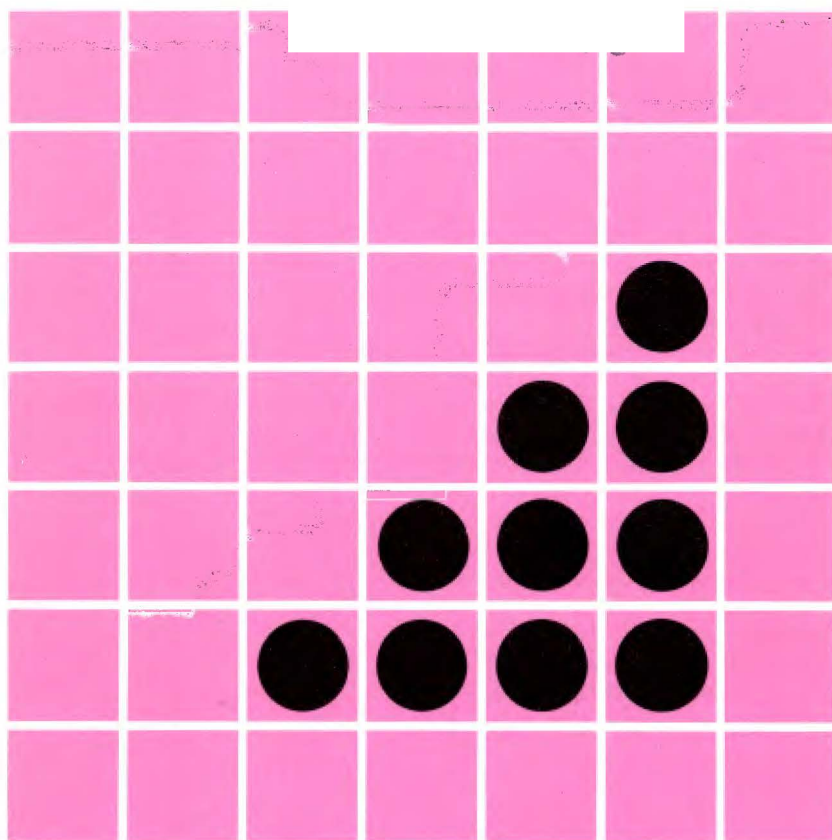


THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES



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The Court of Justice of the European Communities

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I — Introduction

The Treaties of Rome and Paris set up an entirely new institutional system, quite unlike anything that had been done before. There has always been a dual executive. On the one hand was an independent body—the High Authority set up to deal with coal and steel under the ECSC Treaty, the Commission responsible for controlling economic relations in the broadest sense under the EEC Treaty, and another Commission responsible for the peaceful use of atomic energy under the Euratom Treaty—possessing powers to propose and decide. On the other hand, there was a Council dealing with each of these three areas and consisting of representatives of the Member States. In 1965 the Merger Treaty united the executives into a single Council and a single Commission.

A Joint Assembly, consisting of representatives of the peoples of Europe, designated indirectly for many years but finally elected by direct universal suffrage in 1979, was given limited but growing supervisory powers.

But the founding fathers did not stop at setting up these institutions. They also laid the foundations of a Community based on a system of law, with a new, autonomous and uniform body of law separate from and transcending national law, binding in its entirety and directly applicable in all Member States.

This having been done, it was then necessary to see that everyone did not interpret and apply this law in his own way and to guarantee that this common body of law kept its Community character and remained identical for everyone, whatever the circumstances. The Court of Justice, which was set up in Luxembourg right at the beginning, was to handle the onerous task, defined in identical terms in all three Treaties, of ensuring 'that in the interpretation and application of [the Treaties] the law is observed'.

What a challenge! And the Court had no choice but to take it up, especially as the very existence of Community law and hence the unconditional survival of a Community based on a system of law depended on its doing so.



The Court of Justice of the European Communities (Centre européen, Luxembourg)

II — Composition and organization of the Court

Nine judges and four advocates general¹

Since the accession of three new Member States in January 1973 the Court has consisted of nine judges.

The Court is assisted by four advocates general who are required to have broadly the same qualifications as judges to be appointed. The Court appoints its own registrar.

The judges are not appointed by the Council but by agreement between the Governments of the Member States, which is in keeping with the idea that the Court is just as much a Community institution as the Council, the Commission or the European Parliament. Members hold office for a renewable term of six years. For the sake of continuity, part of the Court's membership (four or five judges and two advocates general) comes up for reappointment in alternate three-year periods.

The Treaties require judges to be chosen 'from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognized competence'. There is no specific nationality requirement, but at the present time the Court has one judge from each Member State. The independence of the judges is guaranteed by their statute and is based on three general principles: deliberations are secret; judgments are reached by majority vote in the very rare event of a unanimous consensus not being reached; judgments are signed by all the judges who have taken part

in the proceedings (dissenting opinions are never published).

The judges select one of their number to be President for a renewable term of three years.

The President directs the work of the Court and, in keeping with the criteria laid down by the Court, assigns cases to the Chambers once the application has been received, appoints a judge-rapporteur for each case and sets the schedule for the various stages of the procedure and the dates of hearings. He also gives judgment in summary proceedings on applications to suspend the operation of a measure or institution and on applications to suspend enforcement of a court judgment, though the actual decision may be referred to the Court itself.

In the words of the Treaties the Court is 'assisted' by four advocates general. They are subject to similar conditions of appointment and must meet the same requirements as to independence and training as judges. Nationality is immaterial, although the advocates general are always nationals of the four largest Member States of the Community.

The First Advocate General, appointed by the Court for one year, like Presidents of Chambers, assigns cases to individual advocates general as soon as the Judge-Rapporteur has been appointed by the President. Unlike the judges the advocates general are not attached to a particular Chamber.

According to the Treaties the function of the advocates general is, 'acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court, in order to assist the Court in the performance of the tasks

¹ The accession of Greece on 1 January 1981 will cause the composition of the Court to be modified.

assigned to it'. These duties should not be confused with those of a public prosecutor or similar kind of functionary such as the advocate general in a French court. The advocates general do not represent the Communities and cannot initiate proceedings themselves.

At a separate hearing some weeks after the lawyers have addressed the Court he comments on the various aspects of the case, weighs up the provisions of Community law, compares the case in point with previous rulings and proposes a legal solution to the dispute. The advocate general does not participate in the Court's deliberations, since his personal opinion has no bearing on them.

Each judge and advocate general is assisted by two legal secretaries who carry out investigations and research into questions of Community and comparative law raised in cases brought before the Court. The judges and advocates general are free to choose their own legal secretaries.

The Registrar

The judges and advocates general jointly appoint the Registrar of the Court for a renewable term of six years. He acts as a kind of secretary-general to the Court, being responsible for the acceptance, transmission and custody of all documents and notifications. All pleadings are entered in his register and he is responsible for drawing up the minutes of each hearing. The Registrar is also responsible for Court administration: he is in charge of the budget and supervises the management and operation of each department, in which task he is assisted by an assistant registrar and a director of administration.

Plenary sessions and Chambers

The Court must sit in plenary session to hear cases brought before it by a Member State or by one of the institutions of the Community or to give preliminary rulings on important issues. Its deliberations are only valid if there is an odd number of judges, the quorum being seven.

However, the Treaties and its own rules of procedure allow it to set up Chambers within the Court. After managing with two Chambers for several years the Court set up a third Chamber in the autumn of 1979 on the grounds that this would make it easier to cope with the increased number of cases. Each Chamber consists of three judges, one of whom is elected President for a year at a time. The Court may refer to Chambers any request for a preliminary ruling as well as any actions brought by persons or firms where, in the words of the rules of procedure, the difficulty or the importance of the case or particular circumstances are not such as to require that the Court decide it in plenary session.

The decision to assign a case is taken by the Court at the end of the written procedure upon consideration of the preliminary report presented by the Judge-Rapporteur and after the Advocate General has been heard. A case may not be assigned to a Chamber if a Member State or a Community institution, being a party to the proceedings, has requested that the case be decided in plenary session. The expression 'party to the proceedings' means any Member State or any institution which is a party to or an intervener in the proceedings or which has submitted written observations in any request for a preliminary ruling.

Proceedings commenced by an official or other servant of an institution against the institution are tried by a Chamber designated each year by the Court for that pur

pose, unless the application is for interim measures.

At any stage in the proceedings the Chamber may refer to the Court a case which has been assigned to or devolving upon it.

Language service and documentation

The Court has its own translation and interpreting departments. Their staff have to

be fluent in several Community languages and have a legal background as the written pleadings, the opinions of the advocates general and the Court's rulings must be translated into the official languages and a full interpretation service must be provided at all hearings.

The library and documentation service provide a valuable starting-point for finding out about national or Community legislation, case-law and legal literature.

III — The Court's powers

The Court ensures the observance of Community law

Each of the Treaties establishing the European Communities uses the same broad terms to define the specific responsibilities of the Court of Justice, which is to 'ensure that in the interpretation and application of this Treaty the Law is observed.'

The implication of this rather laconic formula is that the Court applies and interprets only Community law—the whole corpus of Community law from the basic Treaties to the various implementing regulations issued by the Council and the Commission. On the other hand, the Court has no power to interpret or rule on the validity of provisions of national law, though in an individual case it may of course rule on the conformity of national law with Community law.

Although its jurisdiction is confined to the field of Community law, the Court is not cut off from national law since it draws its inspiration from the legal traditions that are

common to the Member States and ensures respect both for the general principles of law and for fundamental human rights insofar as they have been incorporated into the Community legal order.

The supreme judicial authority

The Court is the Community's supreme judicial authority; there is no appeal against its rulings. And yet it is not the only body which enforces Community law.

National courts at all levels likewise have jurisdiction to apply and interpret Community law, which, to use words taken from a number of rulings, 'produce direct effects and create individual rights which national courts must protect'. Requests for preliminary rulings form the required link between the Court of Justice and the national courts, which may and in some cases must ask the Court to interpret Community law

or to rule on the validity of Council and Commission regulations.

Recourse to the Court is simple, although there are a variety of ways in which it may be made. A distinction is made between direct actions, which involve disputes between parties, and requests for preliminary rulings, which take the form of questions put by national judges.

Directations

Direct actions may further divided into proceedings for failure to fulfil an obligation, proceedings for annulment and proceedings involving unlimited jurisdiction.

Proceedings for failure to fulfil an obligation

In general it is the Commission, as guardian of the Treaties and of the decisions taken by the institutions, that initiates proceedings for failure to fulfil an obligation. If it considers that a Member State has not honoured a Community obligation, it may take it to the Court. Similar action may also be taken by Member States themselves, though for obvious reasons of courtesy and diplomacy they have tended to prefer settling their disputes within the Council or turning to the Commission. It was not until 1978 that Member States brought cases for failure to fulfil an obligation. In one case, a Member State complained that another Member State was impeding the free movement of sheepmeat. This action was withdrawn when the Commission brought an action as a result of which the national regulations were declared to be contrary to the Treaty. In the second case, one Member State requested the court to find that another had not complied with its Treaty obligations by

taking certain restrictive measures concerning fisheries.

If the Court agrees that the case is well-founded, normally all it can do is declare that an obligation has not been fulfilled. It does not have the power of a federal court to set aside the legal instruments of the federated States, but the Member State concerned is required to take the necessary measures to comply with the Court's judgment.

If a State does not comply with the initial ruling, new proceedings may be brought for a declaration by the Court that the obligations arising from its first decision have not been complied with.

Although there have been comparatively few rulings, only just over fifty, on failure to fulfil an obligation, the number is tending to increase. The prospect of a preliminary investigation by the Commission has considerable deterrent effect in itself. Almost all Member States have had actions of this type brought against them, some more frequently than others. The subjects of the actions range from customs duties and charges having equivalent effect to refusal to adopt the measures imposed by Community law in the fields of trade, health, social welfare, etc.

Proceedings for annulment and failure to act

Proceedings for annulment are a way of reviewing the legality under the Treaties of Community acts and of Commission decisions and regulations. They are also a means of settling conflicts between the respective powers of the institutions. Proceedings may be brought against acts of a general nature, regulations and directives, and decisions addressed to individuals taken by the institutions. Because of the specific nature of opinions and recommendations, proceedings may not be brought in respect of them.

Inter-institutional disputes arising from the exercise of the powers conferred by the Treaties can thus come before the Court. If the Council adopts legislation that is contrary to either the letter or the spirit of the Treaties, if it fails to comply with the prescribed procedure, or if it exceeds its powers or goes beyond the limits at present imposed on it, the Member States or the Commission may request the Court to annul the relevant legislation.

In 1971 the Commission took annulment proceedings against the Council. The question was whether, at a particular date, power to negotiate and conclude the European Road Transport Agreement (ERTA) lay with the Community or with the Member States. The principle on which the case was brought was held to be well-founded and the Commission's view was accepted in general terms. But the Court held that in the particular case there were grounds for annulment. The European Parliament once considered taking its dispute with the Council over their respective budgetary powers to the Court. It eventually decided not to do so, because the Council came round to Parliament's way of thinking.

The Treaties confer a privileged position on Member States, the Council and the Commission by empowering them to bring proceedings against any binding Community act. Private citizens and business firms, on the other hand, may initiate proceedings only against decisions which are specifically addressed to them or which, despite being in the form of regulations or decisions addressed to a third person, concern them directly and individually. Private individuals may not initiate proceedings against acts of a general and impersonal kind, which is what regulations and directives usually are.

Yet private individuals are not entirely without their rights: in an action against a decision addressed to them personally or a penalty imposed on them, they may plead

the illegality of the regulation on which the offending decision was based. Similarly, in an action for non-contractual liability, they may claim that an act—even a regulation—is illegal if (i) they believe that the damage they have suffered arises from the application of that illegal act and (ii) the Community can be held liable for the illegal act of the relevant institution.

To give but one example, the main producers of isoglucose, a liquid sweetener made from maize, brought an action for the annulment of the agricultural regulations reducing the production refunds on products used for manufacturing this sweetener. Their action was dismissed as inadmissible: the Court held that a regulation reducing or even abolishing a production refund for a full marketing year on a product manufactured from cereals was by its nature a measure having a general effect. It applied to situations defined in objective terms and its legal effects on persons were considered in a general and abstract manner. The firms then asked for a preliminary ruling. This time the Court accepted their submission to the extent that, although it considered the reduction in production refunds to be valid, it held a new tax on the production of isoglucose to be illegal.

Other motives for annulment are lack of power, infringement of an essential procedural requirement, infringement of the Treaties or of any rules of law relating to their application and misuse of powers.

If the Court regards the action as admissible and well-founded it declares the act in question void. The act then ceases to have any legal force and this ruling has retrospective effect. Legal and administrative authorities in the Member States must thereafter refrain from implementing the regulation.

Should the Council or the Commission infringe the Treaty by failing to act, the Member States and the other institutions of the

Community may bring an action before the Court of Justice to have the infringement established. Such proceedings provide a means of penalizing inactivity on the part of the Council or the Commission.

Such actions are admissible only if the institution in question has previously been called upon to act. If the institution has not acted within two months of being invited to do so, an action may be brought within a further period of two months. Proceedings for failure to act are subject to the same conditions as proceedings for annulment. The institutions have considerable scope to make use of them while private individuals must show that the decision that was not taken would have been of direct and personal concern to them.

Proceedings for failure to act are extremely rare. At the beginning of the 1970s, the Parliament contemplated bringing such an action against the Council for failure to take a decision on the direct election of the Parliament by universal suffrage. An opinion prepared by a panel of university professors, however, came to the conclusion that, even if the action were declared admissible, it was not certain that the Court would find against the Council since the Treaties did not set a precise date for direct elections. The decision taken by the Heads of State or Government at the 1974 Paris Summit finally resolved the problem.

Proceedings involving unlimited jurisdiction

Actions involving unlimited jurisdiction are forming an increasingly large part of the Court's work.

The Community may, for instance, incur civil liability for damage caused by its institutions or servants in the performance of their duties in accordance with the general principles common to the laws of the Mem-

ber States. The Treaties confer on the Court of Justice the exclusive jurisdiction to order the Community to pay damages because of its actions or its legislative acts on the principle of non-contractual liability. In exercising its unlimited jurisdiction, the Court decides the basis on which liability is to be determined, whether the damage is due to Community action, the amount of damage caused and the sum to be paid in compensation. By contrast, the Community's contractual liability is subject to the general law of the Member States and to the jurisdiction of their courts.

Private persons have considerable scope for bringing actions for non-contractual liability. The common agricultural policy with its marketing regulations and systems of grants, refunds, levies and monetary compensatory amounts has given rise to voluminous litigation. So far the Court has been reluctant to find such cases admissible. To do so, it requires a clear breach of a binding rule of law designed to protect individuals.

The powdered milk case is one of the better-known examples of this. To reduce the surplus of powdered milk, the Commission and the Council obliged the food industry to add powdered milk to animal feed in certain circumstances, mainly connected with the free movement of soya beans. A number of users felt that the Commission was imposing a disproportionate burden. They simultaneously commenced proceedings for damages both in the Court of Justice and in the appropriate national courts, which in their turn asked for a preliminary ruling on the legality of the system. The Court eventually ruled that the powdered milk regulations were invalid because the obligation to buy at a disproportionately high price spread the burden unfairly over the different sectors of agriculture and was not a proper way of reducing the surpluses. But there is a difference between being legally in the right and being entitled to compensation.

In a second judgment, the Court ruled that the Community was only liable in damages when the relevant body had manifestly and substantially exceeded its powers. It did not consider this to be so in the powdered milk case.

The Court also has unlimited jurisdiction over cases relating to failure to comply with Community legislation directed against unfair business competition. The Court may be called upon to give a ruling on penalties which the Commission has imposed on undertakings that engage in anti-competitive practices or abuse their dominant position on the European market. The Court may annul or modify administrative penalties, (reducing or increasing them, as the case may be). Here too, the Court looks chiefly at the fact of the case. Thus, the Commission's spectacular decisions imposing very heavy fines on Community sugar producers accused of sharing out the European markets of the six original Member States were partly annulled on the grounds that they were not properly reasoned. The main argument for reversing part of the Commission's decision and reducing the fines, apart from the failure to fulfil that procedural requirement, was that the common organization of the market left very little scope for free competition anyway.

Disputes between the Community and its officials also take the form of proceedings involving unlimited jurisdiction. In view of the increasing number of such cases and of the need to lighten the load on the Court, which also has to establish the facts, there is talk of setting up an Administrative Tribunal (of first instance), with the Court itself acting as a Court of Appeal dealing with points of law.

Sometimes the Court exercises an arbitration function. When it does so it acts pursuant to arbitration clauses in contracts under public or private law made by or on

behalf of the Community. In such cases, its jurisdiction must be determined with due precision in the contract.

Requests for preliminary rulings

The Court is, by its very nature, the supreme guardian of Community law. But it is not the only court that has the power to apply and interpret this body of law that is common to all the Member States. The founding fathers of the Community set up a special and unique system in which, departing from the pattern set by international treaties of the traditional kind, masses of provisions set out in the Treaties themselves and in regulations, decisions and directives (secondary legislation) are directly and immediately applicable in the legal systems of all the Member States. They constitute an integral part of the law that applies in each Member State without any need for specific national measures. They have a direct effect in that they can confer individual rights on nationals of Member States. Private individuals may invoke them in their national courts both in relation to other individuals and in relation to the national authorities.

The courts in each Member State have thus become Community courts. To avoid differing and even conflicting interpretations, the Treaties introduced a system of preliminary rulings, which are the real keystone to the whole system.

Preliminary rulings can also be requested in order to test the validity of acts adopted by the institutions: this, like the system of proceedings for annulment, is one way of seeing that what the Community does is always lawful. Where a national court of first instance (or even of appeal) finds there is a problem regarding the interpretation of the Treaties or of measures taken by the

institutions, or some question arises as to the validity of these measures, it may apply to the Court in Luxembourg for a preliminary ruling if it considers that it needs to do so in order to come to its judgment.

When a problem or question of this type arises in a national supreme court (Constitutional Court, Court of Cassation, Council of State, House of Lords), against whose decisions there is no judicial remedy under national law, that court *must* refer the matter to the Court of Justice.

Preliminary rulings may be applied for only by a national court or tribunal and not by the parties to the case. The question must concern a matter within the jurisdiction of the Court of Justice, that is to say, it must deal with the interpretation or application of Community law. The Court is obliged to reply to any question raised within the limits of its own jurisdiction, but it is not allowed to influence the outcome of the principal action. Nor does it have any power to interpret national law beyond decisions, under the preliminary ruling procedures, as to whether or not they comply with Community law. Only the national judge may, if he considers it necessary, withdraw a question once it has been referred to the Court.

The procedure has steadily gained importance. There was only one reference in 1961; but the number almost doubled from 17 in 1969 to 32 in 1970, there were 40 in 1972, 61 in 1973, 69 in 1975, 123 in 1978, and 106 in 1979. Between 1958 and the

end of December 1978, 617 cases were brought before the Court in the form of requests for preliminary rulings; the Court has given its rulings in 495 of them, 95 are pending and no ruling was given in 27 cases.

Opinions vary considerably on the authority enjoyed by preliminary rulings. However, three points seem to have been accepted regarding references for interpretation:

- (i) the interpretation given by the Court is binding on the judge who requested it;
- (ii) the interpretation serves as a basis for applying the relevant law in any subsequent case and other courts may invoke it without further reference to the Court of Justice;
- (iii) in a subsequent case the judge who requested interpretation of a specific Community provision, and of course other judges, may always ask the Court of Justice for a new interpretation.

As regards judgments given in response to requests for a preliminary ruling to assess validity, the general view is that if the Court declares a Community provision invalid the ruling is universally applicable: whoever enacted the provision (Council or Commission) must withdraw it or amend it in accordance with the Court's decision. But when the Court declares that its scrutiny has not come up with any factors which might deprive the relevant provision of its validity, this declaration has only a limited application and does not constitute full confirmation that the measure is valid.

IV — Court procedure

Court procedure is mixed and involves two separate, successive stages, one written and one oral.

However, a distinction must be made between direct actions and requests for preliminary rulings.

Direct actions

Direct actions are usually brought before the Court by written application sent to the Court Registrar by registered post. The application must contain the names of

the parties, the subject matter of the dispute, a brief statement of the grounds on which the application is based, the form of order sought by the applicant and an indication of any evidence in support, together with an address for service in the place where the Court has its seat and the name of a person who is authorized and has expressed willingness to accept service. To be admissible, applications must also be lodged within the limitation periods determined by the Treaties.

Once it has been received, the application is entered in the Court register and the President appoints a Judge-Rapporteur; it is his duty to follow closely the progress of the case. The application is then served on the opposing party, who has a month in which to lodge a statement of defence. The applicant has a right of reply (one month) and the defendant a right of rejoinder within a further month. The time-limits for producing these documents must be strictly adhered to unless specific authorization to the contrary is obtained from the President of the Court.

The Court, after considering the preliminary report presented by the Judge-Rapporteur and hearing the advocate general, meets in the Deliberation Room to decide whether a preparatory enquiry is necessary. This would involve the appearance of the parties, requests for documents, oral testimony, etc. It also decides whether the case should be referred to the Chamber to which it has been assigned. On completion of the preparatory enquiry, where this has been found necessary, or otherwise after the final pleading has been lodged, the President sets the date of the public hearing. In a report presented at the hearing, the Judge-Rapporteur summarizes the alleged facts and the submissions of the parties and of the interveners, if any.

The case is then argued by the parties at a public hearing before the judges. All points of view and all arguments may again be put before the Court. After the cases

have been stated orally, the advocate general makes his submission, analysing the fact and the legal aspects in details and proposing his solution to the dispute. The oral procedures ends there and the case is adjourned for discussion by the judges.

Judgment is delivered, on average, four weeks later. Generally, eighteen months elapse on average between the lodging of an application and the Court's final decision. This time lapse may be regarded as reasonable, especially when compared with the duration of proceedings before most courts in the Member States.

An application for revision of a judgment may be made within ten years if a decisive fact which was unknown when the judgment was given is discovered. Where the applicant has brought proceedings against a Community measure the President of the Court may, by a summary procedure, order the operation of the measure to be suspended or order any other necessary interim measures. The suspension order given by the President has only an interim effect and is without prejudice to the decision of the Court on the substance of the case.

Requests for preliminary rulings

In the case of requests for a preliminary ruling, where the issues involved are often simpler, the Court gives judgment even more quickly, the entire procedure usually taking about nine months.

The national court puts to the Court of Justice a question concerning the validity or interpretation of a Community provision. No particular form is prescribed for the submission of such a request, but they generally take the form of a judicial decision (decree, judgment or order). It contains the text of the question(s) which it wishes

to ask the Court, accompanied, where necessary, by documents providing the Court with the background to and scope of the questions asked. The questions are sent from the registrar of the national court to the Registrar of the Court in Luxembourg.

The Registrar has the application translated into all the Community languages and then notifies the parties concerned in the original case, the Commission and the Member states. They then have two months in which to submit observations; whilst the Commission rarely fails to do so, it is less common for Member States to take advantage of this possibility.

The Judge-Rapporteur submits his preliminary report and the Court decides whether a preparatory enquiry is necessary. This completes the written procedure. As in the case of direct proceedings, the oral part of the procedure may then begin. The parties concerned, the Commission or the Member States go before the Court and once again put forward their arguments in full knowledge of the observations which have been made in the case.

After the Advocate General has proposed his solution to the problem, the Court adjourns and prepares its decision on the basis of a proposal from the Judge-Rapporteur. The actual judgment, which is read at a public hearing, is immediately transmitted by the Registrar to the national court.

Who may address the Court of Justice?

The Member States and Community institutions are represented in Court by agents, generally members of their legal departments, who may be assisted by a legal adviser or an advocate, barrister or the like.

Private individuals must instruct a lawyer of their choice who is properly qualified to practice before a Court in one of the Member States. Where the law of their Member State so permits, university law teachers may also present cases in the Court.

Languages

All proceedings are conducted in one of the official languages of the Community—Danish, Dutch, English, French, German, Greek and Italian. The choice of the language of the case lies with the plaintiff except that:

- (i) where the defendant is a Member State or a natural or legal person who is a national of a Member State, the language of the case is the official language of that State; where there is more than one official language, the plaintiff may choose whichever suits him best;
- (ii) where both parties so request, the Court may authorize the use of another official Community language.

Where a preliminary ruling has been requested, the language used is that of the national court which referred the case to the Court. Only documents in the language of the case are authentic.

Although the language rules may appear rather clumsy, they do, in fact, make access to the Court very simple, allowing the plaintiff and his counsel to plead in their own language. The defending institution must reply in the same language. Oral proceedings are also held in the chosen language. The Court has a translation department to translate documents relating to the proceedings and an interpretation department to provide simultaneous interpretation at hearings. Only the judges and advocates-general may speak at hearings in a language other than the language of the case.

Costs

When giving judgment the Court of Justice must also rule on costs. This generally concerns only lawyers' fees and incidental expenses, since proceedings before the Court are free of charge.

V — Activities of the Court

The European Community is primarily an economic community. It is therefore hardly surprising that the Court's major achievements have been in the field of business law. But its activities go beyond purely economic matters and it has laid a solid groundwork of case-law in the sphere of social welfare and agriculture.

The Court's initial task was to secure the attainment of the Customs Union. This involved removing internal tariff barriers and measures having equivalent effect between the Member States and introducing common rules with respect to non-member countries. The progressive introduction of common rules on agriculture, transport, freedom of establishment, freedom to provide services and freedom of competition between undertakings has resulted in an increasing number of actions. Nor should the Court's decisions on social matters be forgotten, touching, as they do, the direct interests of the Community citizens in such fundamental areas as the freedom of movement of workers and social security for migrant workers.

Freedom of trade

The basic economic objective of the Community is to establish a common market, and the fundamental expression of this is the

However, an application for a preliminary ruling constitutes an interlocutory proceeding in an action pending before a national judge and it is therefore for the judge in the principal action, and not the Court, to decide on the question of costs.

Customs Union. Under the terms of the Treaty of Rome it covers all trade in goods and involves the prohibition between Member States of customs duties and quantitative restrictions on imports and exports and the adoption of a common customs tariff in their relations with non-member countries.

The majority of governments, frequently under pressure from business circles, were reluctant to remove protective barriers and face competition from their partners. Their reactions was to maintain or introduce taxes, restrictions, or even overt or disguised prohibitions on imports. When such cases came before it, the Court banned such measures, reminding the Member States that they were bound to respect the objectives laid down in the Treaties. Notable cases where the Court ruled against Member States for failure to fulfil their obligations concerned imports of pork, gingerbread, milk products, and lead and zinc.

To prevent the prohibitions being circumvented, the authors of the Treaty also expressly prohibited measures having an effect equivalent to customs duties or quantitative restrictions; this means measures which, although not customs duties or quotas in substance, nevertheless had the same restrictive effect. Governments displayed remarkable powers of ingenuity and

imagination. A profusion of special taxes sprang up: statistical duties on imported or exported goods, taxes for administrative formalities on importation, charges for health inspections, taxes on packaging, taxes on the export of works of art. In the subsequent actions, or in preliminary rulings requested by national courts, the Court refused to be taken in; it stated in no uncertain terms that these were taxes having an effect equivalent to customs duties and threw them out whenever they had even the slightest discriminatory effect. A notable instance was the case of an *ad valorem* tax of 0.33% on the import of unworked diamonds, the proceeds of which went towards a welfare fund for diamond workers to provide them with certain additional welfare benefits.

Besides using such measures and taxes, the Member States tried to get round the liberalization provisions by means of discriminatory administrative measures. The Belgian Government, for example, imposed special administrative formalities on whisky importers to exclude all but direct imports from Scotland. However, since the majority of Scottish products exported to the Continent travel via France for the practical reason of centralized shipment, these formalities amounted to a quantitative restriction and the Court accordingly ruled against them. Similarly the Court refused to allow Germany the right to reserve the designations 'Sekt' and 'Weinbrand' for home products, on the grounds that no Member State could be allowed to extend, by the artificial means of legislation, a generic term into a designation of origin in order to give domestic producers an advantage.

The Member States have also frequently used taxation—the expression *par excellence* of their sovereignty—as a means of restricting imports. The Treaty establishing the European Economic Community, while not aimed at taking away the Member States' right to levy taxes, does stipulate

that internal taxes must be applied without discrimination to domestic products as well as to products from other Member States and must not be misused for purely protectionist ends. A large number of actions have been brought against internal tax schemes, which have often been limited to particular industries or products; for example, there have been cases involving discriminatory taxation on spirits, discriminatory tax rebates for the engineering industry, excise duty on cocoa imports and a tax on imported timber.

Although twenty years have passed since the establishment of the EEC, a single common market is still far from fully attained. The Court still has to deal with a considerable number of measures and taxes having an effect equivalent to customs duties.

The Court has also opened up the way for parallel imports. It ruled against a German gramophone record manufacturer who sold his records in Germany at a controlled price which was higher than the price at which they were sold in other Community countries by licensed agents with exclusive distribution rights in their national territory. Another German company had managed to obtain a supply of records from one of these agents, which it reimported and was able to sell in Germany at an appreciably lower price than that imposed by the manufacturer. This the manufacturer held to be an infringement of German copyright law. The Court ruled that, copyright notwithstanding, it is not permissible to prohibit the sale in a Member State of products placed on the market in another Member State, even if the selling price in the first country is higher than in other countries.

Patent and trade-mark rights are also used to wall off markets. A classic example involved certain practices on the market for pharmaceutical products. The Court has always made it clear that restrictions on the free circulation of goods can be allowed only

in exceptional circumstances and only insofar as they are necessary to safeguard rights which constitute the specific subject matter of the property in question. In the case of patents and trade-marks the specific subject matter of the industrial property is, in the Court's view, principally the guarantee that the holder, to reward his creative effort or to protect the reputation of his trade-mark, has the sole right to exploit an invention for the purpose of manufacturing industrial products and putting them into circulation for the first time, either directly or by granting licences to third parties, as well as the right to oppose any infringement. This right is, however, exhausted when the relevant product is placed on the market. The Court stressed that if the holder of a patent or trade-mark were allowed to ban imports of protected products marketed in another Member State by him or with his consent, he would be able to partition off the national markets, so restricting trade between the Member States, although this is not a necessary means of achieving the essential object of the rights conferred by the patent or trade-mark.

Competition

The principle of free competition is fundamental to the Treaty of Rome, which was designed to guarantee all businessmen free access to the common market. The relevant rules are based on Articles 85 and 86 which, as is now well known, prohibit agreements, decisions and concerted practices by firms or groups of firms and any abuse of a dominant position likely to affect trade between Member States. There are many forms of anti-competitive conduct, and the Treaty, without attempting to give an exhaustive list, mentions some of them specifically—direct or indirect price-fixing, limiting or controlling production, markets,

technical development or investments, sharing markets or sources of supply, unfair trading conditions and tying clauses.

The Commission may fine firms that infringe the rules of competition. The firms concerned may then appeal against the decision to the Court. National courts have also rapidly become familiar with Community competition law and they, too, refer cases to Luxembourg.

The rules of competition apply to a wide range of activities and there have been numerous cases, involving both the big multinationals and small businesses. The Court has given judgment in cases covering a wide range of industrial and commercial activities—radios, dyestuffs, quinine, cement, metal containers, sugar, beer, perfumes, lighters, household appliances, vitamins, medicines.

Generally speaking when the Commission imposes penalties on firms they waste no time in taking the matter to the Court. The outcome of such action has varied enormously. Some of the Commission's decisions have been upheld, in others minor changes have been made and in yet others the decision has been annulled or the fines reduced. But this is not to say that firms can count on the Court's clemency. Whilst it adjusts the Commission's errors of assessment, the Court has been just as vigorous in its general approach to the rules of competition.

On numerous occasions the Court has clarified the territorial aspects of the rules of competition, a good example being the dyestuffs case. Nine dyestuffs manufacturers appealed against a Commission decision imposing fines on them for concerted pricing. Three of them had their head offices outside the Community and argued that the Commission could not impose fines for infringements committed outside the Community. The Court established that

the firms had fixed prices and other terms of sale and imposed them on their Community subsidiaries; it accordingly upheld the Commission's measures even in respect of the firms not located on Community territory.

In another case firms argued that a purely national agreement operating in the territory of only one Member State could not affect trade between Member States so that one of the essential tests of the Community competition rules was not satisfied. The Court, however, held that 'an agreement extending over the whole of the territory of a Member State by its very nature has the effect of reinforcing the compartmentalization of markets on a national basis, thereby holding up the economic interpretation which the Treaty is designed to bring about and protecting domestic production'.

Can national rules on competition conflict with Community rules? Seven German firms raised the price of aniline on a number of occasions at the same time. They were fined by the competent German authorities and also ran the risk of being fined by the Commission. The Court endorsed the Commission's view. In keeping with the aims of the Treaty it ruled that application of national competition rules could only be permitted if they did not prejudice uniform application of the rules of the Treaty throughout the common market. In theory therefore two parallel proceedings could be in progress at the same time. To avoid any duplication of penalties for the same offence the fine in the first case has to be taken into consideration when determining the fine in the second case.

In a case concerning abuse of a dominant position on the metal containers market the Court pointed to the logical link between Article 85 on restrictive practices and Article 86 on abuse of a dominant position. It stressed that the rules of competition form a coherent system, with no loopholes. Moreover, it ruled that the prohibition on

abuse of a dominant position also applies when a firm acquires such a degree of dominance as a result of takeovers or mergers that competition is substantially fettered.

A refusal to supply can also constitute abuse of a dominant position. In a case referred by an Italian court the Court held that a dominant firm on the raw materials market which, with the object of reserving such raw materials for manufacturing its own derivatives, refused to supply a customer, itself a manufacturer of these derivatives, thereby eliminating all competition on the part of this customer, was abusing its dominant position.

Restrictive practices and the abuse of a dominant position can also apply to patents, trade-marks and the like. The Court ruled that an association enjoying a *de facto* monopoly in a certain Member State for the management of copyrights, which demanded global assignment of all copyrights, without making any distinction between specific categories of rights, extending for a certain period after the member concerned had withdrawn, was abusing its dominant position. In giving judgment on an Italian case, the Court ruled that the grant of the exclusive right to transmit television signals does not in itself constitute an infringement of the Treaty. Discrimination by undertakings enjoying such exclusive rights against nationals of Member States by reason of their nationality is, however, incompatible with Community law.

In a judgment concerning imports of cosmetics, the Court confirmed that trade-mark rights as such are not covered by Articles 85 and 86 of the Treaty, but continue to protect the advantages inherent in their specific subject-matter. It also ruled that the exercise of trade-mark rights may still be modified by the prohibitions imposed by the rules of competition, particularly when it is apt to lead to a partitioning of markets and thus to impair the free movement of goods.

The Court has enormous scope in applying the rules of free competition to the market place. By means of its decisions, it has succeeded in imposing and enforcing these rules in the interests of the consumer, the small retailer—who is at the mercy of restrictive practices and agreements—and of businesses themselves, looking for security in the law and for protection from predatory competition. The Court has not hesitated to impose penalties for abuses when necessary but has shown tolerance when the consumer was not affected and competing goods were available.

The rules of competition are now recognized throughout the Community thanks to a three-fold approach: preventive and repressive action by the Commission, the direct effect of the Treaty and its uniform application by national courts and the Court of Justice.

A social Community

The objective of the Communities is not simply an economic one; of course national frontiers are to be abolished, but a form of human integration is also aimed at. At the preamble to the Treaty of Rome puts it, the Member States are 'determined to lay the foundations of an ever closer union among the peoples of Europe' and have affirmed 'as the essential objective of their efforts the constant improvement of the living and working conditions of their peoples'. The chapters on free movement of persons codify in general terms the rights of workers, persons providing services and those seeking establishment on the principle of equal treatment for nationals of all Member States. Detailed rules for achieving this have been laid down in Council regulations and directives, although they have not always met the deadlines laid down by the Treaties.

There is an abundance of Court of Justice cases in matters relating to Community social law, more at any rate than in the competition field and as many as in agriculture. There is a regular flow of cases from all the Member States.

However, Italian workers are those who most frequently benefit from developments here, as they are far and away the largest class of plaintiff in cases referred to the Court. After all, Italy has provided the majority of Europe's migrant workers.

One of the first points the Luxembourg judges had to clarify was the actual definition of a 'worker'. If the Member States were to be left to decide unilaterally what was meant in the Treaty by the term 'worker' the concept might well lose all substance.

The Court felt that a very broad definition was needed, and a series of judgments has therefore defined workers as those who, however they are described, benefit from a national system of social security. The concept covers not only employed persons in the strict sense of the word, but all those with equivalent status. It is not restricted to migrant workers or those who are required by their jobs to travel.

The Treaty of Rome entitles workers and members of their families to move freely within the Community and to stay in a Member State for the purpose of employment. The only restrictions on this right are those justified on grounds of public policy, public security or public health. However, the Court has stated explicitly on several occasions that the justifications for restrictive measures must be considered in the light of Community rules, the principle of non-discrimination and defence requirements. In a special ruling the judges stressed that the right to enter another Member State and stay there was conferred directly on anyone covered by Community law, whether or not a residence permit was issued by the host country.

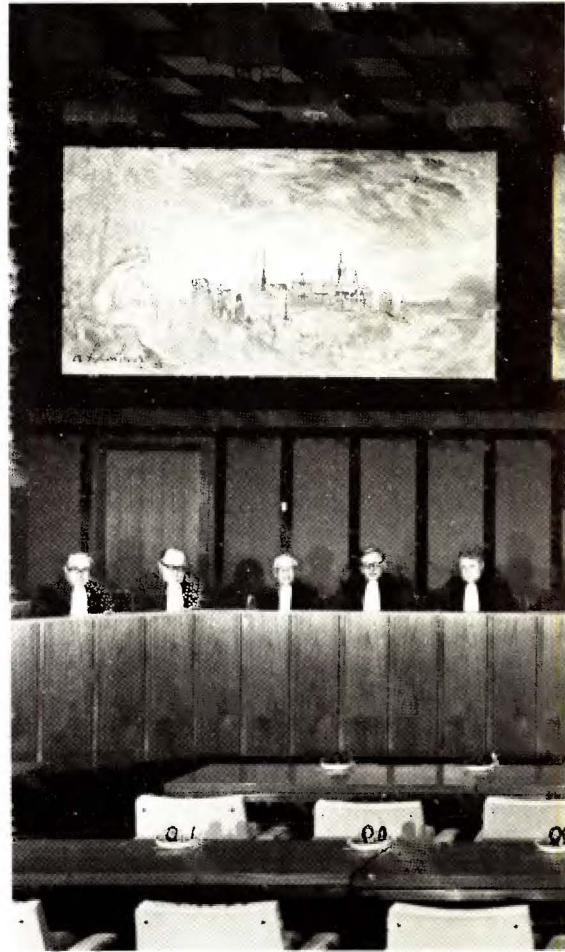
The fact that such persons neglect to carry out the formalities relating to residence by foreigners does not constitute a *per se* threat to public policy nor justify expulsion or temporary detention pending expulsion, though it may be subject to a suitable penalty.

The principle of non-discrimination applies not only to conditions governing free movement and residence, but also to all social advantages. In its rulings the Court has clarified the implementing provisions. Thus, a retired person is entitled to take advantage of pension rights acquired in one Member State after taking up residence in another Member State. A pension may not be adjusted if the beneficiary is resident on the territory of a Member State other than the one in which the paying institution is situated. In another ruling the Court stressed that migrant workers' children are entitled to the same benefits as the children of nationals of the country of residence. In yet another ruling the widow of a migrant worker was held to be eligible for a reduced-fare railway card for large families previously restricted to nationals.

The Court also decided that the Community rules should prevail over the various national provisions concerning the calculation of social security benefits, which rival each other in complexity. It has endorsed the principle of aggregation and apportionment in numerous rulings. All periods of employment completed in the various Member States should be taken into account for the purpose of acquiring and retaining the right to benefit. When various periods of employment are aggregated in order to acquire entitlement to benefit in a given Member State, this benefit should be calculated in proportion to the period in question as compared with the aggregate of the periods spent in employment.

Although the chapter on social provisions in the Treaty of Rome is rather vague, it does, nonetheless, contain one specific provi-

sion—the principle of equal pay for men and women. Since the Council did not issue the necessary implementing provisions, it was the Court which ultimately gave women their rights. A Belgian air-hostess had brought an action in a Belgian court for damages on the grounds that male and female air crew received unequal pay. In a ruling which has since attracted great attention, the Court held that Article 119 of the Treaty of Rome did not simply lay down an



In 1979, the f

abstract principle but actually endowed those subject to it with rights which national courts were obliged to safeguard.

It stressed that it was the duty of these Courts to ensure protection of the right to equal pay, notably in cases of discrimination directly resulting from legal provisions or collective agreements and in cases where men and women doing the same work in the same private or public undertaking or ser-

vice are paid at different rates. According to the Court equal pay should have been fully guaranteed by the original Member States with effect from January 1962—the beginning of the second stage of the transition period—and by the new Member States from January 1973, when the Act of Accession came into force. To avoid a flood of application for retroactive compensation and the economic upheaval that this would entail, it ruled that, with the exception of



rt consisted of nine judges, four advocates general and the Registrar

cases commenced prior to the judgment, the direct effect of Article 119 could be invoked only in cases of unequal treatment arising after the decision.

It was the Court, too, which made a breakthrough as regards freedom to provide services and the right of establishment. Under the Treaty of Rome all restrictions should have been abolished by the end of the transitional period, but the Council did not implement the programme imposed on it within the prescribed time-limits. Reluctance to act here was overcome by a judgment given in clear and precise terms and from the mid-1970s quicker progress was made in implementing the Treaty.

A legal adviser, who was a free attorney in the Netherlands, was refused authorization to defend a client because he had transferred his residence to Belgium. When the case was referred to it the Court stated that restrictions on freedom to provide services should have been abolished at the end of the transitional period, which was the absolute time-limit for the entry into force of all the rules provided for by the Treaty; the provisions of the Treaty had become absolute by then. It ruled that, at least as far as the specific requirement of nationality or residence was concerned, the Treaty contained a definite obligation to attain a specified result and that the Member States could not delay or compromise the attainment of that result simply through the absence of the requisite directives. The Court argued that the relevant articles have direct effect and may accordingly be invoked before national courts, at least in so far as they are designed to eliminate any discrimination against the person providing services on grounds of nationality or of residence in a Member State other than the one in which the service is to be provided.

But, in view of the special nature of the services provided, the Court allows Member

States to require any person established on the territory of the State in which the service is to be provided to comply in the general interest with occupational rules governing the organization of the profession and qualifications, ethics, supervision and liability.

The refusal to allow a Dutch advocate to engage in his profession in Belgium provided the Court with an ideal case with to enforce the principle of freedom of establishment. The person in question was born in Belgium of Dutch parents, had studied in Belgium and had obtained the qualifications needed for access to the bar, but had retained his Dutch nationality. He was not allowed to register on the grounds that under Belgian law the profession was open only to Belgian nationals.

The Court stated that the rule requiring Member States to treat nationals of other Member States in the same way as their own nationals was one of the basic legal provisions of the Community. It stressed that as the rule referred to a series of legal provisions actually applied by the country of establishment to its own nationals it could by its very nature be invoked directly by nationals of all the Member States. The achievement of free movement before the end of the transitional period should have been facilitated, though not conditioned, by the implementation of a programme of gradual measures. Since the Council had failed to take the necessary measures before the appointed time, the directives would have become superfluous as regards the implementation of the rule governing national treatment, since the latter was sanctioned—and enjoyed direct effect—by the Treaty itself.

At the same time the Court pointed out that restrictions on freedom of establishment should be limited to those activities which, in themselves, involved direct and specific involvement in the exercise of official authority. According to the Court, in an

occupation such as the legal profession, the activities of giving legal advice and assistance or representing and defending parties to court cases cannot be described in this way even though the performance of these activities entails fulfilling obligations or exercising exclusive rights determined by law.

The agricultural common market

The agricultural common market is undoubtedly the area in which the Community has made its greatest strides towards integration. The Treaty of Rome drew the basic outlines of the market, and over the years the Council, acting on Commission proposals, has gradually completed the picture by setting up the various mechanisms which now ensure that European farmers obtain remunerative prices for their products on a single market where all but a few of the products are regulated by their own special set of measures. A protective import levy is imposed as a safeguard against imports entering the Community from non-member countries at low prices and an export refund system helps Community farmers find buyers for their produce on the world market.

The complexity of the market, the technical refinement of the system, the monetary difficulties and the subsequent introduction of monetary compensatory amounts, along with clever operators making use of the inevitable loopholes in the system, have fostered much litigation. In this respect the common agricultural policy is top of the list by far. Consequently, it soon became apparent that integration in this sector rested with the national courts and the Court of Justice.

Oddly enough, it is not the farmers who have brought most of the agricultural cases before the Court, but traders. Apart from

the simple Italian farmer (a woman as it happens) who had to go before the Court in order to obtain payment of the premiums to which she was entitled for slaughtering her cows, or the German farmer who attempted (in vain) to have the co-responsibility levy which had been introduced as a means of curbing milk production declared contrary to the Treaty, most of the legal proceedings at the European Court have been brought as a result of commercial transactions or of disputes concerning levies, refunds, denaturing premiums or monetary compensatory amounts. Thus it is mainly traders who have kept the Court busy.

It is also worth noting that the number of cases handled by the courts varies considerably, as it always has done, from one Member State to another. The Commission has brought only a very few cases against Member states for failure to meet their obligations. They have involved such matters as the taxation of milk products, the premiums for slaughtering dairy cows, the premiums for grubbing fruit trees, the implementation of the directives on forest materials, the taxes on potable spirits, the establishment of the viticultural land register and the payment of export refunds. In Germany and Italy in particular, those concerned have not been slow to bring their cases before the national courts. Yet the largest agricultural nation in the Community has produced the smallest number of cases.

The judges in Luxembourg endeavour in their decisions to uphold the objectives, guidelines and methods of the common agricultural policy as defined in the Treaty.

Again and again they have made it perfectly clear that once the Community has adopted legislation setting up a common organization of a particular market the Member States are under an obligation to refrain from taking any measures that might derogate from it or run counter to it. National

measures or practices likely to interfere with import or export trends or to affect the free formation of prices on the market are accordingly to be regarded as incompatible with the common organization of the market, which aims at ensuring freedom of trade within the Community by eliminating not only barriers to trade but also any arrangements likely to distort intra-Community trade. Whenever a Member State or its regional or other authorities go beyond the intervention provided for in the Community rules there is a potential obstacle to smooth operation of the common organization of the market.

Only very rarely has the Court annulled a Council or Commission regulation. Such a decision can only be justified if the institution concerned has seriously overstepped its powers. The milk powder affair is a case in point.

Implementation of the technical measures associated with the agricultural common market has led to major legal disputes concerning export refunds, levies, denaturing premiums, threshold prices, intervention prices and so on.

One of the prerequisites for smooth operation of a system laying down common prices for agricultural produce as part of a market organization based on a standard unit of account is that the relationship between the various national currencies must remain stable. However, serious disturbances on the currency markets forced the Council to seek a remedy so as to uphold the common price system, and this was how monetary compensatory amounts came to be introduced. Numerous judgments by the Court have confirmed that compensatory

amounts are lawful in view of the exceptional circumstances faced by the common agricultural policy. But the Court has nevertheless awakened all concerned to the fact that although monetary compensatory amounts compensate for exchange-rate fluctuations, they also carry the risk of market fragmentation and trade disruption.

Of course, there is no guarantee that the product declared to the import authorities necessarily matches up to the definition laid down for that product. Yet the designation is vital for the purposes of identifying products and determining which levies or refunds they qualify for.

The Court has had to look into the competition of a wide variety of products ranging from the 'parson's nose' in the case of turkeys to farmyard poultry, from frozen caribou meat to branded cherries or from crushed maize seeds to Thai meal derived from tapioca residues.

Of course, fraudulent changes of description are not unusual. Mayonnaise is sometimes redesignated 'resolidified butter' for re-export purposes in order to obtain the appropriate refund.

In the same way 'solid caramel' may turn out upon analysis to be made up largely of butter. One dealer engaged in exporting sausages from Germany to Yugoslavia applied for an export subsidy, but then analysis of the product revealed that the sausages consisted of fats and low-grade meat offals. Since the products no longer satisfied the Community definition of 'sausages', the application for export subsidies had to be turned down.



Formal hearing of the Court of Justice of the European Communities

VI — Direct applicability and primacy of Community law over national rules

The principles of direct applicability of Community law in the Member States and the primacy of Community rules over conflicting national rules are the twin pillars supporting the European Economic Community, a Community with a legal base. After the Treaties were ratified the Court had to decide a number of cases which involved settling a series of fundamental questions—is European law directly applicable as such to the nationals of the Community? Can they invoke Community law direct and have that law applied by judges in their own country? Are judges under an obligation to apply Community regulations, directives or decisions regardless of their own country's legislation? Do

the Community rules laid down in the Treaties and ratified by the Member States take precedence over national laws?

The Court was fully aware of what was at stake and lost no time in following the rationale of the Community to its logical conclusion and in deciding in favour of a real Community.

The *Van Gend en Loos* case raised the question of the direct applicability of Community law. In September 1960, the Dutch company *Van Gend en Loos*, which had imported an aqueous emulsion of ureaformaldehyde from Germany for use in the manufacture of glue, received a claim from the Dutch customs authorities for duty at a rate

higher than the rate current for the product at the time when the Treaty of Rome entered into force.

As a result of an agreement concluded between the Benelux countries in July 1958, aqueous emulsions had been transferred from a category of products taxed at 3 per cent to another category taxed at 8 per cent. The glue manufacturer protested to the national authorities on the grounds that the Treaty prohibited the Common Market countries from increasing the customs duties that they applied as between themselves on 1 January 1958, when the Treaty entered into force. The argument was dismissed and the industrialist appealed to an administrative court, which suspended proceedings and asked the Court of Justice whether the provisions of the Treaty of Rome, which, in normal circumstances, are addressed only to Member States, could vest rights in individuals.

The German, Belgian and Dutch Governments submitted their observations to the Court. In their view, only Member States or the Commission could bring alleged infringements of the Treaty before the Court. The Treaty, they maintained, conferred rights and imposed obligations only on the signatory States and certainly not on private individuals who must remain subject to their national law.

Since the principle of direct, immediate applicability is not explicitly mentioned anywhere in the Treaty, the Court sought to define that principle as an integral part of the concept of the common market and of the basic consequences of membership thereof.

With exemplary clarity the Court stated in its grounds of judgment that: 'The objective of the EEC Treaty... is to establish a common market, the functioning of which is of direct concern to interested parties in the Community.' This 'implies that this Treaty

is more than an agreement which merely creates mutual obligations between the contracting states... This view is confirmed by the preamble to the Treaty which refers not only to Governments but to peoples. It is also confirmed more specifically by the establishment of institutions endowed with sovereign rights, the exercise of which affects Member States and also their citizens', the conclusion being that 'the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only Member states but also their nationals. Independently of the legislation of Member States, Community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the Treaty, but also by reason of obligations which the Treaty imposes in a clearly defined way upon individuals as well as upon the Member States and upon the institutions of the Community.' Subsequent events have done nothing to call into question the principles laid down by the Court. The national courts have not relented in their application of the principle.

The Court pursued the idea of a new legal order even further in its later affirmation of the primacy of Community law. Several months after the judgment establishing the direct applicability of Community law, a Milan judge brought before the Court a request for interpretation of the Treaty in a case calling for clarification of the situation in the event of a conflict between Community law and national law.

Mr Flaminio Costa, a shareholder in Edison Volta, considered that he had suffered injury through the nationalization of the facilities for the production and distribution of electricity in this country. He refused to pay a bill for a few hundred lira presented by

the new nationalized company, ENEL. Summoned before a court in Milan, he submitted in his defence that the nationalization law was contrary to the Treaty of Rome: the judge in the case therefore approached the Court of Justice. In the meantime, the Italian constitutional court had intervened in connection with the law establishing ENEL. In its view, the situation was straightforward: as the Rome Treaty had been ratified by an ordinary law, the provisions of a later conflicting law would have to take precedence over those of the Treaty.

In Luxembourg, the judges took a different view. In its judgment the Court pointed out that: 'By creating a Community of unlimited duration, having its own institutions, its own personality, its own legal capacity of representation on the international plane and, more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the States to the Community, the Member States have limited their sovereign rights, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves.

The integration into the laws of each Member State of provisions which derive from the Community, and more generally the terms and the spirit of the Treaty, make it impossible for the States, as a corollary, to accord precedence to a unilateral and subsequent measure over a legal system accepted by them on a basis of reciprocity'.

The judges went on to say that: 'The executive force of Community law cannot vary from one State to another in deference to subsequent domestic laws, without jeopardizing the attainment of the objectives of the Treaty set out in Article 5 (2) and giving rise to the discrimination prohibited by Article 7. The obligations undertaken under the Treaty establishing the Community would not be unconditional, but merely contin-

gent, if they could be called in question by subsequent legislative acts of the signatories..'

'The precedence of Community law is confirmed by Article 189, whereby a regulation "shall be binding" and "directly applicable in all Member States". This provision, which is subject to no reservation, would be quite meaningless if a State could unilaterally nullify its effects by means of a legislation measure which could prevail over Community law.' The judges concluded that: 'It follows from all these observations that the law stemming from the Treaty, an independent source of law, could not, because of its special and agricultural nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Community itself being called into question.

The transfer by the States from their domestic legal system to the Community legal system of the rights and obligations arising under the Treaty carries with it a permanent limitation of their sovereign rights, against which a subsequent unilateral act incompatible with the concept of the Community cannot prevail'.

Thus the principle of 'direct applicability' was supplemented by the principle of the 'primacy' of Community law over conflicting national rules, even where the latter are of later date or of a constitutional nature. These decisions by the judges of the Court of Justice undoubtedly constitute the keystone of the Community system.

Over the years cooperation between the Court of Justice, which is responsible for interpreting Community law, and the national courts, which are responsible for its application, has ensured uniform, authoritative interpretation of Community law. It has not, however, been possible to iron out all the differences, in particular in the lower

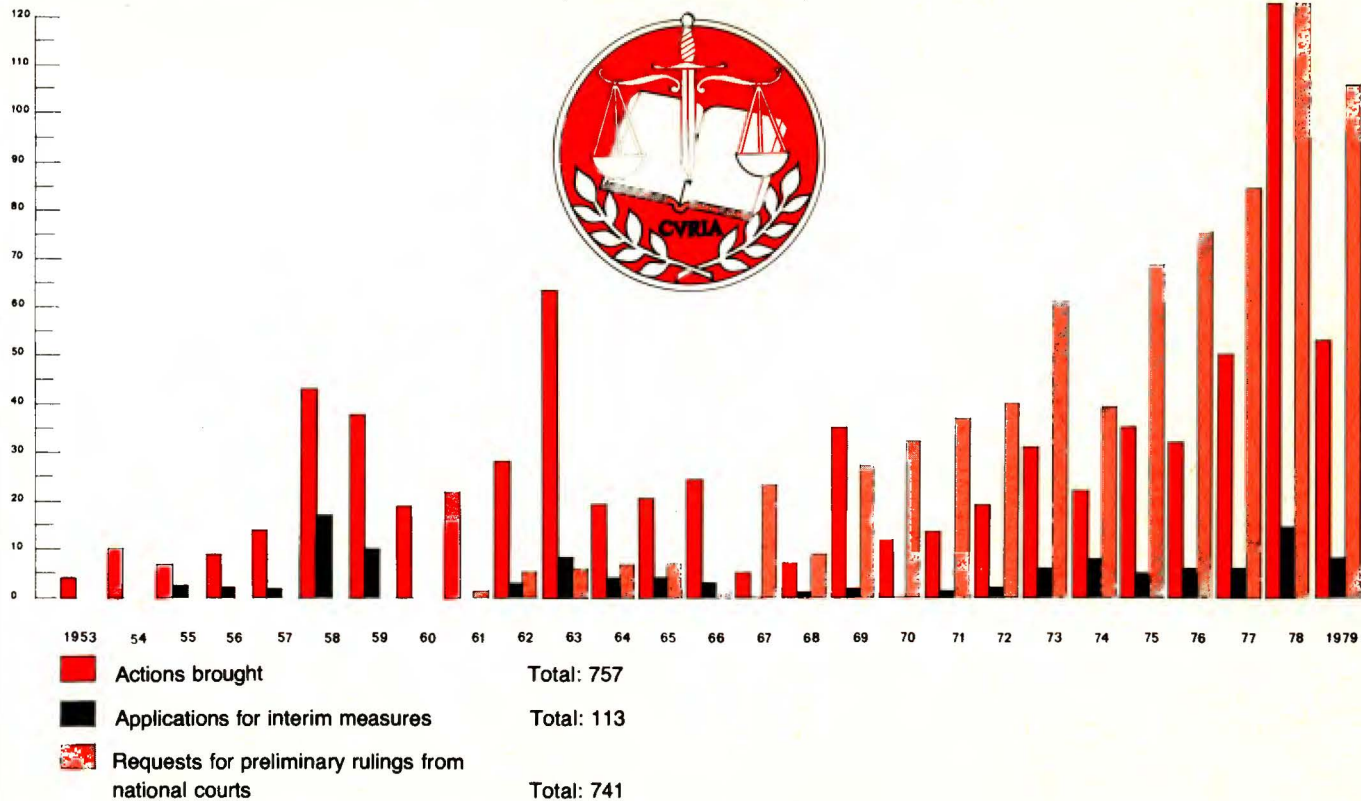
courts. Nevertheless the obligation placed upon the courts of final appeal to refer matters to the Court of Justice has helped correct any mistakes made during various cases. Today the authority of Community law is beyond doubt. Community law has become reality. Without it the efficient operation and perhaps even the very existence of the Community would be at risk.

But what view do those who work in the courtroom have on the Community? Robert Lecourt, former President of the Court of Justice, once observed that the Community was a legal union. The authority of Community law was beyond doubt since Community law

was binding. But Community law was law with a specific objective. The end was the driving force behind the law. The law had created the common market and was now its guardian. Furthermore, the law was there to protect individuals in a multinational federation uniting nine States with 250 million people under one and the same law. Finally, it was the means of legal integration, the effects of which would filter through gradually to the innermost core of daily life. Consequently, the basic characteristics of Community law—its authority, direct applicability, uniformity, primacy and irreversibility—constitute the binding force which holds the Community together.

Annexes

CASES BEFORE THE COURT
(as at 31 December 1979)



Source of requests for preliminary rulings
Situation at 31 December 1979

Member State	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	Grand total by Member State
Belgium	—	—	—	—	—	—	5	1	4	4	1	5	8	5	7	11	16	7	13	87
Denmark	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	3	1	6
FR of Germany	—	—	—	—	4	—	11	4	11	21	18	20	37	15	26	28	30	46	33	304
France	—	—	—	—	2	—	3	1	1	2	6	1	4	6	15	8	14	12	18	93
Ireland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	2	1	2	6
Italy	—	—	—	2	—	—	—	1	—	2	5	4	5	5	14	12	7	11	19	87
Luxembourg	—	—	1	—	—	—	1	—	1	—	1	—	1	—	1	—	—	—	1	7
Netherlands	1	5	5	4	1	1	3	2	—	3	6	10	6	7	4	14	9	38	11	130
United Kingdom	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1	1	5	5	8	21
Total	1	5	6	6	7	1	23	9	17	32	37	40	61	39	69	75	84	123	106	741

Cases brought since 1953 analysed by subject-matter¹

Situation at 31 December 1979

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

Type of case	Direct actions											
	ECSC				EEC							EAEC
	Scrap equalization	Transport	Competition	Other ²	Free-movement of goods and customs union	Right of establishment, freedom to supply services	Tax cases	Competition	Social security and free movement of workers	Agricultural policy	Other	
Cases brought	167	35	27	69	40	2	22	123	4	152	112	4
Cases not resulting in a judgment	25	6	10	16	9	1	2	7	—	20	13	1
Cases decided	142	29	17	37	24	1	12	103	1	114	67	3
Cases pending	—	—	—	16	7	—	8	13	3	18	32	—

¹ Cases concerning several subjects are classified under the most important heading.

² Levies, investment declarations, tax charges, miners' bonuses.

³ Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (the 'Brussels Convention')

Cases concerning Community staff law	Requests for a preliminary ruling										Total
	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 230 ³	Privileges and immunities	Other	
1 684	167	18	33	44	166	214	16	24	6	53	3 178
101	7	1	1	4	6	8	2	2	1	2	245
421	134	14	30	33	142	186	13	17	5	48	1 593
1 162	26	3	2	7	18	20	1	5	—	3	1 340

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

Situation at 31 December 1979

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

Type of case	Proceedings brought under											Proto- cols, Conven- tions Art. 220	Grand total ²
	Arts. 169 and 93	Art. 170	Art. 173				Art. 175	Art. 177			Art. 215		
			By govern- ments	By indi- viduals	By Com- munity- insti- tutions	Total		Validity	Inter- pre- tation	Total			
Cases brought	87	2	29	3	192	224	20	104	610	714	134	24	1 205
Cases not resulting in a judgment	18	1	4	—	18	22	—	2	27	29	10	2	82
Cases decided	45	1	21	3	151	175	17	98	502	600	92	17	947
In favour of applicant ³	39	1	5	1	42	48	—	—	—	—	—	—	88
Dismissed on the substance ⁴	6	—	15	2	76	93	2	—	—	—	84	—	185
Dismissed as inadmissible	—	—	1	—	33	34	15	—	—	—	8	—	57
Cases pending	24	—	4	—	23	27	3	4	81	85	32	5	176

¹ Excluding proceedings by staff and cases concerning the interpretation of the Protocol on Privileges and Immunities and of the Staff Regulations.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.

Cases brought since 1953 under the ECSC¹ Treaty and since 1958 under the EAEC Treaty

Situation at 31 December 1979

(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. 150 EAEC			
	ECSC	EAEC	ECSC	EAEC	ECSC	EAEC	Questions of validity	Questions of interpretation	ECSC	EAEC
Cases brought	20		2		277	2	—	3	297	7
Cases not resulting in a judgment	8		1		49	—	—	—	57	1
Cases decided	12		1		212	2	—	3	224	6
In favour of applicant ²	5		1		38	1			43	2
Dismissed on the substance ³	7		—		124	1			131	1
Dismissed as inadmissible	—		—		50	—			50	—
Cases pending	—		—		16	—	—	—	16	—

¹ Excluding proceedings by staff and cases concerning the interpretation of the Protocol on Privileges and Immunities and of the Staff Regulations.

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.

Further reading

- AKEHURST, M. — *Decisions of the Court of Justice of the European Communities during 1975-1976*. The British yearbook of international law, 1976-1977, 48th year/1978, pp. 397-411.
- BARAV, A. — *Some aspects of the preliminary rulings procedure in EEC law*. European law review, vol. 2/1977, No 1, pp. 3-14.
- BREDIMAS, A. — *Comparative law in the Court of Justice of the European Communities*. The yearbook of world affairs, vol. 32/1978, pp. 320-333.
- BREDIMAS, A. — *Methods of interpretation and Community law*. Amsterdam: North-Holland, 1978, European studies in law, vol. 6, pp. XVII-219.
- BRINKHORST, L.J. and SCHERMERS H.G. — *Judicial remedies in the European Communities. A case-book*. 2nd ed. Deventer: Kluwer, 1977, pp. XVI-352.
- BROWN, L.N. and JACOBS F.G. — *The Court of Justice of the European Communities*. London: Sweet & Maxwell, 1977, pp. XXIV-254.
- BYRNE, N.J. and GREAVES Rosa — *The Brussels Convention: Interpretative rulings on jurisdictional issues-I, II*. New law journal, vol. 129/1979, No 5903, pp. 469-470; No 5908, pp. 588 and 594.
- CANÇADO TRINDADE, A.A. — *Exhaustion of local remedies and the law of international organizations*. Revue de droit international, 57^e année/1979, No 2, pp. 81-123.
- CORNWELL-KELLY, Heather — *The Community concept of force majeure*. New law journal, vol. 129/1979, No 5894, pp. 245-246.
- DASHWOOD, A. — *The principle of direct effect in European Community law*. Journal of Common Market studies, vol. XVI/1978, No 3, pp. 229-245.
- DONNER, A.M. — *The constitutional powers of the Court of Justice of the European Communities*. Common Market law review, vol. 11/1974, No 2, pp. 127-140.
- EASSON, A.J. — *Can directives impose obligations on individuals?* European law review, vol. 4/1979, No 2, pp. 67-79.
- EDESON, W.R. and WOOLDRIDGE F. — *European Community law and fundamental human rights: some recent decisions of the European Court and national courts*. Legal issues of European integration, 1976, No 1, pp. 1-54.
- ELLES, N. — *Community law through the cases*. London: Stevens & Sons. New York: Matthew Bender, 1973, pp. XXVIII-411.
- EVERSEN, H.J., SPERL, H., USHER J.A. — *Compendium of case-law relating to the European Communities*. 1973 and ss. Amsterdam/Oxford: North-Holland publishing Co. New York: American Elsevier publishing Co., 1975.
- GRAY, Christine — *Interim measures of protection in the European Court*. European law review, vol. 4/1979, No 2, pp. 80-102.
- HACKER, R.D. — *New law journal, vol. 128/1978, No 5835, pp. 35-36*.

- HARDING, Christopher — *The choice of court problem in cases of non-contractual liability under EEC law*. Common Market law review, vol. 16/1979, No 3, pp. 389-406.
- JACOBS, F — *Jurisdiction and procedure in preliminary rulings*. European law review, vol. 1/1976, No 5, pp. 391-399.
- JACOBS, F. — *Which courts and tribunals are bound to refer to the European Court?*. European law review, vol. 2/1977, No 2, pp. 119-121.
- JACOBS, F.G. and DURAND A. — *European Court: references for preliminary rulings*. Atkin's court forms, 2nd Ed./1975, vol. 17, pp. 145-260.
- JOUTSAMO, Kari — *The role of preliminary rulings in the European Communities*. Helsinki: The Finnish Academy of Science and Letters, 1979, pp. XXIII-337.
- MACKEY, Angus J.V. — *Case-law of the Court of Justice of the European Communities: current trends*. Journal of the law society of Scotland, vol. 24/1979, No 3, pp. 112-114; No 4, pp. 148-150.
- MACKENZIE STUART, A.J. — *The European Communities and the rules of law*. London: Stevens, 1977, pp. XII-125.
- The function of the European Court in the framework of the Community*. International bar journal, 1979, pp. 12-14.
- MANN, C.J. — *The function of judicial decision in European economic integration*. The Hague: Nijhoff, 1972, pp. XVI-567.
- MYLES, G. — *The Court of Justice of the European Communities*. Dublin: The Northern Ireland Solicitors' European Group, 1978, pp. 36.
- OLIVIER, Peter — *Publication and notification of the EEC legislation*. New law Journal, vol. 129/1979, No 5894, pp. 243-245.
- SCHERMERS, H.G. — *Judicial protection in the European Communities*. Deventer: Kluwer, 1976, pp. XVIII-406.
- The role of the European Court of Justice in the harmonization and unification of European law*. Leyden: Sijthoff, 1976, International economic and trade law, Universal and regional integration, pp. 3-11.
- TOMUSCHAT, Ch. — *International courts and tribunals with regionally restricted and/or specialized jurisdiction*. Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, 1974, Bd. 62, pp. 285-416.
- USHER, J. — *The interpretation of Community law by the European Court of Justice*. The law teacher, Journal of the association of law teachers, vol. 11/1977, No 3, pp. 162-177.
- Presenting a case before the European Court*. European law review, vol. 1/1976, No 2, pp. 109-113.
- VALIDA, Christopher — *Some aspects of judicial review within the common agricultural policy*. European law review, vol. 4/1979, No 4, pp. 244-261, No 5, pp. 341-355.
- WALLACE, Rebecca M.N. — *The freedom to provide services: recent case-law*. New law journal, vol. 129/1979, No 5899, pp. 367-368.

WOOLDRIDGE, Frank — *Some recent decisions concerning the ambit of Article 37 of the EEC treaty*. Legal issues of European integration, 1979, No 1, pp. 105-121.

La jurisprudence européenne après vingt ans d'expérience communautaire. VI^e congrès international de droit européen du 24 au 26 mai 1973 à Luxembourg organisé par la FIDE. Köln/Berlin/Bonn/München: Heymanns Verlag, 1976, pp. IL-1132.

Leading cases and materials on the law of the European Communities. Kluwer, 1977, pp. XVII-379.

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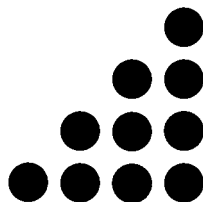
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