

**THE COURT OF JUSTICE  
OF THE  
EUROPEAN COMMUNITIES**

**ITS JURISDICTION**

**\***

**ITS ORGANIZATION**

**\***

**ITS PROCEDURE**

**Luxembourg**

**1969**

12, rue de la Côte d'Eich, Luxembourg

Telephone: 215 21

Telex: CURIA/LUX 510

Telegraphic address: CURIA, Luxembourg

Hours during which the Registry is open:

Mondays to Fridays: 10a.m. to noon and 3p.m. to 6p.m.

Saturdays : 10a.m. to noon

The objective pursued by the three Communities involves, even from the point of view of form, so great a break with that with which we are familiar that it raises an infinite number of questions and problems. But in addition, the field of action of the Communities covers a realm of which older political organizations have hardly any experience. The involvement of the modern State in the economy and in technology constitutes one of the most outstanding differences from the preceding period of political history. It is everywhere to be observed that the classical political and administrative institutions of Europe are finding it difficult to adapt themselves to the requirements of these new involvements. The absence of a point of contact with administrative and constitutional traditions may on the one hand have helped to cause these new tasks to be left to the Communities, but, on the other hand, it increases the difficulty of discovering in this field those underlying legal principles which it is the duty of the Judges to safeguard.

The decision of the six Governments to place themselves as well as their nationals and their interests under the rule of law in the field of action of the three Communities, a decision which finds its most significant expression in the setting up of the European Court of Justice and the granting to it of a wide jurisdiction, can be considered as a kind of act of faith. This mark of confidence in the law as the ultimate criterion for settling disputes is in conformity with the oldest and noblest ideals of our civilization. While Europe is renewing itself and once again finding its youth, it wishes to preserve those moral values which have shaped its character and is attempting to integrate these values into the new order of things.

*(Extract from a speech delivered by the President of the Court, Professor A.M. DONNER, at the formal session held on 7 October 1958, at which the President and Members of the Court took the oath.)*

## I ORIGIN

As with the three other Institutions of the European Coal and Steel Community (E.C.S.C.) referred to in Article 7 of the E.C.S.C. Treaty, the Court was created in 1952 and assumed its duties in December of that year. When the Treaties of Rome establishing the European Economic Community (E.E.C.) and the European Atomic Energy Community (Euratom) came into force, this initial E.C.S.C. Court was replaced by a single Court of Justice carrying out the jurisdictional functions laid down in each of the three Treaties (*E.E.C. Treaty, Article 4; Euratom Treaty, Article 3*). The jurisdiction of this new Court, since then called the «Court of Justice of the European Communities», are defined in the Convention concerning certain Institutions common to the European Communities (*Articles 3 and 4*). It assumed its duties on 7 October 1958.

## II THE DUTIES OF THE COURT AND ITS CHIEF FIELDS OF JURISDICTION

The jurisdiction of the Court is regulated by the three Treaties, which provide that the Court shall ensure observance of law and justice in the interpretation and application of these Treaties (*Article 31 of the E.C.S.C. Treaty; Article 164 of the E.E.C. Treaty; Article 136 of the Euratom Treaty*).

The Court reviews the lawfulness of acts of the High Authority of the E.C.S.C. (*Article 33*), and of the Councils and Commissions of the E.E.C. (*Article 173*) and of Euratom (*Article 146*). The Court has jurisdiction over appeals on the grounds of lack of legal competence, substantial procedural violations, infringements of the Treaties or of any legal provision relating their application, or misuse of power. In the event of the High Authority, the Councils or the Commissions, in violation of the Treaties failing to act, the Court is competent to establish such violation. (*Article 35 of the E.C.S.C. Treaty; Article 175 of the E.E.C. Treaty; Article 148 of the Euratom Treaty*).

Even if the time-limit for an appeal for annulment has expired, any party may, where a regulation of the Council or of the Commission of the E.E.C. or of Euratom is the subject of a dispute in legal proceedings, invoke the inapplicability of such regulation (*Article 184 of the E.E.C. Treaty; Article 156 of the Euratom Treaty*). The same rule has been developed by case-law for the E.C.S.C. Treaty, on the basis of Article 36 of the Treaty.

If the appeal for annulment is well founded, the Court declares the act concerned null and void. The Institution from which the act declared null and void originates must take the necessary measures for the implementation of the judgement (*Article 34 of the E.C.S.C. Treaty; Articles 174 and 176 of the E.E.C. Treaty; Articles 147 and 149 of the Euratom Treaty*).

Member States, as well as Institutions such as the Councils and the Commissions of the E.E.C. and of Euratom have the right to bring a matter before the Court (*First paragraph of Article 33 of the E.C.S.C. Treaty; first paragraph of Article 173 of the E.E.C. Treaty; first paragraph of Article 146 of the Euratom Treaty*). In the event of the Councils or Commissions

of the two latter Communities, in violation of the Treaties, failing to act, the same right is enjoyed by the European Parliament (*First paragraph of Article 175 of the E.E.C. Treaty; first paragraph of Article 148 of the Euratom Treaty*).

It is provided in the E.E.C. and Euratom Treaties that, in addition, all natural and legal persons enjoy a right of appeal against any decision addressed to them or which is of direct and specific concern to them, whatever form such decision may, in the later case, take (*E.E.C. Treaty, second paragraph of Article 173; Euratom Treaty, second paragraph of Article 146*). The E.C.S.C. Treaty gives undertakings and associations of undertakings which are subject to this Community a right of appeal against individual decisions concerning them or against general decisions which they consider to involve a misuse of power affecting them (*Second paragraph of Article 33*).

In addition, the three Treaties give a right of appeal, under certain specified conditions, to private persons in case of a failure on the part of the executive organs to act (*Article 35 of the E.C.S.C. Treaty; second paragraph of Article 175 of the E.E.C. Treaty; third paragraph of Article 148 of the Euratom Treaty*).

Besides these proceedings for annulment, the Court decides appeals for compensation for damage caused by agents of the Community in the exercise of their functions (*Article 40 of the E.C.S.C. Treaty; Article 178 of the E.E.C. Treaty; Article 151 of the Euratom Treaty*).

The E.C.S.C. Treaty makes the Court competent to give a preliminary decision on the validity of acts of the High Authority or of the Council, where a case before a national court has raised the question of their validity (*Article 41*). The same jurisdiction is granted by the E.E.C. and Euratom Treaties with regard to the interpretation of these Treaties, the validity and interpretation of acts of the Institutions of the Community as well as the interpretation of the statutes of any bodies set up by an act of a Council where such statutes so provide. These latter two Treaties provide that where any such question is raised before a court or tribunal of one of the member States, such court or tribunal may, if it considers that its judgment

depends on a preliminary ruling on this question, request the Court of Justice to give a ruling thereon; it must so request the Court when it is a court or tribunal from whose decisions no appeal lies under municipal law (*Article 177 of the E.E.C. Treaty; Article 150 of the Euratom Treaty*).

The Court is competent to hear disputes between the Communities and their officials (*Article 179 of the E.E.C. Treaty; Article 152 of the Euratom Treaty; Article 91 of the Staff Regulations*).

In certain cases, the Court may be asked to give an opinion. The Council or the Commission of the E.E.C. or a member State may ask for a preliminary opinion from the Court as to the compatibility with the Treaty of a contemplated agreement to be concluded between the Community and an international organization (*E.E.C. Treaty, Article 228*). In addition, the opinion of the Court must be sought with regard to any proposed modification of the E.C.S.C. Treaty which adapts the powers of the High Authority to a change in economic or technical conditions which directly affects the common coal and steel market (*Article 95 of the E.C.S.C. Treaty*).

In one particular case, the Court acts as a court of appeal: decisions of the Arbitration Committee concerning the granting of licences in the atomic energy field may be the subject of appeals to stay their execution. The Court may decide only upon the regularities of form of the decision and upon the interpretation given by the Arbitration Committee to the Treaty (*Article 18 of the Euratom Treaty*).

Finally, the Court enjoys various sorts of jurisdiction which are only rarely exercised.

### III COMPOSITION

The Court is composed of seven Judges and is assisted by two Advocates-General.

The Judges and the Advocates-General are chosen from among persons of indisputable independence who fulfil the conditions required for the holding of the highest judicial office in their respective countries or who are jurists of recognized competence. They are appointed for a term of six years by the Governments of member States acting in common agreement (*Article 32(ter) of the E.C.S.C. Treaty; Article 167 of the E.E.C. Treaty; Article 159 of the Euratom Treaty*).

The Judges elect the President of the Court from among themselves for a term of three years; Presidents of the Chambers are elected for a term of one year (*Rules, Article 6(1) and Article 6(2)*).

The Court appoints its Registrar for a term of six years (*Article 32(quarter) of the E.C.S.C. Treaty; Article 168 of the E.E.C. Treaty; Article 140 of the Euratom Treaty*).

The duty of the Advocates-General is to present publicly, with complete impartiality and independence, reasoned submissions on cases submitted to the Court, with a view to assisting it in the performance of its duties (*Article 32(bis), second paragraph, of the E.C.S.C. Treaty; Article 166, second paragraph, of the E.E.C. Treaty; Article 138, second paragraph, of the Euratom Treaty*).



## IV ORGANIZATION

The Court sits permanently (*Article 17 of the E.C.S.C. Statute; Article 14 of the E.E.C. and Euratom Statutes*). Members of the Court are obliged to reside at the seat of the Court (*Article 9 of the E.C.S.C. Statute; Article 13 of the E.E.C. and Euratom Statutes*).

The Court sits in plenary session; it may however set up chambers, each composed of three or five judges, in order either to conduct certain enquiries or to judge certain categories of cases (*second paragraph of Article 32 of the E.C.S.C. Treaty; second paragraph of Article 165 of the E.E.C. Treaty; second paragraph of Article 137 of the Euratom Treaty*).

It is provided in Article 24(1) of the Rules of Procedure that two chambers of three judges each shall be set up. These chambers are charged with investigating cases assigned to them; one of the two chambers is designated by the Court to hear proceedings brought by officials against Community Institutions (*Article 95 (1)*).

The Court sits in plenary session to hear cases submitted to it by a member State or by one of the Community Institutions, as well as to deal with preliminary questions submitted to it by the courts or tribunals of member States (*third paragraph of Article 32 of the E.C.S.C. Treaty; third paragraph of Article 165 of the E.E.C. Treaty; third paragraph of Article 137 of the Euratom Treaty*).

## V RULES CONCERNING THE USE OF LANGUAGES

The official languages of the Court are: German, French, Italian and Dutch; only one of these languages may be used in any proceedings (*Rules of Court, Article 29 (1)*).

In principle, the language of the proceedings is chosen by the plaintiff. If, however, the defendant is a member State or a natural or corporate person of a member State's nationality, the language of the proceedings is the official language of that State (*Rules, Article 29 (2)*).

The language of the proceedings is used in particular in parties' pleadings and speeches, as well as in the Court's minutes, decisions and judgements (*Rules, Article 29 (3)*). Texts appearing in the language of the proceedings constitute the authentic texts (*Rules, Article 31*).

Court publications, including the law reports, are published in all four official languages (*Rules, Article 30 (2)*).

## VI THE PROCEDURE OF THE COURT

Provisions regulating the Court's procedure appear in all three Treaties establishing the European Communities (*Articles 31 to 45 of the E.C.S.C. Treaty; Articles 164 to 188 of the E.E.C. Treaty; Articles 136 to 160 of the Euratom Treaty*), in the three Statutes of the Court annexed to these three Treaties, in the Rules of Procedure, the Supplementary Rules and the Instructions to the Registrar.

### Time Limit for Appeals

Appeals against acts of the High Authority of the E.C.S.C. must be brought within one month from the date of the publication or notification of such acts (*E.C.S.C. Treaty, third paragraph of Article 33 and third paragraph of Article 35*). The time limit for an appeal against acts of an E.E.C. or Euratom Institution is two months (*third paragraph of Article 173 and second paragraph of Article 175 of the E.E.C. Treaty; third paragraph of Article 146 and second paragraph of Article 148 of the Euratom Treaty*).

To these time limits there must be added extensions of time granted on account of distance from the Court, which extensions vary from two days to one month (*Rules, Appendix II*).

Proceedings against the European Communities in matters arising from non-contractual liability are statute-barred after a period of five years from the occurrence of the circumstance giving rise to them (*E.C.S.C. Statute, Article 40; E.E.C. Statute, Article 43; Euratom Statute, Article 44*).

### Compulsory Representation of Parties

Parties must be represented before the Court. Member States and Community institutions must be represented by an agent, who may be assisted by counsel or by an advocate. Other parties must be represented by an advocate.

Only advocates who are enrolled as members of the Bar in one of the member States may represent or assist parties (*E.C.S.C. Statute, Article 20; E.E.C. and Euratom Statutes, Article 17*).

The originals of all procedural documents must be signed by an agent or an advocate and only they have the right to plead before the Court (*Rules, Article 37(1) and Article 58*).

### **Written Procedure**

Procedure before the Court entails two stages: one written and the other oral (*Article 21 of the E.C.S.C. Statute; Article 18 of the E.E.C. and Euratom Statutes*).

A case is brought before the Court by means of a petition which must contain the names of the parties, the subject matter of the action, a summary of the grounds on which the petitioner bases his claim and his claim (*Rules, Article 38*).

As soon as the petition has been filed, the President appoints the Judge-rapporteur, whose duty it is to follow closely the proceedings in that case (*Rules, Article 24 (2)*).

The defendant replies to the petition by means of a defence containing the grounds of his defence, both in fact and in law, and his submissions (*Rules, Article 40*).

The petition and defence can respectively be supplemented by a reply and a rejoinder (*Rules, Article 41*).

### **Investigation**

After the final pleadings have been filed, the Court, on the report of the Judge-rapporteur, decides whether an investigation is necessary in the case. Should the Court decide to hold an investigation, it can itself conduct such investigation or can entrust a chamber with so doing (*Rules, Article 44*).

The following measures of investigation have been provided for: the personal appearance of the parties, a request for information or the production of documents, the calling of witnesses, expert opinion and inspection in loco (*Rules, Article 45*).

The ascertainment of certain facts by the hearing of witnesses can be ordered by the Court either upon its own initia-

tive or upon request by a party (*Rules, Article 47*). Witnesses may be heard under oath. The Court has, with respect to defaulting witnesses, the same powers as national courts (*E.C.S.C. Statute, Article 28; E.E.C. Statute, Articles 23 to 25; Euratom Statute, Articles 24 to 26*).

The Court may charge any person, body, office, commission or organ of its choice with the duty of making an expert study (*E.C.S.C. Statute, Article 25; E.E.C. Statute, Article 22; Euratom Statute, Article 24*).

The Court may issue rogatory commissions for the hearing of witnesses and experts (*Supplementary Rules, Articles 1 to 3*).

## Oral Proceedings

At the conclusion of the investigations or, if none such be held, after the filing of the final pleadings, the President of the Court fixes a date for the opening of the oral proceedings (*Rules, Article 44(2) and Article 54*).

The oral proceedings open with the reading of the report presented by the Judge-rapporteur (*fourth paragraph of Article 21 of the E.C.S.C. Statute; Article 18 of the E.E.C. and Euratom Statutes*); this report contains what the parties are asking for, a statement of the facts and a summary of the arguments of the parties.

After argument by the agents and advocates of the parties, the Advocate-General makes his submissions. The case is then discussed by the Court; such discussions are secret (*Article 29 of the E.C.S.C. Statute; Article 32 of the E.E.C. Statute; Article 33 of the Euratom Statute*).

The Court may order the reopening of the oral proceedings (*Rules, Article 61*).

Hearings are public, unless the Court decides otherwise (*Article 26 of the E.C.S.C. Statute; Article 28 of the E.E.C. Statute; Article 29 of the Euratom Statute*).

## Judgement

Judgements are given in open Court (*Rules, Article 64 (1)*).

A judgement contains the names of the parties, the names of the President and of those Judges who have taken part in the decision, the names of the Advocate-General and the Registrar, the submissions of the parties, a summary of the facts, the reasons for judgement and the Court's award (*Rules, Article 63*). The judgement is signed by the President, those Judges who have taken part in the Court's deliberations and the Registrar (*Rules, Article 64(2)*).

In case of difficulty as to the meaning or scope of the judgement, a party or a Community Institution may ask the Court to interpret it (*Article 37 of the E.C.S.C. Statute; Article 40 of the E.E.C. Statute; Article 41 of the Euratom Statute*).

The review of a judgement may be asked for on the grounds of the discovery of a fact capable of exercising a decisive influence and which was unknown prior to the pronouncement of such judgement. After the expiry of a period of ten years from the date of the judgement review may no longer be asked for (*Article 38 of the E.C.S.C. Statute; Article 41 of the E.E.C. Statute; Article 42 of the Euratom Statute*).

Member States, any Community Institutions and any other natural or legal person may institute third party proceedings to contest judgements which have been given without their having been summoned, where such judgements are prejudicial to their rights (*Article 36 of the E.C.S.C. Statute; Article 39 of the E.E.C. Statute; Article 40 of the Euratom Statute*).

Judgements can be enforced. So far as concerns the E.C. S.C., enforced judgement is executed in accordance with the law in force in any member State (*Articles 44 and 92 of the Treaty*) and, so far as concerns the E.E.C. and Euratom, it is governed by the rules of civil procedure in force in any State (*Articles 187 and 192 of the E.E.C. Treaty; Articles 159 and 164 of the Euratom Treaty*). A judgement is enforced without any other formality than the verification by the competent domestic authority of the authenticity of the document.

## **Interim Orders**

No application for a stay of execution of an act of a Community Institution or relating to other interim orders can be entertained, unless the applicant has previously appealed or at the same time appeals to the Court against such act (*Rules, Article 83*).

Such applications are decided, in accordance with a summary procedure, by the President of the Court, who may, however, refer the matter to the Court for decision (*Article 33 of the E.C.S.C. Treaty; Article 36 of the E.E.C. Treaty; Article 37 of the Euratom Treaty; Rules, Article 85*).

An order granting an application for a stay of execution is of an interim nature only and in no way prejudices the Court's decision on the main action (*Rules, Article 86(4)*).

## **Intervention**

According to the E.C.S.C. Treaty, all persons, whether natural persons or corporate persons, who can show an interest in the outcome of a dispute may intervene therein (*E.C.S.C. Statute, Article 34*). According to the E.E.C. and Euratom Treaties, member States and Community Institutions are always entitled to do so; any other litigant must show that he has an interest in the result of the case, and cannot, in any event, intervene in disputes between member States, between Community Institutions or between member States and Community Institutions (*Article 37 of the E.E.C. Statute; Article 38 of the Euratom Statute*). The submissions of third parties intervening in a case must be limited to supporting the arguments of either of the principal parties.

## **Preliminary Rulings**

Applications for preliminary rulings are notified to the European Court by the domestic court or tribunal concerned. Such application is notified by the Registrar of the Court to the parties in the case, to member States and to the High Authority and Council of the E.C.S.C., or to the E.E.C. or Euratom Council as well as to the E.E.C. or Euratom Commission

if the act whose validity or interpretation is in dispute originates therefrom (*Article 20 of the E.E.C. Statute; Article 21 of the Euratom Statute; Article 103 of the Rules of Court*).

The parties concerned may, within two months of such notice, submit written observations; the general rules regarding investigation, oral proceedings and judgement are applicable (*Rules, Article 103(2)*).

### Costs

The Court gives judgement regarding costs in the judgement or order ending the case. The losing party is ordered to pay the costs; if, however a party partly succeeds and partly loses, the Court may make an order that each party shall bear his own costs (*Rules, Article 69*).

Where proceedings have been brought by an official, costs incurred by the Institution against which such proceedings were brought are borne by it, even if the plaintiff loses (*Rules, Article 70*).

No Court fees are payable (*Rules, Article 72*).

The following costs can be recovered: fees due to witnesses and experts and the necessary expenses of parties, in particular travelling and subsistence expenses and agents, counsels or advocates' fees (*Rules, Article 73*).

Where a party is unable to pay the costs of proceedings, he may apply for legal aid. The applicant must establish his lack of means. The assistance of an advocate is not required for making such an application. Where such an application is granted, the Court orders that an advocate be assigned to the party concerned. Such advocate may be proposed by the party concerned; should he not do so the appropriate authority in the State concerned is asked to propose counsel (*Rules, Article 76; Supplementary Rules, Articles 4 and 5*).



## VII THE COURT LIBRARY

The library of the Court, which is to be found in the same building as the Court itself, is a specialized law library, which at present contains more than 15.000 volumes.

In the library's purchasing policy the greatest attention has been paid to building up the section devoted to European law. In this department there are to be found, in addition to the publications of European organizations of an international or supranational character, works dealing with the interpretation and implementation of the Treaties of integration, as well as those dealing with the activity and structure of the various European Institutions.

Another important section of the library is devoted to the municipal law of the member States of the European Communities. This section is subdivided by countries and by subject and contains the most important treaties, textbooks and monographs on the municipal laws of these countries. Some fields with which the Court is particularly concerned, have had particular attention paid to them.

In addition, the library contains sections devoted to jurisprudence, comparative law and international law as well as works dealing with the municipal law of countries which are not members of the European Communities, such as Great Britain and the United States, the Scandinavian countries, Austria and Switzerland.

The special value of the library lies in the fact that it contains complete series of national law reports and collections of well known legal periodicals. With reference to the latter, mention should be made of the fact that the library at present subscribes to 200 journals, which are read through as they arrive, and the titles of the most interesting articles contained therein entered under the names of their authors in a special catalogue as well as classified systematically in the library's subject card index.

Other card indexes are kept by the library, containing, inter alia:

Copies of notes on the Court's judgements;

Copies of judgements delivered by municipal courts which refer to the European Treaties of economic integration and to the Rome Convention on the Rights of Man;

A classification of the Acts of the Institutions of the European Communities as well as important reports of the European Parliament dealing with Articles of the Paris and Rome Treaties.

The use of the library is reserved to members and officials of the Court and members and employees of the other Institutions of the European Communities. The agents and counsel of parties who have a case pending before the Court are allowed to make use of the library in connection therewith.

Exceptionally, permission is sometimes granted to persons who do not fall into one of the above categories in order for them to carry out specialized legal studies. They are then admitted free upon production of their identity card. Books are not allowed to be removed from the library and must be consulted in the reading room.

## VIII THE COURT'S PUBLICATIONS

The Court's decisions are published in the *«Recueil de la Jurisprudence»*. This publication appears in the four official languages of the Community (German, French, Italian and Dutch) and is brought out periodically in small fascicles.

There exists also a *«Recueil de textes»*, which is published in the four official languages of the Communities. In it are published all rules relating to the organization, jurisdiction and proceedings of the Court.

In addition to the above, the Court's Library publishes the following:

*Legal commentary on European integration* (Legal bibliography);

*Bibliography of European case law on juridical decisions* relating to the Treaties instituting the European Communities.

The Court's publications are on sale in certain specific bookshops in the member States of the European Communities and at the Central Stationery Office of the Communities in Luxembourg, from which further information regarding prices and subscription rates may be obtained.

