policy laid down in Article 113 of the EEC Treaty, and the rules on competition contained in Article 90 of the Treaty. It also considered that a question arose on the alleged incompatibility of the contested charges with Article V of GATT on freedom of transit.

In relation to the application of Article V of GATT, it should be noted that according to Article XXIV(8) thereof, the Community must be regarded as a single customs territory because it is based on the principle of customs union. It follows from that that the rules of GATT govern only the Community's relations with the other contracting parties but may not be applied within the Community itself.

The rules governing transit within the Community

The Corte Suprema di Cassazione asks on the one hand whether the application to goods in transit of charges imposed by reason of loading or unloading on all goods without distinction, regardless of their origin and their destination, is compatible with the principles on which the Community legal order is based and, in particular, with Regulation No 542/69 on Community transit, where the operations of unloading, loading and forwarding to the market for which they are finally intended are carried out exclusively by a commercial undertaking using installations and plant constructed, managed and maintained by that undertaking, without the provision of any direct or specific service by a public authority.

On the other hand, the Corte Suprema di Cassazione also asks whether such charges are compatible with Article V(3) of GATT.

The customs union necessarily implies that free movement of goods between Member States should be ensured and it is therefore necessary to acknowledge the existence of a general principle of freedom of transit of goods within the Community. That principle is, moreover, confirmed by the reference to 'transit' in Article 36 of the Treaty. The same general principle of freedom was the inspiration behind Regulation No 542/68 on Community transit and also Council Regulation No 222/77 by which it was replaced; those regulations set out various administrative measures intended to facilitate transit.

It must be accepted that the Member States would contravene the principle of freedom of transit within the Community if they applied to goods in transit through their territory transit duties or any other charges imposed in respect of transit.

However, the imposition of charges which represent the cost of transportation or of other services connected with transit cannot be regarded as incompatible with that freedom of transit.

Charges based on the more general benefits which result from the use of the harbour waters or installations for the navigability and maintenance of which the public authorities are responsible must also be regarded as representing costs of transportation.

The Court of Justice therefore replied to that question by ruling that:

'The existence in the framework of the Community of a customs union characterized by the free movement of goods implies freedom of transit within the Community. That freedom of transit means that a Member State may not apply to goods in its territory in transit to or from another Member State transit duties or any other charges imposed in respect of transit.

However, the imposition of charges or fees which represent the cost of transportation or of other services connected with transportation cannot be regarded as

incompatible with that freedom of transit, since it is necessary to take account for that purpose not only of direct or specific services linked to the movement of goods but also of more general advantages which result from the use of harbour waters or installations for the navigability and maintenance of which the public authorities are responsible.'

Rules governing transit in relations with Austria

This question asks whether the imposition of the charges described above is compatible with Article 113 and with the transit agreement concluded by the Community with Austria which forms the subject-matter of Regulation No 2813/72, adopted on the basis of Article 113.

The question must be understood as asking also whether the application of the contested charges to oil intended for Austria is compatible with Article V(3) of GATT, in view of the fact that the Community is bound, as regards Austria, by the provisions of GATT.

The transit agreement concluded with Austria does not contain any specific commitment between the parties in relation to tax treatment of goods in transit.

Therefore the only provision to be taken into account is Article V of GATT which provides that 'There shall be freedom of transit through the territory of each contracting party . . . for traffic in transit to or from the territory of other contracting parties.' According to Article V(3), the imposition of all customs duties and transit duties or other charges imposed in respect of transit is prohibited between the contracting parties, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

Since that provision cannot have direct effect under Community law (cf. judgment of 12 December 1972 in Joined Cases 21 to 24/72 *International Fruit Company* v *Produktschap voor Groenten en Fruit*), individuals may not rely upon it in order to challenge the imposition of a charge such as the loading and unloading charge on goods in transit to Austria.

Although Article 113 of the Treaty confers upon the Community powers which enable it to take any appropriate measure concerning the common commercial policy, it nevertheless does not in itself contain any legal criterion sufficiently precise to enable an assessment of the contested transit rules to be made.

The Court of Justice replied to that question by ruling that:

'There is no rule which may be relied upon by individuals in order to contest the application to goods in transit to the Republic of Austria of a charge such as the loading or unloading charges levied in Italy by virtue of Decree-Law No 47 of 28 February 1974, converted into Law No 117 of 16 April 1974.'

The opinion of Mr Advocate General Reischl was delivered on 14 December 1982.

(d) **Competition – Parallel importation of hi-fi equipment**

Judgment of 7 June 1983 in Joined Cases 100 to 103/80, *Musique Diffusion Française SA* (100/80), *C. Melchers & Co.* (101/80), *Pioneer Electronic (Europe) NV* (102/80), *Pioneer High Fidelity (GB) Limited* (103/80) v *Commission of the European Communities*

The four undertakings Musique Diffusion Française SA, C. Melchers & Co., Pioneer Electronic (Europe) NV and Pioneer High-Fidelity (GB) Limited brought actions for a declaration that Commission Decision No 80/256 of 14 December 1979 relating to a proceeding under Article 85 of the EEC Treaty was void.

The applicants form part of the European distribution network for high-fidelity sound-reproduction equipment manufactured by the Pioneer Electronic Corporation of Tokyo.

Most of the Pioneer products sold in Europe are imported by the subsidiary Pioneer Electronic (Europe) NV (hereinafter referred to as 'Pioneer'), whose registered office is in Antwerp.

At the time when the events occurred on which the contested decision is based, three independent undertakings, namely Musique Diffusion Française SA (hereinafter referred to as 'MDF', C. Melchers & Co. (hereinafter referred to as 'Melchers') and Shriro UK Ltd. (hereinafter referred to as 'Shriro'), enjoyed exclusive distribution rights in France, the Federal Republic of Germany and the United Kingdom respectively. In the meantime Shriro has become a subsidiary of Pioneer and has changed its name to Pioneer High Fidelity (GB) Ltd (hereinafter referred to as 'Pioneer GB').

In the contested decision the Commission found that the four applicant undertakings had taken part in concerted practices, contrary to Article 85(1) of the Treaty, consisting in the prevention of imports of Pioneer equipment from the Federal Republic of Germany and the United Kingdom into France for the purpose of maintaining a higher level of prices in France.

The Commission also found that Article 85(3) was inapplicable to those practices and it imposed a fine of 850 000 European units of account on MDF, 4 350 000 units of account on Pioneer, 1 450 000 units of account on Melchers and 300 000 units of account on Pioneer GB.

The decision stated that the concerted practice between MDF, Pioneer and Melchers preventing imports from the Federal Republic of Germany consisted in a refusal on the part of Melchers to fulfil an order placed on 20 January 1976 by a German wholesaler, Otto Gruoner KG (hereinafter referred to as 'Gruoner') for Pioneer equipment having a value of DM 550 000, which was to be delivered by that wholesaler to a French purchasing group. The concerted practice between MDF, Pioneer and Shriro preventing imports from the United Kingdom manifested itself,

according to the decision, in particular in two letters inviting the two undertakings known as 'Audiotronic' and 'Comet' to cease exporting Pioneer products.

The applicants put forward the following series of submissions against the decision:

A. Infringement of essential procedural requirements.

B. Wrongful assessment and classification of the facts on the basis of which the Commission found that there had been infringements of Article 85(1).

C. Failure to take into account circumstances precluding the imposition of fines.

D. Failure to take into account circumstances justifying the imposition of lower fines.

A. *The submissions relating to an infringement of essential procedural requirements*

(a) The combination of the functions of judge and prosecutor

MDF maintains that the contested decision is unlawful by the mere fact that it was adopted under a system in which the Commission combines the functions of prosecutor and judge, which is contrary to the European Convention for the Protection of Human Rights.

That argument is without relevance. The Commission cannot be described as a 'tribunal' within the meaning of Article 6 of the European Convention for the Protection of Human Rights.

It should however be added that, during the administrative procedure before the Commission, the Commission is bound to observe the procedural safeguards provided for by Community law.

The general submission put forward by MDF must be rejected as being based on a misunderstanding of the nature of the procedure before the Commission.

(b) The failure to disclose in the statement of objections certain matters mentioned in the decision

The applicants claim that the Commission found that the two concerted practices had begun at the end of 1975, that the concerted practice between MDF, Pioneer and Melchers had ceased in February in 1976 and the concerted practice between MDF and Shriro had continued until the end of 1977, whereas, in its statement of objections, the Commission was proposing to find that the two infringements had only subsisted during the period 'late January/early February 1976'.

In the present case since the undertakings had no opportunity of making known their views in that respect, in assessing the duration of the infringements found by the contested decision, regard must be had only to the period 'late January/early February 1976'.

The applicants claim that the contested decision mentions certain facts which were not mentioned in the statement of objections. The applicants had every possibility of making their views known and of adducing evidence in that regard. That part of the submission must therefore be rejected.

The applicants claim that the Commission infringed their right to a fair hearing by not stating the criteria on the basis of which it was proposing to calculate the fine, not to mention the amount or even the approximate size of it. That infringement is said to be all the more serious in the present case since the fines imposed were considerably higher than those imposed in the past and since they were calculated by applying a formula linked to the turnover of the undertakings in question.

That part of the submission cannot be upheld either. The Commission was not bound to mention, in the statement of objections, the possibility of a change in its policy as regards the general level of fines, a possibility which depended on general considerations of competition policy having no direct relationship with the particular circumstances of these cases.

(c) The failure to disclose documents

First, Pioneer and Pioneer GB maintain that, despite their requests to that effect, the Commission did not transmit to them, in due time, the documents on which it based its findings as regards the effects of the letters sent by Mr Todd of Shriro to the directors of Comet and Audiotronic.

Since the findings which the Commission based on those documents, which did not come to the applicants' notice, relate to matters which are of purely secondary importance in relation to the infringements found to have been committed in Articles 1 and 2 of the decision, that breach of the right to a fair hearing cannot affect the validity of the whole decision.

Instead it is appropriate for the Court to disregard the contents of those documents when considering the substantive validity of the decision.

Secondly MDF, Pioneer and Pioneer GB maintain that they did not have notice of the report by Mackintosh Consultants Co. Ltd, London on which the Commission relied in paragraph (25) of the decision for the purpose of determining the hi-fi markets in France, the United Kingdom and the Federal Republic of Germany.

However, in paragraph (25) of its decision, the Commission adhered to the figures which it had given in the statement of objections. It did not therefore base its decision on the volume of those markets as estimated in the report. That part of the submission cannot therefore be accepted.

(d) The non-disclosure of the opinion of the Advisory Committee

MDF and Pioneer argue that Article 10(6) of Regulation No 17, which states that the opinion of the Advisory Committee is not to be made public, should be construed in such a way as to allow the opinion to be disclosed confidentially to 'the undertakings directly concerned'. It is argued that if such a construction is not accepted the aforesaid provision is invalid because it offends against the principle of the right to a fair hearing.

Whatever may be the Committee's opinion, the Commission may base its decision only on facts on which the undertakings have had the opportunity of making known their views. Consequently, this submission must be rejected.

B. *Wrongful assessment and classification of the facts on the basis of which the Commission found that there had been infringements of Article 85(1)*

(a) Melchers' alleged refusal to sell

The evidence before the Court suffices for a finding that the Commission has satisfactorily shown that Melchers refused to perform Gruoner's order on account of the destination of the goods.

(b) The effects of the letters sent by Mr Todd

Pioneer and Pioneer GB dispute the findings in the contested decision relating to the effects of the two letters which Shriro's Managing Director Mr Todd sent on 28 and 29 January 1976 to Audiotronic and Comet. They maintain that those letters produced wholly insignificant effects.

The letters contain unequivocal requests to cease exporting Pioneer equipment. They were sent to the two main customers which together accounted for some 45% of sales of Pioneer equipment supplied by Shriro. In those circumstances, the two letters constitute, by themselves, proof of a concerted practice between MDF and Shriro which had as its object the restriction of competition within the common market. The submission put forward by the two applicants does not therefore relate to the existence of an infringement of Article 85(1) of the Treaty but merely to the effect of that infringement and consequently to its gravity.

As regards Audiotronic, the Commission admits that the letter sent to that undertaking had no immediate effects. It was only as from March 1976 that the concerted practice had any effect as regards Audiotronic. Since the period to be taken into consideration is restricted to late January and early February 1976, those statements are immaterial.

It must therefore be concluded that the Commission was entitled to find that Comet had exported large quantities of Pioneer equipment before receiving Mr Todd's letter but that those exports ceased following that letter.

(c) The duration of the concerted practices

It is no longer necessary to examine this submission, which does not relate to the period established.

(d) Pioneer's participation in the concerted practices

In the contested decision the Commission found that Pioneer had participated both in the concerted practice between Melchers and MDF and in the concerted practice between MDF and Shriro. It based that finding, in particular, on Pioneer's central position with regard to national distributors, on the course and results of the meeting in Antwerp on 19 and 20 January 1976 and on the transmission by Pioneer to Melchers of complaints and information from MDF relating to parallel imports.

Pioneer disputes that its conduct may be described in such a way. It maintains that it was in no position to have any control over the conduct of Shriro or Melchers.

An examination of all those points leads to the conclusion that the Commission was justified in finding that Pioneer had participated in two concerted practices.

(e) The market shares held by the applicants and the effect on trade between Member States

MDF and Pioneer GB dispute the calculations of market shares used by the Commission. They maintain that their market shares are not sufficient for their conduct to be regarded as capable of affecting trade between Member States within the meaning of Article 85(1) of the Treaty.

The Court refers to a number of previous judgments in which it held that if an agreement is to be capable of affecting trade between Member States, it must be possible to foresee, with a sufficient degree of probability, on the basis of a set of objective factors of law or fact, that the agreement in question may have an influence, direct or indirect, actual or potential, on the pattern of trade between Member States in such a way that it might hinder the attainment of the objectives of a single market between States. The Court also acknowledged that an exclusive dealing agreement, even with absolute territorial protection, may escape the prohibition laid down in Article 85 where it affects the market only insignificantly, regard being had to the weak position of the persons concerned on the market in the products in question. That is not the position of the applicants in the present case. The studies produced by MDF and Pionner GB show that the market in hi-fi products in France and the United Kingdom is very large but that it is markedly divided between a very great number of brands, so that the percentages stated by the applicants exceed those of most of their competitors. It even seems that the two applicants were amongst the largest suppliers to the two markets.

In those circumstances, it cannot be denied that conduct by those undertakings seeking to restrain parallel imports and therefore to partition national markets was capable of appreciably affecting trade between Member States.

C. *Submissions based on failure to take into account circumstances precluding the imposition of fines*

(a) Legitimate self-protection and necessity

Parallel imports from other Member States cannot therefore, by themselves, give rise to a situation of legitmate self-protection and MDF has not proved that its existence was threatened or that its alleged financial difficulties were due to parallel imports, or *a fortiori*, that an infringement of Article 85(1) was the only means of ensuring its survival.

(b) Article 85(3) of the Treaty

MDF claims that the substantive conditions for an exemption under Article 85(3) were satisfied and that therefore it could have obtained an exemption subject to notification.

The infringement therefore consisted merely in a breach of a procedural rule, namely the failure to satisfy the requirements of notification and obtaining a formal exemption.

Notification is an indispensable condition for obtaining certain benefits. An undertaking cannot claim, on being fined for an infringement in respect of an agreement which was not notified, that there was a hypothetical possibility that notification might have led to an exemption.

(c) Conformity of Melchers' conduct with its contractual obligations notified to the Commission

(d) The absence of instructions from the partners

(e) The Commission's joint responsibility in these cases

The Court rejected all those submissions.

D. *Submissions relating to the size of the fines*

(a) The general level of the fines

The applicants maintain that, in fixing the amounts of the fines, the Commission failed to observe Article 15 of Regulation No 17, which provides that regard shall be had both to the gravity and to the duration of the infringement.

The applicants say that it took advantage of these cases in order to introduce a new policy intended to increase the general level of fines for certain infringements of Community law although such a change in policy was justified neither by the nature of the infringements in question nor by the particular circumstances of the case. That new policy is arbitrary and discriminatory.

The Commission admits that the present cases are the first in which it has imposed a level of fines considerably higher than in the past. Before the adoption of the contested decision it had not imposed fines exceeding 2% of the total turnover of the undertaking even for serious infringements. In these cases the fines range from 2 to 4% of turnover.

According to the Commission, however, such a level is fully justified by the nature of the infringements. After 20 years of Community competition policy an appreciable increase in the level of fines is necessary, in its view, at least for serious infringements such as prohibition of exports and imports.

Heavier fines are particularly necessary where, as in the present case, the principal aim of the infringement is to maintain the higher level of prices for consumers. The Commission states that many undertakings carry on conduct which they know to be contrary to Community law because the profit which they derive from their unlawful conduct exceeds the fines imposed hitherto. Conduct of that kind can only be deterred by fines which are heavier than in the past.

The Commission, in carrying out the task of supervision conferred on it by Community law, must take into consideration not only the particular circumstances of the case but also the context in which the infringement occurs, and must ensure that its action has the necessary deterrent effect, especially as regards those types of infringement which are particularly harmful to the attainment of the objectives of the Community.

The Commission was right to classify as very serious infringements prohibitions on exports and imports seeking artificially to maintain price differences between the markets of the various Member States.

The fact that the Commission, in the past, imposed fines of a certain level for certain types of infringement does not mean that it is estopped from raising that level within the limits indicated in Regulation No 17 if that is necessary to ensure the implementation of Community competition policy. The proper application of the Community competition rules requires that the Commission may at any time adjust the level of fines to the needs of that policy.

That submission must therefore be rejected.

(b) The alleged absence of intention on the part of Pioneer

Pioneer argues that it did not act intentionally since it could not know that its conduct was unlawful.

That submission must be rejected.

(c) The use of turnover as the basis for calculating the fines

Melchers claims that it is unlawful to fix the fines in proportion to the undertaking's turnover, as the Commission has done in the present cases. It argues that turnover in fact gives no indication of the profitability of the undertaking or of its ability to pay a fine.

Melchers, MDF and Pioneer claim that the fine cannot be calculated on the basis of the total turnover of the undertaking.

The Commission replies that only the total turnover of an undertaking can give an indication of the maximum fine which the undertaking is capable of paying.

Under the terms of Article 15(2) of Regulation No 17, the Commission may impose fines of from 1 000 to 1 000 000 units of account or a sum in excess thereof but not exceeding 10% of the turnover in the preceeding business year of each of the undertakings participating in the infringement. Article 15(2) provides that in fixing the amount of the fine within those limits the gravity and the duration of the infringement are to be taken into consideration. It follows that, on the one hand, it is permissible, for the purpose of fixing the fine, to have regard both to the total turnover of the undertaking, which gives an indication, albeit approximate and imperfect, of the size of the undertaking and of its economic power and to the proportion of that turnover accounted for by the goods in respect of which the infringement was committed, which gives an indication of the scale of the infringement.

It is appropriate for the Court, to bear in mind those considerations in its assessment, by virtue of its powers of unlimited jurisdiction, of the gravity of the infringements in question.

(d) The duration of the concerted practices

The Court reiterated its finding that the infringements committed were confined to the period 'late January/early February'.

(e) The imposition of a single fine for two concerted practices

According to MDF, there is reason to believe that the Commission considered that the two concerted practices in which MDF participated constitute two distinct infringements. By combining the fines calculated for each of those two infringements into a single fine, the Commission infringed the general principle concerning the overlapping of offences.

Pioneer, for its part, claims that the Commission infringed its right to a fair hearing by imposing on it a single fine for two infringements.

Those submissions must be rejected.

E. *Conclusion*

The claim for a declaration of nullity

The finding relating to the duration of the infringements must be confined to the period 'late January/early February 1976'

The claim for a reduction of the fines

In fixing the amount of the fines regard must be had to the duration of the infringement established and to all the factors capable of affecting the assessment of the gravity of the infringements, such as the conduct of each of them in the establishment of the concerted practices, the profit which they were able to derive from those practices, their size, the value of goods concerned and the threat which infringements of that type posed to the objectives of the Community.

In view of the reduction of the fines decided above and the fact that since the date of the contested decision the undertakings have had the use of the sums in question without having to arrange a guarantee or pay interest, the submission put forward by MDF and Melchers regarding the difficulties which payment of the fines would entail for them must be rejected. That applies equally to MDF's claim to be allowed to pay the fine in several instalments. It is for the Commission to decide, in an appropriate case and having regard to the current financial situation of the undertakings, whether it is desirable to allow payment to be deferred or effected in instalments.

The Court hereby:

1. Declares Commission Decision No 80/256 of 14 December 1979 relating to a proceeding under Article 85 of the EEC Treaty (IV/29.595-Pioneer Hi-Fi Equipment) void to the extent to which it finds that the concerted practice exceeded the period late January/early February 1976;

2. Fixes the fines imposed on the applicants as follows:

   In the case of MDF (Case 100/80), 600 000 units of account, that is to say, FF 3 488 892;

   In the case of Melchers (Case 101/80), 400 000 units of account, that is to say, DM 992 184;

   In the case of Pioneer (Case 102/80), 2 000 000 units of account, that is to say, BFR 80 679 000;

   In the case of Pioneer GB (Case 103/80), 200 000 units of account, that is to say, UKL 129 950;

3. Dismisses the application for the rest;

4. Orders each party to bear its own costs.

The opinion of Advocate General Sir Gordon Slynn was delivered at the sitting on 8 February 1982.

(e) **Tax arrangements applying to wine**

Judgment of 12 July 1983 in Case 170/78 *Commission of the European Communities, supported by the Italian Republic*, v *United Kingdom of Great Britain and Northern Ireland* (not yet published in the ECR)

By application lodged on 7 August 1978, the Commission instituted proceedings for a declaration that the United Kingdom had failed to fulfil its obligations under the second paragraph of Article 95 of the EEC Treaty by levying excise duty on still light wines from fresh grapes at higher rates, in relative terms, than on beer.

On 27 February 1980, the Court delivered an interlocutory judgment.

Substance of the case

The questions which were considered and left partly unanswered in the judgment of 27 February 1980 concerned, first of all, the nature of the competitive relationship between wine and beer and, secondly, the selection of a basis for comparison and determination of an appropriate tax ratio between the two products.

Competitive relationship between wine and beer

In its judgment of 27 February 1980, the Court emphasized that the second paragraph of Article 95 applied to the treatment for tax purposes of products which, without fulfilling the criterion of similarity laid down in the first paragraph of that article, were nevertheless in competition, either partially or potentially. It added that, in order to determine the existence of a competitive relationship, it was necessary to consider possible developments regarding the free movement of goods within the Community and the further potential for the substitution of products from one another which might be revealed by intensification of trade.

As regards the question of competition between wine and beer, the Court considered that, to a certain extent at least, the two beverages in question were capable of meeting identical needs, so that it had to be acknowledged that there was a degree of substitution for one another.

The Court none the less recognized that, in view of the substantial differences between wine and beer, it was difficult to compare the manufacturing process and the natural properties of those beverages.

The Italian Government, as intervener, contended in that connection that it was only the lightest wines with an alcoholic strength in the region of 9°, that is to say the most popular and cheapest wines, which were genuinely in competition with beer. Those were the wines which should be chosen for the purposes of comparison where it was a question of measuring the incidence of taxation on the basis of either alcoholic strength or the price of the products.

The Court considers that observation by the Italian Government to be pertinent and that it was therefore the appropriate basis for making fiscal comparisons by reference to the alcoholic strength or to the price of the two beverages in question.

Determination of an appropriate tax ratio

As regards the selection of a method of comparison with a view to determining an appropriate tax ratio, the Commission considers that the safest method is to use a criterion which is linked both to the volume of the beverages in question and to their alcoholic strength.

The Commission considers that taxation in excess of the ratio 1:2.8 by reference to volume raises a 'presumption' that indirect protection is afforded to beer.

The Government of the United Kingdom emphasized that a proper comparison should be based on the incidence of taxation on the prices net of tax of the two products in question. According to that criterion the British tax system has no protective effect.

The Italian Government emphasizes the importance, for the settlement of the dispute, of the fact that wine is an agricultural product and beer an industrial product; in its opinion, the requirements of the common agricultural policy should lead to the introduction of a rate of taxation favouring the agricultural product and it would therefore be inconsistent with that policy to eliminate altogether, under a national tax system, the effects of Community intervention in support of wine production.

The Italian Government suggests that the two criteria, based on volume and on alcoholic content, should be combined in the sense that although, in principle, there must be equal taxation by reference to the volume of the two beverages, the existence of higher taxation of wine by reference to alcoholic strength alone would be a reliable indication that there was discrimination and that the tax system in question had a protective effect.

It is not disputed that comparison of the taxation of beer and wine by reference to the volume of the two beverages reveals that wine is taxed more heavily than beer in both relative and absolute terms.

As regards the criterion for comparison based on alcoholic strength, even though it is true that it is only a secondary factor in the consumers choice between the two beverages in question, it none the less constitutes a relatively reliable criterion for comparison.

In the light of the indices which the Court has already accepted, it is clear that in the United Kingdom during the period in question wine bore a tax burden which, by reference to alcoholic strength, was more than twice as heavy as that borne by beer, that is to say an additional tax burden of at least 100%.

In reply to the Court's request for information on consumer prices and the prices net of tax for the types of wines and beer most commonly sold and consumed in the United Kingdom, the United Kingdom Government merely provided information relating to two German wines which are undoubtedly widely consumed but are scarcely representative of the state of the wine market within the Community.

The Commission and the Italian Government disputed the relevance of the wines selected by the United Kingdom Government and submitted detailed information relating to Italian wines.

The Commission's calculations, which relate to the United Kingdom market in its present state show that wine is subject to an additional tax burden of around 58% and 77%, whereas the Italian Government's calculations relating to the cheapest wine show that wine is subject to an additional tax burden of up to 286%.

The Court has come to the conclusion that, if a comparison is made on the basis of those wines which are cheaper than the types of wine selected by the United Kingdom and of which several varieties are sold in significant quantities on the United Kingdom market, it becomes apparent that precisely those wines which, in view of their price, are most directly in competition with domestic beer production are subject to a considerably higher tax burden.

The Court therefore

'1. Declares that, by levying excise duty on still light wines made from fresh grapes at a higher rate, in relative terms, than on beer, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under the second paragraph of Article 95 of the EEC Treaty.

2. Orders the Commission of the European Communities and the United Kingdom to bear their own costs. The costs incurred by the Italian Republic are to be paid by the United Kingdom.'

The opinion of Mr Advocate General VerLoren van Themaat was delivered on 10 May 1983.

(f) **Freedom of establishment – Direct effect of directives**

Judgment of 22 September 1983 in Case 271/82 *Vincent Rodolphe Auer* v *Ministère Public, Ordre National des Vétérinaires de France* and *Syndicat National des Vétérinaires Practiciens de France* (not yet published in the ECR)

The Cour d'Appel [Court of Appeal], Colmar referred to the Court a question for a preliminary ruling on the interpretation of Articles 52 and 57 of the Treaty, and of Council Directives Nos 78/1026 and 78/1027, the first concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, and the second concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of veterinary surgeons.

The question was raised in the context of the criminal proceedings brought against Mr Vincent Auer, who was charged with unlawfully practising veterinary medicine in France. Mr Auer, who was originally of Austrian nationality, studied veterinary medicine in Vienna (Austria), then at Lyons (France), and finally at Parma (Italy), where he obtained in 1956 the diploma of Doctor of Veterinary Medicine, in 1957 a provisional certificate of suitability and, in 1980, a certificate enabling him to practise that profession.

In 1958 he settled in France in order to practise his profession there.

Mr Auer became a naturalized French citizen in 1961, and on several occasions applied for authorization to carry on the profession of veterinary surgeon, but the applications were always rejected because the validity of his diploma was recognized as valid solely 'as an academic qualification'. Mr Auer therefore did not succeed in obtaining the enrolment which he sought on the register of the professional society.

Since he considered that refusal to be unjustified, Mr Auer opened a veterinary surgery in Mulhouse. In the context of a prosecution initiated in 1978, the Cour d'Appel, Colmar had already referred to the Court of Justice for a preliminary ruling a first question as to whether the fact of prohibiting, in France, a person who has acquired the right to practise as a veterinary surgeon in another Member State from practising that profession constitutes a restriction on the freedom of establishment recognized by Articles 52 and 57 of the Treaty.

At that time Article 57 of the Treaty had not yet been implemented as regards access to the profession of veterinary surgeon. The two directives mentioned above were adopted by the Council on 18 December 1978.

In its judgment of 7 February 1979, the Court of Justice stated as follows:

> 'There is no provision of the Treaty which ... makes it possible to treat nationals of a Member State differently according to the time at which or the

> manner in which they acquired the nationality of that State ... .
>
> ...
>
> ... for the period prior to the date on which the Member States are required to have taken the measures necessary to comply with [the directives in question] ... the nationals of a Member State cannot rely on that provision with a view to practising the profession of veterinary surgeon in that Member State on any conditions other than those laid down by national legislation.
>
> This answer in no way prejudices the effects of the above-mentioned directives from the time at which the Member States are required to have complied with them.'

On 20 December 1980, the French Republic had still not complied with the above-mentioned directives. Implementing measures were not adopted until 20 October 1982. In the meantime Mr Auer continued to practise his profession in Mulhouse, still without being entered on the register of the Society of Veterinary Surgeons. He was once again prosecuted for the unlawful practice of veterinary medicine, namely after the expiry of the period prescribed for the implementation of the directives in question, but prior to the adoption of the French law which implemented them.

In the course of those proceedings Mr Auer relied on rights based on Community rules. He maintained that since, at the material time, the period within which Member States were required to comply with the aforesaid directives had expired and France had not adopted the measures necessary for implementing them, the provisions of the directives had become directly applicable, and that he was therefore entitled to practise his profession in France.

The dispute prompted the Cour d'Appel, Colmar, to refer to the Court of Justice the following preliminary question:

> 'If a person who has become entitled to practise the profession of veterinary surgeon of a Member State of the European Community which has conferred upon him the qualifications referred to in Article 3 of Directive No 78/1026, and who has acquired the nationality of another Member State, is required, after the expiry of the two-year period allowed for adopting the measures necessary to comply with Directives Nos 78/1026 and 78/1027, to be registered with a national body established under national law as a condition for practising that profession, does that requirement amount to a restriction on the freedom of establishment provided for in Articles 52 and 57 of the Treaty of Rome?'

The Society of Veterinary Surgeons observes that Mr Auer's diploma in no way meets the training requirements laid down by Directive No 78/1027.

Mr Auer emphasizes that Directive No 78/1026 requires Member States to recognize the diplomas listed in Article 3, and that that list includes the diplomas which were

awarded to him in Italy. It follows that he is entitled to practise the profession of veterinary surgeon in France, inasmuch as the directive imposes on Member States clear, precise and unconditional obligations and is therefore capable of direct application in the sense that an individual may rely on it as against a Member State which has failed to fulfil its obligation to comply with the directive within the period allowed.

The Court finds that the diplomas of 'abilitazione' held by Mr Auer correspond precisely to those set forth in Article 3 of the directive.

The fact that the certificate was drawn up after the events which led to Mr Auer's being charged with criminal offences does not alter his legal position, because the document in question does not have the effect of creating *ex nunc* the right to practise the profession, but merely proves that the diplomas awarded at an earlier date are in conformity with Directive No 78/1027.

As regards the specific question raised by the national court whether a national of a Member State who has obtained in another Member State qualifications which entitle him to practise the profession of veterinary surgeon has the right to practise that profession even if he is not entered on the register of the professional society, the civil parties to the main proceedings contend that the person concerned cannot be exempted from the obligation of registration even if the diplomas and certificates which he holds are valid.

The Court finds that the legislative provisions of Member States making enrolment with the professional body mandatory are not – as such – incompatible with Community law.

Nevertheless, the conformity of that obligation with Community law is subject to the condition that the fundamental principles of that law, and in particular the principle of non-discrimination, are respected. It is not permissible to refuse to enter a person on the register of a professional society on grounds which disregard the validity of a professional qualification obtained in another Member State when that qualification is one of those which all Member States are obliged to recognize by virtue of Community law.

The Court of Justice, ruling on the question referred to it, replied as follows:

> 'A national of a Member State who has the right to practise the profession of veterinary surgeon in another Member State which has issued to him one of the diplomas, certificates or other evidence of formal qualification referred to in Article 3 of Directive No 78/1026 even before that directive has been implemented, is entitled to practise that profession in the first-mentioned State as from 20 December 1980, provided that the competent authorities of the State in which he obtained his diploma have issued to him a certificate stating that the diploma is in conformity with the requirements of Article 1 of Directive No 78/1027.

> The fact that a person is not registered with a national society of veterinary surgeons cannot prevent that person from practising the profession and cannot provide grounds for a prosecution for improper practice thereof when such registration was refused in contravention of Community law.'

The opinion of Mr Advocate General Mancini was delivered on 19 May 1983.

(g) Legislation on prices of imported medicines

Judgment of 29 November 1983 in Case 181/82, *Roussel Laboratoria BV and Others v The Netherlands (Minister for Economic Affairs and Minister for Health and the Environment)* (not yet published in the ECR)

The Netherlands court raised several questions for a preliminary ruling on the interpretation of certain principles of Community law in order that it might determine compatibility of national legislation on the prices of imported medicines with Community law.

The questions arose in the context of interlocutory proceedings brought against the Netherlands by 10 pharmaceutical undertakings for an order suspending the operation of the decree of 1982 on the prices of registered medicines, adopted pursuant to the Prices Law which authorizes the competent ministers to fix maximum prices if the public interest, both social and economic, so requires.

A 1982 decree on prices introduced specific rules for imported medicines. The competent ministers had taken the view that the earlier rules provided only limited possibilities of controlling the prices of imported medicines, since the import prices of those products are often higher than the prices charged in certain countries of origin in which the level of medicine prices is lower. The specific rules on imported products therefore prohibited the sale of an imported medicine at a higher price than the manufacturer's basic price last applicable in the country of origin before 15 May 1982 for an identical medicine in the same package size.

The plaintiffs in the main proceedings contended that the decree is contrary to Articles 30, 7, 3(f), 85 and 86 of the EEC Treaty as well as the general principles of Community law in regard to equality, proportionality, legal certainty and due care in the preparation of legislation.

The Netherlands defended the disputed decree, contending in particular that intra-Community trade is not affected where the national authorities adopt measures against an artificial division of the Common Market by a dual-pricing system, as operated by certain pharmaceutical undertakings.

The dispute led the Netherlands court to ask the Court of Justice whether 'in the light of the argument put forward by the Netherlands, a Member State of the Community, the Prijzenbeschikking Registergeneesmiddelen [Prices Decree] 1982 is to be re-

garded as a measure having an equivalent effect to a quantitative restriction on imports, prohibited by Article 30 of the EEC Treaty?'

The market for medicines in the Netherlands

It is common ground that the prices of medicines differ appreciably between one Member State and another. The Netherlands is one of the Member States which has a high level of prices for both home-produced and imported medicines. The final consumer of a medicine as a rule has only a very limited influence on the choice of the medicine, which is in general prescribed by a doctor, and he has only a very limited financial interest in using cheaper medicines since the costs are covered by social security. In those circumstances, competition between pharmaceutical undertakings has little effect on the price of medicines, and the differences in the prices charged by producers according to the country for which the medicines are intended can, in principle, easily be passed on to the consumer.

In the Netherlands approximately 80% of medicines used are imported from other Member States. Approximately 80% of the medicines manufactured in the Netherlands are for export.

The disputed rules in the Prices Decree are intended to secure a reduction in the high prices charged on the Dutch market for imported medicines by preventing producers in Member States in which the prices of medicines are low from varying their prices from one Member State to another, according to the destination of the medicines, in this case the Netherlands market. Foreign manufacturers are put in the position of either having to accept a reduction in their prices to the level pertaining in the country of origin, or of having to withdraw from selling on the Netherlands market.

The application of Article 30

According to the plaintiffs in the main proceedings, Article 30 must be interpreted as meaning that legislation such as that at issue in the present case constitutes a measure having an effect equivalent to a quantitative restriction because it restricts trade by preventing the supplier of medicines from selling them at profitable prices, given that the artificial intervention of certain Member States limiting the prices of medicines prevents the charging, in those Member States, of prices which cover the true costs.

The Netherlands Government observes that in the absence of Community rules the Member States are free to regulate the price of goods. A Member State has the right to take action against the differences in prices between one Member State and another resulting from the malfunctioning of the common market and the operation of a dual-pricing system by certain manufacturers.

The Commission is of the view that national measures governing the prices of imported products on the basis of the manufacturers' basic prices applied to products intended for consumption on the territory of the Member State of production, do not in themselves constitute measures having an equivalent effect to quantitative restrictions.

But the case to which the question raised refers is concerned not with rules which are applicable to national and to imported products without distinction but with different rules for the two groups of products which are to be found in different decrees and which may also be distinguished from each other in substance.

While the rules relating to national products freeze prices at a particular date, subject to increases allowed under certain conditions, the rules relating to imported products fix prices at the level applied by producers for sale in the country of production.

Such differentiated rules for the two groups of products must be considered to be a measure having an effect equivalent to a quantitative restriction if they might have the effect of handicapping the marketing of imported products in any way whatsoever.

The meaning of the criterion of the factory price varies from one Member State of production to another because of legal provisions and economic conditions which determine the formation of that price in the respective countries.

Thus legislation such as that in the present case has different effects, on the one hand for producers in a Member State which fixes prices at a level established previously by the producers themselves, and, on the other hand, for producers of a Member State which itself officially fixes imposed prices.

That situation is likely to handicap the marketing of imported products by making it more difficult, or even impossible or, in any case, less profitable than that of national products.

The Court therefore answers the question referred to it as follows:

> 'Article 30 of the EEC Treaty precludes the introduction by a Member State, in respect of imported pharmaceutical products, of specific legislation which refers to the manufacturers' basic prices usually charged for products intended for consumption within the territory of the Member State in which they are produced, where the legislation applicable to national production is based on simple freeze on prices at a given reference date.'

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 21 and 22 March and a course from 17 to 21 October 1983.

From 6 to 10 June 1983 the École Nationale de la Magistrature pour des Magistrats en Formation Permanente (Bordeaux-Vaucresson) held its annual study week at the Court of Justice.

On 12 July 1983 the Deutsche Richterakademie of Trier visited the Court. Judges from non-member countries also sent delegations to the Court of Justice.

From 17 to 19 January 1983 the Court received 14 Portuguese judges and on 27 October 1983 38 Austrian judges visited the Court.

Two important visits to the Court in 1983 should be particularly noted:

On 28 and 29 April 1983 the Court received the official visit of the European Court of Human Rights. The two days saw a fruitful exchange of views between the two European courts.

The Legal Affairs Committee of the European Parliament was received at the Court on 22 November 1983.

Among the numerous visitors the following individual visits should be noted:

27 September 1983 – visit by Lord Templeman, Chairman of the Legal Subcommittee of the House of Lords European Committee;

18 October 1983 – visit by Mr Kercher, President of the Canadian Bar;

14 October 1983 – visit by Mr Malcolm Rifkind, MP Minister of State of the United Kingdom;

12 December 1983 – visit by Mr Humberto Moro Osejo, President of the Council of State of Colombia.

The President and the Members of the Court also took part in numerous external visits and events, represented the Court at official ceremonies and gave lectures.

A number of these activities may be singled out:

On 29 January 1983 the President, Mr Mertens de Wilmars, represented the Court at the formal session of the Conférence du Stage at the Paris Bar;

On 5 and 6 May 1983 the President took part in the discussion on the 'Réglement des Différends Commerciaux' ['Settlement of Commercial Disputes'] organized by the Fondation Internationale pour l'Enseignement du Droit des Affaires at the Free University of Brussels;

From 20 to 25 May 1983 the President gave three lectures at the Law School of the University of Chicago (USA);

On 31 May 1983 the President made a speech at the ceremonies to mark the 25th anniversary of the Economic and Social Committee of the European Communities;

From 17 to 22 July 1983 the President took part in the Congress on Administrative Law which took place in Cartagena (Colombia);

On 14 October 1983 the President gave a talk at the College of Europe at Bruges;

On 5 November 1983 the President took part in the activities of the Fondation Jean Monnet pour l'Europe in Lausanne;

On 17 November 1983 the President took part in the activities of Gray's Inn in London;

On 2 December 1983 the President gave a lecture at the Centre Européen Universitaire of Nancy;

Delegations from the Court responded to the following official invitations:

From 14 to 20 June 1983 the Court of Justice paid an official visit to the Hellenic Republic in response to an invitation by the Greek Government;

On 2 and 3 June 1983 a delegation from the Court went to the Supreme Court of Sweden.

Several Members of the Court accepted various invitations and represented the Court at numerous discussions and congresses.

The above is a necessarily incomplete survey of all the external activities of the Court of Justice. In concluding this brief account of the visits and activities of the Court we would like to draw attention to the exceptional visit to the Court on 13 January 1983 of 30 French bishops who demonstrated their interest in European judicial activity.

Visits to the Court of Justice during 1983[1]

	Belgium	Denmark	FR of Germany	France	Greece	
Judges of national courts[3]	–	–	92	67	8	
Lawyers, trainees, legal advisers	45	24	150	86	–	
Professors, lecturers in Community law	30	1	92	–	–	
Members of Parliament, national civil servants, political groups	250	135	383	36	–	
Journalists	12	13	27	2		
Students, schoolchildren, trainees from the EEC or the Parliament	175	259	476	570	9	
Professional associations	75	–	110	25	–	
Others	76	–	197	120	–	
Total	663	432	1 527	906	17	

[1] In all, 355 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. In 1983 the number of participants was 529.

In 1983 the following numbers took part:

Belgium	12
Denmark	13
Federal Republic of Germany	31
France	31
Greece	12
Ireland	8
Italy	30
Luxembourg	1
The Netherlands	12
United Kingdom	30

[4] This number includes 13 members of the European Court of Human Rights at Strasbourg.

	Ireland	Italy	Luxem-bourg	The Nether-lands	United Kingdom	Non-member countries	Mixed groups[2]	Total
	–	–	54	30	9	76	193[4]	529
	–	–	–	35	10	83	79	512
	–	11	1	–	5	29	–	169
	–	22	–	–	79	55	62	1 022
	–	–	5	–	11	25	–	95
	40	73	177	351	1 534	457	255	4 376
	–	–	–	–	100	–	–	310
	15	36	5	59	230	3	80	821
	55	142	242	475	1 978	728	669	7 834

3. Composition of the Court

By decision of the Representatives of the Governments of the Member States of the European Communities of 16 February 1983 Mr Constantinos Kakouris was appointed judge in the place of the President of Chamber Mr Chloros who died on 15 November 1982. At a formal sitting held on 14 March 1983 the Court welcomed Judge Kakouris who took up office on the same day.

Composition of the Court of Justice of the European Communities for the judicial year 1982/83

from 1 January to 13 March 1983

Josse MERTENS de WILMARS, President
Pierre PESCATORE, President of the Second Chamber
Andreas O'KEEFFE, President of the First Chamber
Ulrich EVERLING, President of the Third 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
G. Federico MANCINI, Advocate General
Yves GALMOT, Judge
Paul HEIM, Registrar

First Chamber

Andreas O'KEEFFE, President
Giacinto BOSCO and Thymen KOOPMANS, Judges

Second Chamber

Pierre PESCATORE, President
Ole DUE and Kai BAHLMANN, Judges

Third Chamber

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

Fourth Chamber

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

Fifth Chamber

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

Advocates General

Simone ROZÈS, First Advocate General
Gerhard REISCHL, Advocate General
Sir Gordon SLYNN, Advocate General
Pieter VERLOREN van THEMAAT, Advocate General
G. Federico MANCINI, Advocate General

from 14 March 1983 to 6 October 1983

Josse MERTENS de WILMARS, President
Pierre PESCATORE, President of the Second Chamber
Andreas O'KEEFFE, President of the First Chamber
Ulrich EVERLING, President of the Third 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
G. Federico MANCINI, Advocate General
Yves GALMOT, Judge
Constantinos KAKOURIS, Judge
Paul HEIM, Registrar

First Chamber

Andreas O'KEEFFE, President
Giacinto BOSCO and Thymen KOOPMANS, Judges

Second Chamber

Pierre PESCATORE, President
Ole DUE and Kai BAHLMANN, Judges

Third Chamber

Ulrich EVERLING, President
Yves GALMOT and Constantinos KAKOURIS, Judges

Fourth Chamber

Andreas O'KEEFFE, President
Pierre PESCATORE, Giacinto BOSCO, Thymen KOOPMANS and K. BAHLMANN, Judges

Fifth Chamber

Ulrich EVERLING, President
Lord Alexander J. MACKENZIE STUART, Ole DUE, Yves GALMOT and Constantinos KAKOURIS, Judges

Advocates General

Simone ROZÈS, First Advocate General
Gerhard REISCHL, Advocate General
Sir Gordon SLYNN, Advocate General
Pieter VERLOREN van THEMAAT, Advocate General

from 7 October 1983 to 31 December 1983

Josse MERTENS de WILMARS, President
Thymen KOOPMANS, President of the First Chamber
Sir Gordon SLYNN, Advocate General
Kai BAHLMANN, President of the Second Chamber
Yves GALMOT, President of the Third Chamber
Pierre PESCATORE, Judge
Lord Alexander J. MACKENZIE STUART, Judge
Gerhard REISCHL, Advocate General
Andreas O'KEEFFE, Judge
Giacinto BOSCO, Judge
Ole DUE, Judge
Ulrich EVERLING, Judge
Simone ROZÈS, Advocate General
Pieter VERLOREN van THEMAAT, Advocate General
G. Federico MANCINI, Advocate General
Constantinos KAKOURIS, Judge
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Lord Alexander J. MACKENZIE STUART and Giacinto BOSCO, Judges

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Yves GALMOT, President
Ulrich EVERLING and Constantinos KAKOURIS, Judges

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

Fifth Chamber

Yves GALMOT, President
Lord Alexander J. MACKENZIE STUART, Ole DUE, Ulrich EVERLING and
Constantinos KAKOURIS, Judges

Advocates General

Sir Gordon SLYNN, First Advocate General
Gerhard REISCHL, Advocate General
Simone ROZÈS, Advocate General
Pieter VERLOREN van THEMAAT, Advocate General
G. Federico MANCINI, Advocate General

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 25 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 6 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 Division

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 40 000 (39 939) bound volumes (books, series and bound journals), 8 500 unbound booklets and brochures and 409 current legal journals and law reports supplied on subscription.

It may be mentioned as a guide that in the course of 1983 new acquisitions amounted to 715 new titles representing 369 bound volumes (1 839 volumes), 335 unbound volumes and 11 new subscriptions.

The Library has also subscribed to 6 publications edited in the form of microfiches. Two microfiche readers have been installed in the reading room for this purpose.

All works may be consulted in the reading-room of the Library. However they are lent only to the members and the officials of the Court. No loans are made to persons not belonging to the Community institutions. Loans to officials of other Community institutions may be made via the library of the institution to which the official in question belongs.

The Division prepares a quarterly list of new acquisitions both of bound volumes and journals. The complete annotation of the Community case-law has, moreover, been stored in the Court's computer. The Division also publishes an annual bibliographical catalogue relating to works and articles which, during the preceding year, have been added to its collection of material on European law, and in particular of Community law. The catalogue has an index comprising a list of key-words. The volumes at present available cover the years 1981 to 1983.

The number of works received by the Library by way of gift or of free exchange with other national or international institutions amounted to 137 in 1983.

As from 1 January 1983 access to the Library has no longer been limited to the Members or the staff of the Court but has been allowed to visitors interested in consulting its collection.

The Research and Documentation Division

The primary task of this Division is, at the request of Members of the Court, to prepare research notes on Community law, international law and competition law.

The Division is also responsible for drawing up the summaries of the judgments and preparing 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 distributes periodically to the Members of the Court a bulletin on the case-law in which the summaries of judgments not yet published in the *Reports of Cases before the Court* are set out in a separate manner.

The division has also prepared a digest of case-law relating to the European Communities which comprises four series and covers the case-law of the Court as well as a selection of the case-law of the Member States relating to Community law. The 'A' and 'D' series are published in loose-leaf format whereas the format for the publication of the 'C' series has not yet been determined. (For more detailed information on the structure of these series, on the situation regarding updating and on the terms of delivery, see Annex 4 – II *infra*.)

As regards the 'B' series which will cover the decisions of national courts in matters of Community law, it has been decided by the Court that, without prejudice to publication in the future, this series will be the subject of a computerized information system collating, according to the various problems of Community law, the decisions of national courts contained in the card-indexes of the Division (at present more than 5 000).

Access to this system, which is operated directly on the Court's computer, will not be confined to the Court's staff.

Legal Information Section

Apart from being responsible for the computerization of the 'B' series of the Digest this section runs a computerized retrieval system for the case-law of the Court of Justice (CJUS), giving rapid access to the whole of the Court's case-law including the opinions of the advocates general. 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.

The section is 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.

The section periodically draws 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.

Finally, the legal information section operates 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	14
English Language Division	13	Italian Language Division	9
French Language Division	14	Terminology Branch	1

The total number of staff is 136. There has therefore been no change since 1982.

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 1983 the Translation Directorate translated some 73 600 pages as against 71 000 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 1983 by each of the seven translation divisions.

Translations:

into Danish:	10 100 pages;	from that language:	900 pages
into Dutch:	10 000 pages;	from that language:	6 200 pages
into English:	9 600 pages;	from that language:	5 300 pages
into French:	12 100 pages;	from that language:	44 200 pages
into German	9 700 pages;	from that language:	11 200 pages
into Greek:	11 250 pages;	from that language:	200 pages
into Italian:	10 850 pages;	from that language:	5 600 pages
	73 600 pages		73 600 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 the fullest possible information 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 1982 and 30 June 1983 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, which was signed in Brussels on 27 September 1968.

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

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[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 1982 to 30 June 1983)

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]
Federal Republic of Germany	62	9	99	10	161	19
Belgium	10	–	42	19	52	19
Denmark	–	–	5	–	5	–
France	40	13	66	10	106	23
Greece	1	–	–	–	1	–
Ireland	5	–	–	–	5	–
Italy	31	11	30	4	61	15
Luxembourg	3	–	–	–	3	–
The Netherlands	15	6	73	2	88	8
United Kingdom	3	–	34	–	37	–
Total	170	39	349	45	519	84

[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	161	Bundesverfassungsgericht	2
		Bundesgerichtshof	14
		Bundesverwaltungsgericht	9
		Bundesfinanzhof	24
		Bundessozialgericht	10
		Bundesarbeitsgericht	2
		Bundespatentgericht	1
			62
		Courts of appeal or first instance	
		Bayerisches Oberstes Landesgericht	1
		Hanseatisches Oberlandesgericht Hamburg	1

Member State	Number	Court giving judgment	
Federal Republic of Germany (*continued*)	161	Kammergericht Berlin	1
		Oberlandesgericht Frankfurt	5
		Oberlandesgericht Hamm	2
		Oberlandesgericht Köln	1
		Oberlandesgericht München	3
		Oberlandesgericht Saarbrücken	1
		Bayerischer Verwaltungsgerichtshof	1
		Hessischer Verwaltungsgerichtshof	8
		Oberwaltungsgericht Koblenz	1
		Oberwaltungsgericht Nordrhein-Westfalen	1
		Verwaltungsgerichtshof Baden-Württemberg	1
		Finanzgericht Baden-Württemberg	2
		Finanzgericht Berlin	1
		Finanzgericht Bremen	1
		Finanzgericht Düsseldorf	5
		Finanzgericht Hamburg	20
		Finanzgericht München	6
		Finanzgericht Münster	2
		Finanzgericht Rheinland-Pfalz	1
		Hessisches Finanzgericht	3
		Niedersächsisches Finanzgericht	2
		Landgericht Berlin	1
		Landgericht München I	2
		Landgericht München II	1
		Landgericht Offenburg	1
		Bayerisches Verwaltungsgericht München	1
		Verwaltungsgericht Frankfurt	17
		Verwaltungsgericht Köln	1
		Sozialgericht für das Land Nordrhein-Westfalen	1
		Sozialgericht Stuttgart	1
		Arbeitsgericht Hamm	1
		Arbeitsgericht Hamburg	1
		Amtsgericht Mönchengladbach	1
			99
		Supreme Courts	
Belgium	52	Cour de cassation	4
		Hof van cassatie	2
		Conseil d'État	3
		Raad van State	1
			10

Member State	Number	Court giving judgment	
		Courts of appeal or first instance	
Belgium (*continued*)	52	Cour d'appel de Bruxelles	1
		Cour d'appel de Liège	2
		Cour d'appel de Mons	1
		Hof van beroep Antwerpen	1
		Arbeidshof Gent	1
		Cour du travail de Mons	1
		Tribunal de première instance de Bruxelles	3
		Tribunal de première instance de Liège	2
		Tribunal de première instance de Mons	2
		Tribunal de première instance de Verviers	2
		Rechtbank van eerste aanleg Brugge	1
		Rechtbank van eerste aanleg Brussel	4
		Rechtbank van eerste aanleg Hasselt	1
		Rechtbank van eerste aanleg Tongeren	1
		Tribunal du travail de Bruxelles	4
		Tribunal du travail de Charleroi	1
		Tribunal du travail de Huy	1
		Tribunal de commerce de Bruxelles	4
		Tribunal de commerce de Liège	1
		Tribunal de commerce de Nivelles	1
		Rechtbank van koophandel Gent	2
		Rechtbank van koophandel Oudenaarde	2
		Rechtbank van koophandel Tongeren	1
		Justice de Paix de Woluwe-St. Lambert	1
		Tribunal de police de 1er canton de Verviers	1
			42
		Courts of appeal or first instance	
Denmark	5	Østre Landsret	3
		Vestre Landsret	1
		København Byret	1
			5
		Supreme Courts	
France	106	Cour de cassation	34
		Conseil d'État	6
			40

Member State	Number	Court giving judgment	
France (*continued*)	106	*Courts of appeal or first instance*	
		Cour d'appel de Bordeaux	2
		Cour d'appel de Caen	1
		Cour d'appel de Colmar	1
		Cour d'appel de Douai	2
		Cour d'appel de Lyon	1
		Cour d'appel de Paris	2
		Cour d'appel de Rennes	17
		Cour d'appel de Rouen	1
		Cour d'appel de Versailles	2
		Tribunal administratif de Paris	7
		Tribunal de grande instance de Bayonne	13
		Tribunal de grande instance de Créteil	1
		Tribunal de grande instance de Montpellier	1
		Tribunal de grande instance de Paris	6
		Tribunal de grande instance de Saintes	1
		Tribunal de grande instance de Thionville	1
		Tribunal d'instance de 1er arrondissement de Paris	1
		Tribunal d'instance de Villejuif	1
		Tribunal de commerce de Nanterre	1
		Tribunal de commerce de Paris	2
		Commission de 1ère instance du contentieux de la sécurité sociale et de la mutualité sociale agricole de Paris	2
			66
Greece	1	*Supreme Court*	
Ireland	5	*Supreme Courts*	
		Supreme Court Dublin	1
		Court of first instance	
		High Court Dublin	4
			5
Italy	61	*Supreme Courts*	
		Corte Costituzionale	5
		Corte di Cassazione	23
		Consiglio di Stato	3
			31

Member State	Number	Court giving judgment	
		Courts of appeal or first instance	
Italy (*continued*)	61	Corte d'appello di Bologna	1
		Corte d'appello di Brescia	1
		Corte d'appello di Catania	2
		Corte d'appello di Lecce	1
		Corte d'appello di Milano	5
		Corte d'appello di Torino	1
		Corte d'appello di Venezia	2
		Tribunale amministrativo regionale del Lazio	1
		Tribunale amministrativo regionale per la Puglia	1
		Tribunale di Genova	4
		Tribunale di Matera	1
		Tribunale di Milano	1
		Tribunale di Ravenna	1
		Tribunale di Trento	1
		Tribunale di Varese	1
		Tribunale di Velletri	1
		Tribunale di Venezia	1
		Pretura di Bra	1
		Pretura di Lodi	1
		Pretura di Trieste	1
			30
		Supreme Courts	
Luxembourg	3	Cour de Cassation	3
		Supreme Courts	
The Netherlands	88	Hoge Raad	11
		Raad van State	4
			15
		Courts of appeal or first instance	
		Centrale Raad van beroep	4
		College van beroep voor het bedrijfsleven	28
		Tariefcommissie	13
		Gerechtshof Amsterdam	4
		Gerechtshof 's-Gravenhage	3
		Gerechtshof 's-Hertogenbosch	1
		Raad van beroep Amsterdam	2
		Raad van bereop Zwolle	1

Member State	Number	Court giving judgment	
The Netherlands (*continued*)	88	Arrondissementsrechtbank Alkmaar	1
		Arrondissementsrechtbank Amsterdam	3
		Arrondissementsrechtbank Arnhem	2
		Arrondissementsrechtbank Breda	1
		Arrondissementsrechtbank Haarlem	1
		Arrondissementsrechtbank Maastricht	1
		Arrondissementsrechtbank Rotterdam	1
		Arrondissementsrechtbank 's-Gravenhage	4
		Kantongerecht Alkmaar	1
		Kantongerecht Apeldoorn	2
			73
		Supreme Courts	
United Kingdom	37	House of Lords	3
			3
		Courts of appeal or first instance	
		Court of Appeal	4
		High Court of Justice	12
		High Court of Justiciary	2
		Employment Appeal Tribunal	6
		Social Security Commissioner (previously called : National Insurance Commissioner)	5
		Value-added Tax Tribunal London	3
		Oxford County Court	1
		Tunbridge Wells County Court	1
			34

B – *Remarks on some specific decisions*

The two national decisions discussed below provide examples of the efforts made by courts of the Member States to give full effect to the provisions of Community law within the national legal systems. Thus in the *Garden Cottage Foods* case the House of Lords in its judgment of 23 June 1983 for the first time made a clear statement on the question of the remedies available in English law against a breach of the prohibition, laid down in Article 86 of the EEC Treaty, of an abuse of a dominant position. Faced with the doctrinal debate on the question whether English law provides such remedies, the House of Lords made it quite clear that an infringement of Article 86 may give rise to damages.

For its part, the Niedersächsisches Finanzgericht [Finance Court, Lower Saxony] stated in its decision of 3 March 1983 concerning the application of the Sixth Council Directive on VAT that, in conformity with the case-law of the Court of Justice, a person may in certain circumstances rely upon a provision of that directive if the Member State has not implemented it within the prescribed period. The adoption of this view is particularly remarkable inasmuch as certain German courts had not followed the Court's case-law on the effect of directives.

Garden Cottage Foods Limited v **Milk Marketing Board**
House of Lords, 23 June 1983[1]

The case was between a small company whose main activity was the purchase and resale of bulk butter. The majority of its resales were to a customer in the Netherlands. It bought 90% of its butter from the Milk Marketing Board which has a monopoly in England and Wales for the purchase and sale of milk and which produces some 75% of the butter produced there. Until August 1981 the Milk Marketing Board sold butter to the company in question upon request. However, after a certain period during which no butter had been offered to the company although there was butter to sell, the Milk Marketing Board sent it a letter dated 24 March 1982 stating that it had decided to revise its sale and marketing strategy and to appoint four independent distributors (whose names and addresses were given) to handle the sale of its bulk butter for export. The company was advised that it should contact those distributors should it wish to buy the bulk butter. The company then brought an action on the ground that the Milk Marketing Board's decision amounted to an abuse of a dominant position contrary to Article 86 of the Treaty. It showed that if, in order to obtain butter, it had to approach the four wholesalers who were competing with it on the same market, it would be unable to withstand competition from them in the matter of resale prices and 'may be forced out of business as it

[1] [1983] 2 WLR 143: [1983] 3 CMLR 43.

cannot purchase equivalent supplies from other sources'. The company issued a writ on 14 April 1982 asking for damages and an injunction directed to the defendant against withholding supplies from the company or otherwise refusing to maintain normal business relations with it contrary to Article 86 of the EEC Treaty. The company also applied for an interlocutory injunction in the same terms. The proceedings described in this note relate to the application for an interlocutory injunction. The main proceedings are still pending, which explains why the statement of principle of the court in question is so short although it is important.

At first instance Parker J took the view that an important question which arose was whether the defendant had a dominant position in a substantial part of the Common Market which it was abusing. He refused, however, to grant an interlocutory injunction on the ground *inter alia* that the company would obtain appropriate compensation by an award of damages should it succeed in establishing its claim. The company appealed to the Court of Appeal which expressed doubts as to whether damages, if awarded, could give satisfaction to the company.

On appeal by the defendant the House of Lords discharged the order of the Court of Appeal and confirmed the judgement at first instance refusing the grant of an interlocutory injunction. The House of Lords (Lord Wilberforce dissenting) took the view that if English law – which was plainly arguable – allowed an individual who had suffered financial loss as the result of an infringement of Article 86 of the EEC Treaty to bring an action he could claim damages by way of compensation for the loss. Since the Judge was entitled to consider on the basis of the evidence adduced that damages would be an adequate remedy for the loss sustained by the company nothing could justify intervention by the appellate court where the judge exercised his discretion by refusing to grant an interlocutory injunction.

After nothing that Article 86 is directly applicable in the United Kingdom, Lord Diplock expressed the following view: 'A breach of the duty imposed by Article 86 not to abuse a dominant position in the Common Market or in a substantial part of it can thus be categorized in English law as a breach of a statutory duty that is imposed not only for the purpose of promoting the general economic prosperity of the Common Market but also for the benefit of private individuals to whom loss or damage is caused by a breach of that duty. ... I ... find it difficult to see how it can ultimately be successfully argued ... that a contravention of Article 86 which causes damage to an individual does not give rise to a cause of action in English law of the nature of the cause of action for breach of statutory duty; ... what, with great respect to those who think otherwise, I *do* regard as quite unarguable is the proposition advanced by the Court of Appeal itself but disclaimed by both parties to the action, that, if such a contravention of Article 86 gives rise to any cause of action at all, it gives rise to a cause of action for which there is no remedy in damages to compensate for loss already caused by that contravention but only a remedy by way of injunction to prevent future loss being caused ... the Court of Appeal was in my view wrong in suggesting that if it were established at the trial (a) that the board had contravened Article 86 and (b) that such contravention had (i) caused the company pecuniary loss and (ii) thereby given rise to a cause of action in English law on the part of the company against the board, it was a seriously arguable proposition that such cause of

action did not entitle the company to a remedy in damages although it did entitle the company to a remedy by injunction. Parker J did not misunderstand the law in this respect. He was entitled to take the view that a remedy in damages would be available ... .'

Without really expressly resolving the problem, the decision seems to suggest that it is now possible to claim damages in English courts for infringement of Article 86 of the EEC Treaty. It will be interesting to learn of the outcome of the action brought by Garden Cottage Foods if it gives rise to a judgment on the merits of the case.

Judgment of the Finanzgericht [Finance Court] Lower Saxony of 3 March 1983[1]

The plaintiff who is a credit negotiator and mortgage broker, was charged turnover tax on his turnover for 1979 in respect of the negotiation of credit. In the proceedings which he instituted against the notice of assessment to tax he relied on the derogation contained in Paragraph 4, Point 8 (a) of the Umsatzsteuergesetz [German Law on turnover tax). That provision did not enter into force until 1 January 1980 but the plaintiff relied on the obligation to exempt from turnover tax by 1 January 1979 at the latest the grant and negotiation of credit, an obligation imposed on the Member States by Articles 1 and 13 B d 1 of Council Directive (EEC) No 77/388/EEC ('Sixth Council Directive on Turnover Tax') in conjunction with the provisions of Directive No 78/583/EEC.

The Finanzgericht refers to the two judgments which the Court of Justice delivered on 19 January 1982 (Case 8/81) and 10 June 1982 (Case 255/81) and according to which, in certain circumstances, a credit negotiator may, as from 1 January 1979, rely on the exemption provision relating to this matter contained in the Sixth Directive, without the State's being entitled to plead as against him the fact that the directive has not yet been implemented.

In the grounds of its judgment the Finanzgericht analyses the opposite proposition which has sometimes been advanced in judicial decisions and in academic legal writing and which is based on the fact that by virtue of the third paragraph of Article 189 of the EEC Treaty directives cannot have direct effect in the Member States and do not affect their power to legislate. According to the Finanzgericht that doctrine which differentiates between a legal order governed by Community law and a legal order governed by national law and according to which it is for the national court to rule on the applicability of supranational law, fails to take account of the fact that the legal orders of the Member States and the Community legal order are in several respects interdependent, are interlocked and produce reciprocal effects. The Finanzgericht considers in particular that this is clearly demonstrated by the jurisdictional rule contained in Article 177 of the EEC Treaty. That article provides that, in regard to the Member States, it is for the Court of Justice to rule definitively on the interpretation of the Treaty and on the legality of the measures of secondary Community law therein mentioned.

In so far as it has been further objected that a directive can never directly constitute an integral part of national law because the German constitutional institutions never intended to permit the creation of quasi-national law and did not transfer to the

[1] V 234/80.

European Economic Community a degree of sovereignty which would enable it to create directly a rule of law, the Finanzgericht considers that it should be noted that the Court of Justice has not ruled on matters of national law but has interpreted Community law in the light of the provisions of the EEC Treaty. The directive constitutes and continues to constitute Community law even if it has the effect of causing contrary national law not to be applied and even if it must be applied by national courts.

The Finanzgericht completes its observations by drawing attention to the fact that since the effect of directives is 'binding' only as regards the Member States they of course cannot give rise to obligations on the part of individuals. However that binding effect confers on individuals the right to place before the national court the provisions of a directive as against the Member State which has failed to fulfil its obligations under it. A Member State is not acting in good faith when it claims to be bound by a directive but at the same time denies individuals the right to have it implemented in good time.

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. 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.

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

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 200 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 3 500 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 in the Member States at the addresses given for the sale of the Digest (see under II *infra*) and marked with an asterisk.

In other countries orders must be addressed to the Office for Official Publications of the European Communities, L-2985 Luxembourg.

2. *Selected Instruments Relating to the Organization, Jurisdiction and Procedure of the Court*

   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 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. *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.

3. *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.

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

1. *Digest of Community Case-law*

   The Court of Justice publishes the *Digest of Community Case-law* which 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 appears in all the languages of the Community. It is published in the form of loose-leaf binders and supplements are issued periodically.

   The digest comprising four series each which may be obtained separately, and which 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 (not yet published).

C series: Case-law of the Court of Justice of the European Communities relating to Community staff law (not yet published).

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 covering the judgments delivered by the Court of Justice of the European Communities during the years 1977 to 1908 was published in 1983. The updating supplement covering the case-law of the Court in 1981 has gone to press. The supplement covering the case-law of the Court in 1982 is in the course of preparation.

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 covering the case-law of the Court of Justice in 1980 and judgments of national courts in 1979 has not been prepared.

Work on the C series is in progress. Work relating to the B series is being computerized.

Orders may be addressed, either to the Office for Official Publications of the European Communities, L-2985 Luxembourg, or to one of the addresses for sale:

Belgique-België:
Moniteur belge, rue de Louvain 40-42, 1000 Bruxelles
*Éts Émile Bruylant, rue de la Régence 67, 1000 Bruxelles

Danmark:
Schultz Forlag, Møntergade 19, 1116 København K

BR Deutschland:
Verlag Bundesanzeiger, Breite Straße, Postfach 10 80 06, 5000 Köln 1
Carl Heymann's Verlag, Gereonstraße 18-32, 5000 Köln 1

'Ελλάδα:
Γ.Κ. 'Ελευθερουδάκης ΑΕ. Νίκης 4. 'Αθήνα 126
'Εκδόσεις Παπαζήσης. Νικηταρά 2. 'Αθήνα 142
G.K. Eleftheroudakis SA, 4, rue Nikis, Athènes 126
Papazissis, 2, rue Nikitara, Athènes 142

France:
Service de vente en France des publications des CE, Journal officiel, 26, rue Desaix, 75732 Paris Cedex 15
Éditions A. Pedone, 13, rue Soufflot, 75005 Paris

Ireland
Stationery Office, St Martin's House, Waterloo Road, Dublin 4

Italia:
Licosia Spa, Via Lamarmora 45, 50121 Firenze
CEDAM, Casa Editrice Dott. A. Milani, Via Jappelli 5, 35100 Padova

Grand-Duché de Luxembourg:
Office des publications officielles des CE, 5, rue du Commerce, L-2985 Luxembourg

Nederland:

Staatsdrukkerij- en uitgeverijbedrijf, Christoffel Plantijnstraat, Postbus 20014, 2500 EA 's-Gravenhage

NV Martinus Nijhoff, Lange Voorhout 9, 2501 AX 's-Gravenhage

United Kingdom:

HM Stationery Office, HMSO Publications Centre, 51 Nine Elms Lane, London SW8 5DR

Hammick, Sweet & Maxwell, 16 Newman Lane, Alton, Hants GU34 2PJ

España:

Mundi-Prensa Libros, Castelló 37, Madrid 1

Portugal:

Livraria Bertrand sàrl, Rua João de Deus, Venda Nova, Amadora

Schweiz-Suisse-Svizzera:

Foma, 5, av. de Longemalle, Case postale 367, CH 1020 Renens-Lausanne

United States of America:

European Communities Information Service, 2100 M Street NW, Suite 707, Washington DC 20037

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)
Revue trimestrielle de droit européen

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

France (continued)

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 Hanels- und Wirtschaftsrecht
Zeitschrift für Zölle und Verbrauchsteuern

Greece:

'Ελληνική 'Επιθεώρηση Εὐρωπἄκοῦ Δικάου
'Επιθεώρηση τῶν Εὐρωπἄκῶω 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 internaztionali
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
La Regioni – Rivista di documentazione e giurisprudenza
Rivista di diritto agrario
Rivista di diritto europeo

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