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*(Information)*

## COMMISSION

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**on monitoring the application of Community law**

**(1999)**

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Each year the European Commission draws up a report on the monitoring of the application of Community law, in response to requests made by the European Parliament (resolution of 9 February 1983) and the Member States (point 2 of declaration No 19 annexed to the Treaty signed at Maastricht on 7 February 1992). The report also responds to the requests expressed by the European Council or the Council in relation to specific sectors.

## 1. INTRODUCTION

Monitoring the application of Community law is a primary task assigned to the Commission by Article 211 of the Treaty establishing the European Community. The main tools used by the Commission to accomplish this task are the infringement procedure provided for by Article 226 of the Treaty and the second referral to the Court of Justice provided for by Article 228 of the Treaty. These two procedures form the subject of this report.

The Commission's activities during the year are highlighted below, in the following sections:

- a statistical overview of the various stages involved in monitoring the application of Community law, comparing the 1999 figures with last year's (point 1.1),
- the transposal of Community directives by the Member States, an important element in the application of Community law (point 1.2),
- a graphical overview showing, by Member State, all the infringement procedures commenced or handled by the Commission during the year (point 1.3), and
- an overview of the application of the penalty mechanism provided for in Article 228 of the Treaty (point 1.4).

### 1.1. Statistics for 1999

The statistics relating to the monitoring of the application of Community law in 1999 reflect both the importance attributed by citizens to this task and the Commission's unwavering commitment to its role as guardian of the Community legal order:

- the number of complaints received by the Commission continued to rise, increasing by 16 % from 1 128 in 1998 to 1 305 in 1999. The Commission also continued to be

very active in detecting cases of non-conformity itself, with 288 cases detected by the Commission in 1999, including 16 resulting from parliamentary questions and the resulting from petitions. Many of these cases relate to the non-conformity of national measures implementing directives or the incorrect application of such measures:

- 1 075 letters of formal notice were issued in 1999, similar to the figure of 1 101 in 1998. It should be emphasised that the number relating to non-notification of national implementing measures rose (706 in 1999 compared with 615 in 1998) while the number relating to non-conformity of national implementing measures or incorrect application of the directives fell (from 486 in 1998 to 369 in 1999). There is no obvious, or at any rate no proven, causal link. The Commission is aiming to monitor systematically the conformity of national legislation with Community legislation, and more specifically with the directives, so that it can take action as far as possible before individual complaints are received. Such systematic monitoring will be greatly helped by the enhanced role of the letter of formal notice in the infringement procedure, following the various improvements introduced by the Commission into its system for handling infringement procedures since 1996. The letter of formal notice must be used for its true purpose, i.e. purely as a means of requesting information and in no way expressing the Commission's legal position, the latter being fixed by the reasoned opinion,

- the number of reasoned opinions issued in 1999 fell by 32 %, from 675 in 1998 to 460 in 1999. This basically reflects a return to normal after the special effort made in 1998 to reduce the delays in implementing this type of Commission decision,

- the number of cases referred to the Court of Justice rose to 178 in 1999, compared with 123 in 1998. The number of referrals to the Court remains low in comparison with the number of letters of formal notice issued (16,5 %), which indicates the efficacy of the pre-litigation procedure. The increase in the number of referrals to Court reflects the faster handling of infringement proceedings, which continues to improve,
- the speed of handling cases continued to rise in 1999: 529 of the 722 letters of formal notice sent to Member States in 1999 related to infringement procedures commenced in the course of the year, i.e. 73 % as against 48 % in 1998. There was also a substantial speed improvement for reasoned opinions, with 26 % of the reasoned opinions issued in 1999 relating to procedures commenced in 1999, as against 19 % in 1998,
- at the same time, the number of termination decisions fell slightly (by 3,2 %), from 1 961 in 1998 to 1 900 in 1999. Nevertheless, this is still a large number of cases resolved with regard to the application of Community law,
- finally, the Commission continued with its policy of transparency in 1999, issuing 221 press releases about infringement proceedings. And of course a press release will often cover several separate infringement proceedings.

These few statistics demonstrate that infringement proceedings are being handled more efficiently than ever, no doubt due to the Commission's latest administrative reforms in this field.

## 1.2. Transposal of directives in 1999

The table below gives an overall picture of the rate of notification of national measures implementing all the directives applicable on 31 December 1999.

On 31 December 1999 the Member States had on average notified 94,53 % of the national measures needed to implement the directives. This is slightly down on the 1998 figure of 95,70 %. This rate of transposal shows that the Member States need to make a greater effort. Although, in absolute terms, an average delay in transposal of less than 6 % of the directives applicable is not highly significant, it has important consequences for the functioning of an integrated economic area and covers obvious infringement situations, differing in seriousness from one Member State to another. The Commission therefore has a duty here to ask Member States to improve their implementation of Community directives.

Member State	Number of directives applicable on 31 December 1999	Number of directives for which implementing measures have been notified	Percentage notification rate on 31 December 1999	Percentage notification rate on 31 December 1998
Denmark	1 499	1 456	97,13	98,21
Spain	1 502	1 449	96,47	97,39
Netherlands	1 505	1 447	96,15	96,64
Finland	1 498	1 436	95,86	97,11
Sweden	1 500	1 437	95,80	97,04
Germany	1 507	1 439	95,49	96,71
United Kingdom	1 504	1 435	95,41	96,36
Austria	1 501	1 425	94,94	95,00
Belgium	1 505	1 428	94,88	94,72
Italy	1 504	1 416	94,15	93,62
Ireland	1 499	1 411	94,13	95,52
France	1 505	1 412	93,82	94,44
Portugal	1 507	1 407	93,36	94,80
Luxembourg	1 503	1 402	93,28	94,17
Greece	1 503	1 383	92,02	93,82
Total or EC average	1 508	1 426	94,53	95,70

Compared with 1998, the figures for 1999 show that some progress has been made in some areas: Italy, for example, has jumped five places in the transposal rate ranking thanks to its efforts in 1999.

At the opposite extreme, in contrast, the transposal rate achieved by Greece continues to give cause for concern (falling from 93,82 % in 1998 to 92,02 % in 1999).

All the other Member States managed a slightly lower transposal rate in 1999 than in 1998.

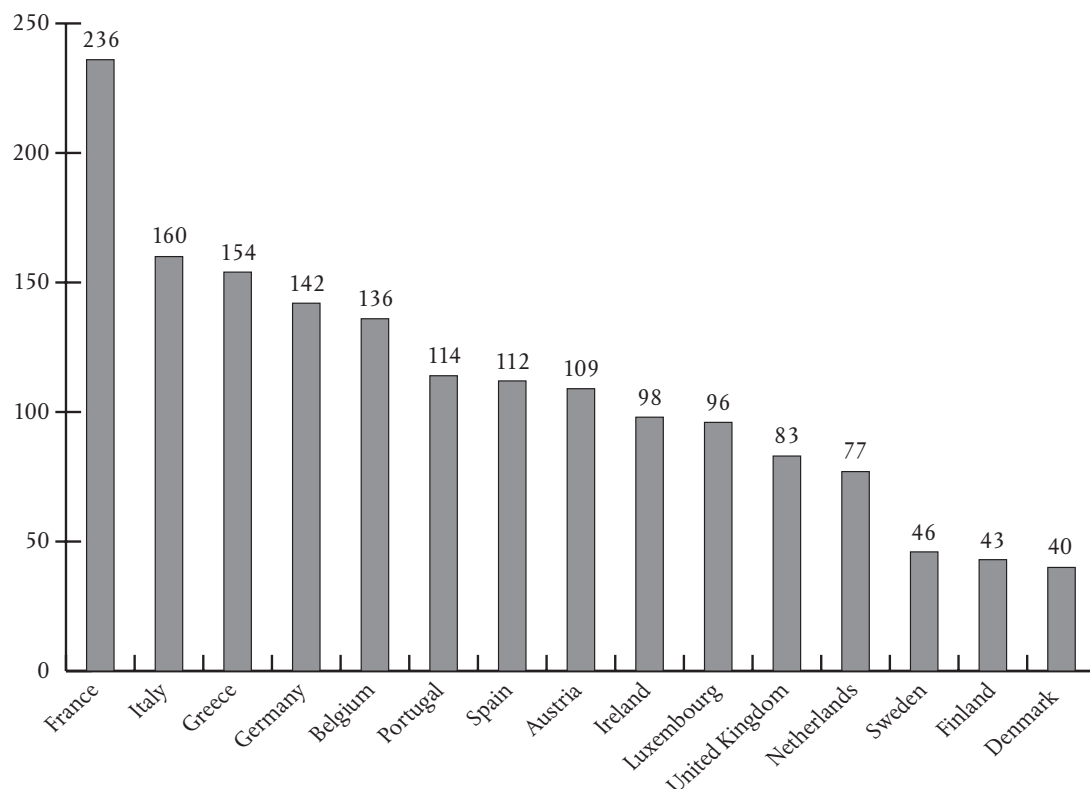
The summary table at the end of Part 1 of Annex IV to this report shows the detailed transposal rate for each Member State and each sector in 1999.

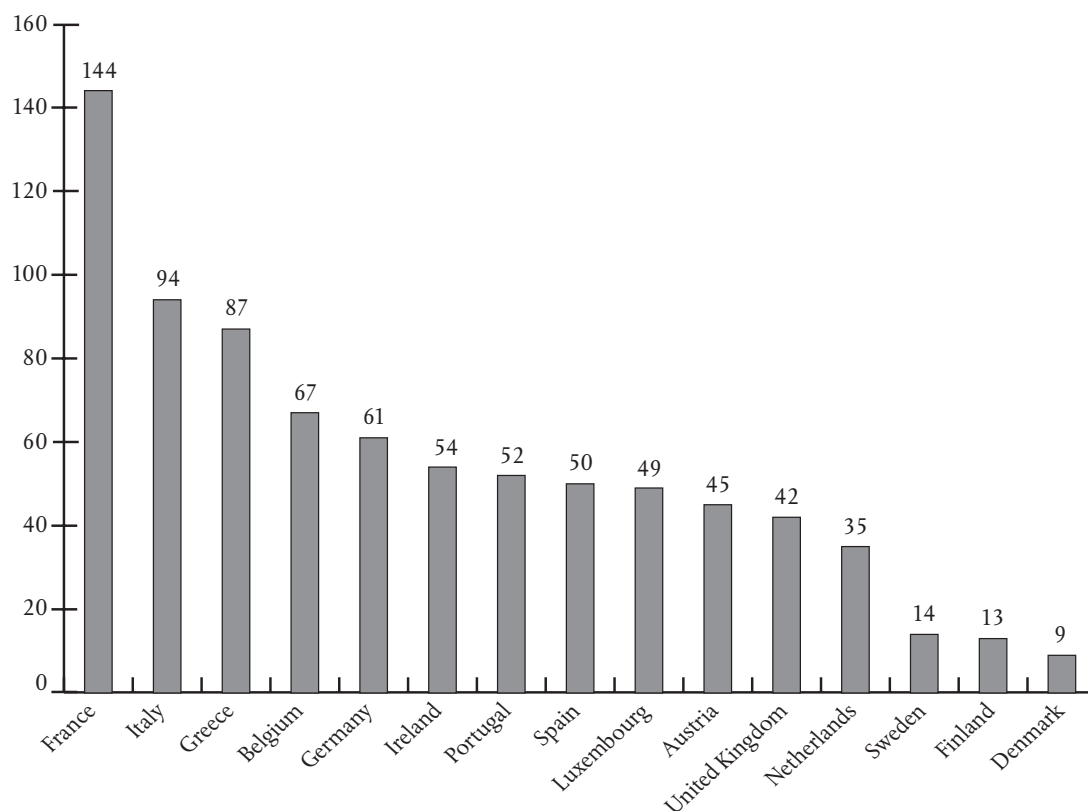
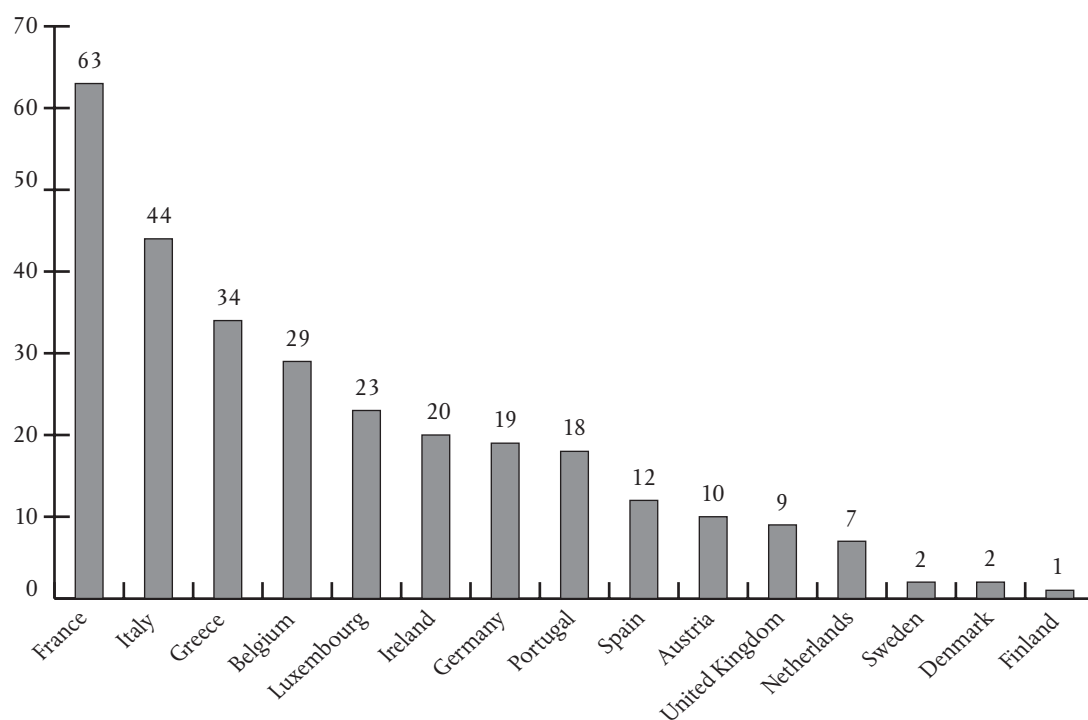
### 1.3. Graphical overview of all the infringement proceedings commenced or handled by the Commission during 1999

The three tables below show the numbers of infringement proceedings in motion on 31 December 1999, at the three separate stages: letter of formal notice, reasoned opinion and referral to the Court of Justice. One Member State heads all three infringement tables, in every case well clear of the runner-up. It should also be noted that this same Member State is the one against which the largest number of complaints was lodged in 1999 (225 out of 1 305, or 17 % of the total).

The tables also show the same three Member States (France, Italy and Greece) occupying the first three positions at all three procedural stages, while the position occupied by other Member States recedes significantly as the procedure advances, which would seem to indicate greater efficacy in applying Community law before the Commission is reduced to referring the case to the Court of Justice.

Cases in motion on 31 December 1999 at the letter of formal notice stage, by Member State



**Cases in motion on 31 December 1999 at the reasoned opinion stage, by Member State****Cases in motion on 31 December 1999 before the Court of Justice, by Member State**



#### 1.4. Application by the Commission of Article 228 of the EC Treaty (developments in 1999)

In 1999 the Commission adopted four decisions to refer cases to the Court of Justice for a second time with requests for imposition of a penalty payment. These four cases were against Belgium, Greece, France and Luxembourg. All concern social affairs legislation (whereas the 1998 second-referral decisions mainly concerned environmental legislation). One of these four cases (France: night work by women) was actually brought before the Court in 1999, and the other three referrals were still being prepared on 31 December 1999.

Four other cases were before the Court on 31 December 1999, three against Greece and one against France.

Finally, in 1999 the Commission found itself able to terminate four other cases (against Greece, France, Italy and Luxembourg) which it had decided to refer to the Court with a request for a penalty payment, but which it had not actually got as far as referring to the Court.

These facts confirm that the penalty system introduced by the Maastricht Treaty has a dissuasive effect: the Court has not so far had to impose any penalties for non-compliance with its judgments, since Member States normally come into line with Community law as soon as the case is referred to the Court for a second time or even before the Commission has gone through with its decision to involve the Court.

Member State	Subject	Date of decision to refer the case to the Court, or date of actual referral	Stage of proceedings on 31 December 1999	Penalty demanded by the Commission (EUR/day)
Belgium	Funding of students. Discrimination based on nationality	Decision to refer: December 1999	Referral in preparation	43 400
Greece	Recognition of diplomas	Referral: May 1998	Before the Court	41 000
	Public service contracts	Decision to refer: June 1998	Terminated in December 1999	39 975
	Access to public-sector jobs	Decision to refer: July 1999	Application not yet presented	57 400
France	Waste — Dumping in Crete	Referral: June 1997	Before the Court	24 600
	Wild birds Directive	Referral: October 1998	Terminated in December 1999	105 500
	Night work by women	Referral: April 1999	Before the Court	142 425
Italy	Treatment of wastewater	Decision to refer: December 1998	Terminated in July 1999	185 850
Luxembourg	Access to public-sector jobs	Decision to refer: December 1998	Terminated in July 1999	14 000
	Medical treatment on board vessels	Decision to refer: December 1999	Referral in preparation	6 000

## 2. SITUATION SECTOR-BY-SECTOR

### 2.1. Internal market

#### 2.1.1. *General strategy for the internal market*

In its communication of 18 February 1999<sup>(1)</sup>, the Commission evaluated the implementation of its Action Plan<sup>(2)</sup> which expired on 31 December 1998. Judging by the results, it has been a success; in most (but not all) cases, the given aims have been achieved. Three of the four proposals for legislation regarded as essential to the creation of the legislative framework have been adopted. The discussions concerning taxes have also been given fresh impetus. In addition, the Commission and the Member States have during the course of the Action Plan made progress towards more effective enforcement of legislation and an improved legislative framework.

In November 1999, the single market scoreboard showed that the Member States had made progress in transposing directives relating to the internal market. The percentage of directives not yet transposed in one or more Member States fell by half within two years and is now around the 12 % mark. The non-transposal rate for each Member State also dropped significantly: only five Member States still have a rate more than 5 %.

In a communication dated 24 November<sup>(3)</sup> the Commission presented its 'Strategy for the internal market' which set out its strategic aims for the next five years (2000 to 2004): to improve the quality of life of European citizens, to enhance the efficiency of Community product and capital markets, to improve the business environment, and to exploit the achievements of the internal market in a changing world. A series of operational objectives has also been defined, with each covering a particular policy dimension that contributes to the achievement of one or more strategic objectives. In order to achieve these operational objectives, short-term priorities are identified as 'target actions'.

The target actions to improve the effectiveness of the legal framework include steps by the Member States to reduce their rate of non-transposal to less than 1,5 % by the end of 2000, and the launch of a pilot project offering Community support for national initiatives in the field of administrative cooperation. This pilot project takes over from the KAROLUS programme for the exchange of officials, which expired at the end of 1999.

Simpler and better-quality legislation are still among the most important political priorities. On 25 February<sup>(4)</sup>, the Commission presented its recommendations, drawn up during the third phase of the SLIM initiative, concerning legislation in the field of insurance, coordination of social security schemes and the directive on electromagnetic compatibility. The phase four teams have completed their work and drawn up recommendations for simplifying Community legislation in the fields of company law, the classification, packaging and labelling of hazardous substances, and pre-packaging. The business test panel set up under a pilot project in 1998 has been consulted in connection with the proposal for a directive on electrical and electronic equipment wastes.

Finally, the dialogue with citizens and business launched at the Cardiff European Council provides information, via the telephone and Internet, on how to exercise the rights conferred by Community law. It also provides feedback on the problems encountered in doing so and thus enables specific conclusions to be drawn for improving the workings of the internal market. A business website (<http://europa.eu.int/business>) was set up in December 1998 as part of the dialogue with business and provides ready access to a wide range of useful information on doing business in the single market.

#### 2.1.2. *Free movement of persons and citizenship of the Union*

##### 2.1.2.1. *Entry and residence*

On 17 March 1999, the Commission submitted a report to the Council and the European Parliament on implementation of Directives 90/364/EEC, 90/365/EEC and 93/96/EC (right of residence)<sup>(5)</sup>. This report looks at how the three Directives have been applied to the right of residence of students, pensioners and other persons not in employment.

On 19 July 1999, the Commission submitted a communication to the Council and the European Parliament on the special measures concerning the movement and residence of citizens of the Union which are justified on grounds of public policy, public security or public health (Directive 64/221/EEC)<sup>(6)</sup>, in which it drew attention to some of the main difficulties involved in implementing the Directive and provided general guidelines and information on how these difficulties can be tackled.

(1) Communication from the Commission to the Council and the European Parliament — Assessment of the Single Market Action Plan. June 1997 — December 1998; COM (99) 74, 18 February 1999.

(2) Communication from the Commission to the Council — Action Plan for the Single Market: CSE (97) 1 final. 14 June 1997.

(3) Communication from the Commission to the European Parliament and the Council — The Strategy for Europe's Internal Market: COM (1999) 624 final, 24 November 1999.

(4) Report from the Commission to the Council and the European Parliament — Results of the third phase of SLIM and follow-up of the implementation of the recommendations of the first and second phases: COM(1999) 88, 25 February 1999.

(5) COM(1999) 127 final.

(6) COM(1999) 372 final.

### 2.1.2.2. Right to vote and stand in elections

Belgium passed legislation transposing Directive 94/80/EC on 27 January 1999, which means that this Directive has now been transposed by all the Member States.

On 30 July 1999, the Commission sent a reasoned opinion to Germany regarding its failure to properly transpose Directive 93/109/EC. The German transposal legislation requires EU citizens resident in Germany to apply for inclusion on the electoral list before each European Parliament election — a requirement which contravenes Articles 9(4) of the Directive.

The Commission issued to Germany on 30 July two reasoned opinions concerning the failure of two *Länder*, Bavaria and Saxony, to properly transpose Directive 94/80/EC. The transposal legislation passed by these two *Länder* requires EU citizens resident in Germany to apply for inclusion on the electoral list before each municipal election; this constitutes an infringement of Article 8(3) of the Directive.

On 11 August 1999, the Commission issued a reasoned opinion to Greece because of its failure to properly transpose Directive 94/80/EC. The Commission drew attention to a number of points on which Greek legislation does not comply with the Directive, in particular the rule whereby persons are only entitled to vote if they have knowledge of the Greek language and have been resident in Greece for at least two years.

### 2.1.2.3. Regulated professions

#### Court of Justice decisions

In its preliminary Judgment in Case C-234/97 *Fernández de Bobadilla v Prado Museum* <sup>(1)</sup>, the Court looked in detail at the concept of 'regulated professions' within the meaning of Council Directives 89/48/EEC and 92/51/EEC on a general system for the recognition of higher-education diplomas. One particular point that emerges from this Judgment is that provisions of a collective agreement regulating, in general terms, access to or the pursuit of a profession are likely to constitute laws, regulations or administrative provisions for regulating a profession as referred to in Article 1(d) of Directive 89/48/EEC and Article 1(f) of Directive 92/51/EEC — especially when this is the result of a unified administrative policy laid down at national level.

#### Non-compliance with Judgments of the Court

With regard to the infringement proceedings instituted under Article 228 of the EC Treaty (failure to comply with a Judgment

of the Court), it should be mentioned that the two sets of proceedings against Italy and France concerning the freedom of tourist guides to provide services Judgments given on 26 February 1991 in Cases C-180/89 <sup>(2)</sup> and C-154/89 <sup>(3)</sup>) have both been dropped. Italy has adopted national implementing measures and notified the Commission accordingly, and in France the draft decree previously notified to the Commission has been adopted.

Following the second referral to the Court, with a request for a financial penalty, of the case concerning Greece's failure to notify measures transposing Directive 89/48/EEC (first general system for the recognition of higher-education diplomas) (cf. Court judgment of 23 March 1995 in Case C-365/93 <sup>(4)</sup>), proceedings are still pending (Case C-98/197).

As regards other judgments of the Court not yet implemented, mention should be made of the judgment issued on 22 March 1994 (Case C-375/92 <sup>(5)</sup>), against Spain concerning the freedom of tourist guides to provide services, scrutiny of the new decrees on the exercise of that profession adopted by the Autonomous Communities in cooperation with the Spanish authorities revealed that some amendments still need to be made to certain regional laws. The Commission is waiting for amended provisions to be adopted.

#### Cases pending before the Court of Justice

The Commission has referred the following cases to the Court:

- a case against Spain concerning the conditions for acquiring Spanish diplomas for specialist doctors (Article 8 of Directive 93/16/EEC on the free movement of doctors and the mutual recognition of their diplomas),
- a case against France concerning non-recognition of qualifications obtained in other Member States by divers for high-pressure environments, even though this occupation is covered by Directive 92/51/EEC, which supplements the general system for the recognition of professional education and training,
- a case against Italy concerning the provision of services by lawyers and the establishment of legal practices: firstly, Italian legislation restricts the opening of a legal practice in Italy, which is in contravention of the judgment given by the Court in Case C-55/94 *Gebhard* <sup>(6)</sup>, and secondly, Directive 89/48/EEC (first general system for the recognition of higher-education diplomas) has not been fully transposed in relation to the legal profession.

<sup>(2)</sup> Judgment of 26 February 1991, ECR I-709.

<sup>(3)</sup> Judgment of 26 February 1991, ECR I-659.

<sup>(4)</sup> Judgment of 23 March 1995, ECR I-499.

<sup>(5)</sup> Judgment of 22 March 1994, ECR I-923.

<sup>(6)</sup> Judgment of 30 November 1995, ECR I-4165.

<sup>(1)</sup> Judgment of 8 July 1999, not yet reported.

It should also be mentioned that in Case C-98/259 against Germany concerning access to the dental profession (Council Directives 78/686/EEC and 78/687/EEC) and particularly admission to the social security register of Community nationals, the Commission has discontinued proceedings following notification from Germany of legislation putting an end to this infringement.

### **National implementing measures**

The Commission has decided to bring a case before the Court of Justice against Greece for its failure to give notification of measures to implement Commission Directive 97/38/EC amending Directive 92/51/EEC.

In 1999, proceedings were instituted against some Member States for failure to give notification of measures to transpose Commission Directives 98/21/EC and 98/63/EC updating the lists of medical specialisations in Council Directive 93/16/EEC on the free movement of doctors and the mutual recognition of their diplomas: following notification of implementing measures, proceedings, against Germany, Greece, Spain, Italy, Luxembourg, Austria, Finland and the United Kingdom concerning Directive 98/21/EC were discontinued, as were the proceedings against Belgium, France, Italy, Austria and Sweden concerning Directive 98/63/EC. The Commission decided in connection with Directive 98/21/EC to bring cases before the Court of Justice against Ireland, the Netherlands and Portugal. A reasoned opinion has been sent to Spain, Ireland, the Netherlands and Portugal concerning Directive 98/63/EC.

In 1999, proceedings against Austria were instituted and set aside in connection with Council Directives 78/686/EEC and 78/687/EEC (mutual recognition of dentists' diplomas and coordination of their training), with respect to which Austria had been granted an additional deadline until 31 December 1998 for their transposal.

### **Incorrect transposal and incorrect application of directives**

In 1999 the Commission received around 20 complaints concerning restrictions in breach of Articles 43 and 49 of the EC Treaty and directives on the mutual recognition of professional qualifications. Some of these complaints gave rise to infringement proceedings, while others were shelved as unfounded.

A number of proceedings already in motion against Member States for incorrect transposal or incorrect application of directives were continued. Examples include the case against Spain concerning the duration of the training of nurses responsible for general care, in which the Spanish authorities' response to the reasoned opinion is still being examined.

In 1999, the Commission issued a reasoned opinion to Belgium concerning the conditions imposed on the provision of architectural services: the existing procedure in Belgium is too slow, cumbersome and expensive, and contravenes Council Directive 85/384/EEC (on the mutual recognition of architects' diplomas), in addition to which excessive use is made of the rule stating that the professions of architect and building contractor are incompatible.

The Commission also sent a reasoned opinion to Austria regarding conditions for the allocation of posts as panel doctors, this is because of the discriminatory nature of the points scheme set up by the provinces (which favours persons born in the province concerned, as well as their descendants).

Finally, with respect to the case against Spain concerning the conditions of recognition of dentists' diplomas obtained in Latin America (proceedings mentioned in previous reports), referral to the Court of Justice is still suspended. The renegotiations initiated by the Spanish authorities with a view to amending the clauses of international agreements on recognition of higher-education qualifications are still going on.

### **Dialogue with the national authorities**

As a means of consolidating administrative cooperation and resolving problems quickly, the Commission in 1999 maintained regular contacts with the national authorities through the group of coordinators for Directives 89/48/EEC and 92/51/EEC (general system for the recognition of diplomas) and committees of high-level officials (on public health, for example).

#### *2.1.2.4. Independent commercial agents*

As regards the infringement proceedings instituted against Italy for failure to fully transpose Directive 86/653/EEC, which were mentioned in the previous report, Italy amended its legislation on 15 April 1999, which brought it into line with the Commission's observations. The proceedings were therefore discontinued.

### **2.1.3. Free movement of goods**

#### *2.1.3.1. Articles 28 et seq. of the EC Treaty (ex Articles 30 et seq. of the EC Treaty)*

The volume of cases challenging State measures likely to create obstacles to trade remains significant, although statistics show that this volume has remained unchanged over the last three years. In 1999, the number of new cases opened by the Commission rose to 257, of which around 100 were concerned with a single matter (the dioxin crisis). As at 31 December 1999, there were 345 infringement cases pending.



In 1999, the litigation surrounding the free movement of goods tended to involve the same complexity as in previous years. The technical and legal complexity of the cases means that the Commission is continuing to emphasise methods of solving these problems that are based on close collaboration with the national authorities. In this spirit, the Community is focusing on package meetings as a framework where an open, informal discussion can achieve rapid solutions to the barriers exposed by operators. In 1999, these meetings took place with all the Member States except Luxembourg and the Netherlands. In general, the success rate of these meetings is high: of all the cases examined, around 50 % have been settled, either during the meeting or by the adoption of a measure by the Member State following a commitment made during the meeting. Although the number of disputed cases increased over the last year, they still account for only a small percentage (15 %) of the cases discussed.

The practice of bringing together once a year the chairmen of the national delegations participating the package meetings was retained in 1999, with the meeting taking place in February. At this and the various other package meetings held in 1999, attention was focused on the need to apply mutual recognition arrangements more effectively, since this would offer a simple solution to a large proportion of the cases recently referred to the Commission (problems of mutual recognition for detergents containing bleach, steel profiles, rubber products, etc.). In this respect, the package meetings have provided a framework for seminars on mutual recognition for the benefit of both centralised and decentralised national authorities responsible for its enforcement.

Prime among the sectors in which Community action was most called for in 1999 was the foodstuffs industry; this was because of the large number of complaints from Belgian operators affected by the restrictions imposed by the other Member States in response to the dioxin crisis. Given that this situation is of a transitory nature, the motor industry still accounts for the largest number of cases. Although the Commission managed in 1998 to solve problems with France, Portugal and Germany, 1999 saw new problems emerge involving Spain in particular. The competent national authorities have now simplified the registration procedure for cars and motorcycles imported by individuals.

As in previous years, the Commission has frequently received complaints from operators concerning the marketing of food supplements, as well as food products enriched with vitamins and nutrients. Parallel imports of pesticides and pharmaceutical products, and the criteria for setting the prices of the latter, are other fields where intervention by the Commission continues to be called for by Community operators.

The following cases were referred to the Court of Justice by the Commission in 1999:

- a case against France concerning the marketing of food products enriched with vitamins and supplements being made subject to a protracted and costly authorisation procedure; a case against Germany and Austria concerning the automatic classification of vitamin-enriched food supplements as medicines when a given threshold is exceeded; and a case against Belgium concerning the obligation to affix an identification number, by unit of product, on food supplements (nutrients),
- a case against France concerning the failure to include a clause of mutual recognition in rules governing rubber products, and a case concerning the non-recognition, under rules relating to precious metals, of sponsors' marks and fineness marks denoting a fineness of 999 parts per thousand used in other Member States.

The Commission decided to refer the following cases to the Court in 1999:

- cases against Italy and Spain concerning the banning of the sale of chocolate containing fats other than cocoa butter.

During the year, the Commission also sent reasoned opinions to Austria (import of medicines, health labelling of foodstuffs), France (parallel imports of medicines), Italy (import and export of unrefined gold) and Greece (marking requirements for ceramic tiles, target price of non-alcoholic beverages, registration of imported heavy goods vehicles).

As regards judgments of the Court of Justice, a number of preliminary rulings tying in with cases of infringement being dealt with the Commission should be mentioned:

- judgment of 3 June 1999 in Case C-33/97 *Colim NV*<sup>(1)</sup>, in which the Court ruled that a Member State may not, on the basis of a language requirement, prevent the sale of a product legally offered for sale in another Member State if consumers are fully informed by means of the product's elements of labelling (such as drawings, symbols or pictograms),
- judgment of 11 March 1999 in Case C-100/96 *British Agrochemicals*<sup>(2)</sup> in which the Court stated that a phytopharmaceutical product imported from another EU Member State or member country of the EEA and covered by a marketing authorisation in the country concerned, and which may be regarded as identical to a product covered by a marketing authorisation granted by the importing country in accordance with Community law, may not be made subject to further authorisation.

<sup>(1)</sup> Not yet reported.

<sup>(2)</sup> [1999] ECR I-1499.

Finally, the Commission welcomes the gradual start-up of the transparency instrument introduced by Parliament and Council Decision No 3052/95/EC, pursuant to which the Member States are required to notify the Commission of the national measures constituting exceptions to the principle of the free movement of goods. During 1999, notification was given for only 26 national measures, most of which related to the sale of medical equipment and electrical appliances.

#### 2.1.3.2. Preventive rules provided for by Directive 98/34/EC<sup>(1)</sup> (formerly 83/189/EEC)

The notification procedure introduced by Directive 98/34/EC is an essential tool for preventing barriers to trade from being raised and for sharing information. The Directive obliges Member States to submit to the Commission, and to each other, their drafts of new technical regulations for monitoring of compliance with internal market rules before they are finally adopted. This procedure was previously concerned only with products, but was extended on 5 August 1999 to include information society services. The aim of Directive 98/48/EEC, amending Directive 98/34/EC, is to guarantee a solid, transparent and consistent regulatory framework by making national initiatives for legislation specifically concerned with information society services subject to the same consultation arrangements between the Commission and the Member States as have proved successful with regard to goods.

In 1999, the Commission received 591 drafts of technical regulations (including 13 relating to rules on information society services) which were scrutinised by the relevant departments. This compares with 900 for 1997<sup>(2)</sup> and 604 for 1998<sup>(3)</sup>. These figures show that, in spite of the completion of the internal market, the Member States continue to adopt a great many technical regulations, which could undermine the single market and the integrity of the benefits it has brought to all sectors of the economy.

Of the 591 drafts received by the Commission in 1999, 44<sup>(4)</sup> required a detailed opinion recommending changes to the

planned measure in order to eliminate any unjustified barriers to the free movement of information-society goods or services which might arise as a result. The Member States, for their part, issued 97<sup>(4)</sup>, detailed opinions. In one case<sup>(5)</sup>, measures were postponed for a year because a draft directive on the field in question is already before the Council<sup>(6)</sup>.

Since 1989 the Commission has been monitoring compliance with the notification requirement by routinely scrutinising the official gazettes of all the Member States. When it discovers a breach of Directive 98/34/EC, the Commission starts a dialogue with the Member State concerned in order to rectify the situation, or even commences infringement proceedings under Article 226 of the EC Treaty. At the end of 1999, preparatory work was under way on around 15 procedures of this type.

Furthermore, on 11 May 1999, the Court of Justice clarified, as part of a preliminary ruling in Cases C-425/97 to C-427/97 (Albers), the scope of the exemption from the notification requirement applying to measures transposing Community acts: a measure which, among other things, prohibits a given substance from being administered to bovine animals in order to meet the requirements of a Community directive is deemed to be a technical regulation if it is of a mandatory nature. However, the State which adopted it is exempted by Article 10 of the Directive from the requirement that it notify the Commission.

On 3 June 1999, the Court also provided clarification in Case C-33/97 (Colim) regarding the concept of the technical regulation and the conditions under which a measure replacing an already existing technical regulation is subject to notification requirements. A national measure which, without laying down any new or additional specifications, reproduces or replaces technical regulations already in place and (if adopted after the entry into force of Directive 83/189/EEC) duly notified to the Commission, should not be regarded as a draft technical regulation nor, therefore, as being subject to notification. The Court also stated in this judgment that language requirements relating to labelling, instructions for use and the guarantee certificate might, even though they do not constitute technical regulations within the meaning of the Directive, give rise to barriers to trade within the Community.

#### 2.1.3.3. Harmonised legislation

Questions on agricultural products are dealt with in point 2.13.2.

<sup>(1)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37); this directive consolidates and repeals Directive 83/189/EEC and its subsequent amendments, and was amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 which extends the information procedure to the rules on information society services (OJ L 217 p. 18).

<sup>(2)</sup> Statistics on the regulations notified in 1997 are published in OJ C 281, 10.9.1998, p. 3.

<sup>(3)</sup> Statistics on the regulations notified in 1998 are published in OJ C 228, 11.8.1999, p. 7.

<sup>(4)</sup> As at 31 December 1999. The time-limit for issuing detailed opinions on draft regulations reported in 1999 ends on 31 March 2000.

<sup>(5)</sup> As at 31 December 1999. The time-limit for notifying Member States of requests for postponements of 1999 notifications ends on 31 March 2000.

<sup>(6)</sup> Proposal for a Directive of the European Parliament and of the Council on electronic commerce in the internal market.

#### 2.1.3.3.1. Foodstuffs

In general, the Member States are adopting national measures to implement the Directives on foodstuffs, but not always strictly within the time-limits laid down in the Directives.

A considerable number of implementing measures were notified to the Commission in 1999. Sixty-six infringement cases for failure to report measures were closed before the end of the year. During 1999, the Commission sent letters of formal notice in 47 cases. At the same time, four opinions were sent and the Commission referred three cases to the Court of Justice.

In response to the failure to properly implement directives and regulations on foodstuffs, the Commission decided to send two letters of formal notice and closed two cases. At the same time, four complaints were lodged and are still being processed.

#### 2.1.3.3.2. Pharmaceutical products

During 1999, almost all the implementing measures still requiring notification were reported to the Commission. Fourteen of Member States have now transposed all directives relating to the pharmaceuticals sector. Only France still has to complete this process.

As in previous years, certain general problems also remain concerning the interpretation and application of the pharmaceuticals Directives by Member States. These cases concern mainly the different interpretations given by Member States to the term 'medicinal product' (sometimes resulting in barriers to the free movement of goods) and complaints concerning the alleged failure by the competent national authorities to observe the provisions of the transparency Directive (89/105/EEC). The transposal of Article 4(8)(a)(i) to (iii) of Directive 65/65/EEC by Member States and the management of the re-authorisation of 'old' medicinal products are also the subject of ongoing infringement proceedings. The Commission is carefully considering these problems and complaints. It should be stressed that a draft consolidation of the legislation on pharmaceuticals (both human and veterinary) is already very advanced (the Commission officially submitted a proposal to the Council and the European Parliament in 1999), and that this consolidation will increase the clarity of the legislation and ultimately the effectiveness of its implementation.

#### 2.1.3.3.3. Chemicals

In the chemicals sectors, 40 infringement cases for failure to report measures were closed in 1999. These were concerned with the classification, packaging and labelling of dangerous preparations (Directive 96/65/EC), restrictions on the marketing of dangerous substances and preparations (Directives 91/338/EEC, 94/60/EC, 96/55/EC, 97/10/EC, 97/16/EC,

97/56/EC and 97/64/EC) and of fertilisers (Directives 93/69/EEC, 96/28/EC, 97/63/EC and 98/3/EC). After six reasoned opinions were sent with regard to the directives for which the deadline for transposal had expired in 1998 (Directives 97/56/EC, 97/64/EC and 98/3/EC), most of the Member States transposed the legislation.

There is still a total of nine infringement proceedings under way for failure to give notification of transposal measures. Most of these cases have been brought before the Court of Justice, and relate principally to restrictions on the marketing of dangerous substances (Directive 97/56/EC), as well as the classification, packaging and labelling of dangerous preparations (Directive 96/65/EC), fertilisers (Directive 98/3/EC) and explosives (Directive 93/15/EEC).

The deadline for transposal of three directives concerning good laboratory practice (Directives 1999/662/EC, 1999/11/EC and 1999/12/EC) ran out in September 1999. Eleven Member States had not transposed these directives on time.

Two infringement cases are pending for failure to properly transpose Directive 93/15/EEC on the placing on the market of explosives.

#### 2.1.3.3.4. Motor vehicles, tractors and motorcycles

In this sector, Community directives are generally transposed on time. In the cases where there is a delay, the launch of infringement proceedings is normally enough to ensure rapid transposal.

Nevertheless, the situation worsened in 1999 in that several Member States were unable to complete transposal measures on time; this may have been due to the significant increase in the number of directives adapting earlier directives to technical progress. Delays in transposal were also noted in relation to Directive 98/69/EC (known as the auto oil Directive), which among other things was intended to reduce limit values for air pollution by emissions from certain categories of motor vehicle.

At the end of 1999, Commission Directives 98/38/EC, 98/39/EC, 98/40/EC and 98/89/EC adapting to technical progress the Council Directives on wheeled agricultural of forestry tractors had still not yet been transposed by six, five, four and nine Member States respectively. The following references to Directives adapting to technical progress the Council Directives on motor vehicles are followed by a figure in brackets indicating how many Member States which have failed to report transposal measures: Commission Directives 98/77/EC (four), 98/90/EC (five), 1999/7/EC (six), 1999/14/EC (seven), 1999/15/EC (seven), 1999/16/EC (seven), 1999/17/EC (seven) and 1999/18/EC (seven). As regards the adaptation to technical progress of Council Directives concerning two-or three-wheel motor vehicles, Commission Directives 1999/23/EC, 1999/24/EC, 1999/25/EC and 1999/26/EC had not yet been transposed by seven, seven, seven and eight Member States respectively.



As at the end of 1999, nine Member States had still not transposed Directive 98/69/EC relating to measures to be taken against air pollution by emissions from motor vehicles.

As indicated in the Sixteenth Annual Report (relating to 1998), the final deadline for transposal of Directive 97/24/EC on certain components and characteristics of two or three-wheel motor vehicles was 18 December 1998. Under this Directive, type-approval for two or three-wheel vehicles was to become compulsory as from 17 June 1999. At the end of 1999, two Member States had still not transposed the Directive, and infringement proceedings for failure to report appropriate measures had reached the stage of hearings in the Court of Justice. Directive 98/14/EC on the type-approval of motor vehicles and their trailers had been transposed by all but one of the Member States by the end of 1999. By the same time, two Member States had failed to transpose on time Directive 97/54/EEC on the maximum design speed of wheeled agricultural or forestry tractors; two Article 226 proceedings have been instituted.

#### 2.1.3.3.5. Construction products

As far as the transposal of Directive 89/106/EEC by Austria is concerned, infringement proceedings were opened because certain provisions of the Austrian legislation did not comply with the Directive. A letter has been sent to the Austrian authorities asking them for information clarifying their position.

As part of ongoing infringement proceedings against Greece concerning checks on the quality of certain imported steels, the response to the reasoned opinion sent to the Greek authorities on 4 December 1998 cannot be regarded as satisfactory, and the Commission decided in December 1998 to authorise contacts with the Greek authorities prior to referring the matter to the Court of Justice.

#### 2.1.3.3.6. Capital goods

*(mechanical engineering, electronics, personal protection equipment, gas equipment, pre-packaging, measuring equipment, medical devices and pleasure craft)*

In 1999, all the Member States took national measures to transpose Directive 94/25/EC on pleasure craft.

This year, considerable progress has been made on transposing the directives in the above-mentioned sectors. Thus, most of the directives which had a time-limit for transposal of 31 December 1998, and particularly Directives 93/42/EC, 94/9/EC and 97/53/EC, which were mentioned in the Sixteenth Annual Report (for 1998), have been incorporated into national law in all Member States. However, problems remain for two directives which will be considered below.

As regards cases of incomplete implementation of the directives or where national law conflicts with the directives, there has also been considerable progress. However, some difficulties remain, particularly as regards Directives 98/37/EC (machines) and 89/686/EEC (personal protection equipment). Fifty-five infringement cases were dealt with in 1999, of which 20 were registered during the year. At the end of 1999, 28 remain, including seven cases of failure to notify and 21 other cases. One case against Italy was referred to the Court of Justice for failure to properly implement Directive 73/23/EEC.

For the cases of failure to notify, the situation is as follows.

Proceedings against France were brought before the Court of Justice in connection with European Parliament and Council Directive 95/16/EC relating to lifts. Italy and Luxembourg, which had been the subject of actions before the Court in 1999, gave notification of national transposal measures.

Finally, as regards Directive 97/23/EC of the European Parliament and of the Council concerning pressure equipment, the Commission decided in 1999 to issue a reasoned opinion to Germany, Ireland, Italy and Luxembourg. This decision was implemented in 1999 in relation to Luxembourg.

#### 2.1.3.3.7. Cosmetics

During 1999, the Commission established that progress had been made in implementing Community legislation on cosmetics.

As far as failure to notify national measures implementing Community directives is concerned, the Commission was able to close numerous infringement proceedings against Member States following notification by a number of them that national measures had been taken to transpose Directives 97/45/EC, 97/18/EC and 98/16/EC. However, the Commission deplores the fact that some Member States have still not transposed Directive 97/18/EC (postponing the date from which animal experiments are banned for ingredients or combinations of ingredients), which should have been incorporated into national law by 31 December 1997 at the latest, in order to provide economic operators with a degree of legal certainty. As regards Council Directive 93/35/EEC amending for the sixth time Council Directive 76/768/EEC, only France still has to complete the transposal process by publishing its implementing legislation. Finally, 11 Member States have already notified the Commission about national measures to implement the 23rd Commission Directive 98/62/EC adapting to technical progress Council Directive 76/768/EEC, which should have been transposed by 30 June 1999 at the latest.



Cases of infringement other than those for failure to notify national implementing measures are being scrutinised very thoroughly by the Commission, and the dialogue taking place between it and the national authorities is leading to satisfactory solutions.

#### 2.1.3.3.8. Textiles and shoes

Directive 97/37/EC adapting to technical progress Annexes I and II to Directive 96/74/EC of the European Parliament and of the Council on textile names reached its deadline on 1 June 1998. The Directive was transposed in all the Member States in 1999. The infringement proceedings instituted against Italy, Belgium and Luxembourg in 1998 were dropped.

As regards Directive 94/11/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer, transposal has been completed in all the Member States. The infringement proceedings against Luxembourg for failure to notify national implementing measures were discontinued in 1999.

#### 2.1.3.3.9. Liability for defective products

The Commission instituted three infringement proceedings against inadequate national implementing measures. The proceedings against Austria were dropped following its adoption of a law modifying its transposal legislation and thus bringing into line with legal requirements. In December 1999, the Commission decided to refer cases against France and Greece to the Court of Justice.

Directive 99/34/EC aims to extend the rules on liability without fault to agricultural primary products. The Member States must introduce the laws, regulations and administrative provisions necessary to comply with the Directive by 4 December 2000 at the latest.

One referral to the Court for a preliminary ruling relates to the first ever case (C-203/99) relating to the interpretation of Directive 85/374/EEC. The case is concerned with the liability of the public authorities running a hospital in Denmark in which a patient was unable to have an organ for transplant because it had been damaged.

#### 2.1.3.4. Special arrangements relating to freedom of movement

##### Cultural goods

The Commission initiated infringement proceedings at the Court of Justice against Austria for failure to give notification

of the transposal, and the date of transposal, of Directive 96/100/EC of the European Parliament and of the Council of 17 February amending the Annex to Directive 93/7/EEC<sup>(1)</sup>.

Apart from this one exception, all the Member States have given notification of measures to transpose Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State<sup>(2)</sup> and Directive 96/100/EC mentioned above. The Commission then looked, in consultation with the Member States, at the application of these Directives for the purposes of a report to be submitted to Parliament, the Council and the Economic and Social Committee.

##### Rapid intervention in the event of serious obstacles to the free movement of goods

At the beginning of 1999, Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States<sup>(3)</sup> entered into force.

The warning system provided for in Article 3 of this Regulation has been used successfully in a number of instances. The Member States concerned responded satisfactorily to the requests for information addressed to them by the Commission, and no obstacles within the meaning of the regulation were found to exist. These instances involved:

- hindrances on main roads in Belgium as a result of industrial action by Belgian road hauliers in June 1999,
- hindrances on main roads in Belgium as a result of protest demonstration by Belgian farmers in connection with the dioxin crisis in June 1999,
- the European road hauliers' day of action in October 1999.

#### 2.1.3.5. Customs union

The European Commission's main function as regards customs activity is to manage the customs instruments needed for the application of the European Union's common policies (commercial policy, agricultural policy, environment, public health etc.) for the purposes of controlling its external frontiers and guaranteeing the security of European citizens and fair trading for businesses and in the internal market and economic and monetary union. This task of managing the customs union is the basis for measures by the Taxation and Customs Union DG aimed in particular at establishing a customs nomenclature, managing databases relating to tariff arrangements and rules

<sup>(1)</sup> OJ L 60, 1.3.1997, p. 59.

<sup>(2)</sup> OJ L 74, 27.3.1993, p. 74.

<sup>(3)</sup> OJ L 337, 12.12.1998, p. 8.

of origin, setting up a system for the exchange of information on controls and checks to fight fraud and irregular practices. These measures allow the Community to pursue an active commercial policy as regards preferences on the one hand and monitoring of compliance with rules of origin and coordination of anti-dumping measures on the other. Monitoring the correct implementation of Community provisions, of course, remains an essential element of the Commission's activity in this sector.

In this connection, it should be mentioned that a reasoned opinion was sent to Sweden for failure to comply with Article 76 of the Community Customs Code, and Article 254 et seq of the implementing provisions.

At the end of Article 76(1)(a) of the Code, it is stated that, in order to simplify completion of formalities and procedures as far as possible while ensuring that operations are conducted in a proper manner, the customs authorities shall, under conditions laid down in accordance with the Customs Code Committee's procedure, grant a concession whereby some of the documents required for implementation of the provisions governing the customs procedure for which the goods are declared need not be attached to the customs declaration. The conditions laid down under this Committee's procedure are set out in Article 254 et seq of Commission Regulation (EEC) No 245/93<sup>(1)</sup> laying down provisions for the implementation of the Community Customs Code. According to these conditions — and more specifically those set out in Articles 255 to 257 of the Regulation — the customs authorities allow a period for the submission of missing documents provided that certain conditions are complied with to their satisfaction. The Swedish customs authorities are now failing to apply the above mentioned provisions; this means that if an importer does not have the required documents, such as the certificate of preferential origin, the import duties are charged immediately at the full rate by the Swedish authorities, subject to appropriate reimbursement when the document concerned is presented.

Another reasoned opinion issued last year was addressed to Greece, firstly in connection with the Greek ports in the free zone whose structure and organisation are such that the customs inspections carried out there infringe a number of provisions of the Community Customs Code, and secondly because in certain situations the formalities and checks in connection with car imports are incompatible with Directives 77/388/EEC<sup>(2)</sup> and 92/12/EEC<sup>(3)</sup> as regards VAT.

Two sets of infringement proceedings were dropped after the Member States concerned complied with the Commission's requirements. First of all, Belgium rescinded the circular stating that an exporter has the choice of submitting the export declaration either to the customs office with principal responsibility in Belgium, or to the office through which the goods

leave the country, despite the fact that Article 161(5) of the Customs Code stipulates that the export declaration must be filed at the customs office with jurisdiction at the location of the exporter's business establishment or at the place the goods are packed or loaded for export. The other proceedings that were discontinued relate to Portugal, which took measures to comply with the Court of Justice's judgment of 17 June 1997 in Case C-164/95 concerning the tariff classification of grated cheese which, when imported, is by reason of the method of packaging and preservation used, in an agglomerated form and, after unpacking and exposure to the surrounding air, breaks down into irregular granules<sup>(4)</sup>.

#### 2.1.4. *Free movement of services and right of establishment*

##### 2.1.4.1. *Article 43 et seq and Article 49 et seq.*

Some German regulations governing the profession of patent agent stipulate that any person who is neither resident nor established in Germany may not take part in proceedings before the Patents Office unless they appoint a patent agent or attorney to represent them. Furthermore, a patent agent cannot represent an applicant before the Patent Office unless he has an address for service with a patent agent established in Germany. These conditions raise questions of compatibility with the principle of freedom to provide services laid down in Article 49 of the EC Treaty, which is why a reasoned opinion was issued to the German authorities.

Under French regulations on patent applications and the profession of patent agent, only persons entered in the French register of patent agents may represent their clients agents in proceedings before the National Industrial Property Institute, and then only if they have passed an aptitude test. In addition, all patent agents must have a business establishment in France. Conditions of this kind are incompatible with the principle of freedom to provide services embodied in Article 49 of the EC Treaty, which was further elaborated in Directive 89/48/EEC<sup>(5)</sup> on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration. A reasoned opinion was therefore sent to the French authorities.

A case was also brought before the Court of Justice concerning Italian legislation which establishes lists of licences for forwarding agents and requires the registration of all natural and legal persons engaged in this activity on a specific list kept by the competent chamber of commerce. This registration requirement interferes with the exercise of this activity by economic operators who are not based in Italy but wish to carry out incidental work there pursuant to Article 49.

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1.

<sup>(2)</sup> OJ L 145, 13.6.1977, p. 1.

<sup>(3)</sup> OJ L 76, 23.3.1992, p. 1.

<sup>(4)</sup> 1997 [ECR] 1-3441.

<sup>(5)</sup> See Foot note 28.

The rules on taking aerial photographs as part of a service provided in Portugal state that foreign companies and individuals will be authorised only in duly justified cases. Such discrimination on the basis of nationality, which cannot be justified on grounds of public safety, has resulted in the proceedings against Portugal being referred to the Court of Justice.

As regards the posting of workers in the context of freedom to provide services, the Commission has referred matters to the Court of Justice concerning the national legislation of two Member States: Italian legislation currently in force bans any cross-border activities by temporary employment firms and stipulates that such firms must have their registered office in Italy, whilst German legislation allows the posting of workers between two firms in the construction sector only if no movement across borders is involved.

In the case of private security services, the Commission had instituted proceedings at the Court of Justice concerning Belgian regulations requiring registered offices to be located in Belgium. The Advocate-General's opinion of 16 September 1999 (in Case C-355/98) supported the Commission's position. Similarly, the Commission brought a case before the Court of Justice concerning Italian legislation in the same field, which states that only Italian nationals may engage in paid employment or self-employment in this sector.

#### 2.1.4.2. *Financial services*

##### Dialogue with the national authorities

In an effort to consolidate administrative cooperation and find rapid solutions to the problems encountered, the Commission has maintained regular contacts with the national authorities in 1999, through institutional committees (Banking Advisory Committee, Insurance Committee, the UCITS — Undertakings for Collective Investment in Transferable Securities — Contact Committee), ad hoc interpretation groups (group of national experts on payment systems, the banking directives group, the insurance group and the capital adequacy Directive group, etc.) and high-level working parties (HLSSC-High-Level Security Supervisors Committee for negotiable securities).

##### Complaints and infringements

In the banking sector, five sets of infringement proceedings were instituted in 1999 for breach of Articles 43 and 49 of the EC Treaty, and of Directives.

Two cases involved Italy. The first involved apparent discrimination on grounds of nationality in the refunding of tax credits to banks established in Italy. A reasoned opinion was sent to Italy enquiring about the criteria used to draw up the list on

the basis of which the credits were refunded. The second case concerned withholding tax on interest income from loans. The Commission investigated the matter in order to determine whether Italian legislation discriminates according to whether the credit institution is based in Italy or another Member State. A letter was sent to the Italian authorities requesting further information.

A letter of formal notice was sent to the Greek authorities in connection with State guarantees for loans to firms in certain disadvantaged regions of the country. It emerged from information provided to the Commission that such guarantees are only issued to credit institutions established in Greece. Loans granted by institutions based in other EU Member States on the basis of the freedom to provide services are not eligible for such guarantees.

Two cases of suspected infringement concern France. In the first, the Commission sent a letter requesting information because it appears that France does not allow French credit institutions — or branches of foreign institutions — to pay interest on current accounts. The second case concerns the failure of the French authorities to comply with the Court of Justice's judgment in *Ambry*<sup>(1)</sup> (see 'Cases before the Court of Justice').

In the insurance sector, proceedings continue against Spain concerning the requirement — in contravention of the EC Treaty's provisions on freedom to provide services (Article 49) — that prior authorisation be obtained by professionals wishing to work in Spain as insurance brokers.

The proceedings are also still under way against Germany concerning the ban on combining sickness insurance with other forms of insurance, which is deemed to be incompatible with the third Directive on insurance other than life assurance.

Finally, the Champalimaud affair led to proceedings being instituted against Portugal in response to the Portuguese authorities' refusal to accept an agreement under which a Spanish banking group was to acquire a qualifying holding in this Portuguese group. This matter is in the process of being resolved.

As regards securities, the Commission in 1998 sent reasoned opinions in connection with infringement proceedings already under way against Italy (Articles 49 and 56) and France (Articles 43, 49 and 56<sup>(2)</sup>). In these documents the Commission criticised the fact that national tax measures had the effect of placing domestic stockmarkets at an advantage over other stock exchanges in the European Union. In Italy, tax benefits are restricted to issuers of securities which will be quoted on the Italian stockmarkets for the first time. The case

<sup>(1)</sup> Judgment of 1 December 1998 in Case C-410/96 [1998] ECR I-7875.

<sup>(2)</sup> IP/99/755, 15 October 1999.

against France concerns tax exemptions for life-insurance contracts of at least eight years duration, provided that contracts are expressed in units of collective investment funds which invest at least 50 % of their assets in French shares, with at least 5 % being in shares of unlisted companies or those listed on the *nouveau marché*.

### National implementing measures

#### *Failure to notify measures*

In the banking sector, all the infringement proceedings for failure to transpose the banking Directives, especially Council Directive 95/26/EC, have been dropped. All the Member States have now transposed these directives and given notification of their national implementing measures.

With regard to insurance, the Commission, following notification of national implementing measures, dropped the two sets of proceedings concerning the incorporation into national law of the third life insurance Directive (92/96/EEC) and the third non-life insurance Directive (92/49/EEC)<sup>(1)</sup>, as well as the proceedings relating to the partial transposal of Council Directive 91/371/EEC (Agreement with Switzerland)<sup>(2)</sup>.

The process of adoption into national law of the third life insurance Directive and the third non-life insurance Directive is almost complete. The departments of the Commission are now concentrating on problems of non-conformity, and on day-to-day monitoring of the application of the Directives.

In the securities sector, the Commission sent a reasoned opinion to Austria, France, Luxembourg<sup>(3)</sup> and Portugal<sup>(4)</sup> for failure to transpose Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes. Given that no response was received from Luxembourg, the Commission decided to refer the matter to the Court.

As regards payment systems, two directives entered into force in 1999: Directive 97/5/EC on cross-border credit transfers and Directive 98/26/EC on settlement finality in payment and securities settlement systems.

Directive 97/5/EC aims to speed up and reduce the cost of low-value cross-border transfers (up to EUR 50 000), and

obliges banks to observe transparency rules prior and subsequent to transfers; it also lays down conditions for transfers (time-limit, ban on double-charging, refund in the event of sums transferred failing to reach the beneficiary). The Directive entered into force on 14 August 1999.

As at 31 December 1999, nine Member States (Denmark, Spain, Ireland, Luxembourg, the Netherlands, Austria, Finland, Sweden, the United Kingdom) had transposed the Directive and notified the Commission of their national implementing measures. Belgium, Germany, Greece, France, Italy and Portugal have not yet transposed the Directive. Infringement proceedings were launched on 16 November 1999, when formal letters of notice were sent out.

The purpose of Directive 98/26/EC is to limit the systemic risk in payment and securities settlement systems. This is essential to enable large-value payment systems such as Target to function properly, and in order to generally increase the efficiency of payment and securities settlement systems. The Directive contains provisions on compensation and guarantees, and stipulates that insolvency procedures relating to these systems may not have any retroactive effects.

As at 31 December 1999, notification of transposal of Directive 98/26/EC (which entered into force on 11 December 1999) had been given by five Member States (Belgium, Spain, Portugal, Austria, Finland). No infringement proceedings have yet been instituted against the other Member States.

#### *Cases before the Court*

In the banking sector, the existence of anonymous (savings and securities) accounts in Austria was deemed to be incompatible with the obligation to identify customers when they open an account as provided for in Article 3(l) of Council Directive 91/308/EEC on money laundering. The matter was referred by the Commission to the Court of Justice. In the Commission's view, the anonymity of the accounts may make it easier to launder money. It should be stressed that the Commission is not attempting to violate banking secrecy in this Member State. The Austrian authorities have given notice of their intention to amend their legislation.

As regards applications for a preliminary ruling, the Court has handed down its judgment in *Ambry*<sup>(5)</sup>. Under French law a financial guarantee that can be called in immediately is required in order to obtain an administrative licence (to operate as a travel agent). However, if the institution providing this guarantee is located in a Member State other than France it must have an agreement with a French bank or insurance company. The Court ruled that this requirement represented an unacceptable

<sup>(1)</sup> See judgment of 18 December 1997 in Case C-361/95 *Commission v Spain* [1997] ECR I-7351 (concerning the partial transposal of Directive 92/49/EEC).

<sup>(2)</sup> See judgment of 18 December 1997 in Case C-360/95 *Commission v Spain* [1997] ECR I-7337.

<sup>(3)</sup> IP/99/601, 30 July 1999.

<sup>(4)</sup> IP/00/9, 11 January 2000.

<sup>(5)</sup> Judgment of 1 December 1998 in Case C-410/96 [1998] ECR I-7875.



restriction on the freedom to provide services. Given that no action seems to have been taken by the French authorities to make appropriate legislative changes, the Commission sent a letter of formal notice and a reasoned opinion to France. The next step will be to refer the matter to the Court of Justice.

In *Trummer*<sup>(1)</sup>, the Court stated that rules requiring a mortgage to be registered in national currency should in principle be deemed to constitute a restriction on the movement of capital. Austria has taken the necessary steps to modify its legislation. Sweden, however, seems to have similar legislation in place, and the Commission has therefore sent it a letter of formal notice.

In the insurance sector, infringements of Articles 43 and 49 of the EC Treaty and of directives led in 1999 to a Court judgment which found that France had failed to give notification of the measures required to bring the mutual insurance code into line with Community law<sup>(2)</sup>. Two other cases are also before the Court: on 27 October, a hearing took place in a case aimed at establishing that the third Directive on insurance other than life assurance<sup>(3)</sup> applies to compulsory occupational accident insurance schemes of the kind existing in Belgium, which has not correctly transposed the Directive<sup>(4)</sup> and on 28 October, the Advocate-General S. Alber delivered his Opinion in another case brought against France<sup>(5)</sup>, in which he indicated that the automatic requirement that insurance companies file an information sheet before new policies are placed on the market should be regarded as an excessive barrier to trade and contrary to the provisions of the third insurance Directives<sup>(6)</sup>.

As regards investment services in the field of securities (Council Directive 93/22/EEC), the proceedings against Spain were dropped following notification of transposal. In the proceedings against Luxembourg<sup>(7)</sup>, however, the Court found against this Member State on 3 June 1999<sup>(8)</sup>.

#### 2.1.4.3. *Commercial communications*

The Commission also continued its examination of ongoing infringement proceedings. It has started discussions with the

French authorities on the interpretation of the Evin law prohibiting television advertising of alcoholic drinks in the particular case of sporting events held abroad but broadcast in France. A reasoned opinion on this matter was sent in 1997. The Commission also sent a reasoned opinion to Germany because its legislation on promotional gifts and discounts is deemed to be in breach of Article 49 of the Treaty. The proceedings were started in response to a complaint by an operator selling goods and services through a 'club' based in another Member State.

#### 2.1.4.4. *The media*

The Commission sent a reasoned opinion to Belgium concerning barriers to the free provision of services resulting from the imposition of taxes on dish aerials by many local authorities.

#### 2.1.5. *Free movement of capital*

The situation as regards the free movement of capital and payments in the EU and non-member countries can generally be regarded as satisfactory. Further progress was made during the year to remove certain restrictions on direct investment (United Kingdom and Ireland) and investment in pension funds (Belgium and Finland), whilst certain discriminatory restrictions on the admission of securities to the capital markets — basically arising with regard to the issuing currency — have disappeared automatically because of the introduction of the single currency (France and Germany). New infringement proceedings, most of which were launched following complaints from economic operators, are mainly concerned with restrictions on the granting of mortgage loans across borders and the acquisition of real property, and also with special rights introduced by Member States in relation to certain privatised assets.

Various infringement proceedings had been opened earlier following the publication of the Commission communication on certain legal aspects concerning intra-EU investment (OJ C 220, 19.7.1997, p. 15) and the replies to a questionnaire to collect information on national practice in this field. Proceedings concerning the maintenance of privileges relating to privatised assets have included two reasoned opinions being sent out (to the United Kingdom and Spain) and four cases being brought before the Court of Justice (France, Italy and — in two instances — Belgium). Similar infringement proceedings had also previously been brought before the Court, where the cases concerned are still being considered.

(1) Judgment of 16 March 1999 in Case C-222/97 [1999] ECR I 1661.

(2) Judgment of 16 December 1999 in Case C-239/98 *Commission v France* (not yet reported)

(3) Directive 92/49/EEC (OJ L 228, 11.8.1992, p. 1-23).

(4) Case C-206/98, pending.

(5) Case C-296/98, pending.

(6) Directives 92/49/EEC (see foot note 39) and 92/96/EEC (OJ L 360, 9.12.1992, p. 1 to 27).

(7) Case C-417/97.

(8) Not yet reported.

It had also been decided to refer Greece to the Court of Justice in connection with its procedures on property acquisition, but changes to Greek legislation should mean that these proceedings will soon be dropped.

## 2.1.6. *The business environment*

### 2.1.6.1. *Company law*

Following the Court of Justice's judgment of 29 September 1998 (Case C-191/95) that Germany had failed to fulfil its obligations under Council Directives 68/151/EEC (commercial register) and 78/660/EEC (annual accounts), the German authorities prepared the necessary implementing measures. These were adopted by the Bundestag in December 1999 and should be passed by the Bundesrat early in 2000.

The Commission also began to examine the measures adopted by the United Kingdom in October 1999 to apply Directives 78/660/EEC, 83/349/EEC, 90/604/EEC, and 90/605/EEC to Gibraltar.

### 2.1.6.2. *Intellectual property*

#### Industrial property

There are currently three Directives in force in the field of industrial property: Council Directive 89/104/EEC on trade marks, Parliament and Council Directive 98/44/EC on the legal protection of biotechnological inventions and Parliament and Council Directive 98/71/EC on the legal protection of designs.

Under the trade marks Directive, the registration of a trade mark confers on its owner exclusive rights allowing him to prohibit third-party use for commercial purposes without his consent.

The harmonisation of Member States' legislation on national trade marks is not comprehensive, but confined to aspects which most directly affect the functioning of the internal market. Outside these harmonised fields, the Member States retain complete freedom to lay down arrangements best suited to their traditions, particularly as regards procedural aspects.

In principle, the Directive covers only substantive law on registered trade marks; it is not contain any provisions aimed at harmonising procedures.

The scope of harmonisation is defined by the Directive as follows: registered trade marks only (arrangements for protecting trade marks resulting from usage are left to the Member States); all categories of registered trade marks recognised by national legislation (trade marks in respect of

products or services, individual trade marks, collective marks and guarantee or certification marks), though this does not mean that the Member States are required to introduce these various categories of trade marks into their legislation; trade marks which have been registered under international arrangements and have effect in the Member States.

The deadline for the transposal of this Directive was extended until 31 December 1992. All Member States, including the new ones, have notified the Commission of national legislation transposing this Directive.

Since the uncoordinated development of national laws on the legal protection of biotechnological inventions in the Community could be detrimental to the industrial development of such inventions and the smooth operation of the internal market. Community legislation in this field was seen as essential. However, it was felt there was no need to create a separate body of law in place of national patent law. The Community framework can be confined to laying down certain principles designed to determine the difference between inventions and discoveries with regard to the patentability of certain elements of human origin, the scope of protection conferred by a patent on a biotechnological invention, the right to use a deposit mechanism in addition to written descriptions, and the option of obtaining non-exclusive compulsory licences in respect of interdependence between plant varieties and inventions.

The Member States must introduce the laws, regulations and administrative provisions necessary to comply with Directive 98/44/EEC by 30 July 2000.

As is the case with legislation on national trade marks, the harmonisation of the Member States' legislation on designs is not complete, but is confined to aspects which most directly affect the functioning of the internal market, namely identical conditions for obtaining a registered design right, a unitary definition of the notion of design and of the requirements as to novelty and individual character with which registered design rights must comply, and equivalent protection in all Member States. Outside these harmonised fields, Member States retain complete freedom to lay down arrangements best suited to their traditions.

The Member States must introduce legislation to comply with the Directive by 28 October 2001.

#### Copyright and related rights

Intellectual property has long been regarded as an area in which Member States find it difficult to transpose Community legislation, and delays are commonplace.

However, the situation has considerably improved, particularly over the last two years. All Member States except Ireland have notified national implementing measures for all the Directives applicable on 1 January 1997. However, only 11 Member States have notified national measures implementing the Directive on databases, which should have been transposed by 1 January 1998.

The Commission will continue its efforts to ensure that all Member States transpose the directives into national law and will also ensure that they are correctly applied. Incorrect application will in future be the main reason for litigation.

All Member States have now notified their national measures transposing Council Directives 87/54/EEC (legal protection of topographies of semiconductors), 91/250/EEC (legal protection of computer programs) and 93/98/EEC (harmonisation of the term of protection of copyright and certain related rights).

Reasoned opinions were sent to Greece, Ireland, Italy, Luxembourg, the Netherlands and Portugal for failure to notify national measures implementing Parliament and Council Directive 96/9/EC on the legal protection of databases. After receiving these reasoned opinions, Italy and the Netherlands notified national implementing measures during the reference period, thus complying with Community law. The infringement proceedings against them were therefore closed. By contrast, it was decided to refer the cases of Greece (C-484/99), Ireland (C-370/99), Luxembourg (C-348/99) and Portugal (C-506/99) to the Court of Justice.

Reasoned opinions were also sent to Belgium for failure to ratify the Berne Convention (Paris Act of 1971) and the 1961 Rome Convention, to Portugal for failure to ratify the 1961 Rome Convention and to Ireland for failure to ratify the Berne Convention (Paris Act of 1971). Following notification of their legislation ratifying these Conventions, the proceedings against Belgium and Portugal were dropped. However, it was decided to take Ireland to the Court of Justice (C-013/00) for failing to ratify the Berne Convention (Paris Act of 1971).

A reasoned opinion was sent to Italy for failing to comply with Council Directive 93/98/EEC harmonising the term of protection of copyright and certain related rights. Two letters of formal notice were sent to the United Kingdom for failing

to comply with Council Directive 92/100/EEC on rental right and lending right and to Denmark for discriminating against non-Danish management companies.

Finally, the Court delivered judgments on 12 October 1999 and 25 November 1999 in two cases against Ireland, for failing to notify national measures implementing Directive 92/100/EEC (C-213/98) and Directive 93/83/EEC on satellite broadcasting and cable retransmission (C-212/98) respectively.

#### 2.1.6.3. *Data protection*

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and Directive 97/66/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the telecommunication sector entered into force on 25 October 1999.

Nine Member States notified national measures implementing Directive 95/46/EC. These will be scrutinised to check that transposal is correct and complete.

The Commission decided to take action before the Court of Justice against all Member States which had not notified national implementing measures.

As regards Directive 97/66/EC, see section 2.10. 'Telecommunication'.

#### 2.1.6.4. *Public procurement*

Completion of the internal market in a key area of the European economy such as public procurement first and foremost necessitates correct transposal of the relevant Community directives. However, a number of directives adopted in the field of public procurement had still not been transposed by 1999, and infringement proceedings were initiated against Germany, Austria, Belgium, Spain, France, Greece, Italy, Ireland, Luxembourg, Portugal and the United Kingdom concerning Directives 97/52/EC and 98/04/EC, which cover traditional areas<sup>(1)</sup> and special sectors<sup>(2)</sup> respectively and incorporate certain provisions of the Agreement on government procurement.

<sup>(1)</sup> Directives 93/36/EEC, 93/37/EEC and 92/50/EEC concerning, respectively, procedures for the award of public supply contracts, public works contracts and public services contracts.

<sup>(2)</sup> Directive 93/38/EEC coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

Examination of communicated national measures concerning the directives on public procurement as a whole led to a total of 18 infringement proceedings for non-compliance, of which seven have reached at least the reasoned opinion stage. Some of these cases relate to questions of principle.

Even where legislation has been transposed, it is necessary to ensure that the provisions are properly applied. The Commission therefore continued to monitor application of Community law in the procedures for awarding private contracts, by following up complaints and investigating and checking cases on its own initiative.

During the year the Commission dealt with 409 cases, including 229 new ones. It was able to close 104 cases, mostly as a result of action by the awarding authorities or their supervisory bodies to remedy irregularities. The dialogue and consultation procedure (package meetings), set up to help Member States settle outstanding disputes by agreeing on solutions which comply with Community law, undoubtedly helped in this respect.

A few examples are worth mentioning.

Following Commission intervention, several awarding authorities cancelled contracts, especially for waste collection, insurance or catering services. For example, the SACE, responsible for export credit insurance in Italy, cancelled a financial services management contract. In one case concerning Portugal, the national authorities sent a circular to awarding authorities prohibiting them from requiring European Union nationals not established in Portugal to be entered in Portuguese professional registers or registered with professional bodies and reminding them of the obligation to provide precise details of the contract nature and implementation conditions before launching the award procedure.

In 1996 the Commission brought an action before the Court of Justice on the grounds that, in conjunction with the construction of an administrative centre in St Pölten, capital of the Land of Lower Austria, the competent authorities had not published invitations to tender, which meant that the contracts were not open to competition. Austria did not contest the substance of the charges and was found to have contravened Directives 93/37/EEC, 89/665/EEC and Article 28 of the EC Treaty<sup>(1)</sup>.

The Commission also decided to send a reasoned opinion to Germany concerning a public services contract for the thermal incineration of waste awarded by the city of Braunschweig without publishing an invitation to tender and without this

being justified on technical grounds. Although the German authorities admitted contravening Directive 92/50/EEC, the infringement proceedings continued, as the contract is for 30 years and will therefore produce effects for some time yet.

Other cases must be or have been referred to the Court of Justice.

For example, the Commission decided to bring an action before the Court of Justice against Italy for failure to notify measures transposing Directive 97/52/EC and because a regional law in Lombardy allows public contracts and public works concessions for the construction of waste treatment plants to be awarded in a manner not consistent with the Community rules on public works contracts.

The Commission also decided to refer France to the Court for numerous cases of failing to have notices of works contracts awarded by social housing associations published in the *Official Journal of the European Communities*, the Commission taking the view that such bodies normally come under the scope of the Community legislation.

#### 2.1.6.5. Direct taxation

During the year the Commission received a growing number of complaints in the field of direct taxation, after other obstacles had been removed by legislative measures adopted at Community level. In this connection, attention is drawn to the difficulties involved in rectifying the internal market's imperfections with regard to direct taxation, owing to the unanimity at the Council required under Article 94 of the EC Treaty. However, it was possible to resolve many cases at an early stage, as it was often a matter of complainants being unaware of their rights and obligations or ignorance on the part of the tax authorities of aspects of Community law which can, however, be taken into consideration in connection with a complaint.

The Commission issued only two reasoned opinions in 1999. The first concerned Germany, whose corporation tax legislation (KStG) makes provision for differential rates of taxation on the profits of German companies, i.e. distributed profits are subject to cooperation tax at 30 %, whereas undistributed profits are taxed at 40 %. This difference is due to the fact that distributed profits (i.e. dividends) are subject to income tax payable by shareholders, who can apply for a tax credit equal to the corporation tax payable on dividends. In the case of German subsidiaries of foreign companies (permanent establishments), the profits realised in Germany are subject to German corporation tax at a rate of 40 %, regardless of whether they are distributed or not. This differential taxation is inconsistent with Articles 43 and 48 of the Treaty.

<sup>(1)</sup> Case C-328/96, judgment of 28 October 1999.



The second reasoned opinion concerns Greece, and a tax system which discriminates against non-Greek European citizens who purchase immovable property with foreign currency. A Greek law of 1950 made provision for exemption, in certain circumstances, from the tax on transfers of immovable property (which is 9 % or 11 % depending on the value) for Greek nationals purchasing immovable property with foreign currency. This law still includes a lower tax rate (reduced by half) for certain other cases. The exemption was abolished in 1997, but the previously exempted categories of operation were added to those to which the lower tax rate applies. The Commission sees the granting of preferential rates only to Greek nationals as an infringement of a fundamental principle of the European Union, non-discrimination on grounds of nationality (Article 12 of the Treaty). This principle, which forms part of the various constituent freedoms of the internal market (Article 14 of the Treaty), is regarded as infringed with regard to these freedoms in various situations. The Commission has noted a contravention of the principles of free movement of persons (Article 39 of the Treaty and Article 7 of Regulation No 1612/68<sup>(1)</sup>) in respect of employees; Article 43 of the Treaty in respect of the self-employed) and free movement of capital (Article 56 of the Treaty).

#### 2.1.6.6. VAT

On the subject of VAT, the principal objective of the Directorate-General for Taxation and Customs Union (TAXUD) remains the adoption of the common system of VAT based on the country-of-origin principle. This is the guiding policy behind all work in the field of VAT. However, given the rate of progress, it is necessary to push ahead with the simplification and modernisation of the VAT system and with essential harmonisation work arising from specific technical problems.

Compliance with measures already adopted, especially with regard to a uniform basis of assessment, takes on a particular significance against this background, and the TAXUD DG is keen to identify any relevant shortcomings as quickly as possible. During 1999 several new infringement proceedings were initiated, concerning failure to apply the provisions of the sixth VAT Directive<sup>(2)</sup> correctly:

- Germany: the German authorities exempt research activities by State university-level establishments from VAT (see paragraph 4, No 21.a, USTG), which is in contravention of Article 2(1) of the sixth Directive, as such establishments are subject to VAT in that they are not public authorities and carry out operations against payment; their research activities are therefore taxable, and not exempt,

- France: the French Finance Act of 1998 removed the partial VAT-deductibility (50 %) applicable to diesel fuel used for taxable activities involving vehicles excluded from the right of deduction. This new French measure is at odds with Community provisions; Article 17(6) of the sixth Directive, which allows Member States to retain existing exclusions following the entry into force of the Directive, means that France was able to retain the ban on the right of deduction which already existed for certain vehicles, but does not authorise it to introduce a new exclusion from the right of deduction for diesel fuel for the vehicles in question,

- Greece: the Greek authorities impose the adjustment of VAT charged on the acquisition of goods and deducted by the acquiring taxpayer, if the goods are destroyed and their value reimbursed by an insurance company. This practice is contrary to the provisions of Article 20(1)(b) of the sixth Directive, which prohibits adjustment in cases of destruction, loss or theft of property duly proved or confirmed,

- Italy: Italian taxpayers who in 1992 had imported from other Member States a sum in excess of 10 % of their turnover and had a tax credit corresponding of not less than ITL 100 million were unable to deduct VAT. According to the law, they would receive government bonds in compensation. However, Article 18(4) of the sixth Directive requires Member States, in the event of a tax credit, either to make a refund or to carry the excess forward to the following period. It has emerged that some taxpayers do not yet seem to have received these bonds and that, as these taxpayers have not been able to cash in their bonds, the Italian State has, in reality, carried the excess forward to the following periods rather than period (singular) as stipulated by the Directive.

The Commission also sent reasoned opinions to Germany, Spain, Finland, Italy, Portugal, the United Kingdom and Sweden, which do not tax European Union grants to companies producing dried fodder (such grants represent a sum paid by a third party and allow the company to achieve a profitable price in a sector in which the world price is lower than its cost price), whereas the Directive stipulates that 'subsidies directly linked to the price' must be included in the taxable basis. This situation also creates a distortion of competition between producers in different Member States.

<sup>(1)</sup> OJ L 257, 19.10.1968, p. 2.

<sup>(2)</sup> OJ L 145, 13.6.1977, p. 1.

A number of infringement proceedings previously initiated by the Commission were referred to the Court of Justice. Four of these involve France: the first concerns VAT levied on the fees charged for forwarding the results of laboratory medical analyses<sup>(1)</sup>, the second VAT on goods purchased with money-off coupons<sup>(2)</sup>, the third the right of deduction relating to vehicles not used exclusively for driving-school purposes<sup>(3)</sup>, and the fourth the non-inclusion of tips in the VAT basis for certain commercial undertakings (hotels, restaurants, cafés, hairdressers, etc.)<sup>(4)</sup>. Another case was referred to the Court concerning Spain, for lowering the rate of VAT on motorway tolls<sup>(5)</sup>.

Other proceedings were dropped after the Member States concerned fell into line with the Commission's point of view. These involved Spain, which amended its legislation concerning VAT on sports organisations pursuant to the Court's judgment of 7 May 1998 in Case C-124/96<sup>(6)</sup> Germany, which repealed its offending legislation allowing the deduction of import tax on expenses incurred by taxpayers during travel, business trips or removals; and finally France, which first of all amended its tax system concerning the compensatory sums which persons leasing cars had to pay to leasing companies in the event of theft or loss of leased vehicles and, secondly, removed the tax distinction between different types of equipment for disabled persons. Two infringement proceedings initiated previously, concerning the exemption of gold in Austria and the zero rating of scrap metal deliveries in Italy, were closed after being resolved at the Council.

#### 2.1.6.7. *Other indirect taxes*

1 July 1999 saw the end of exemptions for tax-free sales between Member States' territories. Sales of tobacco and alcohol products on board ferries are now subject to customs duties, with the exception of goods for consumption on board, which may continue to be exempted in the same way as, for example, sales of alcohol on board cruising ships. In 1999 the TAXUD DG also took action towards implementing the recommendations of the high-level group on preventing excise duty fraud, in particular by setting up an early warning system based on the study concerning computerised surveillance of movements of the products targeted by fraud prevention.

(1) Case C-76/99.

(2) Case C-156/99.

(3) Case C-345/99.

(4) Case C-404/99.

(5) Case C-83/99.

(6) ECR 1998, I-6151.

In the field of excise duties, the enforcement of Article 90 of the Treaty, which prohibits discrimination against products imported from other Member States, is being carefully monitored by the Commission and has led to several new infringement proceedings both in the alcoholic drinks and tobacco sector and relating to tax on vehicles.

Concerning indirect taxes on alcohol, the Commission has sent reasoned opinions to the following Member States:

- Austria: the Commission feels that the municipal tax on drinks is merely a way of allowing the country's municipal authorities to collect additional income, and it does not serve a 'specific purpose', e.g. social or environmental. The Commission also considers that the exemption from municipal tax of wine supplied by producers directly to final consumers must be regarded as discriminating against products from other Member States,
- Greece: the Greek authorities have reduced the tax on ouzo by 50 %, whereas similar drinks imported from other Member States continue to be taxed at the full rate. Differential taxation of this nature, which benefits Greek ouzo producers only — Greece is the sole producer of this drink — contravenes Article 90 of the Treaty,
- Ireland: the Irish authorities apply to beer an excise duty of IEP 15,65 per hectolitre and degree of alcohol of the finished product. In the case of beer containing 5 % alcohol by volume, this comes to around IEP 78 per hectolitre. By contrast, the excise duty on wine with a comparable alcohol content is IEP 215. As there is little or no wine production in Ireland, the measure in question constitutes differential taxation, which is unacceptable under Article 90 of the Treaty.

Two infringement proceedings initiated in the same sector against France were dropped when the national legislation in question was amended following the Commission's intervention. One case concerned production duty on alcohol, while the other related to the tax on certain mixtures of alcoholic and non-alcoholic beverages. The conformity of the new French legislation on the latter products is, however, being scrutinised in detail.

As regards excise duties on manufactured tobacco, the Commission sent a reasoned opinion to France relating to its new legislation on cigarettes, according to which the price per 1 000 of a category of cigarettes sold under a particular brand may not be lower than the price of the biggest selling category sold under the same brand (minimum reference price), and the

minimum rate of excise duty on cigarettes made from dark tobacco is lower than the rate on those made from light tobacco. These new provisions are inconsistent with Directive 95/59/EEC<sup>(1)</sup>, which states that manufactures are free to determine the retail selling price for each of their products (the new obligation to determine the price on the basis of a quantity of 1 000 is tantamount to imposing a minimum reference price) and with Directives 92/79/EEC<sup>(2)</sup> and 95/59/EEC, which impose a single minimum excise duty that must be the same for all brands and types of cigarette. Furthermore, as France produces mainly cigarettes made from dark tobacco, the new legislation also infringes the ban on discrimination and fiscal protection provided for under Article 90 of the Treaty.

Proceedings were also started against Italy, which levies a tax of ITL 1 260 000 per tonne on lubricants. Under Article 8(l)(a) of Directive 92/82/EEC<sup>(3)</sup>, mineral oils used as lubricants are specifically exempted from excise duty. Furthermore, Article 3(2) of Directive 92/12/EC<sup>(4)</sup> allows Member States to maintain other duties or taxes on products subject to harmonised excise duties only where those duties or taxes comply with the rules on harmonised excise duties. A product exempted from harmonised excise duties cannot be made subject to another type of duty.

Two proceedings concerning indirect taxes on motor vehicles were initiated against Portugal. The first relates to the reduced rate of tax applied to certain multi-purpose vehicles based on specific criteria (weight of 2 500 kg or more, height of 1,20 m or more, etc.), criteria which are met only by multi-purpose vehicles manufactured in Portugal. Multipurpose vehicles produced in other Member States — whose technical data are slightly different, but which are clearly similar products — therefore do not qualify for this tax concession under Portuguese law; this constitutes discrimination within the meaning of the first paragraph of Article 90 of the Treaty. The second case concerns second-hand cars imported from other Member States. In order to comply with Court of Justice case law, which requires Member States to take account of the second-hand vehicle's actual depreciation in order to calculate the taxable amount, Portugal has adopted a flat-rate calculation method for vehicle depreciation, with a maximum of 67 % for vehicles eight years old or over. The Commission feels, taking account of developments in technology, that vehicles over eight years old can still be used and continue to depreciate. Consequently, Portugal's flat-rate calculation method discriminates against second-hand vehicles from other Member States (Portuguese second-hand cars have already been subject to the

tax on new cars). In a similar case against Greece, the Court found that the Member State had failed to fulfil its obligations (judgment of 23 October 1997 in Case C-375/95<sup>(5)</sup>).

In the same sector, new proceedings have been initiated with regard to Austrian VAT legislation, which states that only vehicles factory-fitted with a loading space at least 500 mm long, located at the back of the vehicle behind the third row of seats, are eligible for VAT deduction. Among all the Community-origin vehicles of this type, a single multi-purpose vehicle (the Chrysler Grand Voyager), built in Austria, benefits from this tax measure in practice. The measure must therefore be regarded as discriminatory and in any event as affording protection, within the meaning of Article 90 of the Treaty, against multi-purpose vehicles manufactured in other EU Member States.

Finally, the Commission has taken action before the Court concerning proceeding previously opened against France with regard to tax on imported high-powered motor vehicles<sup>(6)</sup>, as well as on vehicles with automatic five-speed gearboxes or manual six-speed gearboxes. On the other hand, the proceedings started against the Netherlands concerning the new registration tax (BPM) were closed after the method of calculating the tax on imported vehicles was modified on the basis of the Commission's observations, bringing it into line with Article 90 of the Treaty.

## 2.2. Competition

The number of proceedings initiated against Member States did not significantly increase compared with 1998 (36 as against 35). On 31 December 1999, 69 infringement files were being dealt with by the Directorate-General for Competition. As regards the areas of activity, one major change compared with 1998 was the fall in the number of new cases in the telecommunications industry (down from 26 new cases in 1998 to 11 in 1999). The number of new cases in the transport sector (only five in 1999) also continued to fall. At the same time, cases began to appear, or increase in number, in the fields of social insurance, liberal professions and gambling.

The transposal and effective application of the directives on competition in the telecommunications industry were again closely monitored by the joint team, together with each Member State, in conjunction with the preparation of the fifth report, adopted by the Commission on 10 November 1999, on the implementation of the telecommunications regulatory package<sup>(7)</sup>. At the same time the Commission pushed ahead with ongoing Article 226 proceedings against certain Member States, and started a number of new ones.

(1) OJ L 291, 6.12.1995, p. 40.

(2) OJ L 316, 31.10.1992, p. 8.

(3) OJ L 316, 31.10.1992, p. 19.

(4) OJ L 76, 23.3.1992, p. 1.

(5) ECR 1997 I-5981.

(6) Case C-265/99.

(7) COM(1999) 537 final.

### 2.2.1. *Public enterprises*

Proceedings were closed in nine telecommunications cases, but opened in 12 new ones.

In this sector, the Commission decided in 1999 to send five reasoned opinions concerning the non-conformity of national provisions with directives on competition in the telecommunications industry or incorrect application of these directives. These opinions were sent to Austria, Spain, France, Greece and Italy.

In addition, there were two reasoned opinions, sent to Belgium and Portugal, which were not mentioned in the 1998 report; the Commission had taken the decisions on 2 December 1998 but did not send them until March 1999. The Portuguese case was then withdrawn on 22 December 1999. The infringement consisted of failure to transpose Directive 90/388/EEC<sup>(1)</sup>, as amended by Directive 96/19/EC<sup>(2)</sup>, in conjunction with the Commission Decision of 12 February 1997 concerning the granting of additional implementation periods to Portugal for the implementation of Directive 90/388/EEC as regards full competition in the telecommunications markets. The Commission should have been notified no later than 1 July 1997 of all measures adopted to lift restrictions on the provision of already liberalised telecommunications services. Portugal had not notified all the necessary measures. It had abolished legal restrictions, but had provided for a period of 120 days for the amendment of existing licences. It had also failed to define the rights of potential investors and fix the level of fees. The proceedings were closed following notification, on 21 April 1999, of Decree-Law 92/99 and confirmation, at a bilateral meeting on 14 September, that eight licences had been awarded since the beginning of 1999. The Belgian case was referred to the Court of Justice and is reported below. In another case involving Portugal, relating to call-back services, it was decided to send a reasoned opinion on 21 April 1999.

Austria failed to apply Directive 96/2/EC properly, in that it prohibited the allocation of DCS-1800 frequencies to existing operators of GSM-900 systems unless they could provide evidence of congestion problems in the 900 MHz band. This exception, however, gave an advantage to Mobilkom, the former public operator, which was authorised to launch its service nearly three years before the second operator, Maxmobil, and therefore has more subscribers. However, Austria has now also allocated DCS-1800 frequencies to the second operator, thus rectifying the situation.

At the beginning of 1999 the Commission also sent reasoned opinions to Italy and Spain, which had not allowed the former telecommunications monopolies to rebalance their tariffs (and in particular to align line rental charges to the underlying costs) and had not submitted a detailed timetable for phasing out the imbalance, as required by Directive 90/388/EEC as amended by Directive 96/19/EC. However, the Commission postponed referral to the Court after Spain confirmed that it regarded Telefónica's tariffs as having been sufficiently rebalanced, and Italy adopted tariff amendments and introduced a price cap allowing Telecom Italia to change its tariffs to comply with the thresholds laid down. Nevertheless, the Commission continued its examination of these measures, particularly in view of Telefónica's appeal against the Spanish government's decision to regard its tariffs as rebalanced.

The Commission also sent a reasoned opinion to France on the grounds that it had required mobile operators to contribute to the net cost of the universal service provided by France Telecom in 1997 although the latter still enjoyed a monopoly for voice telephony, and because France had calculated this net cost in a manner likely to overvalue it. Finally, the Commission sent a reasoned opinion to Greece, which had still not transposed or properly applied Directive 94/46/EC<sup>(3)</sup> liberalising the provision of satellite services. The Greek authorities had not yet authorised any company other than the public operator OTE to provide such services.

In 1999 the Commission referred to the Court of Justice five instances of national measures which were not consistent with directives on competition in the telecommunications industry or did not transpose these directives correctly. These cases involved Belgium and Greece (two each) and Portugal.

The two cases against Belgium related respectively to its failure to transpose the obligation to define principles of analytical accounting for the public voice telephony operator, in accordance with Article 4 of Directive 90/388/EEC as amended by Directive 96/19/EC, and to the fact that the Belgian regulations did not comply with that Directive and Directive 97/33/EC<sup>(4)</sup>, as they wrongly included preferential tariffs for the press in

(1) Commission Directive of 28 June 1990 on competition in the markets for telecommunications services.

(2) Commission Directive of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets.

(3) Commission Directive of 13 October 1994 amending Directives 88/301/EEC and 90/388/EEC with regard to satellite communications.

(4) Directive of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP).



the universal service and did not make provision either for the method of calculating operators' contributions to the financing of the universal service or for a forecasting method for calculating the net cost of this service. However the first case, which the Commission decided to refer to the Court on 1 July, was subsequently withdrawn following the adoption of a Royal Decree on 4 October 1999 establishing accounting principles and thus putting an end to the infringement.

Two proceedings were initiated against Greece. The first was for incorrect application of Directive 90/388/EEC as amended by Directive 96/2/EC<sup>(1)</sup>, in that despite the availability of frequencies the Greek government had not laid down the conditions to be met for the awarding of an additional DCS-1800 mobile licence. The second concerned incorrect application of Article 2(2) of Directive 96/2/EC; as Greece had not liberalised DECT services by the prescribed deadline. Finally, the case against Portugal, for non-compliance of its regulations with Directive 90/388/EEC as amended by Directive 96/19/EC, related to its ban on call-back services, which were incorrectly classified in the same category as voice telephony.

A reasoned opinion was also sent to Portugal in 1999 concerning a merger. On 20 July the Commission adopted a decision in case IV/M.1616 (BSCH/Champalimaud) pursuant to Council Regulation No 4064/89 on the control of concentrations between undertakings. This decision ordered the suspension of the Portuguese Finance Minister's decision of 18 June 1999 opposing the concentration, on the grounds that the latter decision was inconsistent with Article 21 of the Regulation. The Portuguese authorities had not given prior notification of these measures and, secondly, the interests the authorities relied on, particularly national and strategic interests, could not be regarded by the Commission as legitimate. As regards the prudential interests also relied on, the Commission expressed serious doubts as to whether they were the basis for the measures adopted by the Portuguese authorities. By letter of 11 August 1999, the Portuguese authorities contested the Commission's decision. Consequently, infringement proceedings were initiated against Portugal. In view of the urgency (ongoing concentration process), the deadline for responding to the letter of formal notice was reduced to two weeks. The Portuguese authorities sent their comments to the Commission on the day of the deadline, 24 September. These comments did not contain anything new, and the Portuguese authorities merely repeated their intention to appeal to the Court of Justice against the Commission's decision of 20 July. The Commission then decided to send the reasoned opinion and, in view of the urgency, to reduce the time for achieving compliance to one week. The deadline expired on 20 October without the Portuguese authorities having provided the Commission with any information. A

check carried out on 26 October confirmed there had been no response. Subsequent discussions took place between the Member of the Commission responsible for competition and the Minister. Despite substantial progress, the matter had not been resolved by 31 December 1999.

Regarding Directive 93/84/EEC amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings, the Commission had sent Greece a reasoned opinion on 15 October 1997 as a result of a disagreement over the scope of Member States' notification obligations under the Directive. On 2 July 1998, Greece notified the Commission of the provisions it had adopted to incorporate the Directive into Greek law. As this did not settle the disagreement, the Commission asked the Greek authorities for additional information on 19 October 1998, followed by a reminder on 7 December. On 24 February 1999 the Greek authorities provided a list of six companies which in 1997 fell under the scope of the Directive, but not the annual accounts of these companies which the Directive required them to provide, within a maximum of nine months from the end of each company's financial year. This matter is therefore still pending.

In the field of transport, on 10 February the Commission adopted a decision under Article 86(3)<sup>(2)</sup> to the effect that the Portuguese system of discounts on landing charges and the differentiation of charges according to the origin of flights constituted discrimination incompatible with Article 86(1) in conjunction with Article 82. On 4 May 1999 the Portuguese authorities appealed to the Court of Justice, though without requesting suspension of enforcement. As Portugal did not comply with the decision within the prescribed period of two months, the Commission sent the Portuguese authorities a letter of formal notice in accordance with Article 226 of the Treaty.

### 2.2.2. *Monopolies*

There were no infringements against Article 31 in 1999.

### 2.3. **Enterprise policy, distributive trades, tourism and cooperatives**

Two complaints received in 1999 were the subject of infringement proceedings with reference to Articles 12 and 49 of the EC Treaty.

<sup>(1)</sup> Commission Directive of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications.

<sup>(2)</sup> OJ L 69, 16.3.1999, p. 31.

The first was against Portugal and concerned preferential rates given only to Portuguese nationals aged 60 or over for accommodation in 'Pousadas' managed exclusively by Enatur (state tourism enterprise) under a concession from the Portuguese Government, which owns all the shares in Enatur.

Following correspondence between the Commission and the Portuguese authorities, and although the latter did not formally acknowledge the existence of discriminatory rates, the rates published on the 'Pousadas de Portugal' website in English were amended to include a special discount of 40 % for persons aged 60 or over regardless of their nationality. As a result, the infringement proceedings were closed.

The second, against Italy, concerned concessions on entrance fees for Italian museums and public monuments applicable only to Italian nationals aged 60 or over.

As the Italian authorities failed to reply to requests for information, a letter of formal notice was sent on 1 July 1999. The Italian government reacted on 5 October 1999, although the deadline was 1 September 1999. The reply was found to be inadequate, as it recognised the existence of the infringement without putting forward measures to put an end to it. The Commission therefore issued a reasoned opinion against Italy under Article 226(1) of the EC Treaty.

#### 2.4. Education, training and youth

The level of complaints and infringements in the field of education was the same as in previous years. The number of complaints, requests for information and letters from students encountering difficulties or experiencing obstacles to mobility in education is growing. However, only a small number of cases reflect situations in which national legislation involves direct or indirect discrimination on grounds of nationality and thus contravenes the Treaty. At the moment, the EC Treaty makes each Member State responsible for the content of teaching and the organisation of its own education system.

The competent authorities are entitled to make admission to a course subject to prior academic recognition of qualifications obtained in another Member State. Member States are also free to lay down rules governing this type of procedure, as there are no Community rules requiring them to recognise, for academic purposes, diplomas obtained in another Member State. However, as regards conditions of access to education

and vocational training, Article 12 of the EC Treaty requires Member States to abstain from any discrimination on grounds of nationality.

Many of the individual cases drawn to our attention can be resolved by providing the parties concerned with clear information about their rights and the scope of Community law in this field.

Nevertheless, the Commission still sent two letters of formal notice to Belgium and Austria. In both cases it considered national legislation to be in contravention of the Treaty in that it required holders of secondary education certificates awarded in another Member State to meet conditions for access to university or higher education which were different from those applicable to people with national certificates. Such arrangements, which require prospective students either to pass an exam or present a certificate showing that they have already been admitted to the chosen field of study in their Member State of origin, constitute discrimination which is prohibited by the Treaty.

#### 2.5. Social affairs

Incorporation of the social directives into national law is almost complete. Out of 63 directives, 53 have already entered into force, requiring the adoption of national instruments in the fifteen Member States. 38 directives (71,69 %) have already been transposed in all Member States. Total compliance with the directives is the main concern of the Commission, which checks that they have been properly transposed in each Member State.

##### 2.5.1. Free movement of workers

The Commission has initiated and/or is continuing with a number of infringement proceedings against several Member States concerning the application of Regulations (EEC) No 1612/68 and (EEC) No 1408/71.

It is continuing with infringement proceedings against Belgium for failing to implement the Court's judgment in Case C-47/93 concerning the allocation of funding to Belgian universities for students who have come from other Member States solely to follow a university course.

Infringement proceedings continue against Germany, first of all regarding the granting of welfare benefits to migrant workers when their families join them, and secondly concerning the rule making welfare benefits conditional on the presentation of a residence permit. Following the reasoned opinions sent to Germany on these subjects, the Commission is working with the country's authorities in order to find satisfactory solutions.

Infringement proceedings continue against Denmark concerning its rules and practices restricting the use by frontier workers in Denmark of vehicles registered in another Member State and belonging to their employer based in that country. In the meantime, Denmark has amended its rules in a manner which is not entirely satisfactory to the Commission.

Following Commission intervention, France, Luxembourg and Belgium amended their rules preventing frontier workers from benefiting from public transport fare concessions on the grounds that they were not resident in the country in question. The Commission therefore decided to end the infringement proceedings.

The infringement proceedings against the Netherlands were also dropped following the amending of the legislation preventing unemployed Belgian frontier workers from being eligible for benefits from a fund which pays for supplementary pension insurance while workers are not in paid employment.

Following the Commission's intervention with the Netherlands authorities concerning the fee for the issuing of permanent residence papers, the situation was resolved and the infringement proceedings closed.

The Commission decided to drop infringement proceedings against Luxembourg after it amended its legislation concerning the nationality criterion for access to the country's civil service. However, infringement proceedings in the same field continue against Greece and Spain, on the basis of Article 228 and Article 226 of the EC Treaty respectively. In the case of Greece, if the matter goes to the Court of Justice, the Commission will propose a fine of EUR 57 400.

On the basis of the case law relating to the *Schöning*<sup>(1)</sup> and *Commission v Greece*<sup>(2)</sup> cases and the associated complaints, the Commission embarked upon an analysis of the rules in force in a number of Member States relating to the recognition of periods of service that a worker recruited into the public service has completed in the public service of another Member State. As a result of this examination, the Commission sent reasoned opinions to Germany and Ireland.

Concerning the coordination of national social security systems, the Commission referred Germany's special Act on social security benefits for artists (*Künstlersozialversicherungsgesetz-KSVG*) to the Court of Justice<sup>(3)</sup>. Germany levies contributions

on remunerations paid by German publishers to writers who are not covered by German legislation, under the provisions of Regulation (EEC) No 1408/71 concerned with determining which country's law is applicable. Furthermore, the Court has found for the Commission in two cases concerning deduction by the French authorities of the general social contribution (*Contribution sociale généralisée — CSG*)<sup>(4)</sup> and of the social debt repayment contribution (*Cotisation pour le remboursement de la dette sociale — CRDS*)<sup>(5)</sup> from the employment income and substitute income of frontier workers. The case against Belgium concerning the deduction of a personal contribution of 13,07 % from Belgian pensions paid to people resident in another Member State and in receipt of another pension from that Member State is also pending before the Court of Justice<sup>(6)</sup>.

The Commission decided to drop the case against France regarding its interpretation of the administrative conditions laid down by Article R313.5 of the French Social Security Code in cases where a person applying for invalidity benefit was not working on French territory when the risk of invalidity arose. The French authorities agreed to interpret these provisions in the light of the relevant provisions of the Treaty, and an appropriate circular was produced.

Three new proceedings were initiated, and reasoned opinions sent to:

- Denmark, concerning the refusal of the country's authorities to apply Danish legislation and grant benefits to workers from other Member States working on oil platforms on the Danish continental shelf, thus depriving a number of United Kingdom workers of social security benefits. The Commission is of the opinion that Article 39 of the EC Treaty and Article 13(2)(a) of Regulation (EEC) No 1408/71 oblige Denmark to cover these workers by its social security system, even though the employer is established on the Isle of Man,
- the Netherlands authorities, for their refusal to continue to pay unemployment benefits to a frontier worker wishing to spend three months looking for work in France. The Commission considers that Article 69 of Regulation (EEC) No 1408/71 obliges the Netherlands to export unemployment benefits without making a distinction between frontier workers and other workers,
- France, concerning the rights of civil servants in the teaching profession who, according to French legislation, are not entitled to their French pension for periods of secondment, despite the fact that during such periods they are required to pay retirement insurance contributions both under French legislation and the legislation of the host Member State. The Commission regards this situation as an obstacle to freedom of movement for workers.

(1) Judgment of the Court of 15 January 1998 in Case C-15/96. *Kalliope Schöning-Kougebetopoulou v Freie and Hansestadt Hamburg*, ECR 1998 I-47.

(2) Judgment of the Court of 12 March 1998 in Case C-187/96, *Commission of the European Communities v Hellenic Republic*, ECR 1998 I-1095.

(3) Case C-68/99.

(4) Case C-169/98.

(5) Case C-34/98.

(6) Case C-347/98.

### 2.5.2. *Equal treatment for men and women*

The Commission brought an action before the Court against France<sup>(1)</sup> under Article 228 of the EC Treaty for failing to take the necessary measures to comply with the judgment of 13 March 1997 in Case C-197/96<sup>(2)</sup> in which the Court ruled against France for maintaining a ban on night work by women in industry whereas no such prohibition exists in relation to men. The Commission is asking the Court to impose a fine of EUR 142 425 on France. Similar infringement proceedings against Italy following a Court judgment of 4 December 1997<sup>(3)</sup> were dropped following notification of measures amending the legislation which had been incompatible with Community law.

Regarding Directive 92/85/EEC on the protection of pregnant women, the Commission sent reasoned opinions to:

- France, for not specifically including in its legislation the possibility for pregnant women to be released from work if necessary in order to protect their health,
- Ireland: although the required evaluation of the risks to the health of female workers must relate to a series of activities, of which a non-exhaustive list is given in an annex to the Directive, the Irish list is exhaustive, thus contravening the Directive,
- Italy, for imposing an absolute ban on night work in the manufacturing industry from the start of pregnancy until seven months after the birth,
- Luxembourg, firstly for stipulating in its legislation that the pregnant woman must be covered by a social security system (which is not required in the Directive), secondly for not requiring employers to carry out an evaluation of the risks to the health and safety of pregnant women, and finally for unnecessarily banning night work by women in certain circumstances,
- Sweden, for not including in its legislation a compulsory period of two weeks during which women are not allowed to work.

Regarding Directive 96/34/EC on parental leave, the Commission decided to take Italy to the Court of Justice for failing to transpose the Directive into national law by June 1998<sup>(4)</sup>.

(1) Case C-224/99.

(2) Judgment of the Court of 13 March 1997 in Case C-197/96, Commission of the European Communities v French Republic, ECR 1997 I-1489.

(3) Case C-207/96, Commission v Italy. (ECR I-6869).

(4) Case C-445/99.

The Commission brought actions before the Court against Greece<sup>(5)</sup>, France<sup>(6)</sup> and Luxembourg<sup>(7)</sup> for failing to notify it of measures implementing Council Directive 96/97/EC amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes. Under Article 3 of the Directive, the Member States should have adopted implementing measures by 1 July 1997. In its judgment of 8 July 1999, the Court ruled against France, and new proceedings based on Article 228 of the EC Treaty were initiated.

Concerning application of Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (statutory schemes), the Court, in its judgment of 28 October 1999, ruled against Greece<sup>(8)</sup> on the grounds that Greek legislation regarding the granting of marriage allowances and how they are taken into account for the purposes of calculating old-age or retirement pensions is inconsistent with Community law. Greece had not given retroactive effect dating back to 23 December 1984 (date of entry into force of the Directive) to the measures transposing this Directive, which provides for equal treatment for men and women with regard to granting of the marriage allowance and its inclusion in the calculation of old-age or retirement pension. It should be noted that this calculation discrepancy also implies non-compliance of the legislation with Directive 75/117/EEC and Article 141 of the EC Treaty. The retroactive effect of the implementing measures does not go back to 1 January 1981 (date on which Directive 75/117/EEC entered into force in Greece).

### 2.5.3. *Working conditions*

The reasoned opinions sent by the Commission regarding Directive 93/104/EC concerning certain aspects of the organisation of working time led to several Member States notifying it of transposal. Greece transposed the Directive through Presidential Decree 88/1999, and Portugal did so by Law 73/1999 of 10 November. The Commission brought two new actions before the Court, against France<sup>(9)</sup> and Luxembourg<sup>(10)</sup>, and Mr Advocate General Alber delivered his opinion on the latter case on 16 November 1999. On the same day Mr Advocate General Jacobs delivered his opinion in the case pending against Italy<sup>(11)</sup>.

(5) Case C-457/98.

(6) Case C-354/98.

(7) Case C-438/98. Mr Advocate General La Pergola delivered his opinion on 24 June 1999.

(8) Case C-187/98, Commission v Hellenic Republic.

(9) Case C-46/99.

(10) Case C-48/99.

(11) Case C-386/98.



In its judgment of 16 December 1999, the Court ruled against Luxembourg<sup>(1)</sup> for failing to notify transposal of Directive 94/33/EC concerning the protection of young people at work. It was also decided to refer the case against France<sup>(2)</sup> concerning transposal of this Directive was to the Court. Italy, by contrast, transposed the Directive through its Regulation of 4 August 1999 and notified the Commission accordingly.

The Court of Justice ruled against Luxembourg for failing to transpose Directive 94/45/EC on the establishment of a European Works Council<sup>(3)</sup>. Portugal, the subject of a decision to take action before the Court for the same reason, transposed this Directive by its Law of 9 June 1999, which was duly notified to the Commission.

A reasoned opinion was also sent to Italy concerning incorrect transposal of Directive 77/187/EEC relating to the safeguarding of employees' rights in the event of transfers of undertakings. A reasoned opinion regarding incorrect transposal of Directive 98/59/EC on collective redundancies was sent to Greece. In the pending case concerning transposal of Directive 80/987/EEC relating to collective redundancies<sup>(4)</sup>, a new Act was notified to the Commission, which is examining it before deciding on further steps.

#### 2.5.4. *Health and safety at work*

With regard to Framework Directive 89/391/EEC, its individual directives<sup>(5)</sup> and the 'independent' Directive (92/29/EEC concerning medical treatment on board vessels), only one Member State, Luxembourg, has not yet transposed Directive 92/29/EEC. In this case, infringement proceedings under Article 228 of the EC Treaty for failing to implement the Court's judgment are continuing<sup>(6)</sup>. Ireland and Italy, whose failure to transpose Directive 93/103/EEC had been the subject of Court judgments<sup>(7)</sup>, have recently notified the Commission of their national implementing measures.

(1) Case C-47/99.

(2) Case C-45/99.

(3) Judgment of 21 October 1999, Case C-430/98, not yet reported.

(4) See judgment of the Court of 8 November 1990 in Case C-53/88. Commission of the European Communities v Hellenic Republic, ECR 1990 I-3917.

(5) Directives 89/654/EEC, 89/655/EEC, 89/656/EEC, 90/269/EEC, 90/270/EEC, 90/394/EEC, 90/679/EEC, 92/57/EEC, 92/58/EEC, 92/91/EEC, 92/104/EEC and 93/103/EC.

(6) Judgment of the Court of 29 October 1998 in Case C-410/97, Commission of the European Communities v Grand Duchy of Luxembourg, ECR 1998 I-6813.

(7) Judgments of the Court of 27 October 1998 in Case C-364/97, Commission of the European Communities v Ireland, ECR 1998 I-6593, and of 21 September 1999 in Case C-362/98, Commission of the European Communities v Italian Republic, not yet reported.

In the case of directives amending individual directives or adapting them to technical progress<sup>(8)</sup>, the rate of notification of national implementing measures increased substantially during 1999, but is not yet fully satisfactory. Consequently, infringement proceedings are continuing against Member States which have not yet notified the Commission of their national implementing measures. Decisions have already been taken to refer some of these to the Court of Justice, such as the cases against Italy for failing to transpose Directives 95/30/EC<sup>(9)</sup>, 97/59/EC<sup>(10)</sup> and 97/65/EC<sup>(10)</sup>.

Concerning the conformity of national measures implementing Framework Directive 89/391/EEC, the Commission has sent reasoned opinions, for incorrect transposal, to Germany, Belgium, Italy, Luxembourg and the Netherlands.

Reasoned opinions for incorrect transposal were also sent to Italy (Directive 89/655/EEC) Sweden (Directive 90/269/EEC) and Italy (Directive 90/270/EEC).

## 2.6. *Regional and cohesion policy*

Article 7 of Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and Article 8(1) of Regulation (EC) No 1164/94 establishing the Cohesion Fund state that measures which are cofinanced by the Community must comply with Community law. This principle is reiterated by Article 12 of Regulation (EEC) No 1260/99 laying down general provisions on the Structural Funds. This means that if a measure is found not to comply with Community law, funding can initially be suspended and subsequently reduced or withdrawn.

Furthermore, in accordance with the guidelines set out in document C(97) 3151 final-II on net financial corrections within the scope of Article 24 of Regulation (EEC) No 4253/88, the Commission may request definitive withdrawal of funding, or it can propose that the project be replaced. However, in cases of incompatibility with Community law, it is under no legal obligation to allow one project to be replaced by another.

For the new programming period (2000 to 2006). Article 39 of Regulation (EC) No 1260/99 confirms the policy of compliance with Community law and lays down details of how responsibility is to be shared between the Commission and the Member States.

(8) Directives 93/88/EC, 95/30/EC, 97/59/EC, 97/65/EC and 95/63/EC.

(9) Case C-439/98.

(10) Case C-312/99.

In connection with measures cofinanced by these Funds, the Member States, in accordance with the principle of subsidiarity, bear primary responsibility for ensuring that Community law is correctly applied and for implementing any necessary financial corrections. However, subsidiarity does not detract from the Commission's responsibility and does not affect its rights under Article 226 of the Treaty. On the contrary, the Commission is duty-bound to ensure that the Member States establish appropriate monitoring systems and that beneficiaries comply with Community law.

Infringement proceedings are independent of the action described in the former Article 24 of Regulation (EEC) No 4253/88 and the new Article 39 of Regulation (EEC) No 1260/99. This was confirmed by Community case law (T-461/93, *An Taisce v The National Trust for Ireland and WWF*, judgment of 23 September 1994). However, there must be consistency between the two procedures. Thus, in principle, if a letter of formal notice is sent as part of infringement proceedings, grant payments are suspended. Furthermore, after a reasoned opinion is sent, the procedure for reducing or withdrawing funding must be started. Similarly, the dropping of infringement proceedings under Article 226 of the EC Treaty does not necessarily mean the Commission loses its right to withdraw Community cofinancing if it feels the infringement committed was sufficiently serious.

However, before taking a decision on the reduction or withdrawal of Community funding, the Commission assesses the seriousness of the infringement on a case by case basis. This is to ensure that serious infringements do not escape without penalty and that less-developed regions or regions affected by restructuring are not hit disproportionately as a result of minor infringements. Furthermore, Article 39 of Regulation (EC) No 1260/1999 states that financial corrections must be in proportion and lays down certain criteria for this, namely the nature of the irregularity or modification and the extent or financial consequences of failings in the Member States management or control systems.

Finally, in the event of a Commission decision to reduce or withdraw funding, the Member State in question is of course entitled to appeal to the Court of Justice under Article 230 of the EC Treaty.

Most infringements involving operations cofinanced by the ERDF and the Cohesion Fund are against environment directives or Community public procurement rules. The most common complaint is failure to comply with Directive 85/337/EEC (environmental impact assessment) or with the obligations arising from Directive 92/43/EEC on habitats.

Only a relatively small proportion of infringements (suspected or established) against environmental or public procurement rules are (or could be) linked to Community cofinancing: 6,3 % of environment cases and 5,6 % of public procurement cases.

These figures are only a guide; the Commission faces objective difficulties in assessing the scope of infringements linked to Community cofinancing. Certain cases of infringement do not come to the Commission's attention, owing to the way that Community assistance under the ERDF is granted (through operational programmes rather than individual projects) and because national management systems are not accessible to the Commission. In other cases, it is difficult to establish a direct link between the infringement and the existence of Community cofinancing. Identifying infringements is easier in the case of the Cohesion Fund, which gives support to individual projects rather than programmes.

Nevertheless, in spite of these objective difficulties, funding is in some cases suspended or withdrawn. For example, the Commission decided to withdraw ERDF assistance from an architectural competition in France owing to a serious irregularity constituting an infringement of the Treaty provisions on the freedom to provide services.

Community assistance is currently suspended in other cases in which infringement proceedings are in progress, e.g. a Greek hospital construction project, for reasons linked to a procedure for the award of public contracts. Assistance is also currently suspended, for environmental reasons, in the case of a Spanish roadbuilding project, a joint project, a joint project involving Germany and the Netherlands, an Irish golf course project, and a project to protect the *caretta-caretta* tortoise in Greece.

## 2.7. Budget matters

### 2.7.1. General points

Very few infringements in the budget field reach the reasoned opinion or referral to the Court stages. Although the number of proceedings rose in 1999, especially in the field of own resources, most cases were resolved before such action.

## 2.7.2. *Incorrect application*

### 2.7.2.1. *Previously initiated proceedings*

The infringement proceedings initiated against Belgium, which in cases where debtors were authorised to pay in instalments did not transfer the own resources concerned until it had recovered the full amount in question, was closed. Belgium agreed to pay the principal and interest on arrears due under Article 11 of Council Regulation (EEC) No 1552/89<sup>(1)</sup> as a result of the delay in payment.

On the other hand, in the case of the proceedings against Italy for deducting, without sufficient grounds, amounts from its own-resources payments relating to customs duties on imports bound for San Marino, it was decided on 2 December 1998 to refer the matter to the Court. Italy was felt not to have complied with Regulation (EEC) No 1552/89 and the earlier Council Regulation (EEC) No 2891/77<sup>(2)</sup>, and as the Commission considered that Article 2 of those Regulations remain applicable during a suspension period, it decided to implement the referral on 13 October 1999.

### 2.7.2.2. *New proceedings*

The Commission decided to open infringement proceedings against Italy concerning interest on arrears due under Article 11 of Regulation (EEC) No 1552/89 owing to late entry of own resources amounting to ITL 1 484 936 000 000.

## 2.8. **Energy**

### 2.8.1. *Introduction*

The rate of transposal of the directives as a whole increased compared with 1998 to 8 %.

### 2.8.2. *Internal market for electricity and natural gas*

Directive 96/92/EC of the European Parliament and the Council of 19 December 1996 concerning common rules for the internal market in electricity, which was due to be transposed by 19 February 1999 at the latest, has not yet been transposed by France and Luxembourg.

Directive 98/30/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas must be transposed by 10 August 2000.

### 2.8.3. *Energy efficiency*

Italy has still not transposed Directive 96/57/EC of the European Parliament and the Council on energy requirements for household electric refrigerators, freezers and combinations thereof.

Infringement proceedings continue regarding the directives implementing Framework Directive 92/75/EEC on the indication of energy consumption.

All Member States have now implemented Commission Directive 96/60/EC on energy labelling of household combined washer-dryers. Belgium has yet to transpose Commission Directive 96/89/EC amending Directive 95/12/EC. Commission Directive 97/17/EC on energy labelling of household dishwashers, for which the deadline for transposal was 28 February 1999<sup>(3)</sup>, has been transposed only by France, Greece, Ireland, Italy, Luxembourg, the Netherlands and Spain. Directive 98/11/EC of 27 January 1998 on energy labelling of household lamps, which was due to be transposed by 14 June 1999, has been transposed only by Denmark, Spain, France, the United Kingdom and Sweden.

### 2.8.4. *Oil and gas*

Council Directive 98/93/EC of 14 December 1998 amending Directive 68/414/EEC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, due to be transposed by 31 December 1999, has been transposed only by Belgium, Denmark, Germany, the Netherlands and Spain.

## 2.9. **Transport**

The Commission monitors three aspects of the implementation of Community transport law: notification of the national measures implementing the directives, conformity of these measures and practical application of directives, regulations and Treaty provisions.

In 1999, 11 new transport directives became due for transposal. Regrettably, as in previous years, most of the Member States are very late in adopting national measures. This has resulted in a very poor rate of notification of national measures implementing directives due for transposal in 1999.

<sup>(1)</sup> OJ L 155, 7.6.1989, p. 1.

<sup>(2)</sup> OJ L 336, 27.12.1977, p. 1.

<sup>(3)</sup> Deadline for transposal as amended by Directive 99/9/EC of 26 February 1999 (OJ L 56, 4.3.1999).

However, notification speeded up once infringement proceedings were started. Failure to notify thus accounted for over four-fifths of the 125 instances in which proceedings were dropped by the Commission in 1999.

Eight of the 11 new directives amend earlier directives to adapt them to technical progress, promote alignment of national legislation, strengthen Community law or comply with international conventions.

Despite the 11 new directives, the average transposal rate for transport directives has improved appreciably to over 80 % at the end of 1999 (whereas it was less than 80 % at the end of 1998). Remarkable progress has been made with sea transport, for which the transposal rate has risen by more than 20 points (to 79 % at the end of 1999 compared with 59 % at the end of 1998).

The year-on-year figures for complaints received and cases identified on the Commission's own initiative have remained stable.

### 2.9.1. *Road transport*

While it has been possible to drop all the infringement proceedings for failure to notify the Commission of national measures implementing the most recent amending Directive 97/26/EC on driving licences, there is still grave concern regarding the transposal of the basic Directive 91/439/EEC. Examination of national transposal measures reveals that in nine Member States there are many discrepancies in such matters as the minimum age for a vehicle category, renewal of licences for EU citizens no longer residing in the Member State of issue, criteria for test vehicles, the duration of the practical test and minimum requirements in terms of physical and mental aptitude. The procedures for automatic registration of licences belonging to drivers who move from one country to another are incompatible with the principle of mutual recognition of driving licences.

As regards the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international road traffic, only two Member States have still to notify their national measures transposing Directive 96/53/EC. However, proceedings have opened in three cases against Member States whose national measures have proved on scrutiny to be at variance with the Directive's requirements.

The five infringement cases for failure to notify national measures implementing Directive 96/96/EC on roadworthiness tests for motor vehicles were dropped in 1999 and the

last case still open, which it had been decided to refer to the Court of Justice, is likely to be dropped after adoption of transposing measures by the Member State concerned.

The Road Safety Directive 94/55/EC as amended by Directive 96/86/EC seeks to align Member States' road haulage legislation and lays down requirements for road transport of packaged and bulk dangerous goods. These directives have still not been transposed in Ireland and Greece, and the Commission has decided to refer to the Court of Justice their failure to notify national implementing measures. It has also been decided to bring a court case against one Member State (Ireland) which has not yet notified the Commission of its national measures giving effect to Directive 95/50/EC, whose purpose is to harmonise procedures for checks on the transport of dangerous goods by road in order to allow more effective verification of compliance with safety standards. Ireland has not transposed any of the directives on road or rail transport of dangerous goods.

In the area of taxation, proceedings are still in progress against Belgium for non-conformity of the measures implementing Directive 93/89/EEC (taxes, tolls and charges for the use of certain infrastructures). On receiving the reasoned opinion, Belgium has just notified the transposal instruments, which are still being scrutinised.

### 2.9.2. *Combined transport*

All Member States have now transposed Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States. However, in the proceedings against Italy and Finland for incorrect application or non-conformity of national implementing measures, the Commission has decided to bring a court action against Italy and to send a reasoned opinion to Finland.

### 2.9.3. *Inland waterways*

Transposal of Directive 96/50/EC on harmonisation of the conditions for obtaining national boatmasters' certificates for inland waterway navigation, which was due for transposal in 1998, has given rise to non-notification proceedings, which are still in progress in three cases. However, two of the Member States concerned — France and the Netherlands — have recently informed the Commission of draft instruments transposing this Directive and it should be possible to drop the proceedings in the first weeks of the year 2000.



Proceedings against the two Member States which concluded bilateral inland waterways agreements with third countries are continuing with the Commission's decision to send reasoned opinions to both, on the grounds that this is exclusively a matter for the Community.

#### 2.9.4. Rail transport

Proceedings had been opened in many cases of failure to notify national measures transposing Directive 95/18/EC on the licensing of railway undertakings and Directive 95/19/EC on the allocation of railway infrastructure capacity and the charging of infrastructure fees, which sought to strengthen Directive 91/440/EEC on the development of the railways to facilitate the adaptation of the Community railways to the needs of the Single Market and increase their efficiency. All these proceedings were finally dropped, although some had already reached the stage of referral to the Court of Justice.

An outstanding problem with conformity of the measures implementing these directives led the Commission to start proceedings against Portugal for incorrect transposal of Directive 95/19/EC.

In the field of railway safety, Directive 96/49/EC as amended by Directive 96/87/EC provides for the approximation of the laws of the Member States with regard to the transport of goods, laying down uniform safety rules in this sector to improve safety and facilitate movement of rolling stock and equipment throughout the Community. These directives, which apply to transport of dangerous goods by rail in or between Member States, have still to be transposed in Ireland. Greece and Portugal and the Commission has decided to issue reasoned opinions on the failure of these countries to notify national implementing measures.

Directive 96/48/EC on the interoperability of the trans-European high-speed rail system, which was due for transposal in 1999, continues to give cause for concern since 11 out of the 12 infringement cases opened have reached the reasoned opinion stage. The purpose of this Directive is to promote interconnection and interoperability of the national high-speed train systems at the various design, construction and commissioning stages but also at the level of operation and access.

#### 2.9.5. Sea transport

The Commission notes that there has been progress in implementing Community sea transport law, both as regards freedom to provide services and in the whole area of safety at sea.

As regards right of establishment, proceedings are in hand against Italy for non-conformity with Articles 43 and 48 of the Treaty of its national legislation specifying the conditions on which shipping lines legally established in another Member State may participate on the same terms as Italian shipping lines in the Italian conference traffic quota.

Compliance with Community legislation on registration and flag rights continues to be a problem. While it has finally been possible to drop the proceedings against Belgium, arrangements for entering vessels in shipping registers and granting flag rights remain discriminatory in France, the Netherlands and Finland, against which proceedings are continuing. The Court of Justice had ruled against Ireland<sup>(1)</sup> and Greece<sup>(2)</sup> for retaining nationality rules which contravened Community law on the registration of merchant vessels and the Commission had started proceedings against these countries under Article 228 of the Treaty for failure to comply with the Court's judgments. The proceedings against Ireland were dropped following notification of new national measures complying with Community law. Greece has notified a draft presidential decree which is compliant, but which is still to be signed and published.

As regards maritime cabotage, proceedings have been taken against several Member States for maintaining or adopting national regulations in contravention of Regulation (EEC) No 3577/92, which provides for maritime cabotage to be opened up from 1 July 1993 to Community shipowners operating ships registered in and flying the flag of a Member State.

Where cargo-sharing agreements between Member States and third countries are concerned, the principle of freedom to provide services enshrined in Regulation (EEC) No 4055/86 is not yet respected by all Member States. In 1999, the Court of Justice ruled against Belgium for its agreement with Zaire<sup>(3)</sup>, Côte d'Ivoire, Senegal, Mali<sup>(4)</sup> and Togo<sup>(5)</sup> and against Luxembourg for its agreement with Côte d'Ivoire, Senegal and

(1) Case C-151/96 Commission v Ireland [1997] ECR I-3327, Judgment of the Court (Fifth Chamber) of 12 June 1997.

(2) Case C-062/96 Commission v Hellenic Republic, Judgment of the Court (Fifth Chamber) of 27 November 1997.

(3) Case C-170/98 Commission v Belgium, I-5493, Judgment of the Court (First Chamber) of 14 September 1999.

(4) Case C-171/98 Commission v Belgium, I-5517, Judgment of the Court (First Chamber) of 14 September 1999.

(5) Case C-201/98 Commission v Belgium, I-5517 Judgment of the Court (First Chamber) of 14 September 1999.

Mali<sup>(1)</sup>. Proceedings are also continuing against Portugal for its agreements with Angola and the successor states to the former Yugoslavia.

The Commission is maintaining its efforts to improve safety and prevent pollution of the seas, both by enforcing international standards for flag states more effectively and by setting up a harmonised system for port State control as a surveillance instrument. The Commission therefore regrets that the Member States are behind with transposal of the relevant directives.

In order to avoid circumstances liable to give rise to accidents during the transport of dangerous or polluting goods and to limit the damage caused when such accidents occur, Member States were required to give effect to Directive 93/75/EEC and its amending Directives 96/39/EC, 97/34/EC and 98/55/EC, which provide for application at Community level of the international rules on minimum requirements for vessels carrying dangerous or polluting goods. Although there have been delays of several years in transposal, it is a matter of satisfaction that virtually all proceedings started for failure to notify national measures could be dropped in 1999.

Clear progress has been made on transposing Directive 94/57/EC, and its amending Directive 97/58/EC, on common rules and standards to be observed by the Member States and ship-inspection, survey and certification organisations so as to ensure compliance with international conventions on maritime safety and marine pollution. All proceedings for failure to notify were in fact dropped, but proceedings for incorrect transposal are continuing in four cases.

Following the accidents at sea in recent years (the shipwreck of the *Herald of Free Enterprise* and the *Estonia* disaster), two directives were adopted to improve the safety of maritime passenger transport; Directive 98/18/EC laying down safety rules and standards for passenger ships operating domestic services and procedures for negotiation at international level with a view to harmonising the rules for passenger ships engaged on international voyages and Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community. These two directives seek to improve safety and likelihood of rescue for passengers and crew on passenger ships bound for or leaving Community ports and to ensure more effective action in the event of an accident. Regrettably,

there have been considerable delays in notification, with the result that proceedings have been started in 20 new cases in this connection. Proceedings concerning one or both of these directives are still in hand against Austria, Belgium, Finland, France, Italy, Luxembourg, the Netherlands, Portugal, Sweden and the United Kingdom.

A prime example of the delays in transposing sea transport directives is Directive 96/98/EC on marine equipment and its amending Directive 98/85/EC. 10 of the 12 cases in which non-notification proceedings were opened in 1998 were dropped in 1999, while proceedings for failure to notify measures implementing Directive 98/85/EC were opened in eight cases. Proceedings are pending against Belgium, Greece, Luxembourg, the Netherlands and Portugal.

As regards Directive 95/21/EC (port state control), which harmonises ship inspection criteria, including rules for detention and/or refusal of access to Community ports, the Court of Justice ruled<sup>(2)</sup> against Italy for failure to notify the Commission of the transposing measures. On the other hand, the proceedings against Belgium, Ireland and Portugal for incorrect transposal were dropped. There are still difficulties with three Member States (Italy, Luxembourg and Portugal) as regards notification of the measures transposing the amending Directives 98/25/EC and 98/42/EC.

Regarding the human factor, the Commission decided to open non-notification proceedings over Directive 98/35/EC amending Directive 94/58/EC on the minimum level of training of seafarers. Reasoned opinions were sent to eight Member States which have not yet notified the transposing measures to the Commission.

Finally, there are still many problems with transposal of Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over. It has been decided that four out of the nine non-notification cases will be referred to the Court of Justice (France, Italy, the Netherlands and Portugal).

#### 2.9.6. *Air transport*

The directive transposal rate in the air transport field is reasonably satisfactory (nearly 90 % at the end of 1999) but delays or failure to transpose have been noted for some Member States.

<sup>(1)</sup> Case C-202/98 *Commission v Luxembourg*, I-5517, Judgment of the Court (First Chamber) of 14 September 1999.

<sup>(2)</sup> Case C-315/98 *Commission v Italy* [1999] ECR I-8001, Judgment of the Court (Fifth Chamber) of 11 November 1999.

There has, for example, been considerable delay in notifying the measures transposing Directive 98/20/EC amending Directive 92/14/EEC on limitation of the operation of certain types of subsonic civilian jet aircraft. The Commission has thus started proceedings in 12 cases, of which only four could be dropped in 1999.

Substantial progress was made in transposing the fundamental principles governing the investigation of civil aviation accidents and incidents established by Directive 94/56/EC. Of the eight cases pending in 1998, only two — against Greece — are still open at the stage of referral to the Court of Justice and a ruling<sup>(1)</sup> has been given against Luxembourg, which has not notified the Commission of transposing measures.

Regarding air traffic control, all the proceedings for failure to notify measures transposing Directive 97/15/EC (adopting Eurocontrol standards) were dropped (except in the case of Germany).

The year 1999 saw a continuation of the substantial decline already apparent in 1998 in the number of complaints and cases concerning civilian aircrew licences and problems of conformity of the national measures with Directive 91/670/EEC on mutual acceptance of personnel licences for the exercise of functions in civil aviation. However, while the proceedings against Germany could finally be dropped, it was decided to refer to the Court the failure of Belgium and France to apply the Directive correctly.

Progress was also made in 1999 in the transposal of Directive 96/67/EC on access to the ground-handling market. Only two Member States — Belgium and Sweden — have so far failed to transpose the Directive into national law and it has been decided to institute court proceedings against them. Two complaints about Member States' application of Directive 96/67/EC are also being examined by the Commission.

The infringements noted in connection with airport taxes also continued. Imposition by Member States of varying rates of tax depending on passenger destinations (internal flights/intra-Community and/or international routes) is incompatible with the principle of freedom to provide services stipulated in the field of air transport by Regulation (EEC) No 2408/92 and with EU citizens' freedom of movement under Article 18 of the Treaty. The existence of such discriminatory taxation led

the Commission to decide to bring court actions against Ireland, Italy, Portugal and Greece and to continue work on the proceedings against the Netherlands, Spain and United Kingdom, which have notified draft instruments intended to bring their legislation into compliance with Community law.

In 1998, the Commission had referred to the Court of Justice the open skies agreements concluded with the United States by eight Member States (Belgium, Denmark, Germany, Finland, Luxembourg, Austria, Sweden and the United Kingdom). Proceedings continued in 1999 against two other Member States (France and the Netherlands).

## 2.10. Telecommunications

Transposal of all Community legislation harmonising national regulations on telecommunications was to have been completed by 1 January 1999, the final item of legislation being Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection. This was to be transposed by 31 December 1998.

On 10 November 1999, the Commission adopted its Fifth Report on the implementation of the telecommunications regulatory package<sup>(2)</sup>. The Commission's main conclusion is that, 21 months after the introduction of full competition, the regulatory framework in place drives telecommunications services markets in the Member States with an accelerating growth rate, large numbers of market entrants and falling tariffs. These economic figures are underpinned by effective licensing, interconnection, tariff, numbering and frequency regimes in the Member States, supervised by regulatory authorities on the basis of Community and World Trade Organisation (WTO) principles.

The Commission notes progress with transposal, especially as regards the licensing Directive (four more Member States transposed most of its content after publication of the Fourth Report) and the interconnection Directive (three Member States). In addition, 13 Member States have largely or partly transposed the numbering Directive and 11 have transposed the Date Protection Directive. The Commission has urged the Member States who are responsible for the few remaining gaps in transposal to take action quickly to ensure legal certainty for the market players and to lay solid foundations for future development of the regulatory arrangements.

<sup>(1)</sup> Case C-138/99 Commission v Luxembourg [1999] ECR I-9021 Judgment of the Court (Third Chamber) of 16 December 1999.

<sup>(2)</sup> COM(1999) 537 final.

Since full liberalisation on 1 January 1998, a significant number of infringement cases is now reaching the final stage of referral to the Court of Justice: out of a total of 46 cases at the end of 1999, 12 are at the reasoned opinion stage (four for non-notification, eight for non-conformity), and the Commission has already decided to refer 22 cases to the Court (14 for non-notification, eight for non-conformity). However, 35 cases (33 for non-communication and two for non-conformity) were dropped in 1999 when the Member States took action to comply.

The position with regard to implementation of the various directives and decisions and the proceedings brought under Article 226 of the EC Treaty is as follows.

The framework Directive 90/387/EEC laying down the principles to be applied to open network provision (ONP) had already been transposed by all the Member States in 1998.

All the Member States have notified the Commission of national measures implementing Directive 92/44/EEC (leased lines). The last case pending against Belgium for failure to notify was dropped in 1999. In December 1999, the Commission decided to send a reasoned opinion to Luxembourg since the national rules notified were not in conformity with the Directive.

Directive 97/51/EC amended the two foregoing directives to adapt them to a competitive environment in telecommunications. Following notification by Greece, Portugal and Sweden, the cases pending for failure to notify were dropped in 1999. As regards the Member States which have not yet notified transposing measures, the case against Italy was referred to the Court in November and the Commission decided to bring an action against France in December 1999.

All Member States but one have notified measures transposing Directive 95/62/EC on the application of open network provision (ONP) to voice telephony. The Commission therefore decided to start court proceedings against Belgium, whereas non-notification proceedings against Greece were dropped in December 1999. Following the introduction of new legislation, the Commission also dropped its proceedings against Portugal over implementation of the directive's provisions on cost accounting.

Measures transposing the new voice telephony Directive (98/10/EC), which had repealed Directive 95/62/EC as from 30 June 1998, have been notified by all Member States except France and Italy. Proceedings against Greece, Ireland, the Netherlands, Portugal and Sweden were therefore dropped in

1999 but the Commission brought a court action against Italy and decided to do so against France. After studying the legislation notified, the Commission decided in December 1999 to send reasoned opinions to Belgium, Luxembourg and Austria since the national rules notified are not in conformity with the Directive.

Following notification of the national measures to transpose the licences Directive (97/13/EC) by Greece and the Netherlands, the proceedings pending for failure to notify were dropped in 1999. On the grounds that the national rules it had received were not in conformity with the Directive, the Commission started court proceedings against Luxembourg and Austria and decided to do so against Belgium, France and Italy (it is studying additional provisions notified by Italy at the end of 1999). For the same reason, it sent a reasoned opinion to Spain and decided to send a reasoned opinion to Germany in December 1999.

All Member States have notified measures implementing the interconnection Directive (97/33/EC) and the non-notification proceedings pending against Greece, Spain, the Netherlands, Portugal and Sweden were therefore dropped in 1999. Since the national rules received were not in conformity with the Directive, the Commission decided to institute court proceedings against Belgium, France and Luxembourg. A reasoned opinion on grounds of non-conformity was also sent to Germany in November 1999.

By the end of 1999, all Member States had notified implementing measures for the numbering Directive (98/61/EC) amending Directive 97/33/EC with regard to operator number portability and carrier preselection, with the exception of Belgium, which was sent a reasoned opinion. As a result, the non-notification proceedings could be dropped in seven cases. In the case of one Member State (the United Kingdom), a decision was pending on an application to postpone introduction of carrier preselection.

Eight Member States (Germany, Spain, Italy, the Netherlands, Austria, Portugal, Finland and Sweden) have notified implementing measures for the protection of personal data Directive (97/66/EC). The proceedings against the Netherlands, Austria, Portugal, Finland and Sweden were therefore dropped in 1999, whereas reasoned opinions were sent to Belgium, Denmark and Ireland. In December 1999 the Commission also decided to start court action against Greece, France, Luxembourg and the United Kingdom for failure to notify it of full national implementing measures. The Commission is studying the measures of which it has been apprised.



All the Member States had already notified national measures implementing the three directives on frequencies — Directives 87/372/EEC (GSM), 90/544/EEC (Ermes) and 91/287/EEC (DECT).

All the Member States except France, the Netherlands and Austria have notified national measures transposing Directive 95/47/EC on the use of standards for the transmission of television signals. These are now being studied. Following notification of national measures by Greece, Italy, Portugal and Sweden, the proceedings pending for failure to notify were dropped in 1999. The proceedings under way against the other Member States continued with the referral of France and Austria to the Court. The Commission decided to take this step with regard to the Netherlands in July 1999.

All Member States have acted to introduce 1 127 as the standard emergency services number as required for the Union as a whole by Decision 91/396/EEC, but a reasoned opinion was sent to Greece, where the number was not yet operational at the end of 1999.

All the Member States had already transposed Decision 92/264/EEC on adopting '00' as the standard code for access to the international network in the Community.

Finally, there are no major problems with the transposal and application by the national authorities of Directives 91/263/EC and 93/97/EC, codified by Directive 98/13/EC relating to telecommunications terminal equipment and satellite earth station equipment, including the mutual recognition of their conformity. This latter Directive is to be replaced by Directive 99/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, which the Member States must transpose by 7 April 2000.

### 2.11. Information, communication, culture and audiovisual media

The information on legislative developments in the audiovisual field provided in the Sixteenth Annual Report on Monitoring the Application of Community Law still applies.

However, several infringement cases are in progress. 10 cases for failure to notify national measures transposing Directive 97/36/EC are still open (France, Luxembourg, Belgium, the Netherlands, Germany, Italy, the United Kingdom, Ireland, Greece, Austria).

Two cases of non-conformity with Directive 89/552/EEC relate to Luxembourg and France. Three cases of incorrect application of the same Directive concern Italy, Greece, and Spain. There is one case of incorrect application of Directive 97/36/EC by Belgium.

### 2.12. Environment

The previous issue of this Report on Monitoring the Application of Community Law described how the Commission fulfils its function as guardian of Community environmental law by means of the infringement procedure provided for by Article 226 (ex Article 169) of the Treaty establishing the European Community<sup>(1)</sup>

Here, it is proposed merely to draw attention to some general statistics on the Commission's efforts in this area, which show how seriously it takes its task. In 1999 the Commission referred 43 cases against Member States to the Court of Justice (none on the basis of Article 228) and delivered 63 reasoned opinions or supplementary reasoned opinions (three of them under Article 228).

The Article 228 (ex Article 171) procedure has continued to prove effective. In the environment field most cases were dropped. The Commission was thus able to discontinue the cases on France's transposal of Directive 79/409/EEC on the conservation of wild birds (Case C-373/98) following notification of the transposing measures and on Italy's transposal of the directive on urban waste water, which it had decided to refer to the Court of Justice in 1998. In 1999, the Commission did not need to refer any other cases to the Court on the basis of Article 228. However, several letters of formal notice or reasoned opinions were sent, for failure to notify, non-conformity or incorrect application. Further details are given below in the discussion of the various sectors.

For the first time since the new provisions on compliance with judgements entered into force in 1993, an Advocate General has delivered an opinion in a case based on Article 228. This was Case C-387/97 Commission v Greece on waste disposal in Crete (see section on 'waste' below).

<sup>(1)</sup> OJ C 354, 7.12.1999, p. 42.

Several Member States have been very slow to reply to the Commission's letters inquiring about complaints or cases identified *ex officio* with a view to investigating the circumstances and making an initial assessment of whether there has been an infringement. As a result, the Commission was obliged to take action against these countries (Ireland, France, Italy) in 1999 under Article 10 of the Treaty establishing the European Community, which requires Member States to cooperate in good faith with the Community institutions. The Commission can only regret such a situation, particularly since Member States' replies to these requests for information generally establish that no infringement has taken place and a prompt and full reply would avoid the need to keep open cases which in fact are without basis. Such a situation undermines effective cooperation between the Commission and the national governments. When the decisions to start such proceedings were taken, the Commission issued press releases to draw public attention to this lack of cooperation, which prevents the Commission from acting effectively as guardian of the Treaty.

In 1999, the Commission also continued work on the Communication adopted in October 1996 (Implementing Community Environmental Law)<sup>(1)</sup>. Considerable progress was thus made on the proposal for a Council recommendation on minimum criteria for environmental inspections in the Member States, which was adopted by the Commission on 16 December 1998<sup>(2)</sup>. The Economic and Social Committee and the Committee of the Regions delivered favourable opinions on the Commission's proposal on 28 April<sup>(3)</sup> and 16 September 1999<sup>(4)</sup> respectively. The European Parliament rendered an opinion at its plenary session of 16 September 1999<sup>(5)</sup>, recommending that the proposal be adopted as a directive and not a recommendation.

On 3 December 1999, the Commission adopted an amended proposal incorporating several of Parliament's amendments, but without recasting the proposal as a directive. Several meetings of the Council working party were held under the Finnish Presidency, leading to a political agreement of the Council on 13 December 1999 with a view to a Common Position. In the text adopted, the scope did not include any reference to inspections in the nuclear industry as in the Commission's original proposal, since a majority of Member States had argued in the Council that a separate instrument under the Euratom Treaty would be more suitable. The proposal applies to guidelines on minimum criteria for environmental inspections of all industrial installations and other enterprises and facilities whose emissions and/or discharges to the environment and wastes are subject to authoris-

ation, permit or licence requirements under European Community law. The text adopted takes over several of Parliament's proposed amendments, although in a slightly different form.

It may be hoped that a Common Position will be adopted at the beginning of the year 2000 and that constructive discussions will continue with Parliament in the next stage of the codecision procedure. The proposal could thus be finally adopted in the very near future.

This is the first stage in an ongoing programme of action on inspections and checks on implementation. In the light of experience of implementing the recommendation and after consultation with the interested parties, including the IMPEL network, further steps will have to be considered to broaden the purpose and scope of the minimum requirements and in particular to go beyond the checks on point sources for which the guidelines were produced to cover diffuse sources and more general inspections of industrial installations using the best techniques available in the Member States. Consideration can then be given to the possibility of a directive.

The IMPEL network (Implementation and Enforcement of EU Environmental Law) continued its work. At the meeting in Berlin in June 1999, it was decided to make minor changes in the organisational arrangements and the frequency of meetings.

In 1999, the Commission also gave further thought to the question of third-party liability in environmental matters.

The last report on monitoring the application of Community law described how the Commission's work in this area covered three aspects: monitoring the notification of national implementing measures, scrutinising measures for conformity with the directives they transpose and monitoring the practical application of directives and regulations.

No major developments have occurred since last year's report in the notification by Member States of measures implementing environmental legislation. Several directives fell due for transposal in 1999:

- Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control,
- Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances,
- Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

<sup>(1)</sup> COM(1996) 500 final. 22.10.1996.

<sup>(2)</sup> COM(1998) 772 final. 16.12.1998.

<sup>(3)</sup> OJ C 169, 16.12.1999.

<sup>(4)</sup> OJ C 374, 23.12.1999.

<sup>(5)</sup> Not yet reported.

- Commission Directive 98/73/EC of 18 September 1998 adapting to technical progress for the twenty-fourth time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances,
- Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC,
- Commission Directive 98/101/EC of 22 December 1998 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances.

In 1999, as in previous years, the Commission was forced to start proceedings in several cases of failure to notify it of transposing measures, involving all Member States.

Details of these cases are given in the sections on individual sectors and directives.

Proceedings are in hand in all areas of environmental legislation and against all the Member States in connection with the conformity of national transposing measures. Monitoring the action taken to ensure conformity of Member States' legislation with the requirements of the environmental directives is a priority task for the Commission. The Commission must again point out that there has been no improvement as regards the provision, along with the statutory instruments transposing the directives, of detailed explanations and concordance tables matching national provisions with the corresponding Community provisions. This is done only by Denmark, Germany, Finland and Sweden, and sometimes Ireland.

The Commission is also responsible for checking that Community environmental law (directives and regulations) is properly applied, and this is a major part of its work. This means checking Member States' practical steps to fulfil certain general obligations (designation of zones, production of programmes, etc.) and examining specific cases in which a particular administrative practice or decision is alleged to be contrary to Community law. Complaints and petitions sent to the European Parliament by individuals and non-governmental organisations, and written and oral parliamentary questions and petitions, generally relate to incorrect application.

The number of complaints continued to rise in 1999, following the increase already apparent in 1998. Spain, France and Germany were the countries most often concerned. While complaints often raise more than one problem, a broad classification of those registered in 1999 shows that one in

every two is concerned with nature conservation and one in every four with environmental impact, whereas waste-related problems were raised in one in ten cases, as were air pollution and water pollution.

As stated in the previous report, the Commission must, when considering individual cases, assess factual and legal situations that are very tangible and are of direct concern to the public. It thus encounters certain practical difficulties. Without abandoning the pursuit of incorrect application cases which highlight questions of principle or general interest or administrative practices that contravene the directives, the Commission therefore concentrates on problems of conformity.

The Commission often finds that the Member States are very slow to comply with a particular provision of the environmental directives that lays down reporting requirements. Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain directives relating to the environment requires reports to be sent regularly, for clearly-defined reference periods. In 1999, the Commission had to institute proceedings to induce a number of Member States (Spain, Denmark, Portugal, France, Italy, the Netherlands, Greece, Ireland) to send in such reports on the waste situation, just as it had been forced to do for water in 1998.

#### 2.12.1. *Freedom of access to information*

Directive 90/313/EEC on the freedom of access to information on the environment is a particularly important piece of general legislation: keeping the public informed ensures that all environmental problems are taken into account, encourages enlightened and effective participation in collective decision-making and strengthens democratic control. The Commission believes that, through this instrument, ordinary citizens can make a valuable contribution to protecting the environment.

Although all Member States have notified national measures transposing the Directive, there are several cases where national law still has to be brought into line with its requirements.

On 9 September 1999, in Case C-217/97 brought by the Commission against Germany, the Court of Justice ruled that Germany had failed to fulfil its obligations with regard to exceptions from the principle of communication, part communication and reasonable costs of communication. The Commission has also decided to bring an action before the Court against the same Member State because of certain aspects of implementation of the Directive in Schleswig-Holstein.

The Commission started court proceedings against Spain (Case C-189/99) over several points on which the Directive is incorrectly transposed (reasonable costs, information excluded, implicit refusal).

Two cases were in progress against Portugal at the beginning of 1999. Firstly, in the course of 1999, the Commission referred to the Court of Justice Portugal's failure to provide the report required by Article 8 of the Directive (Case C-106/99). The Commission dropped proceedings when the report was forthcoming. Secondly, the Commission decided to open court proceedings for non-conformity of the Portuguese legislation transposing the Directive as regards designation of the authorities to which it applies, the persons enjoying the right of access, the nature of the information to be given and the information excluded. However, no action has been taken on this decision since Portugal has notified a new instrument<sup>(1)</sup> which was still being studied at the end of 1999.

A court action was brought against Belgium over several aspects in which transposal was incorrect, both at federal level and in the Flanders and Wallonia Regions (Case C-402/99). The Commission also decided to bring Belgium before the Court for failure to adopt measures to transpose the obligation to provide a formal explanation of any refusal of access to the information mentioned in Article 3 (4) of the Directive.

The Commission decided to start court proceedings against France, since the French measures did not ensure formal, explicit and correct transposal of several aspects of the Directive, including the obligation to provide a formal explanation of refusal of access to the information.

On the other hand, the United Kingdom amended its earlier rules in response to the Commission's proceedings, which could therefore be dropped.

Among the most common subjects of complaint brought to the Commission's notice are refusal by national authorities to provide the information requested, slowness of response, excessively broad interpretation by national government departments of the exceptions to the principle of disclosure, and unreasonably high charges. Directive 90/313/EEC is unusual in containing a requirement for Member States to put in place national remedies for improper rejection or ignoring of requests for access to information or unsatisfactory response by the authorities to such requests. When the Commission receives complaints about such cases, it advises the aggrieved

parties to use the national channels of appeal established to allow the Directive's aims to be achieved in practice. The Commission therefore does not generally follow up such individual complaints by infringement proceedings unless they reveal the existence of a general administrative practice in the Member State concerned.

A German court asked the Court of Justice for a preliminary ruling (Case C-296/97) on the concept of 'preliminary investigation proceedings' with regard to access to an expert opinion submitted as part of the planning procedure for closure of a mine.

In 1999, on the basis of the national reports submitted in accordance with Article 8 of the Directive, the Commission continued work on preparing its report to the European Parliament and the Council on experience of applying the Directive.

In June 1998, the Community and the Member States had signed the Convention of the United Nations Economic Commission for Europe on Access to Information. Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention). Community practice does not allow the Community to ratify the Convention until the pertinent provisions of Community law, including those of Directive 90/313/EEC, have been duly amended to take account of these international obligations.

In 1999, the competent Commission departments (Environment DG) produced a working document on principles for revision of Directive 90/313/EEC in the light of the Aarhus Convention. The document was sent out in December 1999 and wide consultations have begun with the Member States, the IMPEL network, the NGOs and the economic players. Meetings with these interlocutors will be held early in the year 2000. A proposal for amendment of the Directive could be adopted in the first half of the year 2000.

### 2.12.2. *Environmental impact assessment*

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC, remains the prime legal instrument for general environmental matters. The Directive requires environmental issues to be taken into account in many decisions which have a general impact.

The deadline for transposal of Directive 97/11/EC amending Directive 85/337/EEC was 14 March 1999. Proceedings were opened against all the Member States except the Netherlands for failure to transpose or incomplete transposal. In 1999, three States — Sweden, Italy and Ireland — notified the

<sup>(1)</sup> Law 94/99.



Commission of transposing measures and proceedings against them were dropped. Proceedings against the other Member States are continuing, the Commission having decided to send reasoned opinions to the United Kingdom, Germany, France, Luxembourg, Belgium, Greece, Spain and Austria. The measures notified by Finland, Denmark and Portugal are being studied but the proceedings against them were still open at the end of 1999.

Following the European Parliament's opinion of 20 October 1998 on the proposal for a directive adopted by the Commission in December 1996 on the assessment of the effects of certain plans and programmes on the environment<sup>(1)</sup>, the Commission adopted an amended proposal in February 1999<sup>(2)</sup>. The aim of this proposal is to ensure that environmental considerations are taken into account when preparing and adopting instruments setting out the context for future projects. On 13 December 1999, the Council reached unanimous agreement with a view to a Common Position on this proposal for a directive.

As already mentioned in previous reports on monitoring of the application of Community law, many complaints received by the Commission and petitions presented to Parliament relate, at least incidentally, to incorrect application by national authorities of Directive 85/337/EEC as amended. These complaints about the quality of impact assessments and the lack of weight given to them are a major problem for the Commission, since it is extremely difficult to verify compliance by the national authorities and the basically formal nature of the Directive provides no basis for contesting the merits of a choice taken by the national authorities if they have complied with the procedure it lays down. As the Commission has already pointed out, most of the cases brought to its attention concerning incorrect application of this Directive revolve around points of fact (existence and assessment). The most effective check on any infringements is therefore very likely to be at a decentralised level, particularly through the national courts.

On 22 October 1998, the Court had found against Germany (Case C-301/95), holding that it had failed to discharge its obligations on several counts. Since Germany had taken no measures to comply with this judgment, the Commission had to initiate proceedings under Article 228 of the Treaty and issue a reasoned opinion. The points at issue were the delay in adopting the measures required to comply with the Directive, to the extent that Germany had not notified the Commission of all the measures it had taken to ensure compliance, and in particular the measures taken by the Länder, and failure to

apply the Directive to all projects approved after 3 July 1988. As regards this latter aspect, the Court held that Germany had failed to discharge its obligations in that it had not prescribed environmental impact assessments of all projects assessable under the Directive where the authorisation procedure had started after that date. Regarding incomplete transposal of Article 2 of the Directive in relation to the projects listed in Annex II, the Court held that Germany had again failed to discharge its obligations by excluding entire classes of projects so listed from the requirement for environmental impact assessments.

On 21 January 1999 the Court ruled in Case C-150/97 that Portugal's failure to adopt the provisions of law, regulation or administrative action needed for full compliance with Directive 85/337/EEC constituted a failure to meet its obligations under Article 12(1) of the Directive. Following the opinion of Advocate General Mischo, the Court found not only that Portugal had failed to comply with the deadline for transposal but also that the Portuguese legislation<sup>(3)</sup> transposing the Directive after the due date had passed did not apply to projects for which the authorisation procedure was in progress when it entered into force, on 7 June 1990.

The Commission therefore asked the Portuguese authorities to inform it of the measures taken to comply with the judgments. Since it had not received any reply, it began proceedings under Article 228 (ex Article 171) of the Treaty against Portugal.

The Court likewise followed the opinion of Advocate General Tesouro in its ruling against Ireland on 21 September 1999 in a non-conformity case (C-392/96). It found that, by not adopting all the necessary measures for proper transposal of Article 4(2) as regards projects falling within points 1(b), (d) and (e) and 2(a) of Annex II to Directive 85/337/EEC, and only partly transposing Article 2(3), (5) and (7), Ireland had failed to fulfil its obligations under Article 12 of the Directive. The case related particularly to Ireland's setting of thresholds for types of project such as allocation of uncultivated land and land in a semi-natural state for intensive farming, initial reforestation where there was a potential negative ecological impact and land clearance with a view to use of the land for a different purpose, poultry farming or peat extraction. The thresholds were so high that in practice a large number of projects with a considerable environmental impact were taken out of the assessment procedure provided for by the Directive. Ireland did not contest that it had failed to transpose Article 2(3), (5) and (7).

<sup>(1)</sup> COM(96) 511 final.

<sup>(2)</sup> COM(1999) 73 final.

<sup>(3)</sup> Decree-Law 278/97, 8.10.1997.

The Commission brought court cases against Germany over its Motorways Act (Case C-24/99) and against Spain over the failure to provide for impact assessments for most Annex II projects (Case C-474/99). The Commission is pursuing proceedings on the same grounds against Italy and is studying the information provided by Italy in 1999 following the supplementary reasoned opinion delivered in 1998. However, it dropped proceedings against the United Kingdom, which adopted new national measures for England, Wales and Scotland in 1998 and 1999.

Proceedings are also being taken in certain cases of incorrect application. The Commission has sent a reasoned opinion to Spain on infringement of the Directive in the authorisation of the expressway project 'Acceso Norte al Puerto de Algeciras'.

### 2.12.3. *Air*

In this area, all proceedings in hand in 1999 relate to notification of measures transposing recent directives.

However, it should be mentioned in passing that the Commission decided to drop the proceedings against Spain for excluding the Canary Islands from the transposal of Directive 93/12/EEC relating to the sulphur content of certain liquid fuels. On 26 April 1999, the Council adopted Directive 1999/32/EEC amending Directive 93/12/EEC and allowing Spain to exempt this region from the obligation deriving from the original directive.

Council Directive 96/62/EC on ambient air quality was due to be transposed by 21 May 1998. This Directive is to form the basis for a series of Community instruments to set new limit values for atmospheric pollutants, starting with those already covered by existing directives, lay down information and alert thresholds, harmonise air quality assessment methods and improve air quality management in order to protect human health and ecosystems. The Commission had sent reasoned opinions to Greece, Spain, Portugal, Ireland, Italy, Sweden and the United Kingdom in view of their total or partial failure to enact national transposal measures by the deadline. Ireland, Italy, Sweden, Portugal and the United Kingdom complied with their obligation to notify transposing measures and the Commission dropped the proceedings against them. On the other hand, the Commission brought court actions against Spain (Case C-417/99) and Greece

(Case C-463/99) and decided to send a reasoned opinion to Belgium.

Directive 97/68/EC of the European Parliament and of the Council on the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery was due to be transposed by 30 June 1998. The Commission had sent reasoned opinions to Belgium, Greece, France, Portugal, Ireland, Italy, Luxembourg, Austria and the United Kingdom since they had wholly or partly failed to enact transposal measures by the deadline. These Member States notified the Commission of transposing measures and the proceedings were therefore dropped. However, the Commission started court actions against three countries: Italy (Case C-418/99), Ireland (Case C-355/99) and France (Case C-320/99).

Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC<sup>(1)</sup> was due for transposal by 1 July 1999. In the absence of transposing measures, proceedings were started against Luxembourg, Belgium, the Netherlands, Germany, Italy, the United Kingdom, Ireland, Denmark, Greece, Spain, Portugal, Austria, Sweden and Finland.

The year 1999 also saw the adoption of four directives relevant to air quality. These do not have to be transposed until 2000 or 2001 but earlier transposal is possible:

- Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC<sup>(2)</sup> — this Directive must be transposed by 1 July 2000,
- Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations<sup>(3)</sup>,
- Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air<sup>(4)</sup>,
- Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO<sub>2</sub> emissions in respect of the marketing of new passenger cars<sup>(5)</sup>.

<sup>(1)</sup> OJ L 350, 28.12.1998, p. 58.

<sup>(2)</sup> OJ L 121, 11.5.1999, p. 13.

<sup>(3)</sup> OJ L 85, 29.3.1999, p. 1.

<sup>(4)</sup> OJ L 163, 29.6.1999, p. 41.

<sup>(5)</sup> OJ L 12, 18.1.2000, p. 16.

#### 2.12.4. **Water**

Monitoring implementation of Community legislation on water quality remains a major part of the Commission's work, accounting for about a quarter of current environmental infringement proceedings and many complaints and petitions. This is explained by the quantitative and qualitative importance of the responsibilities imposed on the Member States by Community law and by growing public concern about water quality.

There are several cases under way over infringements of Directive 75/440/EEC concerning the quality required of surface water intended for the abstraction of drinking water. Some of the proceedings concern the preparation of systematic action plans (Article 4(2)) as an essential part of the effort to safeguard water quality (nitrates, pesticides, etc.) Others are concerned with the criteria for exemptions under Article 4(3).

In 1998, the Court of Justice found against Portugal in two cases. In the judgment of 17 June 1998 in the first case (C-214/97), the Court held that the documents provided by the Portuguese authorities did not constitute a systematic action plan, despite their title and the projects described, because there was no timetable for water improvement, they did not cover all waterways and did not provide a framework for improving water quality. The Commission did not regard the systematic action plan of which it was notified following this judgment as sufficient to comply with the Directive's requirements and therefore decided to start new proceedings against Portugal and issue a reasoned opinion. However, Portugal did notify the Commission of a Decree-Law of 1 August 1998, thus complying with the Court judgment of 15 October 1998 (Case C-229/97) concerning inaccurate and incomplete sampling methods for the purposes of Directive 79/869/EEC, adopted on the basis of Directive 75/440/EEC.

The Commission also started court action against France on 16 July 1999 for its use of nitrate polluted water in Brittany to produce drinking water, its failure to produce a systematic plan and its non-compliance with the requirements of Article 4(3) of the Directive for exemptions from the ban on using polluted water (Case C-266/99).

A supplementary reasoned opinion was sent to Italy in December 1998 over its lack of a systematic action programme for the whole country. The Italian reply is being studied.

In 1998, the United Kingdom notified action programmes and measures transposing the Directive. The Commission was thus able to drop these proceedings in 1999.

With regard to Directive 76/160/EEC concerning the quality of bathing water, monitoring of bathing areas is becoming increasingly common and water quality is improving. Despite this progress, however, proceedings are still under way against roughly half the Member States since implementation still falls far short of the Directive's requirements.

The non-notification proceedings against Austria and Germany were dropped since the Austrian and German authorities had notified the outstanding measures.

The Commission decided to send the United Kingdom an Article 228 reasoned opinion over Blackpool, where the beaches do not meet the Directive's standards. The Commission considers that the United Kingdom has not fully complied with the Court judgment of 14 July 1993 (Case C-56/90).

In 1999, the Commission decided to institute Article 228 proceedings against Spain following the Court ruling of 12 February 1998 that Spain had failed to act to bring the quality of inland bathing waters into line with the binding values set by the Directive (Case C-92/96). The measures by which Spain proposes to comply with the judgment appear inadequate.

On 8 June 1999, the Court ruled in Case C-198/97 that Germany had failed to fulfil its obligations with respect to water quality and sampling frequency. Germany has notified various measures to comply with the judgment and these are being studied.

The Commission also brought a court action against Belgium for inadequate monitoring and the existence of several non-compliant bathing areas (Case C-307/98).

The Commission decided to bring court proceedings against France, the Netherlands and Portugal over water quality and sampling frequency. It also decided to send reasoned opinions to the United Kingdom, Sweden and Italy and begin infringement proceedings against Denmark and Finland for the same reason.

Finally, the Commission dropped the proceedings against Denmark for failure to measure the total coliforms parameter required by the Directive, since Denmark had brought in additional legislation following the reasoned opinion. On the other hand, it was decided to bring a court action against France over this issue.

Proceedings have been started against most Member States over their implementation of Directive 76/464/EEC on dangerous substances discharged into the aquatic environment and of the directives setting levels for individual substances.

Court proceedings have been started in many cases and there were new rulings by the Court against the Member States in 1999 because of their failure to produce programmes incorporating quality objectives in order to reduce pollution by substances on list II in the Annex to the Directive.

Following the Court judgments of 11 June 1998 against Luxembourg (Case C-206/96), of 25 November 1998 against Spain (Case C-214/96) and of 1 October 1998 against Italy (Case C-285/98), ruling that these States had failed to establish programmes incorporating quality objectives to reduce pollution by these substances, the countries concerned notified measures intended to ensure compliance with Article 7 of the Directive. These measures are complex and they are still being examined.

The Court pronounced judgment in 1999 in cases started in 1996 or 1997 on the same grounds. It ruled against Belgium on 21 January 1999 for failure to fulfil its obligations (Case C-207/97) and against the Federal Republic of Germany (Case C-184/97) on 11 November 1999.

Proceedings over the same issue are in progress before the Court against Greece (Case C-384/97), Portugal (Case C-261/98) and the Netherlands (Case C-152/98). Proceedings are continuing against France and Ireland.

Following two Court of Justice rulings in 1998 (case C-208/97 and C-213/97) that Portugal had not fulfilled its obligations to implement directives based on Directive 76/46/EEC on discharges of certain dangerous substances into the aquatic environment. Portugal failed to notify adequate measures to comply with the judgments and the Commission began Article 228 proceedings, issuing a reasoned opinion in the first of these cases.

Inadequacy of pollution reduction programmes leads to many specific cases of incorrect application of this Directive (pollution of specific waterways by agricultural or industrial effluent). These local difficulties can be solved only by an overall approach to the problem. Furthermore, there are still problems in several Member States where prior authorisation is not always required for discharges.

Thus the Article 228 proceedings against Greece following the judgment of 11 June 1998 (Joined Cases C-232/95 and C-233/95) are continuing, since Greece has not put in place programmes to reduce pollution by the substances on List. It of Directive 76/464/EEC for Lake Vegoritis or the Gulf of Pagasaí. The measures notified by Greece are being studied.

Article 226 proceedings are also continuing against Portugal over effluent from an agri-food plant at Santo Tirso and the Commission is studying the measures taken by the Portuguese authorities. The Commission has also sent Portugal a reasoned opinion to the effect that the operating conditions for a herbicide plant which discharges untreated effluent into the Capa Rota river may constitute incorrect application of Directive 76/464/EEC.

The Court of Justice has given two preliminary rulings applied for by the Netherlands Council of State (Cases C-231/97 and C-232/97) on interpretation of Directive 76/464/EEC. It held that the concept of discharge in Directive 76/464 covers not only pollution caused by liquid substances but also solids. All the substances mentioned in the Annex to the Directive, if they concentrate directly or indirectly in surface waters, are discharges irrespective of their state. This concept thus covers the emission of contaminated steam which is precipitated on to surface water. In the case concerning leaching of creosoted wood into surface waters (creosote being a tar derivative used as an antiseptic), the Court examined the concept of 'pollution from significant sources' mentioned in Directive 86/280/EEC on limit values for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC. The Court held that the Community had established two separate systems to combat pollution of surface waters by dangerous substances. The first was the authorisation system based on Articles 3 and 7 of Directive 76/464/EEC, which applied when the pollution resulted from an act attributable to a person and took the form of a discharge. Secondly, the specific programmes system under Article 5 of Directive 86/280/EEC applies when the pollution is not attributable to a person because it derives from multiple and diffuse sources. The concept of 'discharge' in Article 1 of Directive 76/464/EEC thus does not cover pollution from significant sources, including multiple and diffuse sources, as mentioned in Article 5 of Directive 86/280/EEC. In this ruling, the Court also stated that Directive 76/464/EEC permits Member States to make the authorisation for a discharge subject to additional requirements not provided for in that directive, such as the obligation to investigate or choose alternative solutions which have less impact on the environment, even if the additional requirement may have the effect of making the grant of authorisation impossible or altogether exceptional.

Most of the current proceedings concerning Directive 78/659/EEC on waters supporting fish life and Directive 79/923/EEC on shellfish waters were dropped in the course of 1999 since suitable measures had been adopted.



The Article 228 proceedings against Italy in connection with Directive 78/659/EEC following the judgment of 9 March 1994 (Case C-291/93) were dropped on designation of all the waters concerned and adoption of pollution reduction programmes. Following the Court's ruling of 4 December 1997 in Case C-225/96 that Italy had failed to set binding or recommended values for certain dangerous substances or to designate all waters qualifying as shellfish waters as required by Directive 79/923/EEC, Italy notified measures to comply with the judgment and the infringement proceedings were dropped.

In 1998, the United Kingdom had notified new measures transposing Directives 78/659/EEC and 79/923/EEC. The Commission was thus able to drop the matter, although another case is still pending against the United Kingdom for inadequate designation of the waters covered by Directive 79/923/EEC and a reasoned opinion has been issued in this connection.

The Commission has also sent a reasoned opinion to Finland for incorrect application of Directive 78/659/EEC as regards designation of the waters concerned, setting of quality objectives, establishment of pollution reduction programmes and sampling.

In 1999, the Commission also dropped most of the cases based on Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances.

Article 228 proceedings are continuing against Portugal following the judgment of 18 June 1998 on non-conformity of the Portuguese legislation (Case C-183/97). Further information has been received and the new Portuguese legislation<sup>(1)</sup> is still being examined in the light of the Directive's requirements.

On the other hand, the Commission decided to drop the proceedings against the United Kingdom for pollution of underground waters with substances used in sheep rearing following notification of various regulations which are likely to solve the problem. The Commission also dropped Case C-331/98 against Ireland for legislation not complying with Directive 80/68/EEC as regards certain discharges by the health authorities. In February 1999, the Irish authorities notified new legislation in conformity with the Directive.

On 22 April 1999, the Court ruled in Case C-340/96 that the United Kingdom, by accepting non-binding undertakings from the water companies, had failed to fulfil its obligations under Directive 80/778/EEC relating to the quality of water intended for human consumption. The draft measures notified by the United Kingdom to comply with the judgment are still being studied.

The Commission dropped proceedings against Portugal for non-conformity of the legislation transposing the Directive, since it was notified after deciding to refer the matter to the Court that the Decree-Law of 1 August 1998 had been amended to ensure transposal.

The Commission has decided to bring a court action against Ireland for incorrect application of Directive 80/778/EEC following detection by the Irish Environmental Protection Agency of microbiological contaminants in drinking water.

However, the Commission dropped transposal proceedings against Austria following adoption of a new ordinance in conformity with Directive 80/778/EEC.

Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, which will replace Directive 80/778/EEC as from 2003<sup>(2)</sup> must be transposed into national law by 25 December 2000. Member States may have to take steps immediately to ensure compliance with the new limit values under the new directive.

The Community has two legislative instruments aimed specifically at combating pollution from phosphates and nitrates and the eutrophication they cause.

The first, Directive 91/271/EEC, concerns urban waste-water treatment. Member States are required to ensure that, from 1998, 2000 or 2005, depending on population size, all cities have waste water collection and treatment systems. In addition to checking notification and conformity of the transposing measures, the Commission must therefore now follow up cases of incorrect application. Since this Directive plays a fundamental role in the campaign for clean water and against eutrophication, the Commission is particularly eager to ensure that it is implemented on time.

(1) The Decree Law of 1 August 1998 previously mentioned.

(2) OJ L 330, 5.12.1998, p. 32.

The Commission has dropped the Article 228 proceedings against Italy for not having national transposing legislation since it has now been apprised of the Italian Decree of 11 May 1999 transposing the Directive. It has also dropped the non-conformity case against Greece since the situation has been remedied by the Greek Ministerial Decision of 2 August 1999.

The Commission brought a court action against Belgium on the grounds that the programme implementing the Directive failed to apply it correctly (Case C-236/99). The proceedings against Spain over the practical measures required to apply the Directive and achieve its objectives are continuing and the Spanish reply to the reasoned opinion is currently being studied.

The Commission sent a reasoned opinion to Germany over incorrect application of the Directive's provisions on designation of sensitive areas and treatment of waters discharged in these areas. It has also decided to send reasoned opinions to Italy over failure to treat urban waste water in the Milan area and to Austria over non-conformity of transposal of the Directive as regards both collection and treatment of urban waste water.

Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof was due for transposal by 30 September 1998. The Commission decided to send reasoned opinions to Belgium, Germany, Italy, the United Kingdom, Ireland, Denmark, Greece, Portugal, Austria, Sweden and France since these countries had failed to notify transposing measures or had notified them in part only. However, it has decided to drop all these proceedings since the various national authorities concerned have notified adequate transposing measures.

The second anti-eutrophication measure is Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. The Commission has continued to lay great stress on enforcing this Directive.

Following the judgment of 1 October 1998 in Case C-71/97, by which the Court found that Spain had failed to draw up codes of practice or designate vulnerable zones, this Member State notified certain remedial measures. Another case (C-274/98) brought against Spain in 1998 for its lack of action programmes is still before the Court.

On 25 February 1999, the Court ruled in Case C-195/97 that Italy had failed to designate vulnerable zones. Once Italy had notified the Decree of 11 May 1999, the Commission was able to drop the case. However, the Commission brought an action against Italy over action programmes and reporting requirements (Case C-127/99).

The Commission was also able to drop the proceedings against France for not having action programmes in each of the vulnerable zones it had designated but decided to refer to the Court France's failure to designate vulnerable zones adequately.

The Commission decided to terminate the proceedings over certain Portuguese transposing measures since the changes made by the Decree-Law of 11 March 1999 met all the points mentioned in the reasoned opinion.

The Commission decided to bring actions before the Court against Germany, over non-conformity of the action programmes carried out, and against Greece, over non-conformity of transposal, especially as regards the timetable laid down by the national measures. A reasoned opinion was issued to the Netherlands for the same reason. After deciding to open court proceedings against Austria and receiving new measures from this Member State, the Commission decided to send a supplementary reasoned opinion to specify the scope of the issues raised but without changing its conclusions.

Two cases remain open against Belgium, one for non-conformity of transposal as regards the national implementing measures, the production of codes of practice and the designation of vulnerable zones, and the other for incorrect application of the Directive. A reasoned opinion was issued in the second of these cases.

The Commission started court action against the United Kingdom over designation of zones and drawing up of programmes (Case C-69/99).

After deciding to bring an action before the Court against Luxembourg over codes of practice, programmes and reporting, the Commission decided to send a supplementary reasoned opinion to Luxembourg to specify the scope of the issues raised but without changing the conclusions.

The Court of Justice ruled on 29 April 1999 on the request for a preliminary ruling by a British court (Case C-293/97) on the definition of 'waters affected by pollution'. It held that Directive

91/676 requires the identification of surface freshwaters as 'waters affected by pollution' and therefore the designation as 'vulnerable zones' of all known areas of land which drain into those waters and contribute to their pollution where those waters contain a concentration of nitrates in excess of 50 mg/l and the discharge of nitrogen compounds from agricultural sources makes a 'significant contribution' to that overall concentration of nitrates.

The Commission also started proceedings against several Member States concerning Directive 91/692/EEC on the standardisation and rationalisation of reports in the water sector. Certain Member States had failed to send in the reports they were required to produce on the implementation of certain directives or had sent them in late or incomplete. As a result, the Commission in turn has not been able to draw up properly the Community reports it is required to produce. The Commission therefore took court action against Portugal (Case C-435/99) and decided to do the same as regards Belgium. On the other hand, some progress was made in the other current proceedings. Spain, Italy and Ireland provided the Commission with reports in response to the reasoned opinions they had received and these are currently being assessed. It proved possible to drop the proceedings against Luxembourg when it provided the Commission with all the reports. Finally, a reasoned opinion was sent to France and the French reply is being studied.

#### 2.12.5. *Nature*

The two statutory instruments aimed at protecting nature are Directive 79/409/EEC on the conservation of wild birds and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

The position regarding the transposal of Directive 79/409/EEC is mixed. Some progress has been made, particularly with regard to systems of protection for wild species (Article 5) and the conditions for derogating from the obligation to protect birds (Article 9).

Thus, the Commission has been able to terminate the Article 228 proceedings against France (transposal of Article 5 in relation to several species of birds) which had been referred to the Court in 1998 (Case C-373/98), the Commission having proposed the imposition of a daily fine of EUR 105 000 on France from the date of the second judgment. The Commission withdrew the case following the adoption by France of Arrêtés (Orders) of 5 March and 16 June 1999, which ensure that all the relevant species of wild birds are now covered and the infringement is thus terminated.

As regards the transposal of Article 9, the decision to refer France to the Court on the basis of Article 226 was abandoned

after the French authorities communicated to the Commission the Order of 5 March 1999 remedying the deficiencies in the French system.

However, other implementation problems remain unresolved. In several Member States certain activities (hunting, regulation of species, trade) are not always regulated in line with Article 9.

Thus, the Commission referred Italy to the Court (Case C-159/99) for non-transposal of Article 9 (derogations from the protection schemes resulting from Articles 5, 6, 7 and 8) and decided to refer Belgium with regard to Article 6 (commercial operations).

The Commission also referred to the Court the matter of the opening and closing dates of the hunting season for migratory birds in France, on grounds of non-compliance with Article 7(4) (Case C-38/99); it had received numerous complaints on the subject, and Parliament had received numerous petitions, some supporting and some opposing the French system of open and closed seasons to which the Commission took objection.

The Commission sent Finland a reasoned opinion, and decided to send Spain one also, concerning the non-conformity of their hunting legislation with the Directive.

Finally, Sweden was sent a reasoned opinion concerning the non-conformity of its transposal measures with Articles 4 (as replaced by Article 6 paragraphs 2, 3 and 4 of Directive 92/43/EEC), 6 and 9 of Directive 79/409/EEC.

As mentioned in last year's report, although the deadline for transposal of Directive 92/43/EEC expired in June 1994, by 1998 a number of Member States still had not notified the Commission of all, or in some cases, any of the measures required to implement the Directive. The main provisions to be transposed concern Article 6 on the protection of habitats in the special conservation sites which are to be set up, and Articles 12 to 16 on protection of species. Significant progress was recorded on this front in 1999.

As a result, the Commission was able to terminate the proceedings pursuant to the Court's judgment against Greece of 26 June 1997 for non-communication of transposal measures (Case C-329/96). After being issued a reasoned opinion based on Article 228 of the Treaty, the Greek authorities did in fact notify the Commission of the measures taken to comply with the judgment.

The Commission, after having decided to refer Finland to the Court in 1998, also decided to drop the case concerning the Åland islands, the Finnish authorities having communicated the transposal measures for that province.

The case against France for non-transposal of Article 6 of the Directive is, however, continuing (Case C-256/99).

The Commission also sent a reasoned opinion to Luxembourg, and decided to send one to Belgium, for failure to implement the Directive properly.

As in the past, the main problems with the implementation of Directives 79/409/EEC and 92/43/EEC relate to the protection of sites and habitats, either in connection with the designation of special conservation sites for birds or their selection for inclusion in the Natura 2000 network and the protection of sites of natural interest.

As mentioned in the last report, problems still arise in several Member States with Article 4 of Directive 79/409/EEC, which requires that sites shall be designated special protection areas (SPAs) for wild birds wherever the objective ornithological criteria are met.

The Commission is pressing ahead with infringement proceedings in certain key cases.

Certain cases were dropped after the countries concerned took appropriate measures. For example, the Article 228 proceedings against Spain to obtain full implementation of the Court's judgment of 2 August 1993 relating to the Santoña marshes (Case C-355/90) were set aside when it was established that significant progress had been made towards restoring the site and adopting measures to prevent any future deterioration.

The Commission also decided to withdraw in Case C-63/98 and to set aside the case concerning the Waddensee area in the Netherlands, in the light of the measures taken by the Dutch authorities.

However, the Court twice found against France in 1999. In its judgment of 18 March concerning the Seine estuary (Case C-166/97), the Court found against France for failing to classify a sufficiently large area of the Seine estuary as a special protection area (SPA) and for failing to adopt measures to provide the classified SPA with an adequate legal regime under Article 4 (1) and (2) of the Directive. But the Court dismissed the complaint relating to the building of an industrial plant in the middle of the SPA, finding that the Commission had not furnished sufficient proof to contradict the information provided by the French authorities. In the wake of this judgment, Article 228 proceedings have been initiated against France to oblige the French authorities to take all necessary measures to comply with the judgment.

On 25 November 1999 the Court delivered its judgment in the Marais Poitevin (Poitevin Marsh) case (Case C-96/98), finding against France for failing, within the prescribed period, to classify a sufficient area in the Poitevin Marsh as special protection areas, failing to adopt measures conferring a sufficient legal status on the special protection areas classified in the Poitevin Marsh, and failing to adopt appropriate measures to avoid deterioration of the sites in the Poitevin Marsh classified as special protection areas and of certain of those which should have been so classified.

A third case concerning similar complaints against France is before the Court, relating to the Basses Corbières and the Vingrau site (Case C-374/98), and proceedings are continuing in relation to three other areas, although it must be said that some progress has been noted in these areas (the Baie de Canche and Platier d'Oye, the Plaine des Maures and the Basses Vallées de l'Aude).

Finally, the Commission sent Austria a reasoned opinion relating to the failure to designate the Lech valley in the Tyrol as a SPA.

Although areas should have been designated SPAs when the Directive entered into force in 1981, existing sites in a number of Member States are still too few in number or cover too small an area. The Commission's present strategy revolves around initiating general infringement proceedings, rather than infringement proceedings on a site by site basis.

In the wake of the Court's judgment of 19 May 1998 against the Netherlands (Case C-3/96) the Commission initiated Article 228 proceedings to oblige the Netherlands to comply with the judgment and decided to send the Netherlands a reasoned opinion.

The Commission is also pursuing proceedings against other Member States on the same grounds. It decided to refer Germany, Finland, Italy and Portugal to the Court, but is at present examining measures recently communicated by Germany and Portugal before deciding whether to press ahead against those two countries. The Commission also decided to refer Spain to the Court for failure to designate a sufficient number of SPAs in the Murcia region, but has decided not to press ahead with its decision to refer Luxembourg to the Court, since Luxembourg has now designated almost all the SPAs and the situation appears to be progressing satisfactorily.



Significant progress has been made as regards the setting up of the Natura 2000 network, the Community's network linking up all sites set up under Directive 92/43/EEC, demonstrating growing appreciation of the innovative approach of the Directive, which involves gradually building up the network, extensive discussions between the Commission and the Member States and a legal set-up for special conservation sites which paves the way for management plans (possibly even contractually binding ones), and makes allowance for exemptions from the ban on deterioration and disturbance where this conflicts with overriding public interests.

Member States continued to propose conservation sites within the meaning of Directive 92/43/EEC, which is to be welcomed, even if none of them had provided the Commission with a full list of proposed sites by the June 1995 deadline laid down by the Directive.

It is satisfying to report that the Commission was able to set aside the proceedings against Italy following Italy's transmission of a full list of proposed sites in accordance with Article 4 of the Directive, and that it decided to prolong the suspension of infringement proceedings against Spain, Luxembourg, the Netherlands, Austria and Denmark introduced in 1998, having received substantial lists from these Member States. However, these proceedings have not been terminated, since evaluation of the lists has not yet been completed.

The Commission has, though, referred Ireland (Case C-67/99), Germany (Case C-71/99) and France (Case C-220/99) to the Court and has also decided to refer the United Kingdom and Sweden, since the lists proposed by these countries are insufficient in respect of a large number of types of habitats and species covered by the Directive. The decision to go ahead with referral to the Court was made in respect of Finland, which submitted a list of sites at the end of 1998 that, while substantial, did not meet the Directive's requirements. Finally, the Commission decided to send Belgium a reasoned opinion since the national list transmitted did not contain any sites representative of numerous types of habitat present on Belgian territory, including priority habitats.

The Court of Justice has not yet given a preliminary ruling requested by a British court under Article 234 regarding the scope of the obligation to select sites to constitute the Natura 2000 network (Case C-371/98).

As mentioned in the last report, in many cases the details provided by Member States on sites and the species they support are neither complete nor appropriate. This makes it more difficult to proceed to the subsequent stages of the plan laid down in Directive 92/43/EEC and to the setting up of the Natura 2000 network.

The Commission has maintained its strict policy with regard to the granting of Community funding for conservation of sites under the LIFE Regulation on sites being integrated or already integrated into the Natura 2000 network. Furthermore, it scrutinises requests for cofinancing from the Structural Funds (particularly Objectives 2 and 5b) very thoroughly for compliance with environmental regulations. In June 1999, the two competent Commissioners sent the Member States a letter reminding them of their obligations under Directives 79/409/EEC and 92/43/EEC. Those Member States that had not submitted adequate lists for the setting up of the Natura 2000 network were warned that the Commission might not be able to evaluate the plans and cofinancing programmes submitted.

As mentioned in the last report, the Commission continues to receive a large number of complaints, and there is still a large number of infringement procedures, concerning unsatisfactory implementation as a result of specific local problems, underlining the practical difficulties which sometimes arise where there is a potential for conflict between the need to protect sites or species and social and economic considerations. Another explanation is that Directives 79/409/EEC and 92/43/EEC are two of the best-known pieces of Community environment legislation and the practical ways in which they help protect nature are widely acknowledged.

The two main problems are (a) the failure to designate areas fulfilling the objective ornithological criteria as special protection areas, and (b) projects affecting sites. In the first case, the Commission continues to investigate individual complaints carefully, through it tends to deal with them through the general proceedings referred to above concerning the general lack of special protection sites. It is satisfying to report that problems concerning threats to specific sites have been resolved without letters of formal notice needing to be issued. Nevertheless, proceedings were started against several Member States in 1998.

The infringement proceedings concerning Belgium's failure to protect the SPA in the Zwarte Beek valley are continuing, with Belgium's comments on the reasoned opinion being scrutinised at present.

Ireland was sent a reasoned opinion concerning the threats to the wetlands of County Cork and County Limerick. The Commission also decided to refer Ireland to the Court of Justice for failure to adopt measures to protect against overgrazing of habitats populated by species of wild birds covered by the Directive in the West of Ireland.

Finally, the Commission sent Portugal a reasoned opinion concerning the Abrilongo dam project affecting the Campo Maior SPA and species required to be protected under Directive 79/409/EEC.

Problems with the implementation of Directive 92/43/EEC may also arise with regard to the protection, not of sites, but of species. For example, the Commission has started infringement proceedings against Greece for threats to a species of turtle (*Caretta caretta*) on the island of Zakynthos. Since the measures notified do not appear adequate to protect this species of turtle, the Commission decided to refer the matter to the Court.

Regarding the implementation of Regulation (EEC) No 338/97 on the implementation in the Community of the 1973 Washington Convention on international trade in endangered species of wild fauna and flora (the Cites convention), the infringement proceedings commenced against Greece resulted in Greece notifying the Commission in 1999 of various measures and Ministerial decisions supplementing Act 2637 of 27 August 1998. The decision to refer the matter to the Court has been deferred pending verification of the Greek legislation's conformity with the Community requirements.

#### 2.12.6. Noise

As in the past, implementation of Directives on noise poses few problems, since these Directives set standards for new products. However, the complaints received by the Commission in fact relate to ambient noise and consequently cannot be addressed at Community level.

The Commission dropped the infringement proceedings in respect of old and noisy aeroplanes using Brussels (Zaventem) and Ostend airports in contravention of Directive 92/14/EEC on the limitation of the operation of certain categories of aeroplanes, the Belgian authorities having taken measures to ensure compliance with Community law.

Following the judgment by the Court of Justice of 15 October 1998 against Belgium (Case C-326/97) for failure to notify the Commission of the measures to transpose Directive 95/27/EC amending Directive 86/662/EEC on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders, the Belgian authorities sent notification of the transposal measures (Royal Decree of 9 December 1998) and the proceedings against Belgium were therefore terminated.

The European Commission also lodged an application before the Court of Justice against the United Kingdom regarding the transposal of Directives 80/51/EEC, 83/206/EEC, 86/629/EEC and 92/14/EEC on the limitation of noise emissions from subsonic aircraft, directives which relate to the environment in Gibraltar and which the United Kingdom acknowledges are applicable in Gibraltar but in respect of which it has not notified any implementing measures (Case C-39/99). However, following notification by the United Kingdom of its transposal measures, the Commission withdrew from its action and terminated the procedure<sup>(1)</sup>.

#### 2.12.7. Chemicals and biotechnology

Community legislation on chemicals and biotechnology covers various groups of directives relating to products or activities which have certain characteristics in common: they are technically complex, require frequent changes to adapt them to new knowledge, apply both to the scientific and industrial spheres and deal with specific environmental risks.

One of the features of Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances is the frequency with which it has to be amended, to keep up with scientific and technical developments. Thus, Directive 98/73/EC of 18 September 1998, amending to technical progress for the 24th time Directive 67/548/EEC, fell due for transposal on 31 October 1999. However, the Member States have until July 2000 to transpose Directive 98/98/EC of 15 December 1998<sup>(2)</sup> adapting Directive 67/548/EEC to technical progress for the 25th time. In addition, the European Parliament and the Council adopted, on 10 May 1999, Directive 99/33/EC amending Directive 67/548/EEC as regards the labelling of certain dangerous substances in Austria and Sweden. Austria and Sweden will need to have adopted the transposal measures by no later than 30 July 2000.

In this context, Member States are still frequently late in communicating their transposal measures, but the Commission automatically commences proceedings in order to make Member States meet their obligations.

Following notifications by Belgium and Portugal of their measures implementing Directive 94/69/EC (21st adaptation to the Directive), the proceedings against Belgium (Case C-79/98, judgment of 6 October 1998) and Portugal (referral decided upon in 1998) were dropped.

<sup>(1)</sup> Airplane Noise Rules 1999 published in *Gibraltar Gazette*, 2 March 1999.

<sup>(2)</sup> OJ L 355, 30.12.1998, p. 1.

The proceedings were similarly dropped against Belgium (Case C-405/99) and Greece (reasoned opinion issued in 1998) in respect of Directive 96/54/EC (22nd adaptation to the Directive).

Directive 96/56/EC provides for the abbreviation 'EEC' to be replaced by 'EC', for the purpose of labelling dangerous substances, by 1 June 1998. The Commission sent reasoned opinions to Belgium, Germany, Portugal and Greece in 1998 for failure to transpose the Directive. All these Member States, with the exception of Germany, have now transposed it, so proceedings are now continuing solely against Germany, which has been referred to the Court of Justice (Case C-406/99).

In 1999, the Commission decided to refer Belgium to the Court and issued reasoned opinions to Germany, Austria, the Netherlands and Portugal with regard to Directive 97/69/EC (23rd adaptation to the Directive). However, measures have recently been notified to the Commission by Germany, Belgium and Portugal, against whom the proceedings have therefore been set aside.

Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing on the market of biocidal products<sup>(1)</sup> is due to be transposed by the Member States by no later than 14 May 2000.

As regards Directive 86/609/EEC on the protection of animals used for experimental and other scientific purposes, the Commission decided to issue a reasoned opinion to Belgium based on Article 228 of the Treaty with a view to obtaining implementation of the Court of Justice judgment against Belgium of 15 October 1998 for failure to transpose the Directive (Case C-268/97).

The Commission also referred Ireland to the Court (Case C-354/99), and decided to refer France and Austria, for incorrect transposal of the Directive.

However, the Commission withdrew its action against Portugal (Case C-299/97), that country having now enacted legislation correctly transposing the relevant provisions of the Directive (inspections in establishments where animals are used). Similarly, the Commission withdrew its action against Luxembourg (Case C-272/99), the Luxembourg authorities having communicated the Grand-Ducal Regulation adopted in August 1999 which at least partly regulates the problem and thus stops the Commission from proceeding further.

The use of genetically modified organisms (GMOs) is governed by Directives 90/219/EEC (relating to their contained use) and 90/220/EEC (relating to their release).

Directive 90/219/EEC was amended by Council Directive 98/81/EC of 26 October 1998 (contained use of genetically-modified micro-organisms)<sup>(2)</sup>, which must be transposed by 5 June 2000. The proposal for an amendment to Directive 90/220/EEC adopted by the Commission at the end of 1997<sup>(3)</sup> seeks to introduce a more transparent approval procedure for the marketing of GMOs, to establish a system for the labelling of products using such organisms, to set out common principles for risk assessment and to adapt administrative procedures to the risks involved, including indirect ones. The Council adopted a common position on the proposal on 9 December 1999.

The Commission was able to terminate a number of proceedings in the GMO sector in 1999. Belgium, for example, remedied all the situations in respect of which proceedings initiated against it. Following the Court's judgment of 29 May 1997 (Case C-357/96), finding against Belgium for failure to notify the Commission of measures to transpose Directive 94/15/EC adapting Directive 90/220/EEC to technical progress, the Commission had initiated Article 228 proceedings but was subsequently able to drop them following notification by Belgium of the Royal Decree of 18 December 1998 transposing the Directive. The case concerning the transposal of Directives 90/219/EEC, 90/220/EEC and 94/51/EC (judgment of 16 July 1998, Case C-343/97) was also dropped following adoption of the above mentioned Royal Decree in respect of Directive 90/220/EEC and the adoption of the Ministerial Order of 22 September 1998 in respect of Directive 90/219/EEC and Directive 94/51/EC amending it. Finally, the Royal Decree of 18 December 1998 also remedied Belgium's failure to transpose Directive 97/35/EC, which the Commission had decided to refer to the Court in 1998.

Similarly, the difficulties detected by the Commission regarding the conformity of the Portuguese legislation transposing Directives 90/219/EEC and 90/220/EEC were resolved by Portugal's adoption of a Decree-law on 2 March 1999, after which the Commission abandoned its decision to refer the matter to the Court and terminated the infringement proceedings.

The Commission also withdrew its action against Greece (Case C-121/99) for failure to transpose Directive 97/35/EC, Greece having transposed the Directive by means of a Ministerial Decision of 20 May 1999.

<sup>(1)</sup> OJ L 123, 24.4.1998, p. 1.

<sup>(2)</sup> OJ L 330, 5.12.1998, p. 13.

<sup>(3)</sup> OJ C 139, 4.5.1998 p. 1.

Following the judgment of 16 July 1998 against Luxembourg (Case C-339/97) for failure to notify measures implementing Directives 94/15/EC and 94/51/EC, Luxembourg did in fact provide notification of measures concerning Directive 94/15/EC, but not concerning Directive 94/51/EC. The Commission consequently went ahead with Article 228 proceedings in this respect and sent Luxembourg a reasoned opinion. However, Luxembourg has recently provided notification of transposal measures.

Finally, two cases of incorrect application of Directive 90/220/EEC resulted in France being sent a reasoned opinion. The first concerned the failure of the French authorities to react to a notification of products by manufacturers or importers with a view to the placing of the products on the market. Under the terms of the Directive the competent authority must, within 90 days, either forward the dossier to the Commission with a favourable opinion or inform the notifier that the request does not fulfil the conditions of the Directive and is therefore rejected. The second failing concerned the subsequent stages of the authorisation procedure for the placing on the market of products consisting of or containing GMOs. The Directive stipulates that when a decision has been taken approving the placing on the market of such a product, the competent authority of the Member State which received the initial notification must give its consent in writing so as to permit the product to be placed on the market. However, France has still not given its consent in respect of two favourable decisions adopted in 1997.

The French Conseil d'Etat (supreme administrative court) asked the Court of Justice for a preliminary ruling (Case C-6/99) as to whether the national authorities had any power of discretion following the adoption of a favourable decision by the Commission pursuant to Article 13 (4) of Directive 90/220/EEC. The Advocate-General, in his conclusions of 25 November 1999, found that a Member State which had transmitted to the Commission an application for authorisation for the placing on the market of a GMO had no power of discretion. The State in question could not refuse to give its written consent if no other Member State had objected to the application or if the Commission had taken a favourable decision, other than to make use of the possibility afforded by Article 16 of the Directive (irregularities in the national procedure).

#### 2.12.8. Waste

Infringement proceedings in relation to waste continue to abound, concerning both formal transposal and practical application. As mentioned in the last report, the most likely explanations for the difficulties in enforcing Community law in these matters are as much the need for changes in the conduct of private individuals, public services and business firms as the costs of such changes.

Regarding the framework Directive on waste (Directive 75/442/EEC, as amended by Directive 91/156/EEC), most of the implementation difficulties concern its application to specific installations. This is at the root of the large number of complaints primarily concerned with waste dumping (uncontrolled dumps, controversial siting of planned controlled tips, mismanagement of lawful tips, water pollution caused by directly discharged waste). The Directive requires that prior authorisation be obtained for waste-disposal and waste-reprocessing sites; in the case of waste-disposal, the authorisation must lay down conditions to contain the environmental impact.

The adoption by the Council on 26 April 1999 of Directive 1999/31/EC on the landfill of waste<sup>(1)</sup> should help to clarify the legal framework in which sites employing this method of disposal are authorised in the Member States.

As mentioned previously, the Commission uses individual cases of this type to seek more general problems, such as the absence or inadequacy of waste management plans, based on the assumption that an illegal dump may provide evidence of an unsatisfied need for waste management.

This was the spirit behind the Commission's second referral of Greece to the Court of Justice in 1998 (C-387/97), asking the Court to impose a daily fine of EUR 24 600 on Greece, on the basis of Article 228 of the Treaty, for failure to give effect to the Court's judgment in Case C-45/91 (7 April 1992) concerning a specific case of an environmentally unsound waste disposal situation in Kouroupitos (Crete) and the lack of any waste-management plan to deal with it. The Advocate-General delivered his conclusions on 28 September 1999, asking the Court to declare that the Hellenic Republic had failed to comply with the judgment of 7 April 1992 by still not having fulfilled its obligation to adopt measures necessary to dispose of toxic and dangerous waste in the Chania region without endangering human health or the environment, and its obligation to establish plans or programmes for this region for disposing of toxic and dangerous wastes. He therefore proposed that a daily fine of EUR 15 375 be imposed on Greece, payable from the date of notification of the judgment closing the present proceedings and until Greece's regularisation of the situation.

The Court also delivered an important judgment in plenary session on 9 November 1999 in a case brought by the Commission against Italy concerning illegal tipping in the San Rocco valley (Case C-365/97). The Court found against Italy for failing to take measures necessary to dispose of the waste

<sup>(1)</sup> OJ L 182, 16.7.1999, p. 1.



discharged into the watercourse running through the San Rocco valley without endangering human health or the environment, and for failing to take measures to ensure that the waste collected in an illegal tip is handed over to a private or public waste collector or a waste disposal company.

The Commission also sent Greece a reasoned opinion concerning uncontrolled waste dumping in the Peloponnese.

Given that planning is such an important part of waste management a point illustrated by the the Commission decided in October 1997 to start infringement proceedings examples above — against all Member States except Austria, the only State to have established a planning system for waste management. These proceedings cover a range of failings, relating variously to plans as required by Article 7 of the framework Directive, plans for management of dangerous waste as required by Article 6 of Directive 91/689/EEC, and special plans for packaging waste, as required by Article 14 of Directive 94/62/EC.

In 1999 the Commission referred France (Case C-292/99), Ireland (Case C-461/99) and Italy (Case C-466/99) to the Court in respect of all three categories of plans, and decided also to refer Luxembourg, Spain, Greece and the United Kingdom.

However, after having decided to refer Germany to the Court the Commission suspended the procedure on receiving notification of a plan for non-dangerous waste and waste packaging from Niedersachsen (Lower Saxony), the only Land not previously to have had such a plan. This plan is currently being scrutinised. In addition, the Article 228 proceedings commenced against Germany following the judgment of 10 May 1995 (Case C-422/92) were terminated after a dangerous-waste plan was received for Bremen, the only Land for which no such plan had yet been notified.

The proceedings commenced against the Netherlands and Belgium related merely to the absence of a specific chapter on packaging waste, but these proceedings were dropped in 1999 after both countries took appropriate remedial action. Proceedings remain ongoing against Sweden and Portugal but were dropped against Denmark and Finland in 1999.

As regards Directive 91/689/EEC on hazardous waste, the Commission had commenced infringement proceedings in 1998 against a number of Member States which had failed to provide the Commission with particular information required in relation to establishments or undertakings carrying out disposal and/or recovery of hazardous waste. In 1999 the Commission referred Italy to the Court on this point (Case C-469/99). A supplementary reasoned opinion was also sent

to Greece on the same matter. The Commission also sent reasoned opinions to France and Portugal, but both responded with the required information. The proceedings initiated against Belgium were, dropped before the reasoned opinion announced in last year's report had even been sent, following Belgium's submission of the information required in the format specified by the Directive.

Regarding the implementation of the Directives on batteries and accumulators containing certain dangerous substances (91/157/EEC and 93/86/EEC), the Commission is pursuing infringement proceedings against those Member States which have not yet established the programmes called for by Article 6 of the Directive. Following the Court's judgment against Spain of 28 May 1998 (Case C-298/97) the Commission initiated Article 228 proceedings and addressed a reasoned opinion to Spain. The measures subsequently notified by Spain are currently being examined. The Commission also initiated Article 228 proceedings against Greece for failure to give effect to the Court's judgment of 8 July 1999 (Case C-215/98). And the Commission decided to refer Portugal to the Court on the same grounds, but is currently examining certain measures implemented by that Member State. In contrast, Belgium provided details of a programme which it has established to comply with the Court's judgment against Belgium of 21 January 1999 (Case C-347/97), and France terminated the infringement noted by the Court in its judgment of 8 July 1999 (Case C-178/98). The Commission therefore terminated these two proceedings.

Commission Directive 98/101/EC of 22 December 1998 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances<sup>(1)</sup> is due for transposal by 1 January 2000.

The Commission commenced infringement proceedings against Greece (Case C-123/99) and the United Kingdom (Case C-455/99) for their failure to provide notification of measures transposing Directive 94/62/EC on packaging and packaging waste, but subsequently decided not to press ahead against the United Kingdom after the latter provided notification of its measures<sup>(2)</sup>. The proceedings commenced against Germany concerning its packaging regulations, which continue to promote the re-use of packaging materials, are also continuing, but the Commission has dropped the proceedings commenced against Belgium (Case C-14/99), Portugal, Luxembourg and France since receiving notification by these Member States of their measures completing transposal of the Directive.

<sup>(1)</sup> OJ L 1, 5.1.1999, p. 1.

<sup>(2)</sup> The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 1999 SR NI No. 496.

Not only must transposal measures be notified to the Commission, they must also conform to the relevant Community legislation. This would not seem to be the case in Denmark, which the Commission has referred to the Court of Justice for its ban on metal cans for drinks and other types of non-reusable packaging.

Under Article 16 of Directive 94/62/EC, Member States must send their draft implementing measures to the Commission and to the other Member States for scrutiny prior to adoption. The procedure governing this obligation was mentioned in last year's report.

The Commission decided to refer Germany to the Court of Justice for preventing the transportation of certain types of waste in contravention of Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community.

Infringement proceedings were commenced in 1999 against various Member States for failure to submit the annual reports required by Article 41 of Regulation (EEC) No 259/93. The proceedings against Denmark and France were dropped after those two submitted their reports. The proceedings against Greece, Italy and the Netherlands remain ongoing, pending analysis of the responses from those countries. However, Ireland having failed to respond, the Commission decided to issue a reasoned opinion against Ireland.

Regarding Directive 75/439/EEC on the disposal of waste oils, the Court of Justice ruled against Germany on 9 September 1999 in Case C-102/97, for failing to take the measures necessary to give priority to the processing of waste oils by regeneration, notwithstanding that technical, economic and organisational constraints so allowed. The Commission also referred Portugal to the Court for incorrect transposal of the Directive (Case C-392/99).

Lastly, with regard to the disposal of PCBs and PCTs, two particularly dangerous products, Directive 96/59/EC, which supersedes Directive 76/403/EEC, was due to be transposed by the Member States by 16 March 1998. The Commission addressed reasoned opinions to Belgium, Denmark, Germany, Greece, Italy, Portugal, Spain and the United Kingdom for failure to provide notification of their transposal measures. Proceedings were subsequently dropped against Belgium, Denmark, Italy, Portugal and Spain, following their notifications of transposal measures. However, in the absence of

definitive transposal measures the Commission commenced proceedings in the Court of Justice against Greece (Case C-464/99) and the United Kingdom (Case C-468/99) and decided to refer Germany to the Court.

#### 2.12.9. *Environment and industry*

Directive 82/501/EEC (the 'Seveso' Directive) concerns the prevention of major industrial accidents.

The first point to note is that the Court found against Italy in its judgment of 17 June 1999 (Case C-336/97) for failure to organise emergency plans, inspections and control measures as required by the Directive.

The second point to note is that Directive 96/82/EC (Seveso II), replacing Directive 82/501/EEC from 3 February 2001, was due to be transposed by no later than 3 February 1999. In the absence of notifications of their transposal measures, the Commission decided to send reasoned opinions to Belgium, France, Luxembourg, Germany, the United Kingdom, Ireland, Greece, Portugal and Austria.

The Commission referred Portugal to the Court in 1999 in relation to Directive 84/360/EEC (air pollution from industrial plants), as Portugal's authorisation system does not cover all the types of plant to which the Directive applies (Case C-131/99). However, Portugal modified its national legislation to come into line with the Directive, therefore the Commission withdrew its action.

The Commission decided to refer Belgium and Ireland to the Court for non-conformity of their measures implementing Directive 87/217/EEC (prevention and reduction of environmental pollution by asbestos).

Regarding the two Directives on the prevention of air pollution from municipal waste incineration plants, namely 89/369/EEC (new plants) and 89/429/EEC (existing plants), the Commission referred Belgium to the Court for non-conformity of its transposing legislation, although Belgium has adopted various measures, these do not redress all the failings (Case C-287/99). The Commission decided to refer Spain to the Court for permitting the Canary Islands to operate incinerators not complying with Directive 89/369/EEC. Finally, France was sent a reasoned opinion for allowing numerous incinerators to operate in contravention of Community legislation, with substantial dioxin emissions.

Directive 94/67/EC on the incineration of hazardous waste fell due for transposal on 31 December 1996. Proceedings are in progress against Belgium (Case C-338/99) and Italy (Case C-421/99) for failure to notify transposal measures. However, the Commission terminated the proceedings against Greece (Case C-388/98), Austria and the United Kingdom, all three having submitted details of the measures taken to implement the Directive.

Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), adopted on 24 September 1996, was due to be implemented by 30 October 1999.

The Commission withdrew its decision to take Belgium to the Court of Justice in relation to Regulation (EEC) No 880/92 of 23 March 1992 on a Community eco-label award scheme, Belgium having in the meantime adopted the necessary national implementing measures (designation of competent bodies, practical rules for assessment of applications for the award of an eco-label).

Likewise, the Commission was able to withdraw from referring Greece and Portugal to the Court for failure to adopt the necessary national measures implementing Regulation (EEC) No 1836/93 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme (EMAS), both countries having in the meantime adopted implementing measures.

The Commission also decided to refer Belgium to the Court with regard to the use of the tacit authorisation scheme mentioned in last year's report, since Belgium's responses to the reasoned opinion offered no evidence that the national legislation had been brought into line with the Directive.

#### 2.12.10. *Radiation protection*

The Community legislation on radiation protection is based on Chapter III (Health and Safety) of the Euratom Treaty. It covers all aspects of the protection of the health of workers and the general public against the dangers arising from ionising radiation, not only those aspects related to nuclear energy. In fact, medical uses represent the chief form of exposure.

As the instrument of primary legislation, the Euratom Treaty, in its Articles 33 to 37, imposes certain obligations on Member States relating to training and education, environmental monitoring and disposal of radioactive waste. In addition, there are currently five main directives and three regulations in force concerning radiation protection.

Legislation based on the Euratom Treaty is special in that the conformity of the transposal measures is examined by the Commission before the measures in question are finally adopted. Article 33 of the Euratom Treaty provides that Member States must communicate to the Commission any draft provisions which they have taken to ensure compliance with the basic standards in the area of radiation protection. The Commission must make appropriate recommendations for harmonising these measures. These recommendations contain the same type of analysis of conformity as the letters of formal notice issued under Article 226 of the EC Treaty in the other areas of Community environmental law. In 1999 the Commission received 11 communications of draft provisions under Article 33 of the Euratom Treaty, and made recommendations in respect of two of them.

Even though the recommendations issued under Article 33 are not binding, the Member States usually follow them very closely. As a result, there tend to be fewer infringement proceedings for non-compliance in the field of radiation protection.

Article 35 of the Euratom Treaty provides that each Member State shall establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with basic standards. The Commission may verify the operation and efficiency of such facilities. During 1999 the Commission carried out three such verifications. Pursuant to Article 36 of the Euratom Treaty, the Member States communicate to the Commission information on the levels of radioactivity measured in the environment, so the Commission can check that the basic standards are being complied with.

In general, the Commission checks the implementation of the radiation protection legislation on the basis of Article 124, and applying the procedure described in Articles 141 and 143 of the Euratom Treaty. These three Articles correspond respectively to Article 211, 226 and 228 of the EC Treaty.

Directive 80/836/Euratom lays down the basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation. The infringement proceedings against Luxembourg for failure to conform to the provisions of the directive were dropped in 1999, when Luxembourg adopted new complying legislation. Thus, the only outstanding infringement proceedings in relation to Directive 80/836/Euratom are those against the Netherlands for failure to comply with basic standards concerning, for example, nursing mothers, internal exposure and received doses.

As regards Directive 84/466/Euratom laying down basic measures for the radiation protection of persons undergoing medical examination or treatment, the infringement proceedings against Spain (Case C-21/96, judgement given on 9 October 1997) are still open. During 1999 Spain communicated to the Commission new transposing measures which appear to resolve all the points at issue. The measures have been adopted but not yet published, which must be done before the case can be formally closed.

The proceedings against Belgium continued, with the issuing of a supplementary reasoned opinion. The Belgian legislation as notified does not fully meet the requirements of the Directive concerning, for example, training, qualified experts, acceptability criteria and surveillance of radiological installations.

The two above mentioned Directives are soon due to be replaced by new Directives, namely 96/29/Euratom laying down basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation and 97/43/Euratom on the health protection of individuals against the dangers of ionising radiation in relation to medical exposure. The transposal deadline for these Directives is 13 May 2000.

At the moment, Directive 89/618/Euratom on informing the general public about health protection measures to be applied and steps to be taken in the event of radiological emergency accounts for most of the implementation problems in the field of radiation protection.

The Commission had decided to refer Spain to the Court for failure to establish a system for prior information as required by Directive 89/618/Euratom. However, Spain communicated new national legislation to the Commission in 1999, thus completing its transposal measures and allowing the proceedings to be terminated. In the procedure against Sweden, the Commission sent a reasoned opinion in 1999.

Sweden has failed to communicate transposal measures for several of the provisions of Directive 89/618/Euratom, such as informing the public in the event of an emergency and procedures for circulation of information.

Proceedings are continuing against Germany for failure to comply with the provisions on informing the public in the event of an emergency and on emergency staff.

Proceedings are also continuing against France for failure to comply with Directive 90/641/Euratom on the operational protection of outside workers exposed to the risk of ionising radiation during their activities in controlled areas.

## 2.13. Agriculture

### 2.13.1. *Free movement of agricultural produce*<sup>(1)</sup>

The free movement of agricultural produce in the single market is one of the basic principles of the common agricultural policy (CAP) and of the common organisation of markets.

The Court of Justice has had regular occasion to recall that Articles 28 and 29 of the EC Treaty are an integral part of the common organisation of markets, even if express reference to them has been superfluous since 1 January 1970.

The Commission has maintained a permanent open eye to the task of rapidly removing all barriers to trade in agricultural produce in the Community.

The downward trend in recent years in the number of new cases involving traditional barriers to trade in agricultural produce, such as routine import checks and demands for import licences, has been further confirmed this year.

France's insistence on authorising only such lawn-seed mixtures as have been entered in the French national catalogue was held to be contrary to Article 28 of the EC Treaty and supported by none of the exceptions available in Article 30, this business being harmonised by Directives 66/401/EEC and 70/457/EEC. After being sent a reasoned opinion, France has scrapped its non-conforming marketing scheme.

On 12 November 1998 the Court of Justice gave judgment in Case C-102/96 *Commission v Germany*, condemning the obligation imposed by the German authorities to mark and heat-treat certain types of fresh pigmeat from Denmark; this was seen as a barrier to trade<sup>(2)</sup>. The German authorities notified the Commission of the measures adopted to comply with the judgment, and the Commission subsequently terminated the proceedings.

<sup>(1)</sup> Following reorganisation of the Commission services, all legislation and questions relating to public health, animal health and plant health are now dealt with by the Health and Consumer Protection DG. Since the last quarter of 1999 this DG has been responsible for examining and managing the infringement dossiers in these areas, including obstacles to free movement of agricultural products claimed to be justified on health protection grounds. This change will be reflected in the structure of the Eighteenth annual report on monitoring the application of Community law (2000).

<sup>(2)</sup> Judgment of 12.11.1998, ECR 1998, p. I-6871.



Certain countries' persistence in reserving 'quality labels or descriptions' for products of their own countries or regions led the Commission to press ahead with the infringement proceedings commenced against France, Spain and Germany. The Commission considers that, pursuant to Article 28 of the EC Treaty, as interpreted by the Court of Justice in Cases C-13/78, *Eggers*<sup>(1)</sup> and C-321/94, *Montagne*<sup>(2)</sup>, a quality description or quality label should not be reserved for products from a particular geographical entity but should be based exclusively on the intrinsic characteristics of the product. That being the case, any national quality label or description should, pursuant to Articles 12 and 34 of the EC Treaty, as of right be accessible to any potential Community producer or user whose products meet the objective and verifiable criteria required.

In the case of France the infringement proceedings concern the following regional quality labels: 'Normandie', 'Nord-Pas-de-Calais', 'Ardennes de France', 'Limousin', 'Languedoc-Roussillon', 'Lorraine', 'Savoie', 'Franche-Comté', 'Corse', 'Midi-Pyrénées', 'Salaisons d'Auvergne' and 'Qualité France'. The continued use of these labels caused the Commission to issue reasoned opinions. The French authorities are at present disposed to change the legal arrangements governing such labels.

Reasoned opinions were issued concerning the following quality descriptions used in Spain: 'La Conca de Barbera', 'El Valles Occidental', 'El Ripolles', 'Alimentos de Andalucia', 'Alimentos de Extremadura' and 'Calidad Cantabria'. In the wake of these reasoned opinions, the competent regional authorities have subsequently scrapped, or expressed their intention to scrap, these contested descriptions.

Finally, faced with the refusal by the German authorities to make the CMA quality label (*Markenqualität aus deutschen Ländern*), given exclusively to products processed in Germany without specific requirements as to the original environment or geographical place, available to products from other Member States, the Commission decided to refer Germany to the Court of Justice. The Commission considers that the label in question constitutes a mandatory restriction as to the place where processed products can come from.

Regarding the less traditional forms of barriers to trade, such as the repeated acts of violence by individuals in France against fruit and vegetable imports from other Member States, in particular from Spain, and the authorities' failure to take measures to prevent such acts, it is worth recalling the judgment given by the Court of Justice on 9 November 1997 in Case C-265/95<sup>(3)</sup>, where it held that by failing to adopt all

necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Republic has failed to fulfil its obligations under Article 30 of the EC Treaty (now Article 28 EC), in conjunction with Article 5 of that Treaty (now Article 10), and under the common organisations of the markets in agricultural products. The fact that the marketing of fruit and vegetables from Spain was untrammelled in 1998 suggests that the measures taken by the French Government to give effect to the Court's judgment worked better than those taken in previous years. The same was true in 1999, with the exception of a few isolated incidents in certain hypermarkets. The Commission trusts that the marketing campaigns in the years ahead will proceed smoothly.

### 2.13.2. Markets

In addition to its efforts to remove barriers to the freedom of movement of produce, the Commission also sought to ensure that the other provisions of the Community's agricultural legislation are effectively and correctly applied.

(a) In monitoring the application of specific market organisation mechanisms, the Commission continued to keep a close watch on the use of production control mechanisms, particularly in the milk sector, where it conducted a systematic analysis of national measures to implement Regulations (EEC) No 3952/92 and (EEC) No 536/93.

The Commission addressed reasoned opinions to Italy and Spain because of deficiencies in their implementation of the milk quotas scheme. The main concern was the persistent failure by the relevant authorities to pass the supplementary levy on to the producers responsible for the excesses.

In February 1997 the Italian Government instructed a commission of inquiry to conduct a special inquiry into milk production during 1995/1996 and 1996/1997. Pending the conclusions of this inquiry, and subject to the reimbursement of an estimated excess in relation to the levy actually due, the accounts relating to the levy advances received by the purchasers for the periods in question have been frozen. In the light of widespread allegations concerning fraud and irregularities, the Italian authorities had taken the view that payments to the competent authority could not be made until there had been a new in-depth inquiry into the level of actual production and the level of the reference quantity for each producer. These circumstances formed the subject of the infringement proceedings.

(1) Judgment of 2.10.1978, ECR 1978, p. 1935.

(2) Judgment of 7.5.1997, ECR 1997, p. I-2343

(3) Judgment of 6.11.1997, ECR 1997, p. I-6959.

The Commission has been kept informed of the progress of each successive inquiry and has itself carried out control visits to all the bodies concerned.

The indications seem to be that this exceptional exercise will help to clarify a previous situation based on doubts concerning production capacity in Italy. The production level initially declared by purchasers has been confirmed (the figures are out by less than 1 %, and part of this may yet be confirmed). The inquiry results have also clarified the situation of each individual producer, except in instances where lawsuits are involved. In November 1999 the results of the new scheme for offsetting deliveries were notified to those concerned. The Commission is keeping a close watch on trends in the actual collection of amounts due.

In Spain, only a fraction of the levy payable for 1993/1994, 1995/1996 and 1996/1997 has actually been paid by producers. Both producers and purchasers have commenced large-scale actions against decisions affecting them.

Following commencement of infringement proceedings, the Spanish authorities have adopted new measures for managing the scheme, aimed at avoiding large-scale recourse to the courts in the future. The key elements consist of an obligatory scheme for collecting advance payments from producers who exceed their quota during the period and the imposition of restrictive conditions governing the approval of purchasers. The scheme's management in 1998/1999 did not produce the widespread problems that had been encountered in previous years.

Regarding actions commenced earlier, the Spanish authorities caused sureties to be established for the sums in dispute in the numerous cases where this had not already been done. They now consider that the levy still due is fully covered, either by these sureties or by compulsory recovery orders.

(b) The Commission has also had occasion to look into cases of failure to comply with Community rules governing the designation of agricultural products.

Regarding spirit drinks, the Commission addressed a reasoned opinion to France for authorising the marketing of spirits made by adding a percentage of water to whisky and using the word 'whisky' as a generic sales description. One of the features imposed by Regulation (EEC) No 1576/89 on whisky is an alcoholic strength of at least 40°, and the addition of water to spirits is prohibited in order to avoid the nature of the product being distorted.

A preliminary ruling was requested on the same subject by the Paris *Tribunal de grande instance* (Case C-136/96). The Court of Justice ruled on 16 July 1997<sup>(1)</sup> that Community rules prohibited such product designations.

In their reply to the reasoned opinion the French authorities continued to support the marketing of the relevant product under the designation contested by the Commission, which accordingly referred the case to the Court of Justice.

(c) Finally, in the tobacco sector, the Commission issued a reasoned opinion regarding the additional conditions imposed by Greek legislation concerning deliveries of raw tobacco, not provided for by Regulation (EEC) No 1067/95. In the wake of this reasoned opinion Greece rectified the anomalous situation and the procedure was therefore terminated.

### 2.13.3. *Harmonised areas*

Many more agriculture directives fell due for transposal in 1999 than in 1998, and this was reflected in a substantial rise in the number of infringement proceedings in 1999 for non-communication of transposal measures.

The rate of transposal deteriorated in general, although some progress was noted in Belgium, Sweden, Finland and Portugal, Italy made the most progress, while Greece's progress showed the most deterioration. France's position, already a cause for concern in 1998, remained unchanged.

In two cases the Commission found itself obliged to commence Article 228 proceedings, after Member States failed to give effect to a judgment of the Court.

#### *Seeds and seedlings*

Only Sweden has communicated transposal measures in respect of all the directives falling due for transposal. However, the other countries' delays in transposal do not exceed six months.

#### *Plant health*

There are relatively few major problems still outstanding in this sector, Greece and Luxembourg being the most late with their transposal measures.

<sup>(1)</sup> Judgment of 16.7.1998, ECR 1998, p. I-4571.

The Commission referred Austria and Luxembourg to the Court for their delays in transposing Directives 96/32/EC and 96/33/EC on maximum levels for pesticide residues. However, Austria transposed these two directives at the end of 1999.

### *Feedingstuffs*

The deadlines for transposing several important Directives fell due in 1998 and 1999. These include Directives 95/53/EC (organisation of official inspections), 95/59/EC (approving and registering certain establishments and intermediaries), 96/25/EC (circulation of feed materials), 96/51/EC (major amendments to the legislation on additives), 98/67/EC (revising the Annexes to Directive 96/25/EC), 98/88/EC (microscopic identification and estimation of constituents of animal origin) and 1999/29/EC (undesirable substances and products).

To come into line, many Member States have had to undertake a radical overhaul of their legislation on feedingstuffs. The Community provisions to be transposed and implemented are so complex that there have been many delays in transposing them.

The Commission was therefore obliged to refer nine cases to the Court (four concerning Greece, two Luxembourg, one Ireland, one France and one Italy).

The Court also ruled against France for failure to comply with its obligation to transpose four directives relating to feedingstuffs intended for particular nutritional purposes. However, France subsequently complied with the Court's ruling and the Commission consequently terminated the infringement proceedings.

### *Veterinary matters*

The rate of transposal of directives in this sector remained stable. The duration of infringements is tending to increase, however, as demonstrated by the fact that the Commission found itself obliged to initiate Article 228 infringement proceedings against France and Greece for not complying with the Court's judgments against them for failure to transpose Directive 94/28/EC (imports of animals, their semen, ova and embryos) and Directive 93/118 (veterinary fees).

The Court found against Italy for failure to transpose Directives 93/118/EC (veterinary fees) and 94/42/EC (intra-Community trade in bovine animals and swine). Italy has since complied with the Court's rulings.

In December 1999 the Court also found against Greece for failure to transpose Directive 96/43/EC (veterinary fees).

The Commission also decided to refer Germany, Spain, Ireland and Portugal to the Court for their delays in transposing this latter Directive.

Cases were also brought before the Court for non-transposal by Italy and Portugal of Directives 96/22/EC (prohibition on the use of certain substances having a hormonal or thyrostatic action and of  $\beta$ -agonists) and 96/23/EC (measures to monitor certain substances and residues thereof in live animals and animal products); non-transposal by Italy, Ireland and Luxembourg of Directive 96/93/EC (certification of animals and animal products); non-transposal by Austria of Directive 90/428/EEC (trade in equidae intended for competitions); non-transposal by Belgium of Directive 95/71/EC (fishery products); non-transposal by Ireland of Directive 97/61/EC (bivalve molluscs); and non-transposal by the United Kingdom of Directives 95/68/EC (meat products) and 96/90/EC (products not subject to the requirements laid down in specific Community rules).

With regard to animal welfare, France transposed Directive 95/29/EC (transport of animals) at the end of the year, and the Commission will therefore be able to withdraw from its proceedings before the Court. The Commission also withdrew its case against Austria for non-transposal of Directive 93/119/EC (protection of animals at the time of slaughter or killing) after Salzburg, the one *Land* still in default, enacted implementing measures.

### *Incorrect transposal and incorrect application*

Progress was made in 1999 in several infringement cases relating to the incorrect transposal or application of secondary law in the veterinary and phytosanitary field.

The Grand Duchy of Luxembourg amended its legislation to comply with the obligation in Directive 91/414/EEC concerning the marketing of plant protection products and to authorise the production, transport and storage of plant protection products intended for other Member States but whose use is banned in Luxembourg. The Commission therefore decided to drop the case.

Following surveys conducted in the Member States concerning application of the fees provided for in Directive 93/118/EC for health inspections and controls of fresh meat and poultrymeat, the Commission referred Greece to the Court for failings in this area. The infringement proceedings commenced against Belgium were dropped in 1999 after Belgium enacted new legislation regularising its situation.

Monitoring the correct application of the Community legislation on bovine spongiform encephalopathy (BSE) remains a Commission priority. In this context the Commission commenced infringement proceedings against France for ignoring the obligation imposed by Decisions 98/256/EC and 99/514/EC to allow British beef onto its territory. Also, after having issued a reasoned opinion against the United Kingdom concerning inadequate veterinary checks by the UK inspection services in slaughterhouses and cutting rooms, the Commission is keeping a very close eye on the veterinarian recruitment programme set up by the UK authorities to meet the obligations imposed by Directives 64/433/EEC and 89/662/EEC and by Decision 96/239/EC.

A new inspection in Portugal by inspectors from the Community's Food and Veterinary Office (FVO) indicated that Portugal had resolved the infringements of Directive 90/667/EEC and Decision 96/449/EC which the Commission had noted in 1997. The Commission has decided to await confirmation of the FVO inspectors' conclusions before closing the file.

The persistence of serious hygiene and structural shortcomings repeatedly observed in certain French, Irish and Luxembourgish slaughterhouses in the course of visits by FVO inspectors resulted in reasoned opinions being addressed to these three countries. But the latest visits revealed that some of these establishments had since been closed down and that the others had made significant progress towards compliance.

The Commission also decided to refer France to the Court of Justice in respect of the French *Arrêté* (Order) of 3 September 1994 which, in contravention of Directives 64/433/EEC, 71/118/EEC, 91/445/EEC and 91/495/EEC, authorises certain establishments marketing meat and meat-based products to be exempted from health-inspection obligations.

In the context of the crisis in Belgium sparked by the contamination of animals and of food by dioxin, the Commission addressed a reasoned opinion to Belgium on the grounds that Belgium had delayed too long in informing the Commission of the contamination. Directives 89/662/EEC and 90/425/EEC demand that each Member State must immediately notify the other Member States and the Commission of any outbreak in its territory of any zoonoses, diseases or other cause likely to constitute a serious hazard to animals or to human health.

#### 2.13.4. **Implementation of Directive 98/34/EC (technical standards and regulations) in the field of agriculture**

In 1999, as in previous years, the Commission received notification of a great many draft instruments pursuant to Directive 98/34/EC, which requires the Member States to give notice prior to the adoption of any draft rules containing technical standards or regulations which might impede intra-Community trade.

In the agricultural sector, the Commission, under Article 28 of the EC Treaty and secondary law, considered 172 draft legislative instruments notified by the Member States (153) and the EFTA countries (19) and, after studying them, called for amendments to some of them by delivering detailed opinions (in eight cases) or observations (in nine).

#### 2.14. **Fisheries**

The Commission continued to monitor the resource conservation and management measures put in place by the Member States in areas covered by the common fisheries policy.

The Commission continued its systematic scrutiny of national fisheries and aquaculture legislation for compatibility with Community law.

##### 2.14.1. **Resources**

The Commission applied to the Court, on 9 September and 30 November, to bring actions against France and the United Kingdom respectively, for failure to meet their obligation to carry out checks for exceeding certain quotas allocated to France in 1988 and in 1990 and to the United Kingdom in 1985, 1986, 1987, 1988 and 1990. Reasoned opinions were sent to the United Kingdom and France on 26 August and 30 September respectively, in the context of proceedings for failure to meet this same obligation for exceeding certain quotas allocated to them in 1995 and 1996. In addition, the proceedings against Spain for non-compliance, in terms of minimum size, with the Community provisions governing fishing and the marketing of certain species, were dropped following Spain's enactment in 1999 of national measures complying with the Community legislation.

##### 2.14.2. **Grant of flag rights and fishing licences**

In 1999 the Commission continued to scrutinise national legislation on the granting of flag rights to fishing vessels for compatibility with Community law.



The infringement proceedings against Belgium in connection with the granting of flag rights were terminated following Belgium's adoption in 1999 of national legislation compatible with Community law.

## 2.15. Consumer protection

### 2.15.1. *Transposal of the applicable Directives*

All of the twelve Directives covered by this Chapter have been transposed by all Member States.

It should be noted, however, that Directives 92/59/EEC (general product safety) and 87/357/EEC (dangerous imitations of food products), as well as Directives 87/102/EEC and 90/88/EEC on consumer credit and Directives 79/581/EEC, 88/314/EEC and 88/315/EEC on price indication have not been transposed for Gibraltar, since the United Kingdom considers that these Directives, having as their main aim the elimination of barriers to the free movement of goods between Member States, do not apply to Gibraltar.

### 2.15.2. *Safety and health*

Directives 92/59/EEC on general product safety and 87/357/EEC on dangerous imitations of food products have been transposed by all Member States. There are no infringement proceedings in progress at the present time.

### 2.15.3. *Protection of consumer's economic interests*

All the Directives in this sector have been transposed by all Member States, but there are several infringement proceedings in progress concerning non-compliance of national implementing measures.

At the Consumer Affairs Council of 9 November 1999, the Commission submitted to the Council detailed reports on the implementation of Directives 94/47/EC on timeshare contracts<sup>(1)</sup> and 90/314/EEC on package holidays<sup>(2)</sup>. A report on the implementation of Directive 93/13/EEC on unfair terms in consumer contracts will follow in early 2000.

Directive 93/13/EEC on unfair terms in consumer contracts was also the subject of an international conference organised by the Commission from 1 to 3 July 1999 in Brussels. The proceedings of this conference can be obtained from the Health and Consumer Protection DG.

<sup>(1)</sup> SEC(1999) 1795.

<sup>(2)</sup> SEC(1999) 1800.

The Commission also organised a series of meetings of government experts in connection with the implementation of the directives due to be transposed within the next two years, such as Directives 97/7/EC (distance selling), 98/6/EC (price indication) and 98/27/EC (injunctions).

## 2.16. Community staff

The infringement proceedings initiated in this field concern the Member States' failure to comply with the Protocol on Privileges and Immunities of the European Communities and to implement national provisions required for the correct application of the Staff Regulations of officials and the conditions of employment of other servants of the European Communities.

Two infringement proceedings were still open at the start of 1999, both against Spain. In the course of the year one of these cases was closed (concerning Spain's failure to meet its obligations under Article 12(b) of the Protocol on the Privileges and Immunities of the European Community as regards the issuing to non-Spanish officials and other servants of the European Communities of a document enabling them to prove they are legally resident in Spain while assigned to a post there).

The second case (concerning Spain's delay in adopting internal measures to allow Spanish officials and servants of the European Communities to transfer their pension rights in accordance with Article 11(2) of Annex VIII to the Staff Regulations) remains open, although some progress has been made towards achieving a satisfactory solution.

## 2.17. Statistics

1999 was a good year for monitoring the application of the legislation on statistics. All of the proceedings commenced in 1999 or in earlier years were terminated.

The older proceedings involved the two cases against Spain for failure to submit monthly data on the quantities and average prices of landings of fishery products (Council Regulation (EEC) No 1382/91) and annual catch statistics (Regulation (EEC) No 3880/91).

During 1999 the Spanish authorities continued to transmit the data requested. The Commission services had already approved the 'Global action plan on fishery statistics in Spain'.

Spain has made steady progress towards setting up a suitable statistical system.

The Commission was therefore finally able to terminate this case, finding that Spain had set up a suitable statistical system compatible with Regulation (EEC) No 1382/91 and Regulation (EEC) No 3880/91.

The application and transposal of directives in the statistical field pose no particular problems.

Just one infringement procedure was commenced for non-notification of national measures implementing Council Directive 97/77/EC amending Directives 93/23/EEC, 93/24/EEC and 93/25/EEC on the statistical surveys to be carried out on pig, bovine animal and sheep and goat production.

Article 4 of the Directive requires Member States to communicate their national implementing measures to the Commission by 31 December 1998 at the latest.

All Member States have communicated their implementing measures, with the single exception of Greece. The Commission therefore sent the Greek authorities a letter of formal notice on 12 March 1999.

In response to the letter of formal notice the Greek statistical authorities forwarded the Ministerial Decision of 17 May 1999 concerning the carrying out of annual animal and plant surveys. This Decision transposes into Greek law Directive 97/77/EC and requires the Greek statistical office to carry out surveys in the areas governed by the Directive.

Consequently, the Commission was able to terminate the infringement proceedings against Greece.

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## ANNEX I

## DETECTION OF INFRINGEMENT CASES

Table 1.1

## Detection of infringement cases

Year	Complaints <sup>(1)</sup>	Cases detected by the Commission			Non-communication <sup>(2)</sup>	Total
		Total	Parliamentary questions	Petitions		
1996	819	257	22	4	1 079	2 155
1997	957	261	13	4	760	1 978
1998	1 128	396	18	7	610	2 134
1999	1 305	288	16	10	677	2 270

<sup>(1)</sup> In 1999, 57,48 % of the infringement cases originated in complaints, as opposed to 52.86 % in 1998.

<sup>(2)</sup> Non-communication: this category includes the non-communication of national measures transposing Community directives, as well as the non-communication of technical regulations under Directive 98/34/EC.

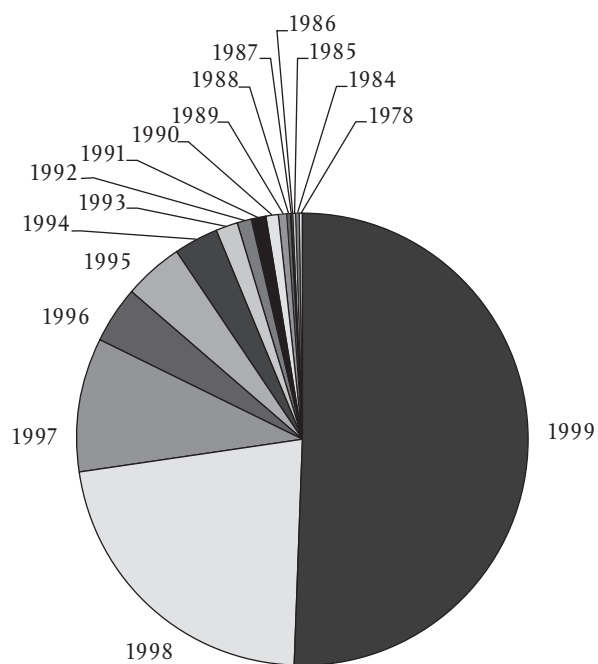
Table 1.2

Cases under examination by the Commission as of 31 December 1999, by year of opening <sup>(1)</sup>

Opened in	Number	Under examination as of 31.12.1999	Percentage of cases under examination	Complaints	Own initiative cases	Non-communication
1999	2 270	1 543	50,59	924	246	373
1998	2 134	674	22,10	345	218	111
1997	1 977	292	9,57	142	94	56
1996	2 151	124	4,07	53	57	14
1995	1 853	130	4,26	57	64	9
1994	2 396	97	3,18	40	50	7
1993	2 336	48	1,57	17	27	4
1992	2 509	31	1,02	15	16	0
1991	2 184	32	1,05	9	21	2
1990	2 343	27	0,89	8	19	0
1989	2 107	18	0,59	9	8	1
1988	1 574	8	0,26	2	5	1
1987	1 350	2	0,07	0	1	1
1986	1 240	3	0,10	1	1	1
1985	1 003	6	0,20	0	6	0
1984	651	8	0,26	0	2	6
1978	124	7	0,23	0	7	0
Total	30 202	3 050		1 622	842	586

<sup>(1)</sup> The cases under examination are the cases opened following a complaint, a initiative Commission's or a case of non-communication, whether or not an infringement procedure was initiated.

Table 1.2.1

**Cases under examination as of 31 December 1999, by year of opening (graphic)**



## 1.3. — BREAKDOWN BY MEMBER STATE OF THE CASES OPENED IN 1999

Table 1.3.1

**Own initiative cases detected by the Commission in 1999, by Member State**

Member State	Opened		Under examination as of 31.12.1999	
<b>Total</b>	<b>288</b>		<b>246</b>	
Belgium	24	8,33 %	19	7,72 %
Denmark	9	3,13 %	8	3,25 %
Germany	21	7,29 %	19	7,72 %
Greece	17	5,90 %	14	5,69 %
Spain	31	10,76 %	25	10,16 %
France	35	12,15 %	32	13,01 %
Ireland	11	3,82 %	7	2,85 %
Italy	43	14,93 %	35	14,23 %
Luxembourg	11	3,82 %	9	3,66 %
Netherlands	17	5,90 %	15	6,10 %
Austria	24	8,33 %	23	9,35 %
Portugal	23	7,99 %	20	8,13 %
Finland	7	2,43 %	7	2,85 %
Sweden	9	3,13 %	7	2,85 %
United Kingdom	6	2,08 %	6	2,44 %

Figure 1.3.1.1

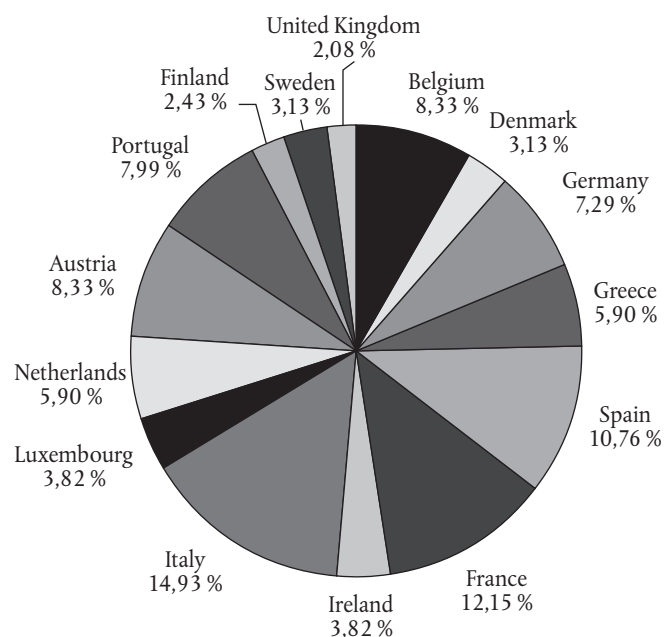
**Own initiative cases detected by the Commission in 1999, by Member State (graphic)**

Table 1.3.2

**Complaints received in 1999, by Member State**

Member State	Complaints received		Cases under examination as of 31.12.1999	
<b>Total</b>	<b>1305</b>		<b>930</b>	
Belgium	59	4,52 %	49	5,27 %
Denmark	41	3,14 %	29	3,12 %
Germany	164	12,57 %	124	13,33 %
Greece	101	7,74 %	66	7,10 %
Spain	182	13,95 %	132	14,19 %
France	225	17,24 %	132	14,19 %
Ireland	63	4,83 %	48	5,16 %
Italy	135	10,34 %	105	11,29 %
Luxembourg	8	0,61 %	8	0,86 %
Netherlands	39	2,99 %	22	2,37 %
Austria	61	4,67 %	46	4,95 %
Portugal	64	4,90 %	42	4,52 %
Finland	42	3,22 %	25	2,69 %
Sweden	40	3,07 %	31	3,33 %
United Kingdom	81	6,21 %	71	7,63 %

Figure 1.3.2.1

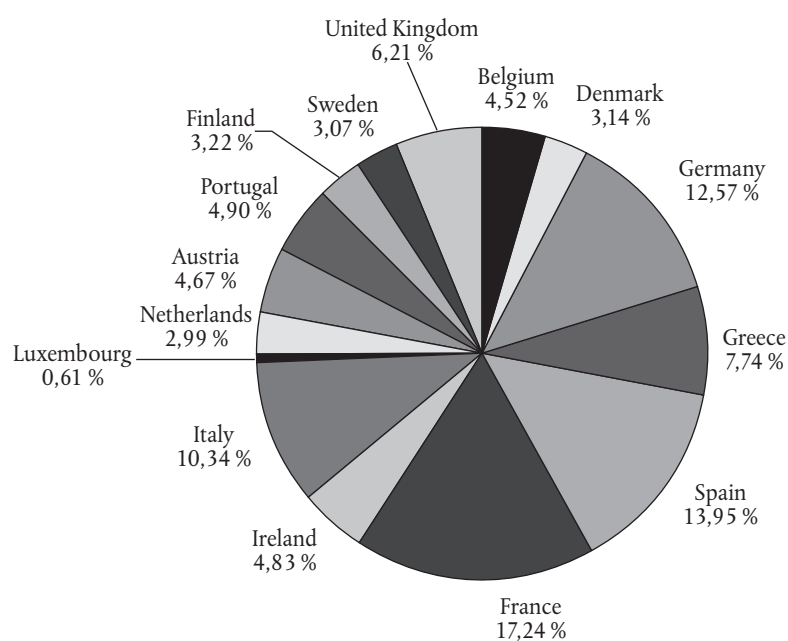
**Complaints received in 1999, by Member State (graphic)**

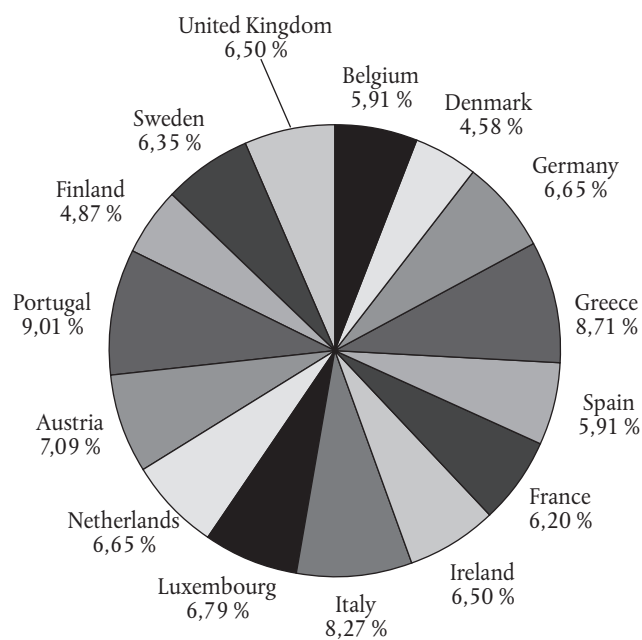
Table 1.3.3.

**Non-communication cases opened in 1999, by Member State**  
(non-communication of measures transposing directives and of technical regulations under Directive 98/34/EC)

Member State	Cases opened		Cases under examination as of 31.12.1999	
<b>Total</b>	<b>677</b>		<b>373</b>	
Belgium	40	5,91 %	26	6,97 %
Denmark	31	4,58 %	10	2,68 %
Germany	45	6,65 %	22	5,90 %
Greece	59	8,71 %	38	10,19 %
Spain	40	5,91 %	20	5,36 %
France	42	6,20 %	24	6,43 %
Ireland	44	6,50 %	30	8,04 %
Italy	56	8,27 %	29	7,77 %
Luxembourg	46	6,79 %	34	9,12 %
Netherlands	45	6,65 %	25	6,70 %
Austria	48	7,09 %	26	6,97 %
Portugal	61	9,01 %	41	10,99 %
Finland	33	4,87 %	13	3,49 %
Sweden	43	6,35 %	14	3,75 %
United Kingdom	44	6,50 %	21	5,63 %

Figure 1.3.3.1

**Non-communication cases opened in 1999, by Member State (graphic)**



## ANNEX II

**INFRINGEMENT PROCEDURES — BREAKDOWN PER STAGE REACHED, LEGAL BASIS, MEMBRE  
STATE AND SECTOR**

Table 2.1

**Established infringements — classified by stage of proceedings and Member State**

Member State	Letters of formal notice					Reasoned opinions					Referrals to Court				
	1995	1996	1997	1998	1999	1995	1996	1997	1998	1999	1995	1996	1997	1998	1999
Belgium	80	72	93	88	80	19	62	33	78	30	6	20	18	20	15
Denmark	42	22	64	40	46	1	0	1	10	4	0	0	0	1	1
Germany	92	62	116	88	84	25	37	35	46	30	10	8	19	5	9
Greece	113	58	109	95	88	26	51	23	51	48	12	17	10	16	14
Spain	81	59	104	78	72	15	30	23	36	21	6	9	7	6	7
France	97	88	157	121	86	17	46	49	94	61	6	11	15	23	35
Ireland	67	43	86	63	67	3	36	14	46	32	6	4	6	10	15
Italy	114	75	123	110	85	36	71	36	91	41	17	9	20	16	32
Luxembourg	71	39	74	62	65	9	28	14	39	38	3	4	8	11	18
Netherlands	59	32	65	28	68	4	9	11	23	16	0	2	3	3	1
Austria	4	132	109	76	85	0	2	38	38	37	0	1	0	4	9
Portugal	115	54	116	80	87	22	49	35	57	50	4	6	14	5	13
Finland	2	290	78	52	44	0	0	8	16	5	0	0	0	1	0
Sweden	2	69	75	54	57	0	0	6	15	14	0	0	0	1	1
United Kingdom	77	47	92	66	61	15	14	8	35	33	2	1	1	1	8
Total	1 016	1 142	1 461	1 101	1 075	192	435	334	675	460	72	92	121	123	178



Table 2.2

## Infringement proceedings classified by Member State, stage reached and legal basis

		1995					1996					1997					1998					1999				
		Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions
			No notification	Implementation problem	Application problem			No notification	Implementation problem	Application problem			No notification	Implementation problem	Application problem			No notification	Implementation problem	Application problem			No notification	Implementation problem	Application problem	
B	LFN	80	59	3	8	10	72	31	8	16	17	93	72	4	7	10	88	45	10	14	19	80	43	10	13	14
	RO	19	15	0	1	3	62	48	4	7	3	33	15	1	5	12	78	41	10	11	16	30	13	6	6	5
	REF	6	4	1	1	0	20	19	0	1	0	18	11	2	3	2	20	9	0	2	9	15	5	5	2	3
DK	LFN	42	36	0	6	0	22	18	0	2	2	64	53	6	2	3	40	28	1	3	8	46	32	4	4	6
	RO	1	1	0	0	0	0	0	0	0	0	1	0	0	1	0	10	4	2	2	2	4	3	0	0	1
	REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1	0	1	0	0
D	LFN	92	63	5	14	10	62	31	6	17	8	116	71	12	22	11	88	43	8	21	16	84	47	7	21	9
	RO	25	15	4	5	1	37	23	6	5	3	35	22	4	5	4	46	21	7	9	9	30	12	5	8	5
	REF	10	7	2	1	0	8	7	0	1	0	19	12	2	4	1	5	1	0	3	1	9	4	1	1	3
EL	LFN	113	90	1	13	9	50	34	0	16	0	109	87	3	7	12	95	58	8	17	12	88	60	4	12	12
	RO	26	14	0	8	4	51	43	2	6	0	23	14	0	5	4	51	34	2	6	9	48	29	6	7	6
	REF	12	8	0	2	2	17	13	0	1	3	10	8	1	1	0	16	7	0	8	1	14	11	1	2	0
E	LFN	81	61	1	12	7	59	22	7	9	21	104	68	10	11	15	78	31	4	28	15	72	40	5	16	11
	RO	15	9	0	4	2	30	13	3	10	4	23	8	4	7	4	36	15	3	7	11	21	4	4	11	2
	REF	6	5	0	1	0	9	3	1	4	1	7	2	0	3	2	6	3	1	2	0	7	2	4	1	0
F	LFN	97	70	3	11	13	88	33	6	29	20	157	74	9	44	30	121	49	14	26	32	86	46	3	12	25
	RO	17	8	0	5	4	46	31	4	7	4	49	14	3	18	14	94	43	6	22	23	61	21	11	24	5
	REF	6	4	0	0	2	11	6	0	3	2	15	9	1	4	1	23	7	3	8	5	35	13	2	9	11
IRL	LFN	67	59	1	3	4	43	28	5	9	1	86	71	4	10	1	63	46	2	11	4	67	45	3	14	5
	RO	3	3	0	0	0	36	34	0	1	1	14	9	2	3	0	46	39	0	4	3	32	22	4	4	2
	REF	6	6	0	0	0	4	1	1	1	1	6	5	0	1	0	10	9	1	0	0	15	10	1	2	2
I	LFN	114	85	3	10	16	75	30	9	18	18	123	65	11	26	21	110	48	10	25	27	85	57	4	19	5
	RO	36	16	1	10	9	71	50	3	7	11	36	18	4	5	9	91	45	8	22	16	41	21	8	7	5
	REF	17	13	0	2	2	9	5	0	3	1	20	14	1	5	0	16	14	0	1	1	32	15	4	5	8
L	LFN	71	66	0	3	2	39	32	2	3	2	74	65	5	3	1	62	54	3	3	2	65	48	10	4	3
	RO	9	6	1	1	1	28	26	2	0	0	14	10	2	1	1	39	30	1	6	2	38	33	5	0	0
	REF	3	3	0	0	0	4	1	0	3	0	8	7	0	0	1	11	9	0	0	2	18	16	2	0	0
NL	LFN	59	47	1	8	3	32	14	0	9	9	65	46	4	9	6	28	15	2	6	5	68	50	2	6	10
	RO	4	1	1	2	0	9	4	1	3	1	11	3	1	5	2	23	12	3	3	5	16	13	0	2	1
	REF	0	0	0	0	0	2	0	0	2	0	3	1	0	2	0	3	0	0	3	0	1	0	1	0	0

		1995					1996					1997					1998					1999				
		Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions	Total	Directives			Treaties, Regulations, Decisions
			No notifi- cation	Imple- menta- tion problem	Appli- cation problem			No notifi- cation	Imple- menta- tion problem	Appli- cation problem			No notifi- cation	Imple- menta- tion problem	Appli- cation problem			No notifi- cation	Imple- menta- tion problem	Appli- cation problem			No notifi- cation	Imple- menta- tion problem	Appli- cation problem	
A	LFN	4	0	0	2	2	132	123	0	9	0	109	85	4	11	9	76	43	14	11	8	85	49	12	7	17
	RO	0	0	0	0	0	2	0	1	1	0	38	33	0	4	1	38	25	3	6	4	37	24	4	5	4
	REF	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	4	1	0	2	1	9	7	2	0	0
P	LFN	115	98	4	9	4	54	34	5	12	3	116	85	7	18	6	80	53	5	12	10	87	63	4	12	8
	RO	22	15	1	4	2	49	37	8	4	0	35	18	6	5	6	57	37	5	10	5	50	37	4	5	4
	REF	4	4	0	0	0	6	5	1	0	0	14	7	5	2	0	5	0	0	2	3	13	7	3	2	1
FIN	LFN	2	0	0	1	1	290	284	0	5	1	78	64	2	8	4	52	29	7	9	7	44	36	2	3	3
	RO	0	0	0	0	0	0	0	0	0	0	8	8	0	0	0	16	8	1	6	1	5	0	3	2	0
	REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0
S	LFN	2	0	0	1	1	69	61	1	4	3	75	58	8	4	5	54	34	7	6	7	57	44	6	5	2
	RO	0	0	0	0	0	0	0	0	0	0	6	6	0	0	0	15	8	2	2	3	14	7	4	2	1
	REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1	0	1	0	0
UK	LFN	77	65	1	4	7	47	26	3	16	2	92	65	8	14	5	66	39	12	9	6	61	46	2	7	6
	RO	15	11	0	2	2	14	11	1	1	1	8	1	2	5	0	35	22	6	3	4	33	21	4	5	3
	REF	2	2	0	0	0	1	0	1	0	0	1	0	0	1	0	1	0	0	0	1	8	5	1	0	2
Total	LFN	1 016	799	23	105	89	1 134	801	52	174	107	1 461	1 029	97	196	139	1 101	615	107	201	178	1 075	706	78	155	136
	RO	192	114	8	42	28	435	320	35	52	28	334	179	29	69	57	675	384	59	119	113	460	260	68	88	44
	REF	72	56	3	7	6	92	60	4	20	8	121	76	12	26	7	123	60	5	31	27	178	95	29	24	30

LFN: letter of formal notice.

RO: reasoned opinion.

REF: referral.

Figure 2.2.1

Letters of formal notice sent in 1999, by legal basis and Member State

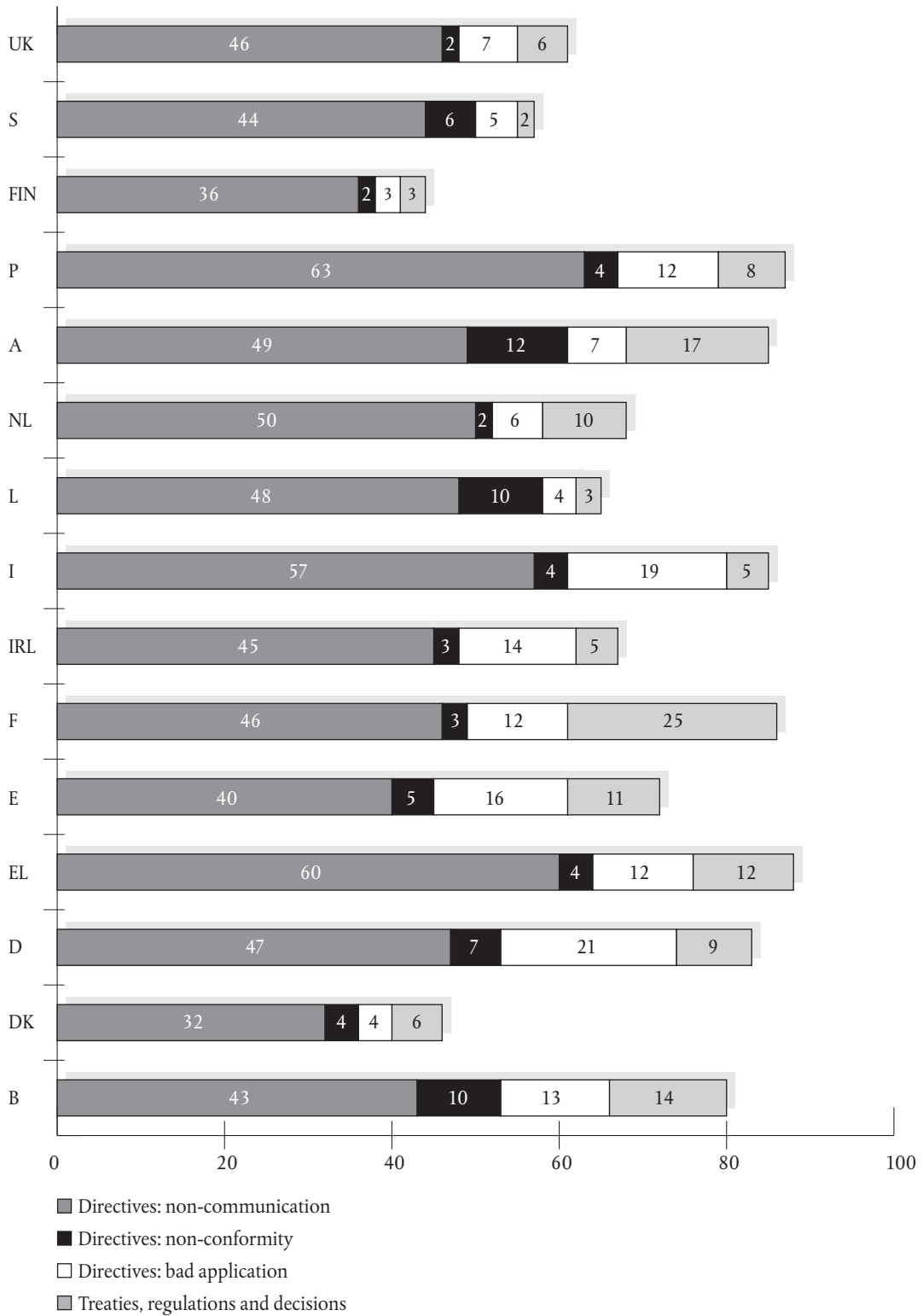


Figure 2.2.2

Reasoned opinion sent in 1999, by legal basis and Member State (graphic)

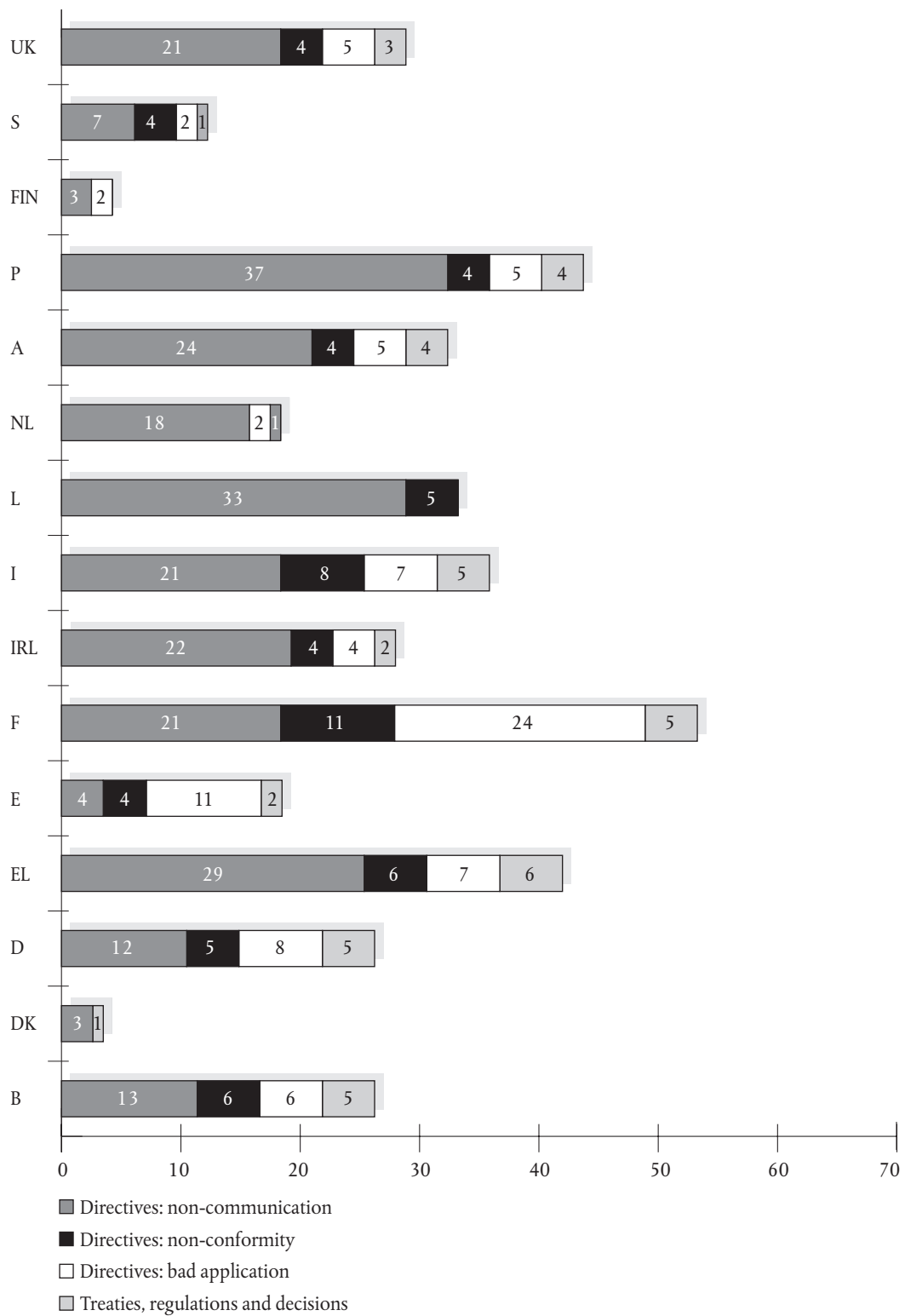




Figure 2.2.3

Referrals to the Court in 1999, by legal basis and Member State (graphic)

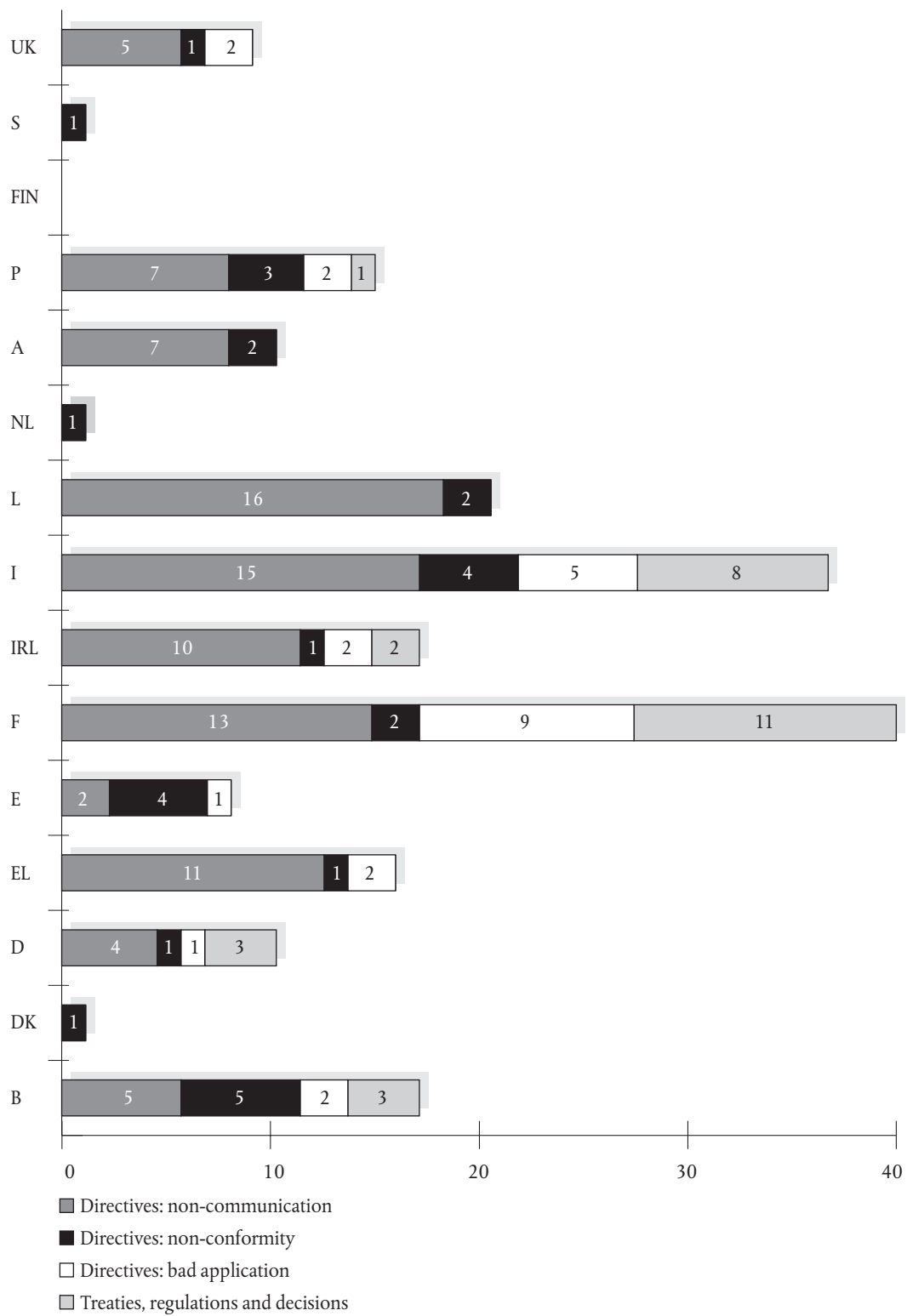


Figure 2.2.4

**Letters of formal notice (LFN), reasoned opinions (RO) and cases referred to the Court of Justice (REF): comparison between 1998 and 1999 by stage of proceeding and legal basis (graphic)**

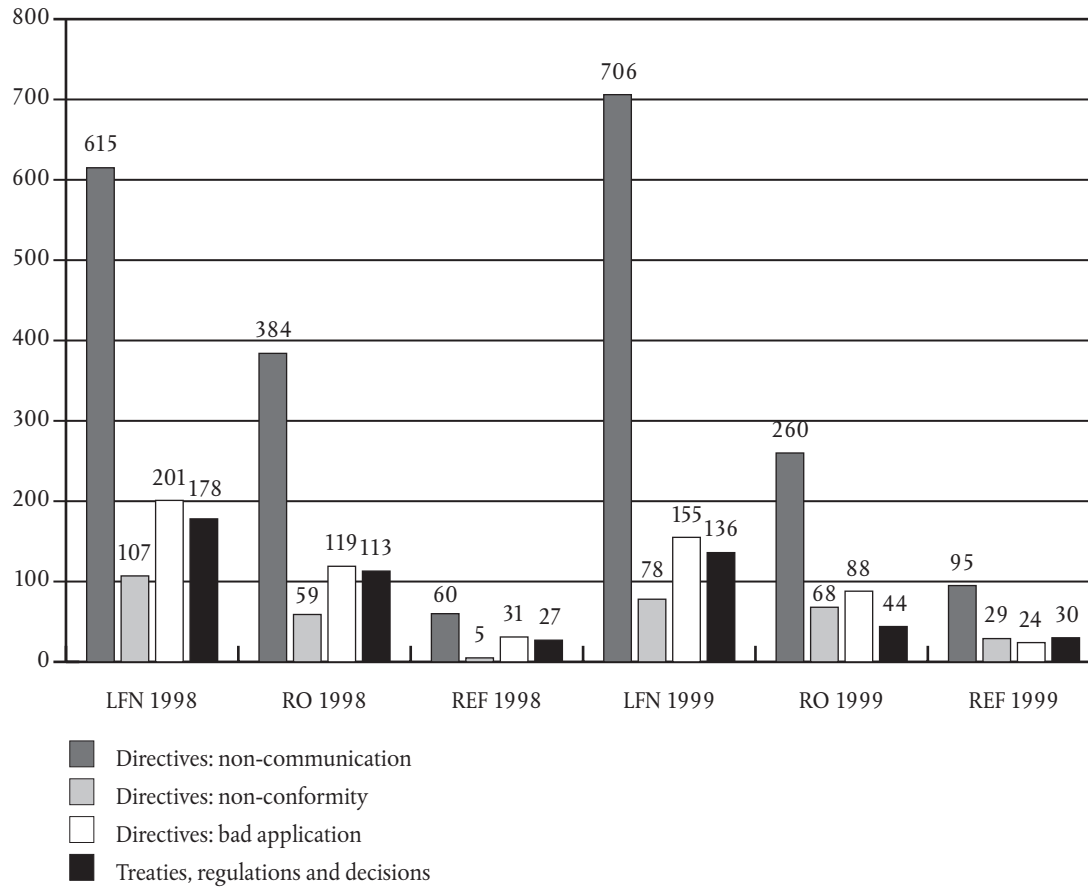


Table 2.3

**Cases under examination — procedure statement as of 31.12.1999, by Member State**

	Total		(1)		(2)		(3)		(4)		(5)		(6)		(7)
<b>Total:</b>	<b>3 050</b>		<b>1 646</b>		<b>53,97 %</b>	<b>816</b>		<b>26,75 %</b>	<b>293</b>		<b>9,61 %</b>	<b>31</b>			
Belgium	207	6,79 %	136	8,26 %	65,70 %	67	8,21 %	32,37 %	29	9,90 %	14,01 %	3			
Denmark	84	2,75 %	40	2,43 %	47,62 %	9	1,10 %	10,71 %	2	0,68 %	2,38 %	0			
Germany	317	10,39 %	142	8,63 %	44,79 %	61	7,48 %	19,24 %	19	6,48 %	5,99 %	2			
Greece	259	8,49 %	154	9,36 %	59,46 %	87	10,66 %	33,59 %	34	11,60 %	13,13 %	10			
Spain	319	10,46 %	112	6,80 %	35,11 %	50	6,13 %	15,67 %	12	4,10 %	3,76 %	1			
France	439	14,39 %	236	14,34 %	53,76 %	144	17,65 %	32,80 %	63	21,50 %	14,35 %	6			
Ireland	158	5,18 %	98	5,95 %	62,03 %	54	6,62 %	34,18 %	20	6,83 %	12,66 %	0			
Italy	332	10,89 %	160	9,72 %	48,19 %	94	11,52 %	28,31 %	44	15,02 %	13,25 %	1			
Luxembourg	110	3,61 %	96	5,83 %	87,27 %	49	6,00 %	44,55 %	23	7,85 %	20,91 %	2			
Netherlands	125	4,10 %	77	4,68 %	61,60 %	35	4,29 %	28,00 %	7	2,39 %	5,60 %	1			
Austria	179	5,87 %	109	6,62 %	60,89 %	45	5,51 %	25,14 %	10	3,41 %	5,59 %	0			
Portugal	177	5,80 %	114	6,93 %	64,41 %	52	6,37 %	29,38 %	18	6,14 %	10,17 %	4			
Finland	82	2,69 %	43	2,61 %	52,44 %	13	1,59 %	15,85 %	1	0,34 %	1,22 %	0			
Sweden	89	2,92 %	46	2,79 %	51,69 %	14	1,72 %	15,73 %	2	0,68 %	2,25 %	0			
United Kingdom	173	5,67 %	83	5,04 %	47,98 %	42	5,15 %	24,28 %	9	3,07 %	5,20 %	1			

(1) = Cases under examination as of 31.12.1999 for which the infringement procedure has been opened and percentages with regard to all the cases.

(2) = Percentage of cases for which the infringement procedure has been opened with regard to cases under examination as of 31.12.1999 concerning this Member State.

(3) = Cases for which a reasoned opinion has been sent and percentages with regard to all cases.

(4) = Percentage of cases for which a reasoned opinion has been sent with regard to all cases under examination as of 31.12.1999 concerning this Member State.

(5) = Cases brought to the Court of Justice and percentages with regard to all cases.

(6) = Percentage of cases referred to the Court of Justice with regard to all cases under examination as of 31.12.1999 for this Member State.

(7) = Cases for which the Article 228 procedure of the Treaty has been opened.

Figure 2.3.1

Cases under examination as of 31.12.1999 for which the infringement procedure has been opened, by Member State (graphic)

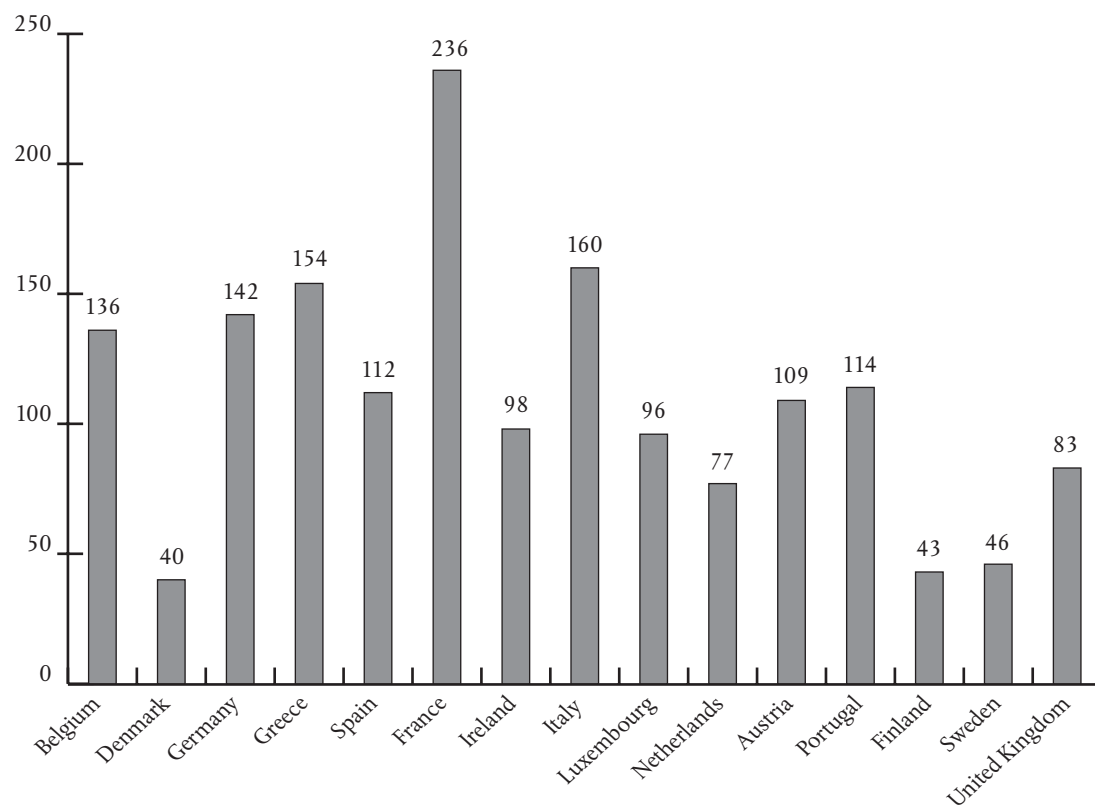


Figure 2.3.2

Cases under examination as of 31.12.1999, for which a reasoned opinion has been sent, by Member State (graphic)

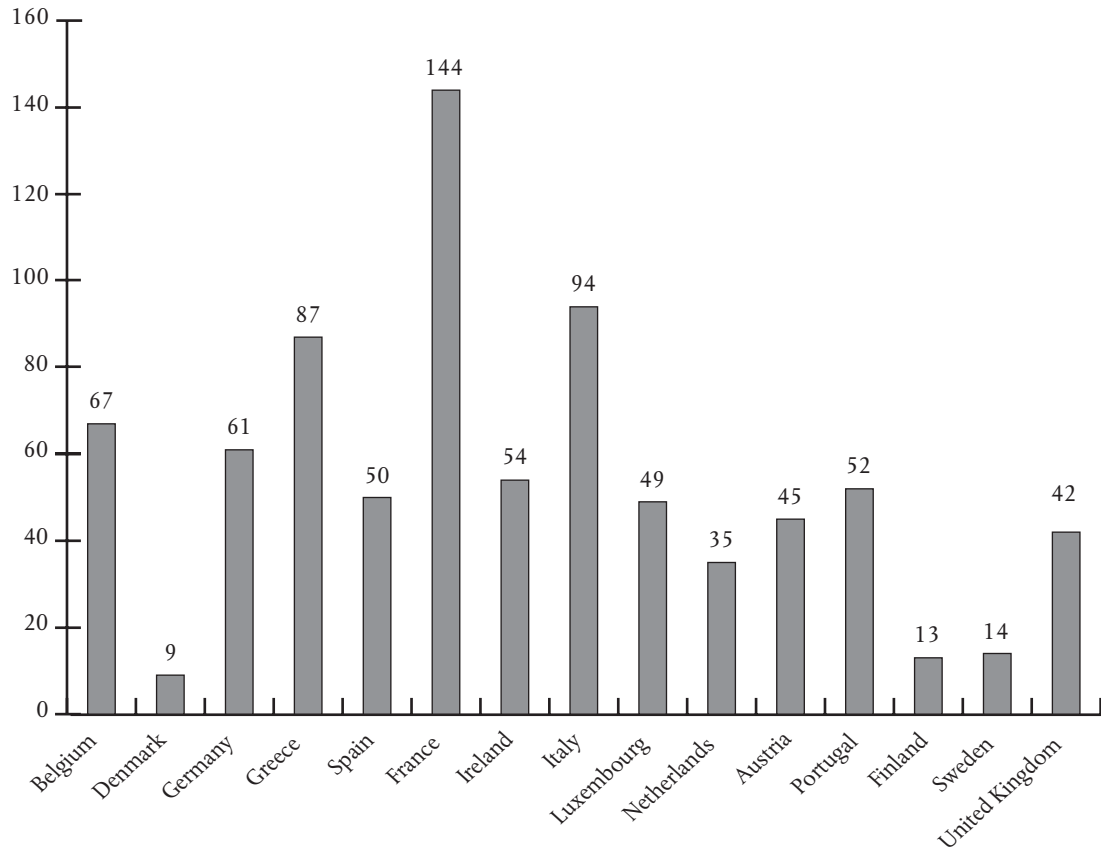




Figure 2.3.3

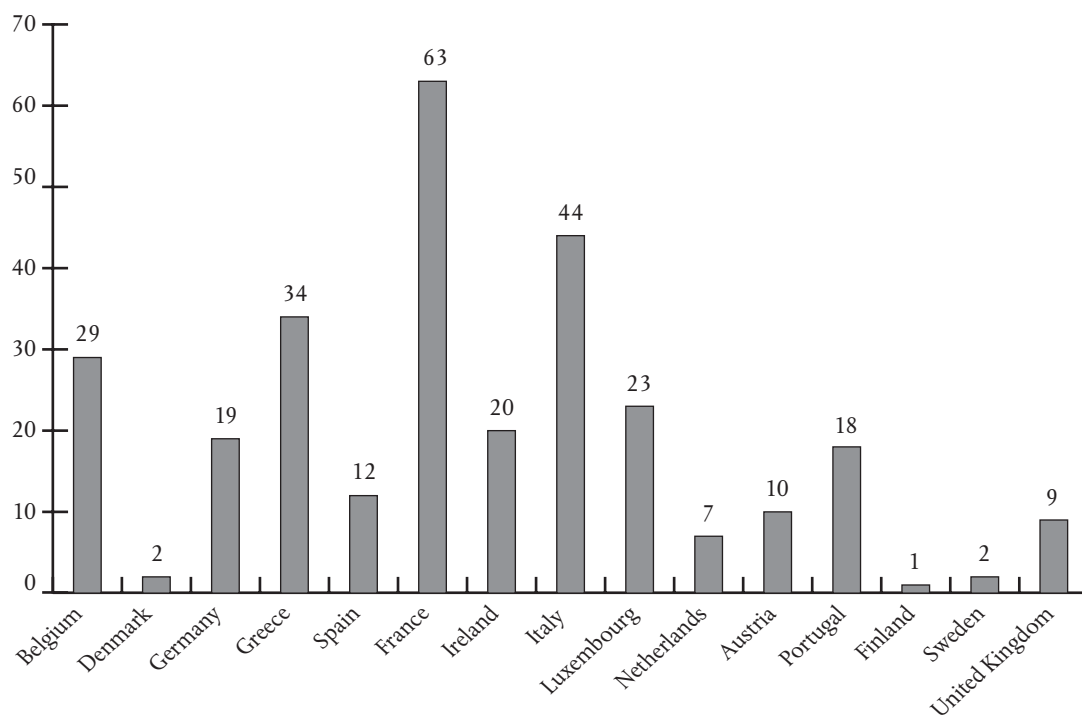
**Cases under examination as of 31.12.1999 referred to the Court of Justice of the European Communities, by Member State (graphic)**

Figure 2.3.4

Cases under examination as of 31.12.1999, for which the Article 228 procedure has been opened, by Member State (graphic)

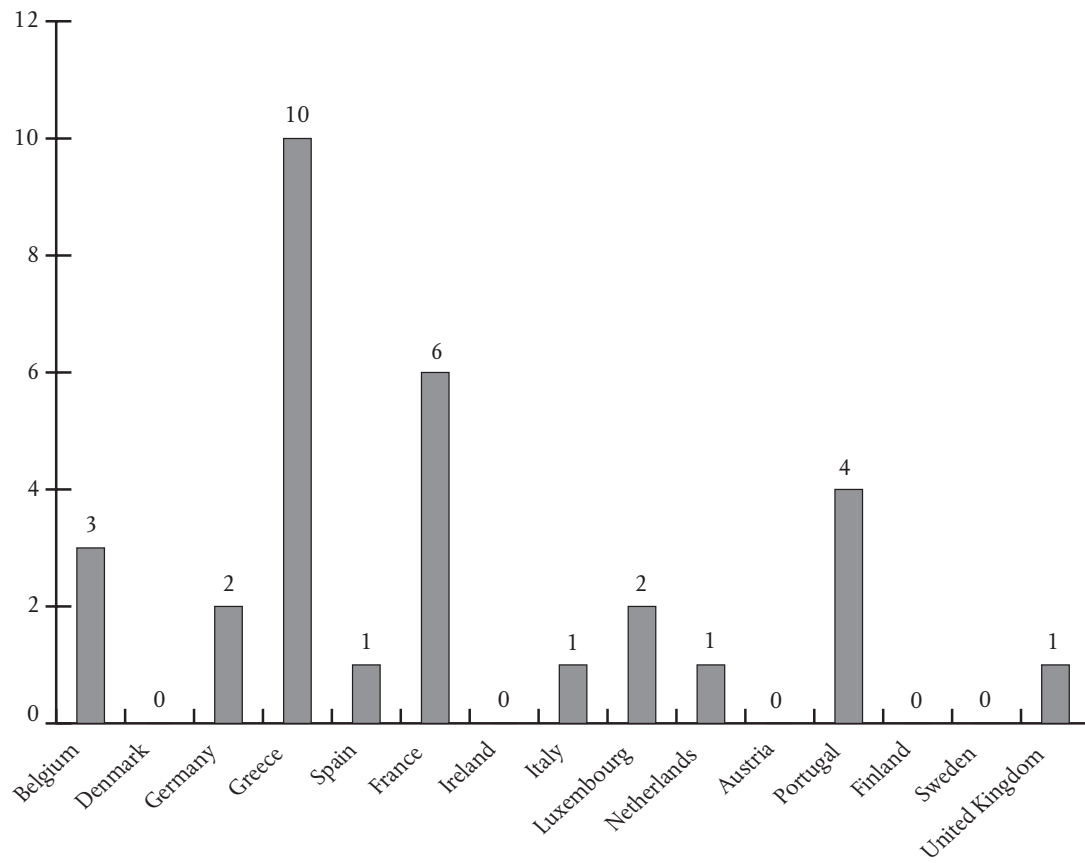


Table 2.4

## Cases under examination as of 31.12.1999, by sector

	Total		(1)		(2)	(3)		(4)	(5)		(6)	(7)
<b>Total:</b>	<b>3 050</b>		<b>1 646</b>		<b>53,97 %</b>	<b>816</b>		<b>26,75 %</b>	<b>293</b>		<b>9,61 %</b>	<b>31</b>
Environment	870	28,52 %	317	19,26 %	36,44 %	165	20,22 %	18,97 %	72	24,57 %	8,28 %	14
Internal market	660	21,64 %	353	21,45 %	53,48 %	167	20,47 %	25,30 %	49	16,72 %	7,42 %	3
Agriculture	109	3,57 %	31	1,88 %	28,44 %	24	2,94 %	22,02 %	1	0,34 %	0,92 %	0
Industry	181	5,93 %	138	8,38 %	76,24 %	59	7,23 %	32,60 %	13	4,44 %	7,18 %	2
Social affairs	176	5,77 %	99	6,01 %	56,25 %	59	7,23 %	33,52 %	29	9,90 %	16,48 %	5
Customs and taxation	198	6,49 %	106	6,44 %	53,54 %	67	8,21 %	33,84 %	23	7,85 %	11,62 %	1
Transport	183	6,00 %	167	10,15 %	91,26 %	83	10,17 %	45,36 %	37	12,63 %	20,22 %	1
Competition	67	2,20 %	20	1,22 %	29,85 %	15	1,84 %	22,39 %	6	2,05 %	8,96 %	1
Telecommunications	52	1,70 %	43	2,61 %	82,69 %	29	3,55 %	55,77 %	6	2,05 %	11,54 %	0
Consumers	349	11,44 %	257	15,61 %	73,64 %	98	12,01 %	28,08 %	40	13,65 %	11,46 %	2
Fisheries	30	0,98 %	22	1,34 %	73,33 %	12	1,47 %	40,00 %	6	2,05 %	20,00 %	2
Financial affairs	32	1,05 %	14	0,85 %	43,75 %	12	1,47 %	37,50 %	6	2,05 %	18,75 %	0
Budgets	17	0,56 %	17	1,03 %	100,00 %	3	0,37 %	17,65 %	1	0,34 %	5,88 %	0
Audiovisual	18	0,59 %	16	0,97 %	88,89 %	11	1,35 %	61,11 %	1	0,34 %	5,56 %	0
Energy	13	0,43 %	13	0,79 %	100,00 %	3	0,37 %	23,08 %	1	0,34 %	7,69 %	0
Education	11	0,36 %	3	0,18 %	27,27 %	0	0,00 %	0,00 %	0	0,00 %	0,00 %	0
External relations	4	0,13 %	1	0,06 %	25,00 %	0	0,00 %	0,00 %	0	0,00 %	0,00 %	0
Personnel	1	0,03 %	1	0,06 %	100,00 %	1	0,12 %	100,00 %	1	0,34 %	100,00 %	0
Regional policies	1	0,03 %	1	0,06 %	100,00 %	0	0,00 %	0,00 %	0	0,00 %	0,00 %	0
Justice	78	2,56 %	27	1,64 %	34,62 %	8	0,98 %	10,26 %	1	0,34 %	1,28 %	0

(1) = Cases under examination as of 31.12.1999 for which the infringement procedure has been opened and percentages with regard to all the cases.

(2) = Percentage of cases for which the infringement procedure has been opened with regard to cases under examination as of 31.12.1999 concerning this sector.

(3) = Cases for which a reasoned opinion has been sent and percentages with regard to all cases.

(4) = Percentage of cases for which a reasoned opinion has been sent with regard to all cases under examination as of 31.12.1999 concerning this sector.

(5) = Cases brought to the Court of Justice and percentages with regard to all cases.

(6) = Percentage of cases referred to the Court of Justice with regard to all cases under examination as of 31.12.1999 for this sector.

(7) = Cases for which the Article 228 procedure of the Treaty has been opened.

Figure 2.4.1

Cases under examination as of 31.12.1999 for which the infringement procedure has been opened, by sector (graphic)

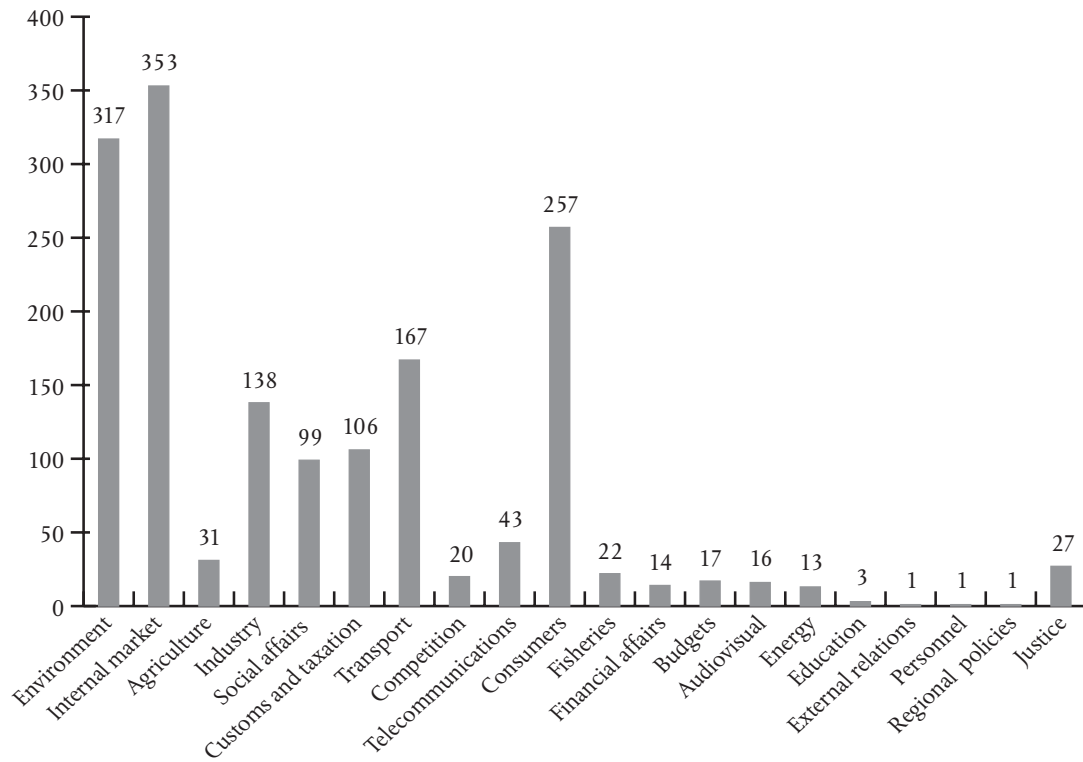


Figure 2.4.2

Cases under examination as of 31.12.1999 for which a reasoned opinion has been opened, by sector (graphic)

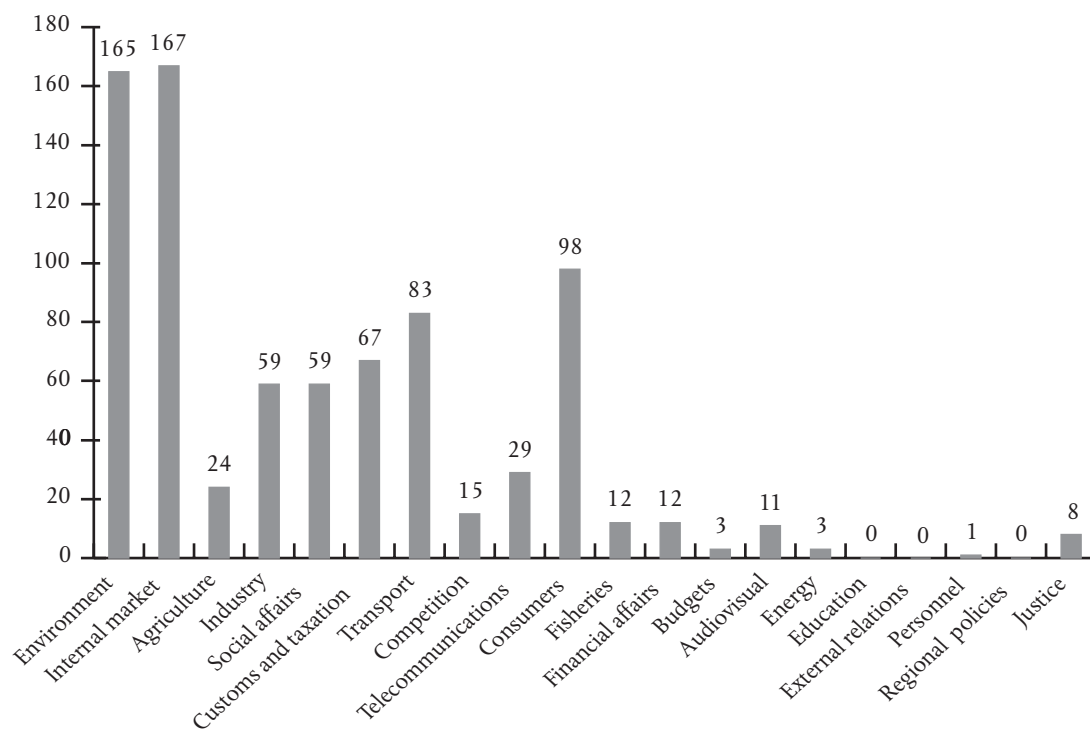




Figure 2.4.3

## Cases under examination as of 31.12.1999 referred to the Court of Justice, by sector (graphic)

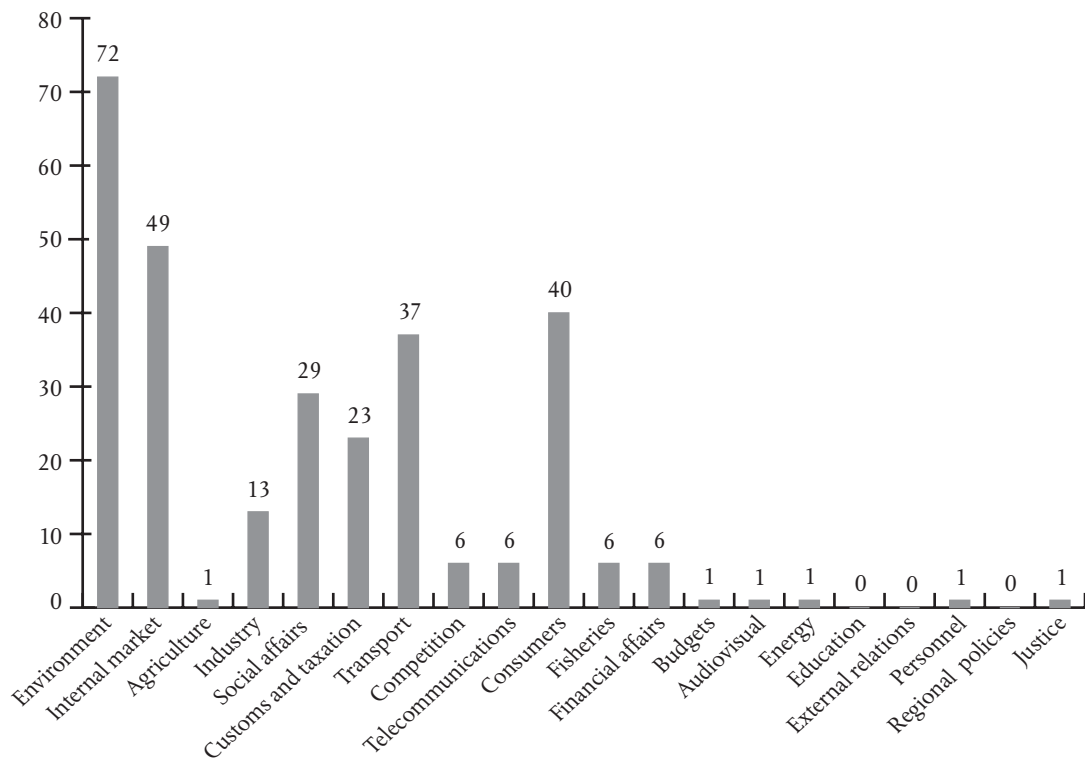


Figure 2.4.4

Cases under examination as of 31.12.1999 for which a procedure ex-Article 228 has been initiated, by sector (graphic)

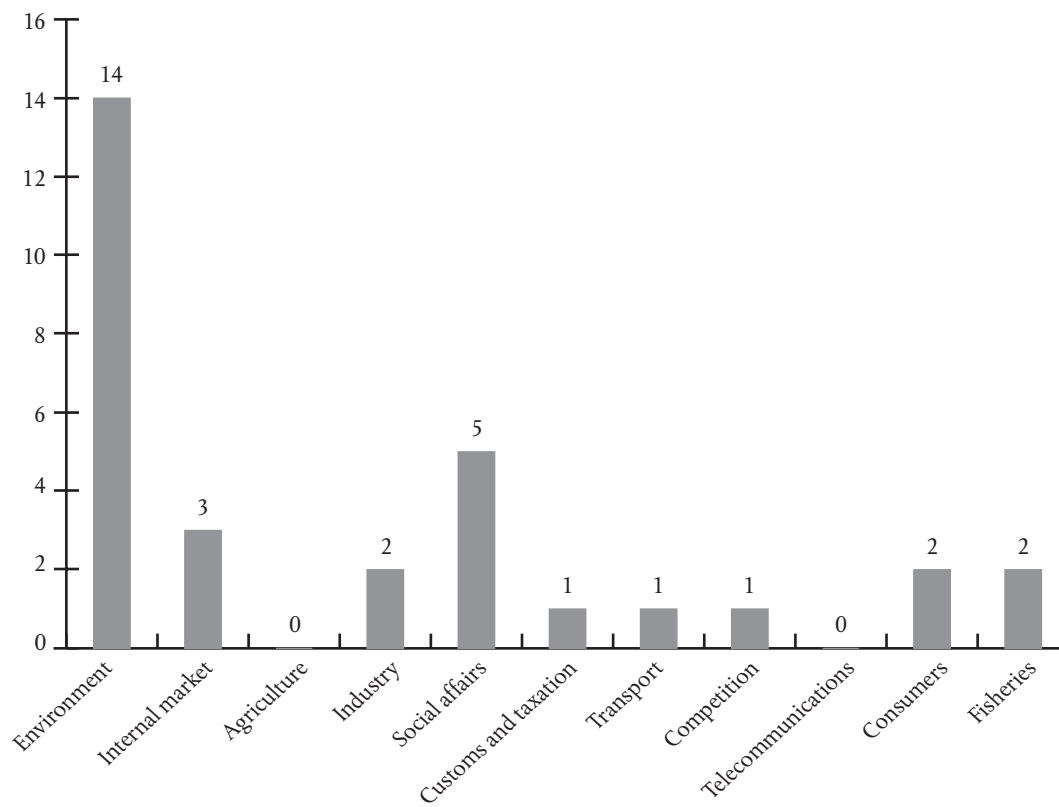


Table 2.5

**Cases closed in 1999**

By stage	Total		Non-communication		Except non-communication	
Before sending a letter of formal notice	763	40,16 %	17	2,23 %	746	65,55 %
Before sending a reasoned opinion	593	31,21 %	398	52,23 %	195	17,14 %
Before deciding to bring the case to the Court of Justice	324	17,05 %	217	28,48 %	107	9,40 %
Before the referral to the Court of Justice	111	5,84 %	64	8,40 %	47	4,13 %
Withdrawal	40	2,11 %	31	4,07 %	9	0,79 %
Before sending the Article 228 formal notice	46	2,42 %	26	3,41 %	20	1,76 %
Before sending the Article 228 reasoned opinion	12	0,63 %	4	0,52 %	8	0,70 %
Before deciding to bring the Article 228 case to the Court of Justice	7	0,37 %	3	0,39 %	4	0,35 %
Before the Article 228 referral to the Court of Justice	3	0,16 %	2	0,26 %	1	0,09 %
Article 228 case withdrawal	1	0,05 %	0	0,00 %	1	0,09 %
<b>Total</b>	<b>1 900</b>		<b>762</b>		<b>1 138</b>	

Figure 2.5.1

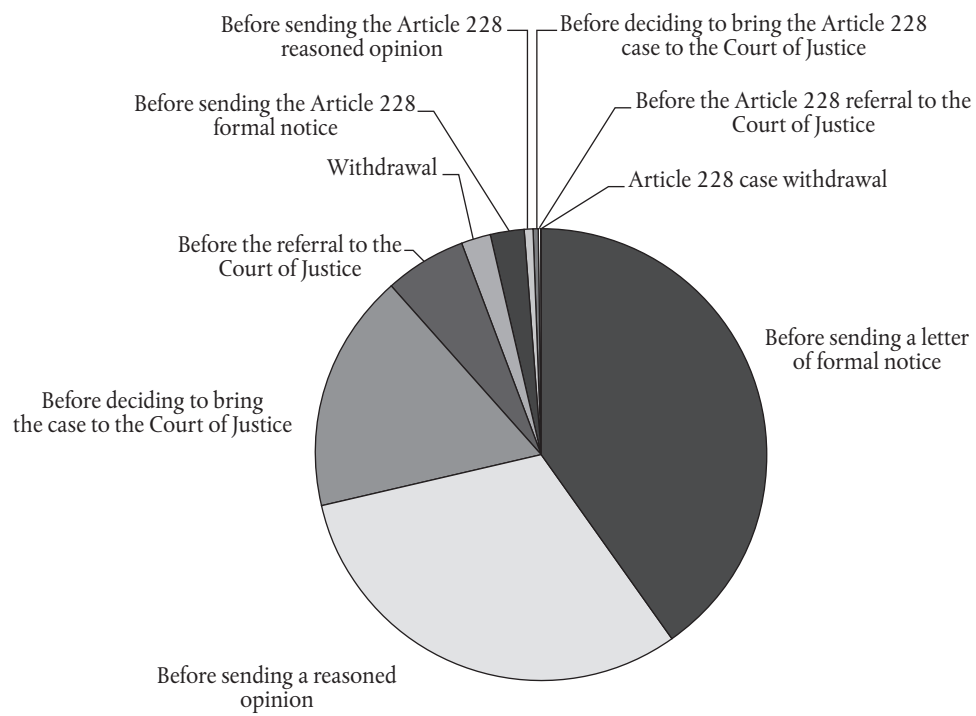
**Cases closed in 1999, by stage (graphic)**

Figure 2.5.2

**Cases of non-communication closed in 1999, by stage (graphic)**

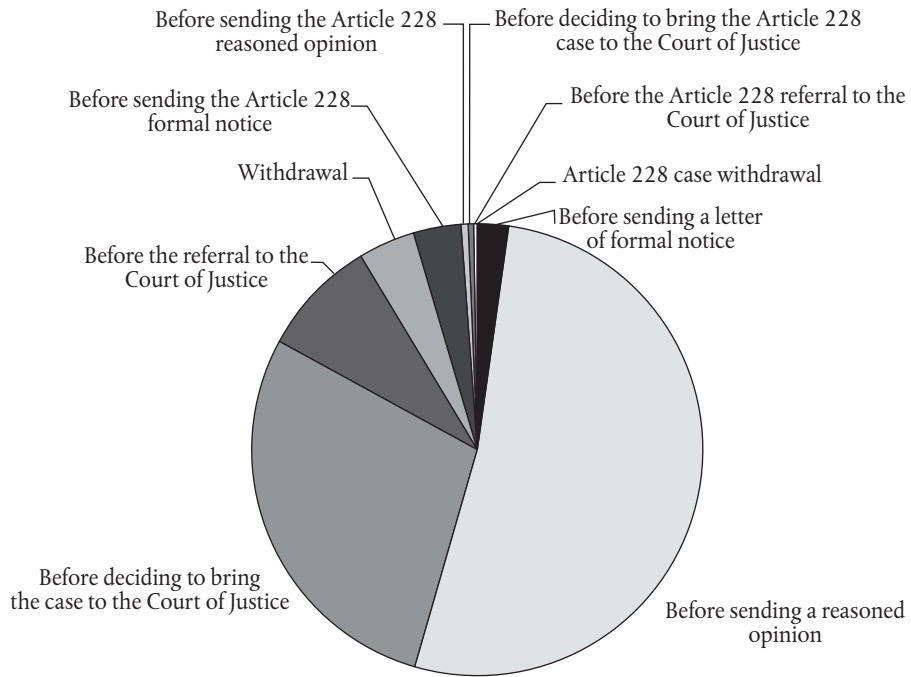




Figure 2.5.3

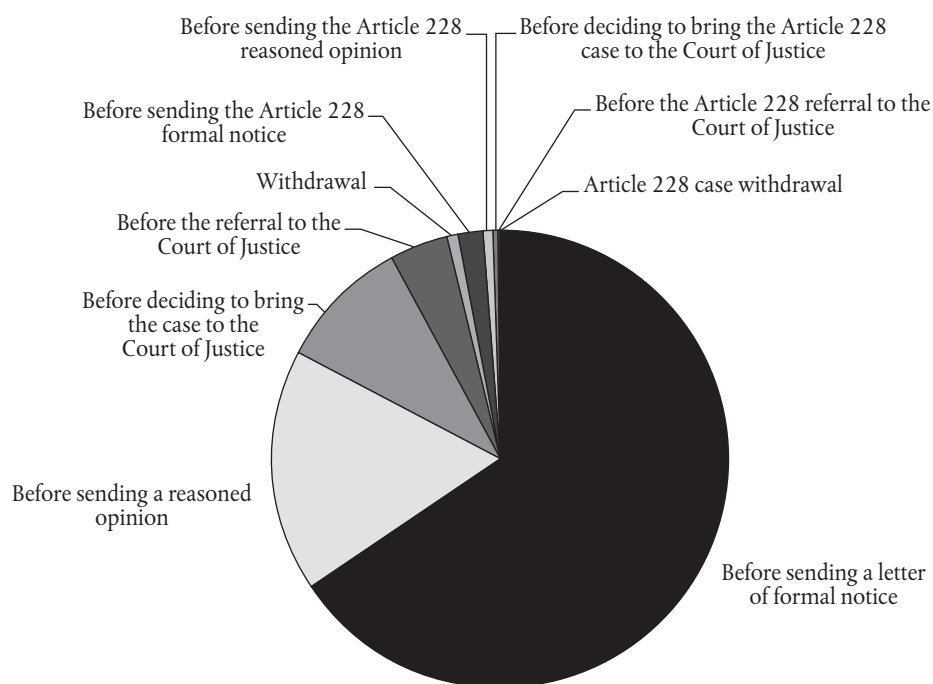
**Cases closed in 1999 except non-communication, by stage (graphic)**

Table 2.6

**Evolution of the closure decisions**

Year	Total of the closure decisions	Closure of an opened infringement procedure
1999	1 900	1 138
1998	1 961	1 282
1997	2 112	1 494
1996	1 483	670
1995	1 975	1 332

## ANNEX III

**INFRINGEMENTS OF TREATIES, REGULATIONS AND DECISIONS****COMMUNITY STAFF**

INFRINGEMENT: 1991/2315  
MEMBER STATE: SPAIN  
TITLE: TRANSFER OF PENSION RIGHTS  
LEGAL BASIS: REGULATION 3196BR0259  
COURT OF JUSTICE CASE No: C-19967052

INFRINGEMENT: 1993/2297  
MEMBER STATE: SPAIN  
TITLE: RESIDENCE PERMITS  
LEGAL BASIS: PRIVILEGE 165FPRI; PROTOCOL 165FPRO  
TERMINATED IN 1999

**AGRICULTURE**

INFRINGEMENT: 1994/2040  
MEMBER STATE: GERMANY  
TITLE: APPLICATION OF MILK QUOTAS  
LEGAL BASIS: REGULATION 31992R3950; REGULATION 31593R0535  
TERMINATED IN 1999

INFRINGEMENT: 1997/2227  
MEMBER STATE: SPAIN  
TITLE: INCORRECT APPLICATION OF MILK QUOTAS SCHEME  
LEGAL BASIS: REGULATION 31992R3950; REGULATION 31993R536  
REASONED OPINION SENT: 7.5.1998 SG(1998)D/03614

INFRINGEMENT: 1995/4951  
MEMBER STATE: GREECE  
TITLE: PROCEDURES AND CHECKS — RAW TOBACCO  
LEGAL BASIS: REGULATION 31992R3479; REGULATION 31995R1057  
TERMINATED IN 1999

INFRINGEMENT: 1994/4466  
MEMBER STATE: FRANCE  
TITLE: BARRIERS TO IMPORTS OF SPANISH STRAWBERRIES  
LEGAL BASIS: EEC TREATY 157E030  
COURT OF JUSTICE CASE No: C-1995/265

INFRINGEMENT: 1995/4430  
MEMBER STATE: FRANCE  
TITLE: SALE OF SPIRITUOUS BEVERAGES CONTAINING THE WORD "WHISKY"  
LEGAL BASIS: REGULATION 31989R1576  
REASONED OPINION SENT: 2.5.1997 SG(1997)D/3504

INFRINGEMENT: 1997/2034  
MEMBER STATE: FRANCE  
TITLE: PREMATURE PLANTING OF VINES  
LEGAL BASIS: REGULATION 31987R0822; REGULATION 31999R1499  
TERMINATED IN 1999

INFRINGEMENT: 1995/4751  
MEMBER STATE: ITALY  
TITLE: REFUSAL TO MARKET FISHERY PRODUCTS — LINGUISTIC REASONS  
LEGAL BASIS: EEC TREATY 157E030  
TERMINATED IN 1999

INFRINGEMENT: 1997/2228  
MEMBER STATE: ITALY  
TITLE: INCORRECT APPLICATION OF MILK QUOTAS SCHEME  
LEGAL BASIS: REGULATION 31992R3950; REGULATION 31993R0536  
REASONED OPINION SENT: 4.5.1998 SG(1998)D/03510

#### BUDGET

INFRINGEMENT: 1995/2250  
MEMBER STATE: BELGIUM  
TITLE: STAGGERED PAYMENT OF TRADITIONAL OWN RESOURCES  
LEGAL BASIS: REGULATION 31989R1552  
TERMINATED IN 1999

INFRINGEMENT: 1995/2126  
MEMBER STATE: GERMANY  
TITLE: DUTCH BUTTER  
LEGAL BASIS: REGULATION 31990R2252  
COURT OF JUSTICE CASE No: C-1997/348

INFRINGEMENT: 1996/2102  
MEMBER STATE: FRANCE  
TITLE: VAT EXEMPTION FOR HOSPITALS  
LEGAL BASIS: REGULATION 31983R1553  
TERMINATED IN 1999

INFRINGEMENT: 1996/2029  
MEMBER STATE: ITALY  
TITLE: REGULARISATION OF DUTIES — SAN MARINO  
LEGAL BASIS: REGULATION 31989R1552  
REASONED OPINION SENT: 20.3.1998 SG(1998)D/02347

INFRINGEMENT: 1997/2154  
MEMBER STATE: ITALY  
TITLE: ENTRY ERROR  
LEGAL BASIS: REGULATION 31989R1552  
REASONED OPINION SENT: 15.11.1999 SG(1999)D/09158

#### COMPETITION

INFRINGEMENT: 1989/0030  
MEMBER STATE: BELGIUM  
TITLE: AID FOR IDEALSPUN/BEAULIEU  
LEGAL BASIS: EC TREATY 197A228; DECISION 31984D0508  
COURT OF JUSTICE CASE No: C-1989/375

INFRINGEMENT: 1993/2181  
MEMBER STATE: ITALY  
TITLE: CUSTOMS AGENTS  
LEGAL BASIS: EC TREATY 197A003; EC TREATY 197A010; EC TREATY 197A081; EC TREATY 197A228  
COURT OF JUSTICE CASE No: C-1996/035

INFRINGEMENT: 1999/2196  
MEMBER STATE: PORTUGAL  
TITLE: FAILURE TO COMPLY WITH THE DECISION ADOPTED IN CASE IV/M. 1616 (ESCH/CHAMPALIMAUD)  
LEGAL BASIS: REGULATION 31969E4064  
REASONED OPINION SENT: 13.10.1999 SG(1999)D/08112

#### ECONOMIC AND FINANCIAL AFFAIRS

INFRINGEMENT: 1995/4372  
MEMBER STATE: AUSTRIA  
TITLE: FREE MOVEMENT OF CAPITAL — RIGHT OF RESIDENCE  
LEGAL BASIS: EEC TREATY 157E073; EC TREATY 197A039; EC TREATY 197A043; EC TREATY 197A048; EC TREATY 197A049; EC TREATY 197A056  
REASONED OPINION SENT: 29.5.1998 SG(1998)D/04257

INFRINGEMENT: 1994/5075  
MEMBER STATE: BELGIUM  
TITLE: FREE MOVEMENT OF CAPITAL — SUBSCRIPTION TO A LOAN DENOMINATED IN DEM  
LEGAL BASIS: EEC TREATY 157E073; EC TREATY 197A056; EC TREATY 197A058  
COURT OF JUSTICE CASE No: C-1998/478

INFRINGEMENT: 1998/2089  
MEMBER STATE: BELGIUM  
TITLE: PROCEDURE FOR AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS — 'DISTRIGAZ'  
LEGAL BASIS: EEC TREATY 157E052; EEC TREATY 157E073; EC TREATY 197A043; EC TREATY 197A056  
COURT OF JUSTICE CASE No: C-1999/503

INFRINGEMENT: 1998/2090  
MEMBER STATE: BELGIUM  
TITLE: AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS — 'SNTC'  
LEGAL BASIS: EEC TREATY 157E052; EEC TREATY 157E073; EC TREATY 197A043; EC TREATY 197A056  
COURT OF JUSTICE CASE No: C-1999/503

INFRINGEMENT: 1996/2154  
MEMBER STATE: SPAIN  
TITLE: RESTRICTIONS CONCERNING FOREIGN INVESTMENTS  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A048; EC TREATY 197A056  
REASONED OPINION SENT: 16.10.1998 SG(1998)D/8696

INFRINGEMENT: 1998/2289  
MEMBER STATE: SPAIN  
TITLE: PRIVATISATION — SPECIAL POWERS IN PRIVATISED COMPANIES  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A056  
REASONED OPINION SENT: 2.8.1999 SG(1999)D/05965

INFRINGEMENT: 1995/4535  
MEMBER STATE: GREECE  
TITLE: RESTRICTIONS ON ACQUISITION OF REAL PROPERTY  
LEGAL BASIS: EC TREATY 197A049; EC TREATY 197A056  
REASONED OPINION SENT: 7.4.1998 SG(1998)D/02935

INFRINGEMENT: 1994/2190  
MEMBER STATE: FRANCE  
TITLE: ADMISSION OF SECURITIES TO THE CAPITAL MARKET  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1994/2209  
MEMBER STATE: FRANCE  
TITLE: AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS — GOLDEN SHARE ELF AQUITAINE  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A056  
COURT OF JUSTICE CASE No: C-1999/483

INFRINGEMENT: 1994/2210  
MEMBER STATE: ITALY  
TITLE: RESTRICTIONS CONCERNING FOREIGN INVESTMENT IN PRIVATISED COMPANIES  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A056  
COURT OF JUSTICE CASE No C-1999/058

INFRINGEMENT: 1991/2097  
MEMBER STATE: PORTUGAL  
TITLE: DISCRIMINATION REGARDING FOREIGN INVESTMENT IN PRIVATISED COMPANIES  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A048; EC TREATY 197A056; EC TREATY 197A294  
COURT OF JUSTICE CASE No: C-1998/367

INFRINGEMENT: 1998/2288  
MEMBER STATE: UNITED KINGDOM  
TITLE: PRIVATISATION — SPECIAL SHARE IN BRITISH AIRPORTS' AUTHORITY PLC  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A056  
REASONED OPINION SENT: 6.8.1999 SG(1999)D/6431

#### SOCIAL AFFAIRS

INFRINGEMENT: 1998/2281  
MEMBER STATE: AUSTRIA  
TITLE: LENGTH OF SERVICE IN ANOTHER MEMBER STATE IN THE PUBLIC SECTOR  
LEGAL BASIS: EC TREATY 197A039. REGULATION 31968R1612. CASE LAW 61996J0015 AND 61996J0187  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100851

INFRINGEMENT: 1989/0457  
MEMBER STATE: BELGIUM  
TITLE: FINANCING OF STUDENTS — NATIONALITY DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A151  
COURT OF JUSTICE CASE No: C-1993/047

INFRINGEMENT: 1996/4041  
MEMBER STATE: BELGIUM  
TITLE: MEDICAL AUTHORISATION FOR RESIDENCE IN ANOTHER MEMBER STATE  
LEGAL BASIS: REGULATION 31971R1408  
TERMINATED IN 1999

INFRINGEMENT: 1998/2057  
MEMBER STATE: BELGIUM  
TITLE: FRONTIER WORKERS: REDUCED FARES FOR LARGE FAMILIES  
LEGAL BASIS: EC TREATY 197A043; REGULATION 31968R1612  
TERMINATED IN 1999

INFRINGEMENT: 1994/4125  
MEMBER STATE: GERMANY  
TITLE: FAMILY ALLOWANCES AND RESIDENCE CARDS  
LEGAL BASIS: REGULATION 31968R1612; CASE LAW 61900J1696; 61975J0048; 61989J0357; 61994J0245  
REASONED OPINION SENT: 23.5.1997 SG(1997)D/03956



INFRINGEMENT: 1995/4670  
MEMBER STATE: GERMANY  
TITLE: REFUSAL TO MAKE WELFARE PAYMENTS  
LEGAL BASIS: REGULATION 31968R1612; CASE LAW 61985J0139; 61985J0316  
REASONED OPINION SENT: 23.6.1998 SG(1998)D/05016

INFRINGEMENT: 1997/4182  
MEMBER STATE: GERMANY  
TITLE: CONTRIBUTION TO KUNSTLERSOZIALVERSICHERUNG  
LEGAL BASIS: EEC TREATY 157E051; EEC TREATY 157E052; EEC TREATY 157E059; REGULATION 31971R1408  
COURT OF JUSTICE CASE No: C-1999/068

INFRINGEMENT: 1998/2301  
MEMBER STATE: GERMANY  
TITLE: LENGTH OF SERVICE IN ANOTHER MEMBER STATE IN THE PUBLIC SECTOR  
LEGAL BASIS: EC TREATY 197A039; REGULATION 31968R1612; CASE LAW 62996J0015; 61996J0187  
REASONED OPINION SENT: 10.8.1999 SG(1999)D/6515

INFRINGEMENT: 1996/4516  
MEMBER STATE: DENMARK  
TITLE: FRONTIER WORKERS: RESTRICTION ON USE OF CAR  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A049; CASE LAW 61936J0127; 61993J0415  
REASONED OPINION SENT: 18.5.1998 SG(1998)D/03884

INFRINGEMENT: 1998/4395  
MEMBER STATE: DENMARK  
TITLE: DETERMINATION OF THE LEGISLATION APPLICABLE  
LEGAL BASIS: EC TREATY 197A042; REGULATION 11971R1408  
REASONED OPINION SENT: 5.3.1999 SG(1999)D/1628

INFRINGEMENT: 1996/4628  
MEMBER STATE: SPAIN  
TITLE: ACCESS TO PUBLIC SECTOR EMPLOYMENT — NATIONALITY DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A039  
REASONED OPINION SENT: 17.11.1998 SG(1998)D/09628

INFRINGEMENT: 1998/2059  
MEMBER STATE: SPAIN  
TITLE: FRONTIER WORKERS; REDUCED FARES FOR LARGE FAMILIES  
LEGAL BASIS: EC TREATY 197A043; REGULATION 31968R1612  
REASONED OPINION SENT: 28.10.1998 SG(1998)D/09040

INFRINGEMENT: 1991/0583  
MEMBER STATE: GREECE  
TITLE: ACCESS TO PUBLIC-SECTOR EMPLOYMENT — NATIONALITY DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A039; REGULATION 31968R1612; CASE LAW 61994J290  
COURT OF JUSTICE CASE No: C-1994/290

INFRINGEMENT: 1992/4760  
MEMBER STATE: GREECE  
TITLE: NATIONALITY DISCRIMINATION — LARGE-FAMILY STATUS  
LEGAL BASIS: EC TREATY: 197A039; 197A043; 197A049 REGULATION 31968R1612; CASE LAW 61975J0032  
COURT OF JUSTICE CASE No: C-1996/185

INFRINGEMENT: 1993/4403  
MEMBER STATE: FRANCE  
TITLE: CALCULATION OF SUPPLEMENTARY RETIREMENT BENEFITS FOR FRONTIER WORKERS  
LEGAL BASIS: REGULATION 31968R1612; CASE LAW 61996J0057; CASE LAW 61997J0035  
COURT OF JUSTICE CASE No: C-1997/035

INFRINGEMENT: 1993/4433  
MEMBER STATE: FRANCE  
TITLE: SNCF — REDUCTIONS FOR LARGE FAMILIES  
LEGAL BASIS: EC TREATY 197A43; REGULATION 31968R1612  
TERMINATED IN 1999

INFRINGEMENT: 1995/4801  
MEMBER STATE: FRANCE  
TITLE: SOCIAL SECURITY: EQUAL TREATMENT IN INTERNATIONAL AGREEMENTS  
LEGAL BASIS: REGULATION 31971R1408; CASE LAW 61990J0018; 61993J0058; 61994J010  
TERMINATED IN 1999

INFRINGEMENT: 1997/4332  
MEMBER STATE: FRANCE  
TITLE: REFUSAL TO GRANT INVALIDITY BENEFITS  
LEGAL BASIS: REGULATION 31971R1408  
TERMINATED IN 1999

INFRINGEMENT: 1997/4378  
MEMBER STATE: FRANCE  
TITLE: AGGREGATION OF RETIREMENT PENSION  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A042; CASE LAW 61992J0031; 61993J0443  
REASONED OPINION SENT: 28.1.1999 SG(1999)D/708

INFRINGEMENT: 1996/2208  
MEMBER STATE: ITALY  
TITLE: DISCRIMINATION AGAINST FOREIGN LANGUAGE ASSISTANTS  
LEGAL BASIS: EC TREATY 197A010; EC TREATY 197A039; REGULATION 31968R1612  
COURT OF JUSTICE CASE No: C-1999/212

INFRINGEMENT: 1998/2303  
MEMBER STATE: IRELAND  
TITLE: LENGTH OF SERVICE IN ANOTHER MEMBER STATE IN THE PUBLIC SECTOR  
LEGAL BASIS: EC TREATY 197A039; REGULATION 31968R1612; CASE LAW 61996J0015; 61996J0187  
REASONED OPINION SENT: 6.8.1989 SG(1999)D/6411

INFRINGEMENT: 1991/0222  
MEMBER STATE: LUXEMBOURG  
TITLE: ACCESS TO PUBLIC-SECTOR EMPLOYMENT  
LEGAL BASIS: EC TREATY 197A039; REGULATION 31968R1612; CASE LAW 61993J047  
TERMINATED IN 1999

INFRINGEMENT: 1998/2058  
MEMBER STATE: LUXEMBOURG  
TITLE: FRONTIER WORKERS; REDUCED FARES FOR LARGE FAMILIES  
LEGAL BASIS: EC TREATY 197A043; REGULATION 31968R1612  
TERMINATED IN 1999

INFRINGEMENT: 1998/4579  
MEMBER STATE: LUXEMBOURG  
TITLE: STATUTORY ENTITLEMENT TO A GUARANTEED MINIMUM INCOME  
LEGAL BASIS: REGULATION 31968R1612  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100865

INFRINGEMENT: 1995/4045  
MEMBER STATE: NETHERLANDS  
TITLE: PARTICIPATION IN PENSION FUND  
LEGAL BASIS: EC TREATY 197A039; REGULATION 31968R1612  
TERMINATED IN 1999

INFRINGEMENT: 1998/4014  
MEMBER STATE: NETHERLANDS  
TITLE: EXPORT OF UNEMPLOYMENT BENEFITS  
LEGAL BASIS: EC TREATY 197A042; REGULATION 11971R1408  
REASONED OPINION SENT: 10.7.1999 SG(1999)D/05891

INFRINGEMENT: 1993/4738  
MEMBER STATE: UNITED KINGDOM  
TITLE: EXPULSION OF NON-COMMUNITY SPOUSE OF A COMMUNITY WORKER  
LEGAL BASIS: EC TREATY 197A039  
REASONED OPINION SENT: 9.6.1998 SG(1998)D/4503

#### INDUSTRY

INFRINGEMENT: 1996/2188  
MEMBER STATE: SWEDEN  
TITLE: REGULATION (EEC) No 2309/93  
LEGAL BASIS: REGULATION 11993R2309  
TERMINATED IN 1999

#### ENVIRONMENT

INFRINGEMENT: 1997/2165  
MEMBER STATE: BELGIUM  
TITLE: INCORRECT APPLICATION OF REGULATION (EEC) No 880/92  
LEGAL BASIS: REGULATION 31992R0880  
TERMINATED IN 1999

INFRINGEMENT: 1999/2106  
MEMBER STATE: DENMARK  
TITLE: WASTE REPORTS (REGULATION) (EEC) No 259/93  
LEGAL BASIS: REGULATION 31993R0259  
TERMINATED IN 1999

INFRINGEMENT: 1993/4683  
MEMBER STATE: GREECE  
TITLE: CITIES — ATHENS  
LEGAL BASIS: REGULATION 31982R1626; REGULATION 31997R0338  
REASONED OPINION SENT: 6.5.1998 SG(1998)D/03579

INFRINGEMENT: 1996/2151  
MEMBER STATE: GREECE  
TITLE: FAILURE TO TRANSPOSE REGULATION (EEC) No 1836/93  
LEGAL BASIS: REGULATION 31993R1636  
TERMINATED IN 1999

INFRINGEMENT: 1999/2107  
MEMBER STATE: FRANCE  
TITLE: WASTE REPORTS (REGULATION) (EEC) No 259/93  
LEGAL BASIS: REGULATION 31993R0259  
TERMINATED IN 1999

INFRINGEMENT: 1999/2109  
MEMBER STATE: IRELAND  
TITLE: WASTE REPORTS (REGULATION) (EEC) No 259/93  
LEGAL BASIS: REGULATION 31993R0259  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100902

INFRINGEMENT: 1999/2111  
MEMBER STATE: NETHERLANDS  
TITLE: WASTE REPORTS (REGULATION) (EEC) No 259/93  
LEGAL BASIS: REGULATION 31993R0259

INFRINGEMENT: 1996/2153  
MEMBER STATE: PORTUGAL  
TITLE: INCORRECT APPLICATION OF REGULATION (EEC) No 1836/93  
LEGAL BASIS: REGULATION 31993R1836  
TERMINATED IN 1999

#### FISHERIES

INFRINGEMENT: 1990/0248  
MEMBER STATE: BELGIUM  
TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS  
LEGAL BASIS: EC TREATY 197A012; 197A043; 197A049; REGULATION 3198R3796; REGULATION 31983R0170  
TERMINATED IN 1999

INFRINGEMENT: 1993/2219  
MEMBER STATE: DENMARK  
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT 1996  
LEGAL BASIS: REGULATION 31983R0170; REGULATION 31987; REGULATION 31989R4047  
REASONED OPINION SENT: 24.7.1998 SG(1998)D/06263

INFRINGEMENT: 1992/2256  
MEMBER STATE: SPAIN  
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT  
LEGAL BASIS: REGULATION 31983R0170; REGULATION 31987R2241; REGULATION 31989R4047  
REASONED OPINION SENT: 8.7.1997 SG(1997)D/05307

INFRINGEMENT: 1990/0328  
MEMBER STATE: GREECE  
TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS  
LEGAL BASIS: EC TREATY 197A012; 197A039; 197A043; 197A048; 197A228; REGULATION 31983R0170  
COURT OF JUSTICE CASE No: C-1996/062

INFRINGEMENT: 1984/0445  
MEMBER STATE: FRANCE  
TITLE: INCORRECT INSPECTION FOR COMPLIANCE WITH TECHNICAL CONSERVATION MEASURES  
LEGAL BASIS: REGULATION 31982R2057; REGULATION 31983R0171  
COURT OF JUSTICE CASE No: C-1988/064

INFRINGEMENT: 1990/0418

MEMBER STATE: FRANCE

TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT — OVERFISHING 1988

LEGAL BASIS: REGULATION 31983R0170; REGULATION 31987R2241; REGULATION 31987R3977

COURT OF JUSTICE CASE No: C-1999/333

INFRINGEMENT: 1992/2258

MEMBER STATE: FRANCE

TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT

LEGAL BASIS: REGULATION 31983R0170; REGULATION 31987R2241; REGULATION 31989R4047

COURT OF JUSTICE CASE No: C-1999/333

INFRINGEMENT: 1998/2257

MEMBER STATE: FRANCE

TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT — OVERFISHING 1995 AND 1996

LEGAL BASIS: REGULATION 31983R2807; REGULATION 31993R2547; REGULATION 31994R3364; REGULATION 31995R3074

REASONED OPINION SENT: 30.9.1999 SG(1999)D/07847

INFRINGEMENT: 1999/2109

MEMBER STATE: PORTUGAL

TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS

LEGAL BASIS: EC TREATY 197A043

REASONED OPINION SENT: 30.10.1998 SG(1998)D/09144

INFRINGEMENT: 1987/0398

MEMBER STATE: UNITED KINGDOM

TITLE: OVERFISHING 1985-86

LEGAL BASIS: REGULATION 31982R2057; REGULATION 31983R0170; REGULATION 31985R3721; REGULATION 31985R3732

COURT OF JUSTICE CASE No: C-1999/454

INFRINGEMENT: 1991/0637

MEMBER STATE: UNITED KINGDOM

TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT — OVERFISHING 1988

LEGAL BASIS: REGULATION 31983R0170; REGULATION 31987R2241; REGULATION 31987R3977; REGULATION 31988R4194

COURT OF JUSTICE CASE No: C-1999/454

INFRINGEMENT: 1992/4211

MEMBER STATE: UNITED KINGDOM

TITLE: GRANT OF FISHING QUOTAS IN 1992

LEAD DEPARTMENT: FISH

LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A043; EC TREATY 197A228; REGULATION 31983R0173

REASONED OPINION SENT: 14.1.1998 SG(1998)D/00277

INFRINGEMENT: 1998/2259

MEMBER STATE: UNITED KINGDOM

TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT — OVERFISHING 1995 AND 1996

LEGAL BASIS: REGULATION 31983R2807; REGULATION 31993R2847; REGULATION 31994R3362; REGULATION 31995R3074

REASONED OPINION SENT: 26.8.1999 SG(1999)D/07048

**TELECOMMUNICATIONS**

INFRINGEMENT: 1998/2363  
MEMBER STATE: GREECE  
TITLE: FAILURE TO COMPLY WITH THE DECISION ON A SINGLE EUROPEAN EMERGENCY CALL NUMBER  
LEAD DEPARTMENT: INSO  
LEGAL BASIS: DECISION 31991D0396  
REASONED OPINION SENT: 11.8.1999 SG(1999)D/6602

**JUSTICE AND HOME AFFAIRS**

INFRINGEMENT: 1996/2033  
MEMBER STATE: FINLAND  
TITLE: ACCESS TO CERTAIN AREAS OF FINNISH TERRITORY AUTHORISATION REQUIRED FOR FOREIGNERS  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A018  
REASONED OPINION SENT: 30.12.1998 SG(1998)D/12494

**INTERNAL MARKET**

INFRINGEMENT: 1995/2153  
MEMBER STATE: AUSTRIA  
TITLE: MANUFACTURED TOBACCO MONOPOLY  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A031  
REASONED OPINION SENT: 21.5.1997 SG(1997)D/00000

INFRINGEMENT: 1995/4763  
MEMBER STATE: AUSTRIA  
TITLE: BAN ON PARALLEL IMPORTS OF PESTICIDES  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 24.1.2000 SG(2000)D/100730

INFRINGEMENT: 1996/4150  
MEMBER STATE: AUSTRIA  
TITLE: DISCRIMINATION IN PAYMENT OF WAGES AND SALARIES  
LEGAL BASIS: EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1996/4270  
MEMBER STATE: AUSTRIA  
TITLE: IMPORTATION OF SAUSAGE (SALAMI)  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1997/4893  
MEMBER STATE: AUSTRIA  
TITLE: FREE MOVEMENT OF VITAMIN PRODUCTS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 3.9.1999 SG(1999)D/07175

INFRINGEMENT: 1998/4293  
MEMBER STATE: AUSTRIA  
TITLE: FREEDOM OF ESTABLISHMENT FOR MEDICAL SPECIALISTS  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A043  
REASONED OPINION SENT: 27.12.1999 SG(1999)D/10867



INFRINGEMENT: 1998/4739  
MEMBER STATE: AUSTRIA  
TITLE: PROHIBITION OF HEALTH INDICATIONS ON FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 9.11.1999 SG(1999)D/08897

INFRINGEMENT: 1998/5128  
MEMBER STATE: AUSTRIA  
TITLE: IMPORTATION OF MEDICINES  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 12.10.1999 SG(99)D/08409

INFRINGEMENT: 1998/5130  
MEMBER STATE: AUSTRIA  
TITLE: RULES CONCERNING ROAD SIGNS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 24.1.2000 SG(2000)D/100732

INFRINGEMENT: 1989/5019  
MEMBER STATE: BELGIUM  
TITLE: FREEDOM TO PROVIDE SERVICES AND FREE MOVEMENT OF GOODS  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 23.3.1998 SG(1998)D/02369

INFRINGEMENT: 1990/2171  
MEMBER STATE: BELGIUM  
TITLE: PAYMENT OF BAD-WEATHER AND LOYALTY STAMPS  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 23.1.1998 SG(1998)D/02365

INFRINGEMENT: 1991/2245  
MEMBER STATE: BELGIUM  
TITLE: USE OF MICROLIGHT AIRCRAFT  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A029; EC TREATY 197A030  
TERMINATED IN 1999

INFRINGEMENT: 1993/4042  
MEMBER STATE: BELGIUM  
TITLE: INDEMNITIES AND CONTRIBUTIONS FOR FREEDOM TO PROVIDE CONSTRUCTION SERVICES  
LEGAL BASIS: EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1993/4136  
MEMBER STATE: BELGIUM  
TITLE: AERIAL PHOTOGRAPHY — FREEDOM TO PROVIDE SERVICES  
LEGAL BASIS: EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1998/203

INFRINGEMENT: 1994/4878  
MEMBER STATE: BELGIUM  
TITLE: NON PROFIT ASSOCIATIONS ACT — OBLIGATION TO HAVE AT LEAST ONE BELGIAN MEMBER  
LEGAL BASIS: EEC TREATY 157E057  
COURT OF JUSTICE CASE No: C-1998/272

INFRINGEMENT: 1995/2037  
MEMBER STATE: BELGIUM  
TITLE: LABELLING OF FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028  
COURT OF JUSTICE CASE No: C-1999/217

INFRINGEMENT: 1995/2105  
MEMBER STATE: BELGIUM  
TITLE: RESTRICTIONS ON PRIVATE SECURITY FIRMS  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A043, EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1998/355

INFRINGEMENT: 1995/4302  
MEMBER STATE: BELGIUM  
TITLE: REFUSAL TO ENTER IN THE ORDER OF ARCHITECTS AT LIEGE  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A042  
REASONED OPINION SENT: 29.4.1999 SG(1999)D/02584 (REV.)

INFRINGEMENT: 1995/4687  
MEMBER STATE: BELGIUM  
TITLE: NON-COMMUNITY WORKERS: REGISTRATION AS A FIRE  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 9.9.1998 SG(1999)D/07562

INFRINGEMENT: 1996/2248  
MEMBER STATE: BELGIUM  
TITLE: DISCRIMINATORY TAX LEVIED BY BELGIAN ELECTRICITY COMPANY  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A039; EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1996/2249  
MEMBER STATE: BELGIUM  
TITLE: NON-RATIFICATION OF LATEST VERSIONS OF BERNE AND ROME CONVENTIONS  
TERMINATED IN 1999

INFRINGEMENT: 1996/4208  
MEMBER STATE: BELGIUM  
TITLE: PARALLEL IMPORTS OF PHARMACEUTICAL PRODUCTS  
LEGAL BASIS: EC TREATY 197A029  
REASONED OPINION SENT: SG(1998)D/12026

INFRINGEMENT: 1998/4137  
MEMBER STATE: BELGIUM  
TITLE: LOCAL TAX ON SATELLITE DISHES  
LOAD DEPARTMENT: MARK  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 26.5.1999 SG(1999)D/03803

INFRINGEMENT: 1998/4703  
MEMBER STATE: BELGIUM  
TITLE: REGISTRATION OF A COMPANY ON REGISTER OF COMMERCE — NATIONALITY DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A043  
REASONED OPINION SENT: SG(1999)D/6592

INFRINGEMENT: 1997/4643  
MEMBER STATE: GERMANY  
TITLE: OBLIGATION TO ESTABLISH A BRANCH IN GERMANY  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: SG(1997)D/09388

INFRINGEMENT: 1992/4835  
MEMBER STATE: GERMANY  
TITLE: TAX LEGISLATION APPLYING TO BUSINESS OF TAX ADVISERS  
LEGAL BASIS: EC TREATY 197A010; EC TREATY 197A049  
REASONED OPINION SENT: SG(1997)D/07776

INFRINGEMENT: 1994/4337  
MEMBER STATE: GERMANY  
TITLE: PROHIBITION OF ADVERTISING CAMPAIGN FOR CDs  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030; EC TREATY 197A049  
REASONED OPINION SENT: 15.10.1998 SG(1998)D/8623

INFRINGEMENT: 1995/4441  
MEMBER STATE: GERMANY  
TITLE: ACTION BEFORE NATIONAL COURTS — SUM REQUIRED OF NON-ESTABLISHED COMPANIES  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1995/4563  
MEMBER STATE: GERMANY  
TITLE: THIRD COUNTRY NATIONALS: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: SG(1998)D/06915

INFRINGEMENT: 1996/4170  
MEMBER STATE: GERMANY  
TITLE: BARRIERS TO IMPORTS OF VITAMIN SUPPLEMENTS  
LEGAL BASIS: EC TREATY 197A028  
COURT OF JUSTICE CASE No: C-1999/387

INFRINGEMENT: 1996/4509  
MEMBER STATE: GERMANY  
TITLE: TEMPORARY POSTING OF WORKERS IN THE CONTEXT OF A WORKING GROUP  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1999/493

INFRINGEMENT: 1998/2006  
MEMBER STATE: GERMANY  
TITLE: FREEDOM TO PROVIDE SERVICES AND RIGHT OF ESTABLISHMENT — FOREIGN PATENT AGENTS  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
REASONED OPINION SENT: 10.8.1999 SG(1999)D/6527

INFRINGEMENT: 1998/2199  
MEMBER STATE: GERMANY  
TITLE: AUTHORISATION PROCEDURE FOR FOOD SUPPLEMENTS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 26.5.1999 SG(1999)03827

INFRINGEMENT: 1988/2152  
MEMBER STATE: SPAIN  
TITLE: OBLIGATION ON NON-RESIDENTS TO USE SPANISH PATENT AGENTS  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1990/0388  
MEMBER STATE: SPAIN  
TITLE: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES  
LEGAL BASIS: EC TREATY 197A010; 197A039; 197A043; 197A049  
COURT OF JUSTICE CASE No: C-1992/375

INFRINGEMENT: 1992/5178  
MEMBER STATE: SPAIN  
TITLE: FOREIGN INVESTMENT IN SPAIN — OBLIGATION TO USE A SPANISH NOTARY  
LEGAL BASIS: EC TREATY 197A39; EC TREATY 197A43; EC TREATY 197A49; EC TREATY 197A56  
TERMINATED IN 1999

INFRINGEMENT: 1993/2226  
MEMBER STATE: SPAIN  
TITLE: REGULATION ON CHOCOLATE  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
COURT OF JUSTICE CASE No: C-2000/012

INFRINGEMENT: 1994/4103  
MEMBER STATE: SPAIN  
TITLE: EXERCISE OF SECURITY ACTIVITIES  
LEGAL BASIS: EC TREATY 197A019; EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1995/2181  
MEMBER STATE: SPAIN  
TITLE: CAUTIO JUDICATUM SOLVI AND NATIONALITY DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A293  
REASONED OPINION SENT: SG(1998)D/05483

INFRINGEMENT: 1995/4198  
MEMBER STATE: SPAIN  
TITLE: REGISTRATION OF A CAR — TECHNICAL INSPECTION  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030; EC TREATY 197A228  
TERMINATED IN 1999

INFRINGEMENT: 1995/4849  
MEMBER STATE: SPAIN  
TITLE: SALE OF LOOSE TEA  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1994/5108  
MEMBER STATE: GREECE  
TITLE: FOREIGN TITLES IN NAMES OF PRIVATE SCHOOLS  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1995/4580  
MEMBER STATE: GREECE  
TITLE: PRICES OF MEDICINES  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 23.9.1997 SG(1997)D/07834

INFRINGEMENT: 1998/4609  
MEMBER STATE: GREECE  
TITLE: BARRIERS TO THE MARKETING OF DIETARY SUPPLEMENTS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 31.8.1998 SG(1998)D/07391

INFRINGEMENT: 1997/2261  
MEMBER STATE: GREECE  
TITLE: LABELLING OF NON-ALCOHOLIC DRINKG (RECOMMENDED RETAIL PRICE)  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 24.1.2000 SG(1999)D/02845

INFRINGEMENT: 1998/4581  
MEMBER STATE: GREECE  
TITLE: LABELLING OF TIEL PACKAGING  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 24.1.2000 SG(2000)D/100738

INFRINGEMENT: 1989/0499  
MEMBER STATE: FRANCE  
TITLE: RIGHT OF ESTABLISHMENT AND PROVISION OF SERVICES IN OVERSEAS TERRITORIES  
LEGAL BASIS: EC TREATY 197A228  
TERMINATED IN 1999

INFRINGEMENT: 1986/0432  
MEMBER STATE: FRANCE  
TITLE: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES  
LEGAL BASIS: EC TREATY 197A049; EC TREATY 197A228  
TERMINATED IN 1999

INFRINGEMENT: 1991/0555  
MEMBER STATE: FRANCE  
TITLE: OBLIGATION TO HALLMARK IMPORTED PRODUCTS IN PRECIOUS METAL  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 10.7.1996 SG(1996)D/06266

INFRINGEMENT: 1991/0562  
MEMBER STATE: FRANCE  
TITLE: RULES ON EDIBLE PASTA  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
TERMINATED IN 1999

INFRINGEMENT: 1993/4438  
MEMBER STATE: FRANCE  
TITLE: ALCOHOLIC BEVERAGES WITH AN ALCOHOL CONTENT IN EXCESS OF 250 BY VOLUME  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1993/2067  
MEMBER STATE: FRANCE  
TITLE: ADDITIVES IN FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 26.10.1998 SG(1998)D/08993

INFRINGEMENT: 1993/2222  
MEMBER STATE: FRANCE  
TITLE: PREPARATIONS BASED ON FOIE GRAS  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
COURT OF JUSTICE CASE No: C-1996/184

INFRINGEMENT: 1993/4448  
MEMBER STATE: FRANCE  
TITLE: AUCTION SALES — MONOPOLY OF AUCTIONEERS  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 10.8.1998 SG(1998)D/06963

INFRINGEMENT: 1994/2082  
MEMBER STATE: FRANCE  
TITLE: ORGANISATION OF PROFESSION OF LAWYER  
LEGAL BASIS: EC TREATY 197A043  
REASONED OPINION SENT: 15.5.1998 SG(1998)D/03845

INFRINGEMENT: 1994/2150  
MEMBER STATE: FRANCE  
TITLE: ENZYMATIC PREPARATIONS IN CERTAIN FOODSTUFFS AND BEVERAGES FOR HUMAN CONSUMPTION  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
REASONED OPINION SENT: 15.5.1998 SG(1998)D/03853

INFRINGEMENT: 1994/2201  
MEMBER STATE: FRANCE  
TITLE: PUBLIC HEALTH — OBLIGATION TO REGISTER REAGENTS  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A010  
COURT OF JUSTICE CASE No: C-1999/059

INFRINGEMENT: 1994/2278  
MEMBER STATE: FRANCE  
TITLE: ESTABLISHMENT AND PROVISION OF SERVICES IN OVERSEAS TERRITORIES  
LEGAL BASIS: DECISIONS 31980D1186; 31986D0283; 31991D0482  
TERMINATED IN 1999

INFRINGEMENT: 1994/4226  
MEMBER STATE: FRANCE  
TITLE: PROHIBITION OF MARKETING THE RECTELLA BARBECUE  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
TERMINATED IN 1999

INFRINGEMENT: 1994/4441  
MEMBER STATE: FRANCE  
TITLE: UNCOMPETITIVE PRACTICES — UNDER WATER WORKS  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A043; EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1999/452

INFRINGEMENT: 1994/4855  
MEMBER STATE: FRANCE  
TITLE: INCORRECT APPLICATION OF ÉVIN ACT  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 21.11.1996 SG(1996)D/09951

INFRINGEMENT: 1994/4879  
MEMBER STATE: FRANCE  
TITLE: RIGHT OF ESTABLISHMENT AS ARMS DEALER  
LEGAL BASIS: EC TREATY 197A043  
TERMINATED IN 1999

INFRINGEMENT: 1994/5128  
MEMBER STATE: FRANCE  
TITLE: PROVISION OF SERVICES — MODELLING AGENCIES  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 5.3.1998 SG(1998)D/01925

INFRINGEMENT: 1995/2175  
MEMBER STATE: FRANCE  
TITLE: RUBBER MATERIALS AND OBJECTS IN CONTACT WITH FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028  
COURT OF JUSTICE CASE No: C-1999/230

INFRINGEMENT: 1995/2176  
MEMBER STATE: FRANCE  
TITLE: TECHNOLOGICAL AUXILIARIES USED IN PREPARING FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 27.3.1998 SG(1998)D/02456



INFRINGEMENT: 1996/4209  
MEMBER STATE: FRANCE  
TITLE: REFUSAL TO ISSUE INDIVIDUAL AIRWORTHINESS CERTIFICATE FOR A HELICOPTER  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1996/4272  
MEMBER STATE: FRANCE  
TITLE: BOTTLED CHLORINE  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 30.9.1998 SG(1998)D/08170

INFRINGEMENT: 1996/4812  
MEMBER STATE: FRANCE  
TITLE: FINANCIAL QUARANTEE FOR OBTAINING AN ADMINISTRATIVE LICENCE  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100916

INFRINGEMENT: 1997/4239  
MEMBER STATE: FRANCE  
TITLE: SEIZURE OF SPARE PANTS IN TRANSIT: COUNTERFEITING  
LEGAL BASIS: EC TREATY 197A028  
COURT OF JUSTICE CASE No: C-1999/023

INFRINGEMENT: 1997/4419  
MEMBER STATE: FRANCE  
TITLE: BARRIERS TO MARKETING OF SWIMMING-POOL TREATMENT PRODUCTS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 23.11.1998 SG5981D/10966

INFRINGEMENT: 1997/4423  
MEMBER STATE: FRANCE  
TITLE: BARRIERS TO FREEDOM OF ESTABLISHMENT — CIRCUSES  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1998/2003  
MEMBER STATE: FRANCE  
TITLE: OBSTACLES TO FREEDOM TO PROVIDE SERVICES — FOREIGN PATENT AGENTS  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 24.1.2000 SG(2000)D/100740

INFRINGEMENT: 1998/2011  
MEMBER STATE: FRANCE  
TITLE: ACTIVITIES OF PERFORMERS AGENTS  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100908

INFRINGEMENT: 1998/2142  
MEMBER STATE: FRANCE  
TITLE: FOREIGN TRAINING ORGANISATIONS — REQUIREMENT TO HAVE A DOMICILED REPRESENTATIVE  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 19.7.1998 SG(1999)A/05365

INFRINGEMENT: 1998/4032  
MEMBER STATE: FRANCE  
TITLE: OBSTACLES TO IMPORTATION OF PHARMACEUTICAL PRODUCTS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100918

INFRINGEMENT: 1998/4588  
MEMBER STATE: FRANCE  
TITLE: DISCRIMINATION BETWEEN DOMESTIC MARKETS AND OTHER EU STOCK EXCHANGES  
REASONED OPINION SENT: 26.10.1998 SG(1999)D/08526

INFRINGEMENT: 1998/4978  
MEMBER STATE: FRANCE  
TITLE: IMPORTS OF PLANT PROTECTION PRODUCTS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 26.1.2000 SG(2000)D/100920

INFRINGEMENT: 1987/0071  
MEMBER STATE: ITALY  
TITLE: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES  
LEGAL BASIS: EC TREATY 197A049; EC TREATY 197A228  
TERMINATED IN 1999

INFRINGEMENT: 1992/2116  
MEMBER STATE: ITALY  
TITLE: IMPORTS OF OBJECTS OF PRECIOUS METALS  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1993/2300  
MEMBER STATE: ITALY  
TITLE: RESTRICTIONS ON EXERCISE OF BUSINESS OF ROAD TRAFFIC CONSULTANTS  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A043; EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1999/263

INFRINGEMENT: 1993/4146  
MEMBER STATE: ITALY  
TITLE: APPROVAL AND REGISTRATION OF A VEHICLE (TOWING DEVICE)  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A228  
TERMINATED IN 1999

INFRINGEMENT: 1994/2146  
MEMBER STATE: ITALY  
TITLE: LEGISLATIVE BARRIERS TO BUSINESS IN CLEANING SERVICES  
LEGAL BASIS: EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1998/358

INFRINGEMENT: 1994/4248  
MEMBER STATE: ITALY  
TITLE: PRICES OF MEDICINES  
LEGAL BASIS: EC TREATY 197A078; 197A030; 197A228  
REASONED OPINION SENT: 9.9.1998 SG(1998)D/07570

INFRINGEMENT: 1994/4883  
MEMBER STATE: ITALY  
TITLE: BARRIERS TO IMPORTS OF NON-ALCOHOLIC BEVERAGES  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
REASONED OPINION SENT: 23.9.1997 SG(1997)D/07528

INFRINGEMENT: 1994/5095  
MEMBER STATE: ITALY  
TITLE: ITALIAN RULES GOVERNING FAIRS AND EXHIBITIONS  
LEGAL BASIS: EC TREATY 197A043; EC TREATY 197A049; EC TREATY 197A228  
COURT OF JUSTICE CASE No: C-1999/439

INFRINGEMENT: 1999/2003  
MEMBER STATE: ITALY  
TITLE: PROVISION OF LAWYER SERVICES — PROHIBITION ON OPENING AN OFFICE  
LEGAL BASIS: EC TREATY 197A049; EC TREATY 197A050  
COURT OF JUSTICE CASE No: C-1999/145

INFRINGEMENT: 1995/2068  
MEMBER STATE: ITALY  
TITLE: DISCRIMINATORY RESTRICTIONS — PRIVATE SECURITY SERVICES  
LEGAL BASIS: EC TREATY 197A039; 197A043; 197A049  
COURT OF JUSTICE CASE No: C-1999/282

INFRINGEMENT: 1995/2314  
MEMBER STATE: ITALY  
TITLE: CHOCOLATE AND CHOCOLATE PRODUCTS  
LEGAL BASIS: EC TREATY 197A028  
COURT OF JUSTICE CASE No: C-2000/0014

INFRINGEMENT: 1996/2243  
MEMBER STATE: ITALY  
TITLE: WEIGHTS AND MEASURES LAN  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1996/2246  
MEMBER STATE: ITALY  
TITLE: LEGISLATIVE BARRIERS TO BUSINESS AS CUSTOMS AGENTS  
LEGAL BASIS: EC TREATY 197A049  
COURT OF JUSTICE CASE No: C-1999/264

INFRINGEMENT: 1997/2161  
MEMBER STATE: ITALY  
TITLE: TEMPORARY EMPLOYMENT AGENCIES  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 26.4.1999 SG(1999)D/02853

INFRINGEMENT: 1997/4114  
MEMBER STATE: ITALY  
TITLE: DISCRIMINATORY PENALTIES ON A GERMAN CITIZEN  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A043; EC TREATY 197A049  
REASONED OPINION SENT: 2.10.1998 SG(1998)D/08219

INFRINGEMENT: 1997/4579  
MEMBER STATE: ITALY  
TITLE: BARRIERS TO IMPORTS OF SPECIAL FOODSTUFFS FOR SPORTSMEN  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
REASONED OPINION SENT: 18.12.1998 SG(1998)D/12016

INFRINGEMENT: 1998/4465  
MEMBER STATE: ITALY  
TITLE: CREDIT COMPANY  
LEGAL BASIS: NoNE  
REASONED OPINION SENT: 4.5.1999 SG(1999)D/03103

INFRINGEMENT: 1998/4589  
MEMBER STATE: ITALY  
TITLE: DISCRIMINATION BETWEEN DOMESTIC MARKETS AND OTHER EU REGULATED STOCK EXCHANGES  
LEGAL BASIS: NONE  
REASONED OPINION SENT: 21.10.1999 SG(1999)D/08324

INFRINGEMENT: 1992/2085  
MEMBER STATE: IRELAND  
TITLE: IMPORTS OF OBJECTS OF PRECIOUS METALS  
LEGAL BASIS: EC TREATY 197A028  
COURT OF JUSTICE CASE No: C-1999/030

INFRINGEMENT: 1994/4719  
MEMBER STATE: IRELAND  
TITLE: GAMING AND LOTTERIES ACT 1956  
LEGAL BASIS: EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1997/2047  
MEMBER STATE: IRELAND  
TITLE: NON-RATIFICATION OF PARIS ACT (1971) (BERNE CONVENTION)  
COURT OF JUSTICE CASE No: C-2000/013

INFRINGEMENT: 1992/4468  
MEMBER STATE: LUXEMBOURG  
TITLE: MONOPOLY ON PLACEMENT OF WORKERS  
LEGAL BASIS: EC TREATY 187A049  
TERMINATED IN 1999

INFRINGEMENT: 1997/4533  
MEMBER STATE: LUXEMBOURG  
TITLE: RESIDENCE REQUIREMENT FOR PATENT AGENTS  
LEGAL BASIS: EC TREATY 197A43; EC TREATY 197A49  
REASONED OPINION SENT: 24.1.2000 SG(2000)D/100863

INFRINGEMENT: 1994/4075  
MEMBER STATE: NETHERLANDS  
TITLE: IMPORTS OF VITAMIN AND IRON ENRICHED FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
REASONED OPINION SENT: 23.9.1997 SG(1997)D/07824

INFRINGEMENT: 1994/4810  
MEMBER STATE: NETHERLANDS  
TITLE: BARRIERS TO IMPORTS OF VITAMIN ENRICHED MARGARINE  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030; EC TREATY 197A228  
REASONED OPINION SENT: 31.8.1998 SG(1998)D/07377

INFRINGEMENT: 1994/4906  
MEMBER STATE: NETHERLANDS  
TITLE: OBLIGATION TO HAVE AN ADDRESS FOR SERVICE IN THE NETHERLANDS WHEN APPLYING TO REGISTER A PATENT  
LEGAL BASIS: EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1994/5125  
MEMBER STATE: NETHERLANDS  
TITLE: BARRIERS TO IMPORTS OF VITAMIN-ENRICHED FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028; EC TREATY 197A030  
REASONED OPINION SENT: 23.9.1997 SG(1997)D/07832

INFRINGEMENT: 1997/2060  
MEMBER STATE: NETHERLANDS  
TITLE: RULES ON THE ADDITION OF MICRO-FOODS TO FOODSTUFFS  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 31.8.1998 SG(987)D/07383

INFRINGEMENT: 1991/0237  
MEMBER STATE: PORTUGAL  
TITLE: FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES  
LEGAL BASIS: EC TREATY 197A039; EC TREATY 197A043; EC TREATY 197A049  
TERMINATED IN 1999

INFRINGEMENT: 1996/2245  
MEMBER STATE: PORTUGAL  
TITLE: AERIAL PHOTOGRAPHY — NATIONALITY DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A012; EC TREATY 197A049  
REASONED OPINION SENT: 18.5.1998 SG(1998)D/03880

INFRINGEMENT: 1997/2048  
MEMBER STATE: PORTUGAL  
TITLE: NON-RATIFICATION OF ROME CONVENTION  
TERMINATED IN 1999

INFRINGEMENT: 1998/2038  
MEMBER STATE: PORTUGAL  
TITLE: OBSTACLES TO FREEDOM TO PROVIDE SERVICES — FOREIGN PATENT AGENTS  
LEGAL BASIS: EC TREATY 197A049  
REASONED OPINION SENT: 25.8.1999 SG(1999)D/07030

INFRINGEMENT: 1995/4466  
MEMBER STATE: SWEDEN  
TITLE: IMPORTS OF OIL TANKER-TRUCKS  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1995/4665  
MEMBER STATE: SWEDEN  
TITLE: BARRIERS TO IMPORTS OF PRESSURE CONTAINERS  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

INFRINGEMENT: 1989/0034  
MEMBER STATE: UNITED KINGDOM  
TITLE: PATENT LICENCES  
LEGAL BASIS: EC TREATY 197A028  
TERMINATED IN 1999

#### CONSUMER HEALTH AND PROTECTION

INFRINGEMENT: 1997/2117  
MEMBER STATE: SPAIN  
TITLE: BSE RULES  
LEGAL BASIS: DECISIONS 31992D0562; 31994D0381; 31994D0382; 31996D0449  
REASONED OPINION SENT: 3.2.1998 SG(1998)D/00967

## STATISTICS

INFRINGEMENT: 1995/2301  
MEMBER STATE: SPAIN  
TITLE: OBLIGATION TO SUBMIT MONTHLY DATA ON FISHERY PRODUCTS  
LEGAL BASIS: REGULATIONS: 31991R1382; 31993R2104  
TERMINATED IN 1999

INFRINGEMENT: 1995/2302  
MEMBER STATE: SPAIN  
TITLE: FAILURE TO COMPLY WITH PROVISIONS ON SENDING STATISTICS  
LEGAL BASIS: REGULATION 31991R3880  
TERMINATED IN 1999

## TAXATION AND CUSTOMS UNION

INFRINGEMENT: 1984/0342  
MEMBER STATE: BELGIUM  
TITLE: DUTY FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: REGULATION 31968R0950  
REASONED OPINION SENT: 25.7.1985 SG(1985)D/9543

INFRINGEMENT: 1997/2203  
MEMBER STATE: BELGIUM  
TITLE: PLACE OF ACCEPTANCE OF EXPORT DECLARATION  
LEGAL BASIS: REGULATION 31992R2913; REGULATION 31993R2454  
TERMINATED IN 1999

INFRINGEMENT: 1990/5361  
MEMBER STATE: GERMANY  
TITLE: TAX DISCRIMINATION — BRITISH INVESTMENT TRUSTS  
LEGAL BASIS: EC TREATY 197A049; EC TREATY 197A056  
REASONED OPINION SENT: 6.8.1996 SG(1996)D/07318

INFRINGEMENT: 1995/4106  
MEMBER STATE: GERMANY  
TITLE: LAW ON WASTE  
LEGAL BASIS: EC TREATY 197A023; EC TREATY 197A025  
REASONED OPINION SENT: 16.8.1999 SG(1999)D/06792

INFRINGEMENT: 1996/4369  
MEMBER STATE: GERMANY  
TITLE: TAX DISCRIMINATION — NON RESIDENT COMPANIES  
LEGAL BASIS: EC TREATY 197A043  
REASONED OPINION SENT: 7.9.1999 SG(1999)D/07245

INFRINGEMENT: 1984/0343  
MEMBER STATE: DENMARK  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: EEC TREATY 157E009; EEC TREATY 157E028; REGULATION 31968R0950  
REASONED OPINION SENT: 25.7.1985 SG(1985)D/9545

INFRINGEMENT: 1990/0078  
MEMBER STATE: SPAIN  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: EC TREATY 197A026; REGULATION 31987R2658  
REASONED OPINION SENT: 31.12.1992 SG(1992)D/19475



INFRINGEMENT: 1986/0126  
MEMBER STATE: GREECE  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: EC TREATY 197A023; EC TREATY 197A026; REGULATION 31968R0950  
REASONED OPINION SENT: 2.5.1990 SG(1990)D/21649

INFRINGEMENT: 1991/0779  
MEMBER STATE: GREECE  
TITLE: TAXATION OF SECONDHAND CARS  
LEGAL BASIS: EC TREATY 197A090  
COURT OF JUSTICE CASE No: C-1995/375

INFRINGEMENT: 1994/4113  
MEMBER STATE: GREECE  
TITLE: PAYMENT OF PURCHASE TAX  
LEGAL BASIS: EC TREATY 197A012  
REASONED OPINION SENT: 26.8.1999 SG(1999)D/07044

INFRINGEMENT: 1992/5125  
MEMBER STATE: FRANCE  
TITLE: DISCRIMINATORY TAXATION ON CARS  
LEGAL BASIS: EC TREATY 197A090  
COURT OF JUSTICE CASE No: C-1999/265

INFRINGEMENT: 1995/2238  
MEMBER STATE: FRANCE  
TITLE: CUSTOMS AGENTS  
LEGAL BASIS: REGULATION 31992R2913  
REASONED OPINION SENT: 3.12.1997 SG(1997)D/10073

INFRINGEMENT: 1997/4487  
MEMBER STATE: FRANCE  
TITLE: TAXES ON IMPORTED HIGH-POWER CARS  
LEGAL BASIS: EC TREATY 197A090  
COURT OF JUSTICE CASE No: C-1999/265

INFRINGEMENT: 1984/0345  
MEMBER STATE: ITALY  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: EC TREATY 197A026; EC TREATY 197A286; REGULATION 31968R0950  
REASONED OPINION SENT: 25.7.1985 SG(1985)D/9549

INFRINGEMENT: 1995/2166  
MEMBER STATE: ITALY  
TITLE: REPAYMENT OF TAXES WRONGLY CHARGED — RESTRICTIONS IMPOSED BY NATIONAL LAW  
LEGAL BASIS: CASE LAW: 61962J0199; 61994J0125  
REASONED OPINION SENT: 17.9.1997 SG(1997)D/07696  
INFRINGEMENT: 1989/0335  
MEMBER STATE: IRELAND  
TITLE: TOBACCO PRICING  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 12.7.1990 SG(1990)D/24400

INFRINGEMENT: 1998/2315  
MEMBER STATE: IRELAND  
TITLE: EXCISE DUTIES — DIFFERENTIAL TAXATION OF WINE AND BEER  
LEGAL BASIS: EC TREATY 197A090  
REASONED OPINION SENT: 25.8.1999 SG(1999)D/07026

INFRINGEMENT: 1984/0346  
MEMBER STATE: LUXEMBOURG  
TITLE: DUTY FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: REGULATION 31968R0950  
REASONED OPINION SENT: 25.7.1985 SG(1985)D/9551

INFRINGEMENT: 1984/0347  
MEMBER STATE: NETHERLANDS  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: REGULATION 31968R0950  
REASONED OPINION SENT: 25.7.1985 SG(1985)D/9553

INFRINGEMENT: 1990/0079  
MEMBER STATE: PORTUGAL  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: EC TREATY 197A026; REGULATION 31987R2658  
REASONED OPINION SENT: 20.1.1993 SG(1993)D/00940

INFRINGEMENT: 1996/2244  
MEMBER STATE: PORTUGAL  
TITLE: TAXATION OF SECOND-HAND VEHICLES  
LEGAL BASIS: EC TREATY 197A028  
REASONED OPINION SENT: 9.11.1999 SG(1999)D/08917

INFRINGEMENT: 1996/4748  
MEMBER STATE: PORTUGAL  
TITLE: MOTOR VEHICLE TAX DISCRIMINATION  
LEGAL BASIS: EC TREATY 197A090  
REASONED OPINION SENT: 8.2.1999 SG(1999)D/1100

INFRINGEMENT: 1998/2331  
MEMBER STATE: SWEDEN  
TITLE: SIMPLIFIED PROCEDURE — DECLARATION FOR RELEASE FOR FREE CIRCULATION  
LEGAL BASIS: REGULATION 31992R2913; REGULATION 31993R2454  
REASONED OPINION SENT: 3.12.1999 SG(1999)D/09798

INFRINGEMENT: 1984/0126  
MEMBER STATE: UNITED KINGDOM  
TITLE: CIVIL AIRCRAFT IMPORTED DUTY FREE AND SUBSEQUENTLY USED AS MILITARY AIRCRAFT  
LEGAL BASIS: REGULATION 31977R1535  
REASONED OPINION SENT: 6.6.1985 SG(1985)D/6932

INFRINGEMENT: 1984/0344  
MEMBER STATE: UNITED KINGDOM  
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT  
LEGAL BASIS: EEC TREATY 157E009; EEC TREATY 157E028; REGULATION 31968R0950  
REASONED OPINION SENT: 25.7.1985 SG(1985)D/9547

#### TRANSPORT

INFRINGEMENT: 1990/0354  
MEMBER STATE: BELGIUM  
TITLE: COMMERCIAL VESSELS — FLAG RIGHTS  
LEGAL BASIS: EC TREATY 197A48  
TERMINATED IN 1999

INFRINGEMENT: 1997/4583  
MEMBER STATE: BELGIUM  
TITLE: ROAD TRANSPORT — SOCIAL PROVISIONS  
LEGAL BASIS: EC TREATY 197A12; REGULATION 31985R3820; REGULATION 31985R3821  
REASONED OPINION SENT: 27.10.1999 SG(1999)D/08572

INFRINGEMENT: 1996/2073  
MEMBER STATE: GERMANY  
TITLE: CONCLUSION OF OPEN SKIES AGREEMENTS WITH THE UNITED STATES  
LEGAL BASIS: REGULATIONS 31989R2299; 31992R2407; 31992R2408; 31992R2409  
COURT OF JUSTICE CASE No: C-1998/476

INFRINGEMENT: 1996/2163  
MEMBER STATE: SPAIN  
TITLE: DISCRIMINATORY AIR DEPARTURE TAXES  
LEGAL BASIS: REGULATION 31992R2408  
REASONED OPINION SENT: 14.12.1998 SG(1998)D/11702

INFRINGEMENT: 1998/2181  
MEMBER STATE: SPAIN  
TITLE: CARRIAGE OF GOODS BY ROAD — INCORRECT APPLICATION OF REGULATION (EEC) No 881/92  
LEGAL BASIS: REGULATION 31992R881  
REASONED OPINION SENT: 2.11.1989 SG(1999)D/08921

INFRINGEMENT: 1990/0356  
MEMBER STATE: GREECE  
TITLE: COMMERCIAL VESSELS — FLAG RIGHTS  
LEGAL BASIS: EC TREATY 197A48  
COURT OF JUSTICE CASE No: C-1996/062

INFRINGEMENT: 1993/4037  
MEMBER STATE: GREECE  
TITLE: AIRPORT TAXES  
LEGAL BASIS: EC TREATY 197A49; REGULATION 31992R2498  
REASONED OPINION SENT: 11.6.1998 SG(1998)D/04595

INFRINGEMENT: 1997/2147  
MEMBER STATE: GREECE  
TITLE: ROAD TRANSPORT — SOCIAL FIELD  
LEGAL BASIS: EC TREATY 197A10, REGULATION 31985R3820  
REASONED OPINION SENT: 4.11.1999 SG(1999)D/8743

INFRINGEMENT: 1998/4654  
MEMBER STATE: GREECE  
TITLE: MARITIME TRANSPORT — RESTRICTED FREEDOM TO PROVIDE SERVICES (REGULATION (EEC) No 4055/86)  
LEGAL BASIS: REGULATION 31986R4055, REGULATION 31992R3577  
REASONED OPINION SENT: 11.8.1999 SG(1999)D/8600

INFRINGEMENT: 1995/2198  
MEMBER STATE: FRANCE  
TITLE: CABOTAGE  
LEGAL BASIS: REGULATION 31992R3577  
COURT OF JUSTICE CASE No: C-1999/160

INFRINGEMENT: 1998/2168  
MEMBER STATE: FRANCE  
TITLE: GRANT OF FLAG RIGHTS  
LEGAL BASIS: EC TREATY 197A43  
COURT OF JUSTICE CASE No: C-2000/004

INFRINGEMENT: 1996/2162

MEMBER STATE: ITALY

TITLE: DISCRIMINATION AIR DEPARTURE TAXES

LEGAL BASIS: REGULATION 31992R2408

COURT OF JUSTICE CASE No: C-1999/447

INFRINGEMENT: 1997/4482

MEMBER STATE: ITALY

TITLE: TAX ON EMBARKATION AND DISEMBARKATION OF PASSENGERS

LEGAL BASIS: REGULATION 31986R4055

REASONED OPINION SENT: 14.12.1998 SG(1998)D/11696

INFRINGEMENT: 1990/0357

MEMBER STATE: IRELAND

TITLE: COMMERCIAL VESSELS — FLAG RIGHTS

TERMINATED IN 1999

INFRINGEMENT: 1996/2161

MEMBER STATE: IRELAND

TITLE: DISCRIMINATORY AIR DEPARTURE TAXES

LEGAL BASIS: REGULATION 31992R2408

COURT OF JUSTICE CASE No: C-1999/139

INFRINGEMENT: 1990/0358

MEMBER STATE: NETHERLANDS

TITLE: COMMERCIAL VESSELS — FLAG RIGHTS

LEGAL BASIS: EC TREATY 197A48

REASONED OPINION SENT: 10.6.1993 SG(1993)D/10930

INFRINGEMENT: 1996/2165

MEMBER STATE: NETHERLANDS

TITLE: DISCRIMINATORY AIR DEPARTURE TAXES

LEGAL BASIS: REGULATION 31992R2408

REASONED OPINION SENT: 14.12.1998 SG(1998)D/11690

INFRINGEMENT: 1996/2164

MEMBER STATE: PORTUGAL

TITLE: DISCRIMINATORY AIR DEPARTURE TAXES

LEGAL BASIS: REGULATION 31992R2408

COURT OF JUSTICE CASE No: C-1999/070

INFRINGEMENT: 1994/4653

MEMBER STATE: UNITED KINGDOM

TITLE: NEW PASSENGER TAX

LEGAL BASIS: EC TREATY: 197A12; 197A49; REGULATION 31992R2408

REASONED OPINION SENT: 23.6.1998 SG(1998)D/05024

INFRINGEMENT: 1995/2125

MEMBER STATE: UNITED KINGDOM

TITLE: CONCLUSION OF OPEN SKIES AGREEMENT WITH THE UNITED STATES

LEGAL BASIS: REGULATION 31992R2407

COURT OF JUSTICE CASE No: C-1998/466

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## ANNEX IV

**PROGRESS IN IMPLEMENTING DIRECTIVES**

NB: This Annex lists all directives in respect of which there were problems of non-notification, non-conformity or incorrect application during 1999 and shows the state of infringement proceedings started by the Commission against Member States as at 31 December 1999.

'Non-notification' includes both a complete absence of any notification of national implementing measures and cases of incomplete notification of such measures.

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**PART 1: NOTIFICATION AND NON-NOTIFICATION OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES**

NB: The date indicated is the date of implementation of the decision (date sent) or the date of the decision if it was not implemented in 1999.

Abbreviations used in this part: LET: Letter of formal notice; RO: Reasoned opinion; SLET: Supplementary letter of formal notice; SRO: Supplementary reasoned opinion; LET 228 and RO 228: Letter or reasoned opinion for failure to comply with a judgment of the Court

The numbering of the directives follows the CELEX code.

**AGRICULTURE**

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

**Veterinary matters**

France 1995/0505, LET 228 — sent: 19.7.1999

31992L0117

31994L0042

Council Directive 92/117/EEC of 17 December 1992 concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications

Council Directive 94/42/EC of 27 July 1994 amending Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Member States which have notified implementing measures: all

Member States which have notified implementing measures: all

Italy 1994/0248, termination: 1.7.1999

Italy 1995/0327, termination: 1.7.1999

31993L0118

31995L0029

Council Directive 93/118/EEC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat

Council Directive 95/29/EC of 29 June 1995 amending Directive 90/628/EEC concerning the protection of animals during transport

Member States which have notified implementing measures: B, DK, D, E, FIN, IRL, I, L, NL, A, P, FIN, S, UK

Member States which have notified implementing measures: all

Greece 1995/0069, LET 228 — sent: 14.7.1999

France 1997/0077, referral: 15.6.1999

Spain 1995/0085, termination: 1.7.1999

Italy 1995/0135, termination: 1.7.1999

31995L0068

31993L0119

Council Directive 95/68/EC of 22 December 1995 amending Directive 77/99/EEC on health problems affecting the production and marketing of meat products and certain other products of animal origin

Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing

Member States which have notified implementing measures: all

Member States which have notified implementing measures: all

Austria 1996/0463, termination: 22.12.1999

United Kingdom 1997/0187, termination: 22.12.1999

31994L0028

31995L0071

Council Directive 94/28/EC of 23 June 1994 laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos, and amending Directive 77/504/EEC on pure-bred breeding animals of the bovine species

Council Directive 95/71/EC of 22 December 1995 amending the Annex to Directive 91/493/EEC laying down the health conditions for the production and the placing on the market of fishery products

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium 1997/0479, referral: 20.7.1999

31996L0022

Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of  $\beta$ -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France 1997/0342, decision to refer: 2.12.1998

Italy 1997/0373, referral: 3.5.1999

Portugal 1997/0430, referral: 17.3.1999

31996L0023

Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France 1997/0343, decision to refer: 2.12.1998

Ireland 1997/0361, termination: 1.7.1999

Italy 1997/0374, referral: 3.5.1999

Portugal 1997/0431, termination: 22.12.1999

31996L0043

Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC

Member States which have notified implementing measures: B, DK, F, I, L, NL, A, P, FIN, S, UK

Germany 1997/0491, referral: 24.8.1999

Greece 1997/0495, referral: 19.4.1999

Spain 1997/0498, referral: 4.5.1999

France 1997/0503, termination: 1.7.1999

Ireland 1997/0509, referral: 21.5.1999

Italy 1997/0512, termination: 1.7.1999

Austria 1997/0521, termination: 22.12.1999

Portugal 1997/0526, referral: 17.3.1999

Sweden 1997/0534, termination: 1.7.1999

31996L0090

Council Directive 96/90/EC of 17 December 1996 amending Directive 92/118/EEC laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC

Member States which have notified implementing measures: all

Italy 1997/0379, termination: 1.7.1999

United Kingdom 1997/0475, termination: 22.12.1999

31996L0093

Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, NL, A, P, FIN, S, UK

France 1998/0132, referral: 21.12.1999

Ireland 1998/0141, referral: 16.11.1999

Italy 1998/0143, referral: 13.10.1999

Luxembourg 1998/0146, referral: 18.11.1999

Austria 1998/0153, termination: 1.7.1999

Sweden 1998/0156, termination: 1.7.1999

31997L0002

Council Directive 97/2/EC of 20 January 1997 amending Directive 91/629/EEC laying down minimum standards for the protection of calves

Member States which have notified implementing measures: all

Austria 1998/0069, termination: 22.12.1999

31997L0012

Council Directive 97/12/EC of 17 March 1997 amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Member States which have notified implementing measures: B, DK, D, I, L, NL, A, P, FIN, S

31997L0022

Council Directive 97/22/EC of 22 April 1997 amending Directive 92/117/EEC concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, A, P, FIN, S, UK

France 1997/0626, termination: 1.7.1999

Netherlands 1997/0681, RO — sent: 18.8.1998

31997L0061

Council Directive 97/61/EC of 20 October 1997 amending the Annex to Directive 91/492/EEC laying down the health conditions for the production and placing on the market or live bivalve molluscs

Member States which have notified implementing measures: DK, D, EL, E, I, L, NL, A, P, FIN, S, UK

Belgium 1998/0294, referral: 22.12.1999

Germany 1998/0318, termination: 1.7.1999

Greece 1998/0335, termination: 22.12.1999

Spain 1998/0347, termination: 1.7.1999

France 1998/0360, referral: 22.12.1999

Ireland 1998/0379, referral: 16.11.1999

Netherlands 1998/0421, termination: 1.7.1999

31997L0076

Council Directive 97/76/EC of 16 December 1997 amending Directive 77/99/EEC and Directive 72/462/EEC with regard to the rules applicable to minced meat, meat preparations and certain other products of animal origin

Member States which have notified implementing measures: B, DK, D, E, F, L, A, P, FIN, S, UK

Denmark 1999/0115, termination: 22.12.1999

Germany 1999/0058, termination: 1.7.1999

Greece 1999/0128, decision to refer: 22.12.1999

France 1999/0003, termination: 1.7.1999

Ireland 1999/0103, decision to refer: 22.12.1999

Italy 1999/0073, decision to refer: 22.12.1999

Netherlands 1999/0045, decision to refer: 22.12.1999

Finland 1999/0201, termination: 1.7.1999

Sweden 1999/0189, termination: 22.12.1999

United Kingdom 1999/0091, termination: 1.7.1999

31997L0078

Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries

Member States which have notified implementing measures: DK, E, L, NL, A, S

Belgium 1999/0459, LET — sent: 20.8.1999

Denmark 1999/0522, LET — sent: 20.8.1999

Germany 1999/0482, LET — sent: 20.8.1999

Greece 1999/0531, LET — sent: 20.8.1999

Spain 1999/0541, LET — sent: 20.8.1999

France 1999/0435, LET — sent: 20.8.1999

Ireland 1999/0510, LET — sent: 20.8.1999

Italy 1999/0490, LET — sent: 20.8.1999

Luxembourg 1999/0449, termination: 22.12.1999

Netherlands 1999/0471, termination: 22.12.1999

Portugal 1999/0552, LET — sent: 20.8.1999

Finland 1999/0587, LET — sent: 20.8.1999

Sweden 1999/0575, termination: 22.12.1999

United Kingdom 1999/0501, LET — sent: 20.8.1999

31997L0079

Council Directive 97/79/EC of 18 December 1997 amending Directives 71/118/EEC, 72/462/EEC, 85/73/EEC, 91/492/EEC, 91/493/EEC, 92/45/EEC and 92/118/EEC as regards the organisation of veterinary checks on products entering the Community from third countries

Member States which have notified implementing measures: E, L, A, P, S

Belgium 1999/0460, LET — sent: 20.8.1999

Denmark 1999/0523, LET — sent: 20.8.1999

Germany 1999/0483, LET — sent: 20.8.1999

Greece	1999/0532, LET — sent: 20.8.1999
Spain	1999/0542, LET — sent: 20.8.1999
France	1999/0436, LET — sent: 20.8.1999
Ireland	1999/0511, LET — sent: 20.8.1999
Italy	1999/0491, LET — sent: 20.8.1999
Luxembourg	1999/0450, termination: 22.12.1999
Netherlands	1999/0472, LET — sent: 20.8.1999
Austria	1999/0567, termination: 22.12.1999
Portugal	1999/0553, termination: 22.12.1999
Finland	1999/0588, LET — sent: 20.8.1999
Sweden	1999/0576, termination: 22.12.1999
United Kingdom	1999/0502, LET — sent: 20.8.1999

31998L0045

Council Directive 98/45/EC of 24 June 1998 amending Directive 91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture animals and products

Member States which have notified implementing measures: B, DK, EL, E, L, NL, A, FIN, UK

Denmark	1999/0526, LET — sent: 20.8.1999
Germany	1999/0485, LET — sent: 20.8.1999
Spain	1999/0544, termination: 22.12.1999
France	1999/0439, LET — sent: 20.8.1999
Ireland	1999/0513, LET — sent: 20.8.1999
Italy	1999/0494, LET — sent: 20.8.1999
Luxembourg	1999/0453, termination: 22.12.1999
Netherlands	1999/0475, termination: 22.12.1999
Austria	1999/0569, termination: 22.12.1999
Portugal	1999/0556, LET — sent: 20.8.1999
Sweden	1999/0579, LET — sent: 20.8.1999
United Kingdom	1999/0504, termination: 22.12.1999

31998L0046

Council Directive 98/46/EC of 24 June 1996 amending Annexes A, D (Chapter I) and F to Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Member States which have notified implementing measures: B, DK, D, IRL, I, L, NL, A, P, FIN, S

Belgium	1999/0463, termination: 22.12.1999
Denmark	1999/0527, termination: 22.12.1999

Germany	1999/0486, termination: 22.12.1999
Greece	1999/0535, LET — sent: 20.8.1999
Spain	1999/0545, RO: 22.12.1999
France	1999/0440, LET — sent: 20.8.1999
Ireland	1999/0514, termination: 22.12.1999
Italy	1999/0495, termination: 22.12.1999
Luxembourg	1999/0454, termination: 22.12.1999
Netherlands	1999/0476, termination: 22.12.1999
Portugal	1999/0557, termination: 22.12.1999
Sweden	1999/0580, termination: 22.12.1999
United Kingdom	1999/0505, LET — sent: 20.8.1999

31998L0058

Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes

Member States which have notified implementing measures: none

31998L0099

Council Directive 98/99/EC of 14 December 1998 amending Directive 97/12/EC amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Member States which have notified implementing measures: B, DK, D, I, L, A, P, FIN, S

Belgium	1999/0231, LET — sent: 10.5.1999
Denmark	1999/0282, termination: 22.12.1999
Germany	1999/0248, termination: 22.12.1999
Greece	1999/0289, LET — sent: 10.5.1999
Spain	1999/0299, LET — sent: 10.5.1999
France	1999/0598, LET — sent: 16.11.1999
Ireland	1999/0277, LET — sent: 10.5.1999
Italy	1999/0259, termination: 22.12.1999
Luxembourg	1999/0225, termination: 22.12.1999
Netherlands	1999/0614, LET — sent: 16.11.1999
Portugal	1999/0311, termination: 22.12.1999
Finland	1999/0335, termination: 22.12.1999
Sweden	1999/0329, termination: 22.12.1999
United Kingdom	1999/0268, LET — sent: 10.5.1999

**Plant health**

31996L0032

Council Directive 96/32/EC of 21 May 1996 amending Annex II to Directive 76/895/EEC relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables and Annex II to Directive 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables, and providing for the establishment of a list of maximum levels

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, A, P, FIN, S, UK

Luxembourg 1997/0390, referral: 18.11.1999

31996L0033

Council Directive 96/33/EC of 21 May 1996 amending the Annexes to Directives 86/362/EEC and 86/363/EEC on the fixing of maximum levels for pesticide residues in and on cereals and foodstuffs of animal origin respectively

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, A, P, FIN, S, UK

Luxembourg 1997/0391, referral: 18.11.1999

Austria 1997/0416, referral: 16.6.1999

31997L0041

Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables

Member States which have notified implementing measures: DK, D, F, IRL, NL, FIN, S, UK

Belgium 1999/0028, decision to refer: 22.12.1999

Germany 1999/0055, termination: 1.7.1999

Greece 1999/0124, decision to refer: 22.12.1999

Spain 1999/0141, decision to refer: 22.12.1999

Italy 1999/0069, decision to refer: 22.12.1999

Luxembourg 1999/0014, decision to refer: 22.12.1999

Netherlands 1999/0040, termination: 22.12.1999

Austria 1999/0171, RO — sent: 15.11.1999

Portugal 1999/0154, decision to refer: 22.12.1999

Finland 1999/0199, termination: 22.12.1999

Sweden 1999/0187, termination: 1.7.1999

United Kingdom 1999/0086, termination: 1.7.1999

31997L0073

Commission Directive 97/73/EC of 15 December 1997 including an active substance (imazalil) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, F, IRL, I, L, A, P, FIN, S, UK

Denmark 1999/0521, LET — sent: 20.8.1999, termination: 22.12.1999

Germany 1999/0481, LET — sent: 20.8.1999

Greece 1999/0530, LET — sent: 20.8.1999

Spain 1999/0540, LET — sent: 20.8.1999

Netherlands 1999/0470, LET — sent: 20.8.1999

Austria 1999/0566, termination: 22.12.1999

31998L0002

Commission Directive 98/2/EC of 8 January 1998 amending Annex IV to Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

Member States which have notified implementing measures: all

Portugal 1998/0257, termination: 1.7.1999

31998L0022

Commission Directive 98/22/EC of 15 April 1998 laying down the minimum conditions for carrying out plant health checks in the Community, at inspection posts other than those at the place of destination, of plants, plant products or other objects coming from third countries

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece 1998/0583, decision to refer: 22.12.1999

Spain 1998/0590, termination: 1.7.1999

France 1998/0534, termination: 1.7.1999

Italy 1998/0564, termination: 1.7.1999

Luxembourg 1998/0544, RO — sent: 14.7.1999

Netherlands 1998/0551, termination: 1.7.1999

Austria 1998/0607, termination: 1.7.1999

Portugal 1998/0598, termination: 1.7.1999

United Kingdom 1998/0570, termination: 1.7.1999

31998L0047

Commission Directive 98/47/EC of 25 June 1998 including an active substance (azoxystrobin) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market (Text with EEA relevance)



Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, A, P, FIN, S, UK

Belgium	1999/0230, termination: 1.7.1999
Denmark	1999/0281, termination: 22.12.1999
Greece	1999/0287, LET — sent: 10.5.1999
Ireland	1999/0275, termination: 22.12.1999
Italy	1999/0257, LET — sent: 10.5.1999
Luxembourg	1999/0223, termination: 1.7.1999
Netherlands	1999/0238, LET — sent: 10.5.1999
Austria	1999/0320, termination: 22.12.1999
Portugal	1999/0309, termination: 22.12.1999
Finland	1999/0333, termination: 22.12.1999

31998L0057

Council Directive 98/57/EC of 20 July 1998 on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.

Member States which have notified implementing measures: B, DK, E, F, IRL, I, P

Germany	1999/0619, LET — sent: 16.11.1999
Greece	1999/0647, LET — sent: 16.11.1999
Luxembourg	1999/0602, LET — sent: 16.11.1999
Portugal	1999/0664, LET — sent: 16.11.1999
Finland	1999/0680, LET — sent: 16.11.1999
Sweden	1999/0675, LET — sent: 16.11.1999
United Kingdom	1999/0632, LET — sent: 16.11.1999

31998L0082

Commission Directive 98/82/EC of 27 October 1998 amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC on the fixing of maximum levels for pesticide residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables respectively

Member States which have notified implementing measures: DK, EL, E, IRL, I, NL, FIN, S, UK

Belgium	1999/0353, LET — sent: 5.8.1999
Denmark	1999/0394, termination: 22.12.1999
Germany	1999/0366, LET — sent: 5.8.1999
Greece	1999/0403, termination: 22.12.1999
France	1999/0340, LET — sent: 5.8.1999
Ireland	1999/0390, termination: 22.12.1999
Italy	1999/0375, termination: 22.12.1999

Luxembourg	1999/0347, LET — sent: 5.8.1999
Netherlands	1999/0360, termination: 22.12.1999
Austria	1999/0423, LET — sent: 5.8.1999
Portugal	1999/0416, LET — sent: 5.8.1999
Finland	1999/0432, termination: 22.12.1999
Sweden	1999/0427, termination: 22.12.1999
United Kingdom	1999/0381, termination: 22.12.1999

31998L0100

Commission Directive 98/100/EC of 21 December 1998 amending Directive 92/76/EC recognising protected zones exposed to particular plant health risks in the Community

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, NL, A, P, FIN, S, UK

Germany	1999/0249, termination: 1.7.1999
Greece	1999/0290, LET — sent: 10.5.1999
Spain	1999/0300, termination: 1.7.1999
France	1999/0215, termination: 22.12.1999
Luxembourg	1999/0226, LET — sent: 10.5.1999
Austria	1999/0322, termination: 1.7.1999
Portugal	1999/0312, LET — sent: 10.5.1999
Finland	1999/0336, termination: 22.12.1999
United Kingdom	1999/0269, termination: 22.12.1999

31999L0001

Commission, Directive 1999/1/EC of 21 January 1999 including an active substance (kresoxim-methyl) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market

Member States which have notified implementing measures: B, DK, E, F, IRL, I, P, FIN, S, UK

Denmark	1999/0641, LET — sent: 16.11.1999
Germany	1999/0621, LET — sent: 16.11.1999
Greece	1999/0651, LET — sent: 16.11.1999
Spain	1999/0659, LET — sent: 16.11.1999
Italy	1999/0629, LET — sent: 16.11.1999
Luxembourg	1999/0605, LET — sent: 16.11.1999
Netherlands	1999/0615, LET — sent: 16.11.1999
Austria	1999/0672, LET — sent: 16.11.1999
Portugal	1999/0667, LET — sent: 16.11.1999
Sweden	1999/0677, LET — sent: 16.11.1999

**Seeds and plants**

31998L0056

Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants

Member States which have notified implementing measures: DK, IRL, NL, FIN, S, UK

Belgium 1999/0608, LET — sent: 16.11.1999  
 Germany 1999/0618, LET — sent: 16.11.1999  
 Greece 1999/0646, LET — sent: 16.11.1999  
 Spain 1999/0655, LET — sent: 16.11.1999  
 France 1999/0597, LET — sent: 16.11.1999  
 Italy 1999/0625, LET — sent: 16.11.1999  
 Luxembourg 1999/0601, LET — sent: 16.11.1999  
 Netherlands 1999/0612, LET — sent: 16.11.1999  
 Austria 1999/0669, LET — sent: 16.11.1999  
 Portugal 1999/0663, LET — sent: 16.11.1999  
 Finland 1999/0679, LET — sent: 16.11.1999  
 Sweden 1999/0674, LET — sent: 16.11.1999  
 United Kingdom 1999/0631, LET — sent: 16.11.1999

31999L0066

Commission Directive 1999/66/EC of 28 June 1999 setting out requirements as to the label or other document made out by the supplier pursuant to Council Directive 98/56/EC

Member States which have notified implementing measures: S

31999L0068

Commission Directive 1999/68/EC of 28 June 1999 setting out additional provisions for lists of varieties of ornamental plants as kept by suppliers under Council Directive 98/56/EC

Member States which have notified implementing measures: S

**Feedingstuffs**

31993L0074

Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes

Member States which have notified implementing measures: all

France 1995/0501, termination: 1.7.1999

31994L0039

Commission Directive 94/39/EC of 25 July 1994 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes

Member States which have notified implementing measures: all

France 1995/0510, termination: 22.12.1999

31995L0009

Commission Directive 95/9/EC of 7 April 1995 amending Directive 94/39/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes (Text with EEA relevance)

Member States which have notified implementing measures: all

France 1995/0517, termination: 22.12.1999

31995L0010

Commission Directive 95/10/EC of 7 April 1995 fixing the method of calculating the energy value of dog and cat food intended for particular nutritional purposes

Member States which have notified implementing measures: all

France 1995/0518, termination: 22.12.1999

31995L0033

Commission Directive 95/33/EC of 10 July 1995 amending Council Directive 82/471/EEC concerning certain products used in animal nutrition

Member States which have notified implementing measures: all

Luxembourg 1996/1017, termination: 1.7.1999

31995L0053

Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organization of official inspections in the field of animal nutrition

Member States which have notified implementing measures: B, DK, D, E, I, L, NL, P, FIN, S, UK

Greece 1998/0187, referral: 1.12.1999

France 1998/0201, referral: 2.12.1999

Ireland 1998/0208, referral: 16.11.1999

Italy 1998/0216, termination: 1.7.1999

Austria 1998/0239, decision to refer: 1.7.1999

Portugal 1998/0249, termination: 22.12.1999

Finland 1998/0259, termination: 1.7.1999

United Kingdom 1998/0273, termination: 22.12.1999

31995L0069

Council Directive 95/69/EC of 22 December 1995 laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector and amending Directives 70/524/EEC, 74/63/EEC, 79/373/EEC and 82/471/EEC

Member States which have notified implementing measures: B, DK, D, E, IRL, I, L, NL, P, FIN, S, UK

Greece 1998/0188, referral: 1.12.1999  
 France 1998/0202, decision to refer: 1.7.1999, Referral: 22.12.1999  
 Italy 1998/0217, termination: 1.7.1999  
 Austria 1998/0240, decision to refer: 1.7.1999  
 Finland 1998/0260, termination: 1.7.1999

31996L0024

Council Directive 96/24/EC of 29 April 1996 amending Directive 79/373/EEC on the marketing of compound feedingstuffs

Member States which have notified implementing measures: B, DK, D, E, I, L, NL, P, FIN, S

Greece 1998/0323, decision to refer: 22.12.1999  
 France 1998/0350, decision to refer: 22.12.1999  
 Ireland 1998/0365, decision to refer: 22.12.1999  
 Italy 1998/0384, termination: 22.12.1999  
 Austria 1998/0424, RO — sent: 15.11.1999  
 Portugal 1998/0439, termination: 22.12.1999  
 Finland 1998/0458, termination: 1.7.1999  
 Sweden 1998/0469, termination: 22.12.1999  
 United Kingdom 1998/0484, decision to refer: 22.12.1999

31996L0025

Council Directive 96/25/EC of 29 April 1996 on the circulation of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC

Member States which have notified implementing measures: B, DK, D, E, I, L, NL, FIN, S

Greece 1998/0324, decision to refer: 22.12.1999  
 France 1998/0351, decision to refer: 22.12.1999  
 Ireland 1998/0366, decision to refer: 22.12.1999  
 Italy 1998/0385, termination: 22.12.1999  
 Luxembourg 1998/0402, termination: 1.7.1999  
 Austria 1998/0425, RO — sent: 15.11.1999

Portugal 1998/0440, termination: 22.12.1999  
 Finland 1998/0459, termination: 1.7.1999  
 Sweden 1998/0470, termination: 22.12.1999  
 United Kingdom 1998/0485, decision to refer: 22.12.1999

31996L0051

Council Directive 96/51/EC of 23 July 1996 amending Directive 70/524/EC concerning additives in feedingstuffs

Member States which have notified implementing measures: B, DK, D, E, NL, FIN, S, UK

Belgium 1998/0164, termination: 1.7.1999  
 Greece 1998/0189, decision to refer: 1.7.1999  
 France 1998/0203, decision to refer: 1.7.1999  
 Ireland 1998/0210, decision to refer: 1.7.1999  
 Italy 1998/0218, referral: 13.10.1999  
 Luxembourg 1998/0228, decision to refer: 1.7.1999  
 Austria 1998/0241, decision to refer: 1.7.1999  
 Portugal 1998/0251, termination: 22.12.1999  
 Finland 1998/0261, termination: 22.12.1999

31997L0008

Commission Directive 97/8/EC of 7 February 1997 amending Council Directive 74/63/EEC on the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

Belgium 1998/0290, termination: 1.7.1999  
 France 1998/0356, decision to refer: 22.12.1999  
 Italy 1998/0392, termination: 22.12.1999  
 Portugal 1998/0448, termination: 22.12.1999  
 United Kingdom 1998/0489, termination: 22.12.1999

31997L0047

Commission Directive 97/47/EC of 28 July 1997 amending the Annexes to Council Directives 77/101/EEC, 79/373/EEC and 91/357/EEC (Text with EEA relevance)

Member States which have notified implementing measures: all

Portugal 1998/0081, termination: 1.7.1999

31997L0072

Commission Directive 97/72/EC of 15 December 1997 amending Council Directive 70/524/EEC concerning additives in feedingstuffs (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, NL, A, P, FIN, S, UK

Greece 1998/0193, referral: 1.12.1999  
Luxembourg 1998/0231, referral: 18.11.1999  
Finland 1998/0262, termination: 22.12.1999

31998L0019

Commission Directive 98/19/EC of 18 March 1998 amending Council Directive 70/524/EEC concerning additives in feedingstuffs (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, NL, A, P, FIN, S, UK

Greece 1998/0339, referral: 1.12.1999  
Italy 1998/0400, termination: 2.12.1998  
Luxembourg 1998/0417, referral: 18.11.1999  
Finland 1998/0468, termination: 22.12.1999

31998L0051

Commission Directive 98/51/EC of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, IRL, NL, FIN, S, UK

Greece 1999/0133, decision to refer: 22.12.1999  
Spain 1999/0146, termination: 1.7.1999  
France 1999/0006, decision to refer: 22.12.1999  
Ireland 1999/0106, termination: 1.7.1999  
Italy 1999/0077, decision to refer: 22.12.1999  
Luxembourg 1999/0020, decision to refer: 22.12.1999  
Netherlands 1999/0048, termination: 22.12.1999  
Austria 1999/0178, RO — sent: 15.11.1999  
Portugal 1999/0162, decision to refer: 22.12.1999  
Finland 1999/0203, termination: 22.12.1999  
United Kingdom 1999/0094, termination: 22.12.1999

31998L0054

Commission Directive 98/54/EC of 16 July 1998 amending Directives 71/250/EEC, 72/199/EEC, 73/46/EEC and repealing Directive 75/84/EEC (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, P, FIN, S, UK

Greece 1999/0288, termination: 22.12.1999  
Spain 1999/0298, termination: 22.12.1999  
France 1999/0214, termination: 1.7.1999  
Ireland 1999/0276, termination: 22.12.1999  
Luxembourg 1999/0224, termination: 1.7.1999  
Austria 1999/0321, LET — sent: 10.5.1999  
Portugal 1999/0310, LET — sent: 10.5.1999  
Finland 1999/0334, termination: 22.12.1999  
Sweden 1999/0328, termination: 22.12.1999  
United Kingdom 1999/0267, termination: 22.12.1999

31998L0060

Commission Directive 98/60/EC of 24 July 1998 amending Council Directive 74/63/EEC on the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs (Text with EEA relevance)

Member States which have notified implementing measures: all

Italy 1998/0516, termination: 22.12.1999  
Finland 1998/0523, termination: 1.7.1999

31998L0064

Commission Directive 98/64/EC of 3 September 1998 establishing Community methods of analysis for the determination of amino-acids, crude oils and fats, and olaquinox in feedingstuffs and amending Directive 71/393/EEC (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, P, FIN, S, UK

Belgium 1999/0034, termination: 1.7.1999  
Greece 1999/0136, termination: 22.12.1999  
France 1999/0009, termination: 1.7.1999  
Ireland 1999/0109, termination: 22.12.1999  
Italy 1999/0080, termination: 1.7.1999  
Netherlands 1999/0050, termination: 1.7.1999  
Austria 1999/0181, RO — sent: 15.11.1999

Portugal	1999/0164, termination: 22.12.1999	31998L0087
Finland	1999/0206, termination: 22.12.1999	
Sweden	1999/0195, termination: 22.12.1999	Commission Directive 98/87/EC of 13 November 1998 amending Directive 79/373/EEC on the marketing of compound feedingstuffs
United Kingdom	1999/0096, termination: 22.12.1999	
		Member States which have notified implementing measures: B, DK, D, I, NL, A, P, FIN, S
31998L0067		
Commission Directive 98/67/EC of 7 September 1998 amending Directives 80/511/EEC, 82/475/EEC, 91/357/EEC and Council Directive 96/25/EC and repealing Directive 92/87/EEC		
	Member States which have notified implementing measures: B, DK, D, E, I, NL, P, FIN, S	
Greece	1999/0137, decision to refer: 22.12.1999	Belgium 1999/0467, termination: 22.12.1999
Spain	1999/0149, termination: 1.7.1999	Greece 1999/0538, LET — sent: 20.8.1999
France	1999/0010, decision to refer: 22.12.1999	Spain 1999/0548, LET — sent: 20.8.1999
Ireland	1999/0110, decision to refer: 22.12.1999	France 1999/0445, LET — sent: 20.8.1999
Italy	1999/0081, termination: 22.12.1999	Ireland 1999/0519, LET — sent: 20.8.1999
Luxembourg	1999/0023, decision to refer: 22.12.1999	Italy 1999/0498, termination: 22.12.1999
Austria	1999/0182, RO — sent: 15.11.1999	Luxembourg 1999/0455, LET — sent: 20.8.1999
Portugal	1999/0165, termination: 22.12.1999	Netherlands 1999/0478, termination: 22.12.1999
Finland	1999/0207, termination: 22.12.1999	Portugal 1999/0562, termination: 22.12.1999
Sweden	1999/0196, termination: 22.12.1999	Finland 1999/0593, LET — sent: 20.8.1999
United Kingdom	1999/0097, decision to refer: 22.12.1999	Sweden 1999/0584, termination: 22.12.1999
		United Kingdom 1999/0507, LET — sent: 20.8.1999
31998L0068		31998L0088
Commission Directive 98/68/EC of 10 September 1998 laying down the standard document referred to in Article 9(1) of Council Directive 95/53/EC and certain rules for checks at the introduction into the Community of feedingstuffs from third countries		Commission Directive 98/88/EC of 13 November 1998 establishing guidelines for the microscopic identification and estimation of constituents of animal origin for the official control of feedingstuffs (Text with EEA relevance)
	Member States which have notified implementing measures: B, DK, D, E, F, IRL, L, NL, P, FIN, S	
31998L0068		Greece 1999/0650, LET — sent: 16.11.1999
Commission Directive 98/68/EC of 10 September 1998 laying down the standard document referred to in Article 9(1) of Council Directive 95/53/EC and certain rules for checks at the introduction into the Community of feedingstuffs from third countries		31999L0020
	Member States which have notified implementing measures: B, DK, D, E, NL, FIN, S, UK	Council Directive 1999/20/EC of 22 March 1999 amending Directives 70/524/EEC concerning additives in feedingstuffs, 82/471/EEC concerning certain products used in animal nutrition, 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition and 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector
Germany	1999/0365, LET — sent: 5.8.1999	
Greece	1999/0402, LET — sent: 5.8.1999	Member States which have notified implementing measures: B, DK, D, E, NL, P, FIN, S
France	1999/0339, LET — sent: 5.8.1999	
Ireland	1999/0389, LET — sent: 5.8.1999	31999L0027
Italy	1999/0374, RO: 22.12.1999	Commission Directive 1999/27/EC of 20 April 1999 establishing Community methods of analysis for the determination of amprolium, diclazuril and carbadox in feedingstuffs and amending Directives 71/250/EEC, 73/46/EEC and repealing Directive 74/203/EEC
Luxembourg	1999/0346, LET — sent: 5.8.1999	
Austria	1999/0422, LET — sent: 5.8.1999	
Portugal	1999/0415, LET — sent: 5.8.1999	
Finland	1999/0431, termination: 22.12.1999	
United Kingdom	1999/0380, termination: 22.12.1999	

Member States which have notified implementing measures: B, D, IRL, NL, UK

31999L0061

Commission Directive 99/61/EC of 18 June 1999 amending the Annexes to Council Directives 79/373/EEC and 96/25/EEC (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, I, S

31999L0076

Commission Directive 1999/76/EC of 23 July 1999 establishing a Community method of analysis for the determination of lasalocid sodium in feedingstuffs (Text with EEA relevance)

Member States which have notified implementing measures: B, IRL, NL, S

31999L0078

Commission Directive 1999/78/EC of 27 July 1999 amending Directive 95/10/EC (Text with EEA relevance)

Member States which have notified implementing measures: B, I, NL

31999L0079

Commission Directive 1999/79/EC of 27 July 1999 amending the third Commission Directive 72/199/EEC of 27 April 1972 establishing Community methods of analysis for the official control of feedingstuffs (Text with EEA relevance)

Member States which have notified implementing measures: B, IRL, NL, S

INDUSTRY

### Coordination of legislative activity, new approach, global approach

31993L0068

Council Directive 93/68/EEC of 22 July 1993 amending Directives 87/404/EEC (simple pressure vessels), 88/378/EEC (safety of toys), 89/106/EEC (construction products), 89/336/EEC (electromagnetic compatibility), 89/392/EEC (machinery), 89/686/EEC (personal protective equipment), 90/384/EEC (non-automatic weighing instruments), 90/385/EEC (active implantable medicinal devices), 90/396/EEC (appliances burning gaseous fuels), 91/263/EEC (telecommunications terminal equipment), 92/42/EEC (new hot-water boilers fired with liquid or gaseous fuels) and 73/23/EEC (electrical equipment designed for use within certain voltage limits)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, P, FIN, S, UK

Luxembourg 1994/0905, decision to refer: 1.7.1999

Austria 1997/0684, RO — sent: 27.5.1999

### Procedures for notifying national technical regulations

31998L0048

Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations

Member States which have notified implementing measures: B, DK, D, E, F, NL, A, FIN, S, UK

Greece 1999/0645, LET — sent: 16.11.1999

France 1999/0596, LET — sent: 16.11.1999

Ireland 1999/0635, LET — sent: 16.11.1999

Italy 1999/0624, LET — sent: 16.11.1999

Luxembourg 1999/0600, LET — sent: 16.11.1999

Portugal 1999/0662, LET — sent: 16.11.1999

### Chemicals, plastic, rubber

31989L0677

Council Directive 89/677/EEC of 21 December 1989 amending for the eighth time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the member states relating to restrictions on the marketing and use of certain dangerous substances and preparations

Member States which have notified implementing measures: all except Sweden (derogation)

31991L0338

Council Directive 91/338/EEC of 18 June 1991 amending for the 10th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

Member States which have notified implementing measures: all

31993L0015

Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses



Member States which have notified implementing measures: B, DE, DK, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France 1994/0449, Referral: 4.9.1998

31993L0018

Commission Directive 93/18/EEC of 5 April 1993 adapting for the third time to technical progress Council Directive 88/379/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations

Member States which have notified implementing measures: all

31993L0069

Commission Directive 93/69/EEC of 23 July 1993 adapting to technical progress Council Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilisers

Member States which have notified implementing measures: all

31993L0112

Commission Directive 93/112/EC of 10 December 1993 amending Commission Directive 91/155/EEC defining and laying down detailed arrangements for the system of specific information relating to dangerous preparations in implementation of Article 10 of Council Directive 88/379/EEC

Member States which have notified implementing measures: all

31994L0060

European Parliament and Council Directive 94/60/EC of 20 December 1994 amending for the 14th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

Member States which have notified implementing measures: all

31996L0028

Commission Directive 96/28/EC of 10 May 1996 adapting to technical progress Council Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilisers (Text with EEA relevance)

Member States which have notified implementing measures: all

31996L0055

Commission Directive 96/55/EC of 4 September 1996 adapting to technical progress for the 2nd time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (Text with EEA relevance)

Member States which have notified implementing measures: all

31996L0065

Commission Directive 96/65/EC of 11 October 1996 adapting to technical progress for the fourth time Council Directive 88/379/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations and modifying Directive 91/442/EEC on dangerous preparations the packaging of which must be fitted with child-resistant fastenings (Text with EEA relevance)

Member States which have notified implementing measures: all

31997L0010

Commission Directive 97/10/EC of 26 February 1997 adapting to technical progress for the 3rd time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (Text with EEA relevance)

Member States which have notified implementing measures: all

31997L0016

Directive 97/16/EC of the European Parliament and of the Council of 10 April 1997 amending for the 15th time Directive 76/769/EEC on restrictions on the marketing and use of certain dangerous substances and preparations

Member States which have notified implementing measures: all

31997L0056

Directive 97/56/EC of the European Parliament and of the Council of 20 October 1997 amending for the 16th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

Member States which have notified implementing measures: DK, DE, EL, E, F, I, L, A, P, FIN, S

Belgium 1999/0029, decision to refer: 22.12.1999

Ireland 1999/0102, decision to refer: 22.12.1999

Netherlands 1999/0042, decision to refer: 22.12.1999

United Kingdom 1999/0087, decision to refer: 22.12.1999

31997L0063

Directive 97/63/EC of the European Parliament and of the Council of 24 November 1997 amending Directives 76/116/EEC, 80/876/EEC, 89/284/EEC and 89/530/EEC on the approximation of the laws of the Member States relating to fertilisers

Member States which have notified implementing measures: B, DK, DE, EL, E, L, A, IRL, NL, P, FIN, S, UK

Italy 1998/0514, RO — sent: 21.5.1999, decision to refer: 22.12.1999

31997L0064

Commission Directive 97/64/EC of 10 November 1997 adapting to technical progress for the fourth time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (lamp oils) (Text with EEA relevance)

Member States which have notified implementing measures: all

31998L0003

Commission Directive 98/3/EC of 15 January 1998 adapting to technical progress Council Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilizers (Text with EEA relevance)

Member States which have notified implementing measures: B, DE, DK, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece 1999/0131, decision to refer: 22.12.1999

31998L0097

Directive 98/97/EC of the European Parliament and of the Council of 22 December 1998 amending Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilisers, as regards the marketing in Austria, Finland and in Sweden of fertilisers containing cadmium

Member States which have notified implementing measures: none

This Directive does not need to be transposed. It involves a derogation for Austria, Finland and Sweden.

31999L0011

Commission Directive 1999/11/EC of 8 March 1999 adapting to technical progress the principles of good laboratory practice as specified in Council Directive 87/18/EEC on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances.

Member States which have notified implementing measures: IRL, FIN, IT, L

31999L0012

Commission Directive 1999/12/EC of 8 March 1999 adapting to technical progress for the second time the Annex to Council Directive 88/320/EEC on the inspection and verification of good laboratory practice (GLP)

Member States which have notified implementing measures: IRL, FIN, IT, L

## Mechanical and electrical engineering

31984L0528

Council Directive 84/528/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to common provisions for lifting and mechanical handling appliances

Member States which have notified implementing measures: none

This Directive has been replaced by Directive 89/392/EEC

31989L0240

Commission Directive 89/240/EEC of 16 December 1988 adapting to technical progress Council Directive 86/663/EEC on the approximation of the laws of the Member States relating to self-propelled industrial trucks

This Directive has been replaced by Directive 89/392/EEC

31989L0392

Council Directive 89/392/EEC of 14 June 1989 on the approximation of the laws of the Member States relating to machinery

Member States which have notified implementing measures: all

31994L0009

Directive 94/9/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium 1995/0672, termination: 22.12.1999

Ireland 1995/0696, termination: 1.7.1999

31994L0026

Commission Directive 94/26/EC of 15 June 1994 adapting to technical progress Council Directive 79/196/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection

Member States which have notified implementing measures: all

31995L0016

European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts

Member States which have notified implementing measures: B, DK, EL, E, IRL, NL, A, P, FIN, S, UK

31993L0042

France 1997/0076, referral: 8.6.1999

Council Directive 93/42/EEC of 14 June 1993 concerning medical devices

Italy 1997/0098, termination: 13.10.1999

Luxembourg 1997/0108, referral: 8.6.1999

Member States which have notified implementing measures: all

31996L0058

Belgium 1994/0784, termination: 1.7.1999

Directive 96/58/EC of the European Parliament and the Council of 3 September 1996 amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment

31997L0023

Member States which have notified implementing measures: all

Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment

31997L0053

Member States which have notified implementing measures: B, DK, EL, E, NL, P, FIN, UK

Commission Directive 97/53/EC of 11 September 1997 adapting to technical progress Council Directive 79/196/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection (Text with EEA relevance)

Belgium 1999/0458, termination: 22.12.1999

Denmark 1999/0520, termination: 22.12.1999

Germany 1999/0479, LET — sent: 20.8.1999

Greece 1999/0529, termination: 22.12.1999

Ireland 1999/0509, LET — sent: 20.8.1999

Italy 1999/0489, LET — sent: 20.8.1999

Luxembourg 1999/0448, RO: 22.12.1999

Netherlands 1999/0469, termination: 22.12.1999

Austria 1999/0564, LET — sent: 20.8.1999

Portugal 1999/0550, termination: 22.12.1999

Finland 1999/0586, termination: 22.12.1999

Sweden 1999/0574, LET — sent: 20.8.1999

United Kingdom 1999/0500, termination: 22.12.1999

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece 1998/0334, termination: 1.7.1999

31998L0037

Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery

Member States which have notified implementing measures: B, A

31998L0079

### Pressure vessels, medical instruments and metrology

Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices

31984L0526

Member States which have notified implementing measures: none

Council Directive 84/526/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to seamless, unalloyed aluminium and aluminium alloy gas cylinders

### Construction

Member States which have notified implementing measures: all

31989L0106

31984L0527

Council Directive 84/527/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to welded unalloyed steel gas cylinders

Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products

Member States which have notified implementing measures: all

Member States which have notified implementing measures: all

<b>Food</b>	Italy	1997/0648, termination: 1.7.1999
	Portugal	1997/0702, termination: 13.10.1999
31993L0043		
Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs	31996L0011	
Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, NL, A, P, FIN, S, UK	Commission Directive 96/11/EC of 5 March 1996 amending Directive 90/128/EEC relating to plastic materials and articles intended to come into contact with foodstuffs (Text with EEA relevance)	
Greece	1996/0049 referral: 4.11.1998	
31995L0003	Member States which have notified implementing measures: all	
Commission Directive 95/3/EC of 14 February 1995 amending Directive 90/128/EEC relating to plastic materials and articles Intended to come into contact with foodstuffs	Portugal	1997/0249, termination: 28.7.1999
Member States which have notified implementing measures: all	Portugal	1999/0301, termination: 13.10.1999
Portugal	1996/0341, termination: 28.7.1999	
31996L0004	31996L0070	
Commission Directive 96/4/EC, Euratom of 16 February 1996 amending Directive 91/321/EEC on infant formulae and follow-on formulae (Text with EEA relevance)	Directive 96/70/EC of the European Parliament and of the Council of 28 October 1996 amending Council Directive 80/777/EEC on the exploitation and marketing of natural mineral waters	
Member States which have notified implementing measures: all	Member States which have notified implementing measures: all	
Italy	Belgium	1997/0544, termination: 1.7.1999
Portugal	France	1997/0623, termination: 1.7.1999
1997/0229, termination: 1.7.1999	Ireland	1997/0637, termination: 1.7.1999
1997/0248, termination: 22.12.1999	Italy	1997/0654, termination: 22.12.1999
31996L0005	Austria	1997/0691, termination: 22.12.1999
Commission Directive 96/5/EC, Euratom of 16 February 1996 on processed cereal-based foods and baby foods for infants and young children (Text with EEA relevance)	31996L0077	
Member States which have notified implementing measures: all	Commission Directive 96/77/EC of 2 December 1996 laying down specific purity criteria on food additives other than colours and sweeteners (Text with EEA relevance)	
Germany	1997/0571, termination: 13.10.1999	
Italy	1997/0647, termination: 1.7.1999	
Portugal	1997/0701, termination: 13.10.1999	
31996L0008	Member States which have notified implementing measures: all	
Commission Directive 96/8/EC of 26 February 1996 on foods intended for use in energy-restricted diets for weight reduction (Text with EEA relevance)	Ireland	1997/0364, termination: 1.7.1999
Member States which have notified implementing measures: all	Austria	1997/0419, termination: 1.7.1999
Germany	Portugal	1997/0435, termination: 1.7.1999
Ireland	1997/0572, termination: 13.10.1999	
1997/0631, termination: 1.7.1999	31996L0083	
	Directive 96/83/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 94/35/EC on sweeteners for use in foodstuffs	

Member States which have notified implementing measures: all

Portugal 1998/0076, termination: 1.7.1999

31996L0084

Directive 96/84/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses

Member States which have notified implementing measures: B, D, DK, E, EL, F, IRL, L, NL, A, P, FIN, S, UK

Greece 1997/0593, termination: 22.12.1999

Spain 1997/0608, termination: 1.7.1999

Italy 1997/0655, referral: 3.11.1999

Portugal 1997/0707, termination: 13.10.1999

31996L0085

Directive 96/85/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 95/2/EC on food additives other than colours and sweeteners

Member States which have notified implementing measures: all

Ireland 1997/0365, termination: 22.12.1999

Luxembourg 1997/0394, termination: 1.7.1999

Austria 1997/0421, termination: 1.7.1999

31997L0004

Directive 97/4/EC of the European Parliament and of the Council of 27 January 1997 amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs

Member States which have notified implementing measures: B, DK, E, EL, F, NL, A, P, FIN, S, UK

Belgium 1999/0227, termination: 22.12.1999

Germany 1999/0241, LET — sent: 10.5.1999

Spain 1999/0292, termination: 22.12.1999

Ireland 1999/0271, LET — sent: 10.5.1999

Italy 1999/0251, LET — sent: 10.5.1999

Austria 1999/0314, LET — sent: 10.5.1999

Portugal 1999/0303, termination: 13.10.1999

31997L0048

Commission Directive 97/48/EC of 29 July 1997 amending for the second time Council Directive 82/711/EEC laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs (Text with EEA relevance)

Member States which have notified implementing measures: all

Belgium 1998/0493, termination: 1.7.1999

Germany 1998/0501, termination: 1.7.1999

Greece 1998/0526, termination: 1.7.1999

Portugal 1998/0517, termination: 28.7.1999

31997L0060

Directive 97/60/EC of the European Parliament and of the Council of 27 October 1997 amending for the third time Directive 88/344/EEC on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients

Member States which have notified implementing measures: B, D, DK, E, EL, F, I, L, NL, A, P, FIN, S, UK

Denmark 1998/0577, termination: 1.7.1999

Germany 1998/0555, termination: 1.7.1999

Greece 1998/0580, termination: 1.7.1999

Spain 1998/0588, termination: 1.7.1999

Ireland 1998/0573, decision to refer: 22.12.1999

Italy 1998/0562, termination: 1.7.1999

Luxembourg 1998/0542, termination: 1.7.1999

Austria 1998/0604, termination: 1.7.1999

Portugal 1998/0595, termination: 1.7.1999

31998L0028

Commission Directive 98/28/EC of 29 April 1998 granting a derogation from certain provisions of Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport by sea of bulk raw sugar (Text with EEA relevance)

Member States which have notified implementing measures: B, D, DK, E, F, I, L, NL, A, P, FIN, S, UK

Germany 1998/0502, termination: 1.9.1999

Greece 1998/0527, RO — sent: 11.8.1999

France 1998/0499, termination: 22.12.1999

Ireland 1998/0508, decision to refer: 22.12.1999

Italy 1998/0515, termination: 1.7.1999

Luxembourg 1998/0496, termination: 1.7.1999

Austria 1998/0505, termination: 1.7.1999

Portugal 1998/0519, termination: 22.12.1999

Finland 1998/0522, termination: 1.7.1999

United Kingdom 1998/0510, termination: 1.7.1999



31998L0036

Commission Directive 98/36/EC of 2 June 1998 amending Directive 96/5/EC on processed cereal-based foods and baby foods for infants and young children (Text with EEA relevance)

Member States which have notified implementing measures: D, DK, E, EL, F, I, L, NL, A, P, FIN, S, UK

Belgium	1999/0032, RO: 22.12.1999
Germany	1999/0060, termination: 13.10.1999
Greece	1999/0132, termination: 1.7.1999
Spain	1999/0145, termination: 13.10.1999
France	1999/0005, termination: 13.10.1999
Ireland	1999/0105, decision to refer: 22.12.1999
Italy	1999/0076, termination: 1.7.1999
Luxembourg	1999/0019, termination: 1.7.1999
Austria	1999/0177, termination: 13.10.1999
Portugal	1999/0161, termination: 13.10.1999
Sweden	1999/0192, termination: 1.7.1999
United Kingdom	1999/0093, termination: 1.7.1999

31998L0066

Commission Directive 98/66/EC of 4 September 1998 amending Directive 95/31/EC laying down specific criteria of purity concerning sweeteners for use in foodstuffs

Member States which have notified implementing measures: B, DK, F, E, EL, I, L, NL, A, FIN, S, UK

Germany	1999/0487, LET — sent: 20.8.1999
France	1999/0443, termination: 22.12.1999
Ireland	1999/0517, LET — sent: 20.8.1999
Portugal	1999/0560, LET — sent: 20.8.1999
Finland	1999/0591, termination: 22.12.1999
Sweden	1999/0582, termination: 22.12.1999

31998L0086

Commission Directive 98/86/EC of 11 November 1998 amending Commission Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners

Member States which have notified implementing measures: B, DK, F, I, L, NL, FIN, S, UK

Belgium	1999/0466, termination: 22.12.1999
Germany	1999/0488, LET — sent: 20.8.1999

Greece	1999/0537, LET — sent: 20.8.1999
Spain	1999/0547, LET — sent: 20.8.1999
France	1999/0444, termination: 22.12.1999
Ireland	1999/0518, LET — sent: 20.8.1999
Italy	1999/0497, termination: 22.12.1999
Austria	1999/0572, LET — sent: 20.8.1999
Portugal	1999/0561, LET — sent: 20.8.1999
Finland	1999/0592, termination: 22.12.1999
Sweden	1999/0583, termination: 22.12.1999

31999L0010

Commission Directive 1999/10/EC of 8 March 1999 providing for derogations from the provisions of Article 7 of Council Directive 79/112/EEC as regards the labelling of foodstuffs (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, EL, NL, P, A, FIN, S, UK

Denmark	1999/0642, LET — sent: 16.11.1999
Germany	1999/0652, LET — sent: 16.11.1999
Greece	1999/0652, LET — sent: 16.11.1999
Spain	1999/0660, LET — sent: 16.11.1999
France	1999/0599, LET — sent: 16.11.1999
Ireland	1999/0638, LET — sent: 16.11.1999
Italy	1999/0630, LET — sent: 16.11.1999
Luxembourg	1999/0606, LET — sent: 16.11.1999
Netherlands	1999/0616, LET — sent: 16.11.1999
Austria	1999/0673, LET — sent: 16.11.1999
Portugal	1999/0668, LET — sent: 16.11.1999
Sweden	1999/0678, LET — sent: 16.11.1999

## Biotechnology

31993L0041

Council Directive 93/41/EEC of 14 June 1993 repealing Directive 87/22/EEC on the approximation of national measures relating to the placing on the market of high-technology medicinal products, particularly those derived from biotechnology

Member States which have notified implementing measures: all

## Pharmaceuticals and cosmetics

31987L0143

Commission Directive 87/143/EEC of 10 February 1987 amending the first Directive 80/1335/EEC on the approximation of the laws of the Member States relating to methods of analysis necessary for checking the composition of cosmetic products



Member States which have notified implementing measures: all	31992L0073
31989L0105	Council Directive 92/73/EEC of 22 September 1992 widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down additional provisions on homeopathic medicinal products.
Council Directive 89/105/EEC of 21 December 1988 relating to the transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of national health insurance systems	
Member States which have notified implementing measures: all	Member States which have notified implementing measures: all
31989L0341	31992L0074
Council Directive 89/341/EEC of 3 May 1989 amending Directives 65/65/EEC, 75/318/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products	Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products
Member States which have notified implementing measures: all	
31989L0342	Member States which have notified implementing measures: all except F
Council Directive 89/342/EEC of 3 May 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for immunological medicinal products consisting of vaccines, toxins or serums and allergens	France 1994/0177, RO 228 — sent: 19.7.1999
Member States which have notified implementing measures: all	31993L0035
31989L0343	Council Directive 93/35/EEC of 14 June 1993 amending for the sixth time Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products
Council Directive 89/343/EEC of 3 May 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for radiopharmaceuticals	Member States which have notified implementing measures: B, DK, EL, E, F, IRL, L, I, NL, A, P, FIN, S, UK
Member States which have notified implementing measures: all	France 1995/0500 referral: 7.9.1999
31989L0381	31993L0040
Council Directive 89/381/EEC of 14 June 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products and laying down special provisions for medicinal products derived from human blood or human plasma	Council Directive 93/40/EEC of 14 June 1993 amending Directives 81/851/EEC and 81/852/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products
Member States which have notified implementing measures: all	Member States which have notified implementing measures: all except F
31991L0507	France 1995/0293, LET 228 — sent: 19.7.1999
Commission Directive 91/507/EEC of 19 July 1991 modifying the Annex to Council Directive 75/318/EEC on the approximation of the laws of Member States relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of medicinal products	31995L0017
Member States which have notified implementing measures: all	Commission Directive 95/17/EC of 19 June 1995 laying down detailed rules for the application of Council Directive 76/768/EEC as regards the non-inclusion of one or more ingredients on the list used for the labelling of cosmetic products

Member States which have notified implementing measures: all	31997L0045
France	1996/0100, referral: 4.9.1998
31995L0032	21st Commission Directive 97/45/EC of 14 July 1997 adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)
Sixth Commission Directive 95/32/EC of 7 July 1995 relating to methods of analysis necessary for checking the composition of cosmetic products	Member States which have notified implementing measures: all
Member States which have notified implementing measures: all	31998L0016
31996L0041	22nd Commission Directive 98/16/EC of 5 March 1998 adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)
19th Commission Directive 96/41/EC of 25 June 1996 adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)	Member States which have notified implementing measures: all
Member States which have notified implementing measures: all	31998L0062
31996L0045	23rd Commission Directive 98/62/EC of 3 September 1998 adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)
Seventh Commission Directive 96/45/EC of 2 July 1996 relating to methods of analysis necessary for checking the composition of cosmetic products (Text with EEA relevance)	Member States which have notified implementing measures: D, EL, E, I, L, NL, A, P, FIN, S, UK
Member States which have notified implementing measures: all	Belgium
31997L0001	Denmark
20th Commission Directive 97/1/EC of 10 January 1997 adapting to technical progress Annexes II, III, VI and VII of Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)	France
Member States which have notified implementing measures: all	Ireland
31997L0018	1999/0464, RO: 22.12.1999
Commission Directive 97/18/EC of 17 April 1997 postponing the date after which animal tests are prohibited for ingredients or combinations of ingredients of cosmetic products (Text with EEA relevance)	1999/0528, LET — sent: 20.8.1999
Member States which have notified implementing measures: B, DK, EL, E, IRL, I, L, NL, P, FIN, UK	1999/0441, RO: 22.12.1999
Germany	1999/0515, LET — sent: 20.8.1999
France	
Austria	
Sweden	
	<b>Textiles, leather and clothing</b>
	31996L0073
	Directive 96/73/EC of the European Parliament and of the Council of 16 December 1996 on certain methods for the quantitative analysis of binary textile fibre mixtures
	Member States which have notified implementing measures: none
	31997L0037
	Commission Directive 97/37/EC of 19 June 1997 adapting to technical progress Annexes I and II to Directive 96/74/EC of the European Parliament and of the Council on textile names (Text with EEA relevance)

Member States which have notified implementing measures: all	31997L0029		
Belgium	1998/0291, termination: 1.7.1999		
Italy	1998/0393, termination: 22.12.1999		Commission Directive 97/29/EC of 11 June 1997 adapting to technical progress Council Directive 76/757/EEC relating to retro-reflectors for motor vehicles and their trailers (Text with EEA relevance)
Luxembourg	1998/0410, termination: 13.10.1999		
31994L11		Member States which have notified implementing measures: all	
Directive 94/11/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer.		Luxembourg	1998/0148, termination: 1.7.1999
Member States which have notified implementing measures: all	31997L0030		
		Commission Directive 97/30/EC of 11 June 1997 adapting to technical progress Council Directive 76/758/EEC relating to the end-outline marker lamps, front position (side) lamps, rear position (side) lamps and stop lamps for motor vehicles and their trailers (Text with EEA relevance)	
<b>Motor vehicles</b>		Member States which have notified implementing measures: all	
31997L0024		Luxembourg	1998/0149, termination: 1.7.1999
Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two- or three-wheel motor vehicles		31997L0031	
Member States which have notified implementing measures: B, DK, D, EL, E, FR, IRL, I, L, A, FIN, S, UK		Commission Directive 97/31/EC of 11 June 1997 adapting to technical progress Council Directive 76/760/EEC relating to the rear registration plate lamps for motor vehicles and their trailers (Text with EEA relevance)	
Germany	1999/0053, termination: 1.7.1999	Member States which have notified implementing measures: all	
Greece	1999/0122, termination: 1.7.1999		
Netherlands	1999/0038, decision to refer: 22.12.1999	Luxembourg	1998/0150, termination: 1.7.1999
Portugal	1999/0153, decision to refer: 22.12.1999		
Sweden	1999/0185, termination: 1.7.1999	31997L0032	
31997L0027		Commission Directive 97/32/EC of 11 June 1997 adapting to technical progress Council Directive 77/539/EEC relating to reversing lamps for motor vehicles and their trailers (Text with EEA relevance)	
Directive 97/27/EC of the European Parliament and of the Council of 22 July 1997 relating to the masses and dimensions of certain categories of motor vehicles and their trailers and amending Directive 70/156/EEC		Member States which have notified implementing measures: all	
Member States which have notified implementing measures: all		Italy	1998/0144, termination: 2.12.1998
		Luxembourg	1998/0151, termination: 1.7.1999
31997L0028		31997L0039	
Commission Directive 97/28/EC of 11 June 1997 adapting to technical progress Council Directive 76/756/EEC relating to the installation of lighting and light-signalling devices on motor vehicles and their trailers (Text with EEA relevance)		Commission Directive 97/39/EC of 24 June 1997 adapting to technical progress Council Directive 75/443/EEC of 26 June 1975 relating to the reverse and speedometer equipment of motor vehicles (Text with EEA relevance)	
Member States which have notified implementing measures: all		Member States which have notified implementing measures: all	
Luxembourg	1998/0147, termination: 1.7.1999	Luxembourg	1998/0538, termination: 1.7.1999

31997L0054

Directive 97/54/EC of the European Parliament and of the Council of 23 September 1997 amending, as regards the maximum design speed of wheeled agricultural or forestry tractors, Council Directives 74/150/EEC, 74/151/EEC, 74/152/EEC, 74/346/EEC, 74/347/EEC, 75/321/EEC, 75/322/EEC, 76/432/EEC, 76/763/EEC, 77/311/EEC, 77/537/EEC, 78/764/EEC, 78/933/EEC, 79/532/EEC, 79/533/EEC, 80/720/EEC, 86/297/EEC, 86/415/EEC and 89/173/EEC

Member States which have notified implementing measures: B, DK, D, E, FR, IRL, IT, L, NL, A, FIN, S, UK

Greece	1998/0581, decision to refer: 22.12.1999
France	1998/0531, termination: 1.7.1999
Netherlands	1999/0041, RO — sent: 10.8.1999
Austria	1998/0602, termination: 22.12.1999
Portugal	1998/0593, decision to refer: 22.12.1999

31998L0012

Commission Directive 98/12/EC of 27 January 1998 adapting to technical progress Council Directive 71/320/EEC on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, EL, E, FR, IRL, I, L, NL, A, FIN, S, UK

Germany	1999/0244, termination: 22.12.1999
Greece	1999/0284, termination: 22.12.1999
Austria	1999/0316, termination: 22.12.1999
Portugal	1999/0305, LET — sent: 10.5.1999
Sweden	1999/0324, LET — sent: 10.5.1999

31998L0014

Commission Directive 98/14/EC of 6 February 1998 adapting to technical progress Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, EL, ESP, F, IRL, IT, L, AUT, FIN, S, UK

Denmark	1998/0578, termination: 1.7.1999
Germany	1998/0556, RO — sent: 14.7.1999
Netherlands	1998/0550, decision to refer: 22.12.1999
Austria	1998/0605, termination: 22.12.1999
Portugal	1998/0596, decision to refer: 22.12.1999

31998L0038

Commission Directive 98/38/EC of 3 June 1998 adapting to technical progress Council Directive 74/151/EEC on certain components and characteristics of wheeled agricultural or forestry tractors (Text with EEA relevance)

Member States which have notified implementing measures: A, E, FR, IRL, IT, L, NL, A, FIN, S,

31998L0039

Commission Directive 98/39/EC of 5 June 1998 adapting to technical progress Council Directive 75/321/EEC relating to the steering equipment of wheeled agricultural or forestry tractors (Text with EEA relevance)

Member States which have notified implementing measures: DK, D, EL, E, FR, IRL, I, L, NL, A, FIN, S

Belgium	1999/0351, LET — sent: 5.8.1999
Denmark	1999/0392, termination: 22.12.1999
Germany	1999/0363, termination: 22.12.1999
Greece	1999/0400, termination: 22.12.1999
Ireland	1999/0387, termination: 22.12.1999
Italy	1999/0371, termination: 22.12.1999
Luxembourg	1999/0344, LET — sent: 5.8.1999
Netherlands	1999/0357, termination: 22.12.1999
Austria	1999/0420, termination: 22.12.1999
Portugal	1999/0412, LET — sent: 5.8.1999
Finland	1999/0429, LET — sent: 5.8.1999
United Kingdom	1999/0378, LET — sent: 5.8.1999

31998L0040

Commission Directive 98/40/EC of 8 June 1998 adapting to technical progress Council Directive 74/346/EEC relating to rear-view mirrors for wheeled agricultural or forestry tractors (Text with EEA relevance)

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, NL, A, FIN, S

Belgium	1999/0352, LET — sent: 5.8.1999
Denmark	1999/0393, termination: 22.12.1999
Germany	1999/0364, termination: 22.12.1999
Greece	1999/0401, termination: 22.12.1999
Ireland	1999/0388, termination: 22.12.1999

Italy	1999/0372, termination: 22.12.1999	31998L0090
Luxembourg	1999/0345, LET — sent: 5.8.1999	
Netherlands	1999/0358, termination: 22.12.1999	Commission Directive 98/90/EC of 30 November 1998 adapting to technical progress Council Directive 70/387/EEC relating to the doors of motor vehicles and their trailers (Text with EEA relevance)
Austria	1999/0421, termination: 22.12.1999	
Portugal	1999/0413, LET — sent: 5.8.1999	
Finland	1999/0430, LET — sent: 5.8.1999	
Sweden	1999/0426, termination: 22.12.1999	Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, NL, A, S, UK
United Kingdom	1999/0379, LET — sent: 5.8.1999	
31998L0069		Belgium 1999/0037, decision to refer: 22.12.1999
Directive 98/69/EC of the European Parliament and of the Council of 13 October 1998 relating to measures to be taken against air pollution by emissions from motor vehicles and amending Council Directive 70/220/EEC		Denmark 1999/0120, termination: 1.7.1999
Member States which have notified implementing measures: DK, D, E, IRL, L, A, FIN, S, UK		Germany 1999/0066, termination: 1.7.1999
31998L0077		Greece 1999/0139, LET — sent: 12.3.1999
Commission Directive 98/77/EC of 2 October 1998 adapting to technical progress Council Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles		Spain 1999/0151, termination: 1.7.1999
Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, A, FIN, S, UK		Ireland 1999/0112, termination: 13.10.1999
31999L0007		Italy 1999/0083, termination: 13.10.1999
Commission Directive 98/77/EC of 2 October 1998 adapting to technical progress Council Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles		Luxembourg 1999/0025, decision to refer: 22.12.1999
Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, A, FIN, S, UK		Netherlands 1999/0052, termination: 22.12.1999
31998L0089		Austria 1999/0184, termination: 22.12.1999
Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)		Portugal 1999/0167, decision to refer: 22.12.1999
Member States which have notified implementing measures: DK, D, E, F, I, L, A, FIN		Sweden 1999/0198, termination: 22.12.1999
31998L0089		United Kingdom 1999/0099, termination: 1.7.1999
Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)		31999L0007
Member States which have notified implementing measures: DK, D, E, F, I, L, A, FIN		Commission Directive 1999/7/EC of 26 January 1999 adapting to technical progress Council Directive 70/311/EEC relating to the steering equipment for motor vehicles and their trailers (Text with EEA relevance)
31998L0089		Member States which have notified implementing measures: DK, D, E, F, IRL, I, L, NL, A, FIN, S, UK
Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)		Belgium 1999/0468, LET — sent: 20.8.1999
Member States which have notified implementing measures: DK, D, E, F, I, L, A, FIN		Greece 1999/0539, LET — sent: 20.8.1999
31998L0089		Spain 1999/0549, termination: 22.12.1999
Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)		France 1999/0446, termination: 22.12.1999
Member States which have notified implementing measures: DK, D, E, F, I, L, A, FIN		Italy 1999/0499, termination: 22.12.1999
31998L0089		Luxembourg 1999/0456, LET — sent: 20.8.1999
Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)		Austria 1999/0573, termination: 22.12.1999
Member States which have notified implementing measures: DK, D, E, F, I, L, A, FIN		Portugal 1999/0563, LET — sent: 20.8.1999
31998L0089		Finland 1999/0594, termination: 22.12.1999
Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)		Sweden 1999/0585, LET — sent: 20.8.1999
Member States which have notified implementing measures: DK, D, E, F, I, L, A, FIN		United Kingdom 1999/0508, termination: 22.12.1999

31999L0014

Commission Directive 1999/14/EC of 16 March 1999 adapting to technical progress Council Directive 77/538/EEC relating to rear fog lamps for motor vehicles and their trailers (Text with EEA relevance)

Member States which have notified implementing measures: DK, D, E, F, IRL, NL, A, UK

31999L0015

Commission Directive 1999/15/EC of 16 March 1999 adapting to technical progress Council Directive 76/759/EEC relating to rear fog lamps for motor vehicles and their trailers (Text with EEA relevance)

Member States which have notified implementing measures: DK, D, E, F, IRL, NL, A, UK

31999L0016

Commission Directive 1999/16/EEC of 16 March 1999 adapting to technical progress Council Directive 77/540/EEC relating to parking lamps for motor vehicles

Member States which have notified implementing measures: DK, D, E, F, IRL, NL, A, UK

31999L0017

Commission Directive 1999/17/EC of 18 March 1999 adapting to technical progress Council Directive 76/761/EEC relating to motor vehicle headlamps which function as main-beam and/or dipped-beam headlamps and to incandescent electric filament lamps for such headlamps

Member States which have notified implementing measures: DK, D, E, F, IRL, NL, A, UK

3199L0023

Commission Directive 1999/23/EC of 9 April 1999 adapting to technical progress Council Directive 93/33/EEC on protective devices intended to prevent the unauthorised use of two- or three-wheel motor vehicles

Member States which have notified implementing measures: DK, D, E, F, IRL, I, NL, A, S, UK

31999L0024

Commission Directive 1999/24/EC of 9 April 1999 adapting to technical progress Council Directive 93/32/EEC on passenger handholds on two-wheel motor vehicles

Member States which have notified implementing measures: DK, D, E, F, IRL, I, NL, A, S, UK

31999L0025

Commission Directive 1999/25/EC of 9 April 1999 adapting to technical progress Council Directive 93/34/EEC on statutory markings for two- or three-wheel motor vehicles

Member States which have notified implementing measures: DK, D, E, F, IRL, I, NL, A, S, UK

31999L0026

Commission Directive 1999/26/EC of 20 April 1999 adapting to technical progress Council Directive 93/94/EEC relating to the space for mounting the rear registration plate of two or three-wheel motor vehicles (Text with EEA relevance)

Member States which have notified implementing measures: DK, D, E, F, IRL, I, NL, A, S, UK

COMPETITION

**Telecommunications**

31996L0002

Commission Directive 96/2/EC of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications

Member States which have notified implementing measures: all

31996L0019

Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets

Member States which have notified implementing measures: all

Portugal 1997/2219, RO — sent: 4.3.1999, termination: 22.12.1999

EMPLOYMENT AND SOCIAL AFFAIRS

31980L0987

Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer

Member States which have notified implementing measures: all

31986L0188

Council Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work



Member States which have notified implementing measures: all	31991L0382
31986L0378	Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)
Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes	Member States which have notified implementing measures: all
Member States which have notified implementing measures: D, DK, E, EL, F, IRL, A, NL, P, FIN, S, UK, L	31992L0029
31988L0035	Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels
Commission Directive 88/35/EEC of 2 December 1987 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp	Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, A, P, FIN, S, UK
Member States which have notified implementing measures: all	Luxembourg 1995/0142, RO 228 — sent: 23.7.1999, second decision to refer: 22.12.1999
31989L0391	31992L0085
Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work	Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (10th individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Member States which have notified implementing measures: all	Member States which have notified implementing measures: all
31989L0654	31993L0103
Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (13th individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Member States which have notified implementing measures: all	Member States which have notified implementing measures: all
31989L0655	31993L0104
Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time
Member States which have notified implementing measures: all	Member States which have notified implementing measures: B, DK, D, EL, IRL, NL, A, P, FIN, S, UK
31989L0656	Greece 1997/0046, termination: 22.12.1999
Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	France 1997/0074, decision to refer: 2.12.1998, referral: 16.2.1999
Member States which have notified implementing measures: all	Italy 1997/0095, decision to refer: 24.6.1998, referral: 26.10.1998
	Luxembourg 1997/0106, decision to refer: 2.12.1998, referral: 16.2.1999

31994L0033

Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, S, UK

France 1996/0952, referral: 16.2.1999

Italy 1996/0994, termination: 22.12.1999

Luxembourg 1996/1011, referral: 16.2.1999

United Kingdom 1996/1064, termination: 2.12.1998

Member States which have notified implementing measures: B, DK, D, EL, E, F, I, L, NL, A, P, FIN, S, UK

Belgium 1999/0026, termination: 28.7.1999

Greece 1999/0121, termination: 1.7.1999

Ireland 1999/0100, RO — sent: 18.10.1999

Italy 1999/0067, termination: 22.12.1999

Portugal 1999/0152, termination: 1.7.1999

31996L0034

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

31994L0045

Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, A, P, FIN, S

Luxembourg 1996/1012, referral: 30.11.1998

Portugal 1996/1039, termination: 22.12.1999

Member States which have notified implementing measures: B, D, DK, EL, E, F, IRL, L, NL, P, A, FIN, S

Italy 1998/0386, decision to refer: 1.7.1999, referral: 23.11.1999

Portugal 1998/0441, termination: 22.12.1999

31996L0071

Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

31995L0030

Commission Directive 95/30/EC of 30 June 1995 adapting to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, L, NL, P, FIN, S, UK

Italy 1997/0100, decision to refer: 24.6.1998, referral: 3.12.1998

Austria 1997/0139, decision to refer: 1.7.1999, referral: 10.12.1999

Member States which have notified implementing measures: E, S, DK, D

31996L0094

Commission Directive 96/94/EC of 18 December 1996 establishing a second list of indicative limit values in implementation of Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (Text with EEA relevance)

Member States which have notified implementing measures: all

Italy 1998/0390, termination: 22.12.1999

Austria 1998/0427, termination: 22.12.1999

31995L0063

Council Directive 95/63/EC of 5 December 1995 amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

31996L0097

Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

Member States which have notified implementing measures: B, DK, D, E, IRL, I, NL, A, P, FIN, S, UK, L

Greece 1997/0320, referral: 15.12.1998

France 1997/0354, 228 LET: 12.1.2000

Luxembourg 1997/0396, referral: 3.12.1998

31997L0059

Commission Directive 97/59/EC of 7 October 1997 adapting to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Text with EEA relevance)

Member States which have notified implementing measures: B, D, DK, E, EL, F, IRL, L, NL, P, FIN, S, UK

Belgium 1998/0166, termination: 28.7.1999

Italy 1998/0221, referral: 16.8.1999

Luxembourg 1998/0230, termination: 13.10.1999

Austria 1998/0244, decision to refer: 22.12.1999

31997L0065

Commission Directive 97/65/EC of 26 November 1997 adapting, for the third time, to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, EL, E, F, NL, L, A, P, FIN, S, UK

Belgium 1998/0295, termination: 28.7.1999

Ireland 1998/0397, referral: 16.8.1999

Italy 1998/0397, referral: 16.8.1999

Luxembourg 1998/0414, termination: 13.10.1999

31997L0074

Council Directive 97/74/EC of 15 December 1997 extending to the United Kingdom of Great Britain and Northern Ireland Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Member States which have notified implementing measures: E, B

31997L0075

Council Directive 97/75/EC of 15 December 1997 amending and extending to the United Kingdom of Great Britain and Northern Ireland Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

Member States which have notified implementing measures: none

31998L0059

Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies

Member States which have notified implementing measures: all

United Kingdom 1989/0536, termination: 22.12.1999

31998L0065

Commission Directive 98/65/EC of 3 September 1998 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp (Text with EEA relevance)

Member States which have notified implementing measures: F

TRANSPORT

### Land, road and inland waterway transport

31996L0050

Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community

Member States which have notified implementing measures: B, D, L, A, P, UK

Italy 1998/0559, decision to refer: 22.12.1999

Netherlands 1998/0236, RO — sent: 10.8.1999

31998L0076

Council Directive 98/76/EC of 1 October 1998 amending Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations

Member States which have notified implementing measures: DK, E, IRL, NL, P, FIN, UK

**Land transport, safety and technology**

31991L0439

Council Directive 91/439/EEC of 29 July 1991 on driving licences

Member States which have notified implementing measures: all

France 1996/2216, termination: 1.7.1999

31995L0050

Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road

Member States which have notified implementing measures: B, DK, D, EL, E, F, I, L, NL, A, P, FIN, S, UK

Ireland 1997/0506, referral: 20.9.1999

31996L0035

Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway

Member States which have notified implementing measures: B, DK, D, E, F, NL, A, UK

31996L0047

Council Directive 96/47/EC of 23 July 1996 amending Directive 91/439/EEC on driving licences

Member States which have notified implementing measures: all

Greece 1998/0119, termination: 1.7.1999

31996L0053

Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic

Member States which have notified implementing measures: B, DK, EL, E, F, I, L, NL, A, P, FIN, S, UK

Germany 1997/0574, referral: 7.10.1999

Ireland 1997/0633, referral: 11.1.2000

Netherlands 1997/0673, termination: 21.4.1999

31999L0047

Commission Directive 1999/47/EC of 21 May 1999 adapting for the second time to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

Member States which have notified implementing measures: B, DK, D, E, I, NL, A, FIN, UK

**Rail transport**

31995L0018

Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings

Member States which have notified implementing measures: all

Belgium 1997/0261, termination: 21.4.1999

France 1997/0339, withdrawal: 9.2.1999

Ireland 1997/0357, withdrawal: 23.8.1999

Italy 1997/0370, withdrawal: 28.7.1999

Luxembourg 1997/0383, withdrawal: 26.8.1999

31995L0019

Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees

Member States which have notified implementing measures: all

Belgium 1997/0262, termination: 21.4.1999

France 1997/0340, termination: 21.4.1999

Ireland 1997/0358, withdrawal: 1.2.1999

Italy 1997/0371, withdrawal: 28.7.1999

Luxembourg 1997/0384, withdrawal: 30.9.1999

United Kingdom 1997/0463, termination: 1.7.1999

31996L0048

Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system

Member States which have notified implementing measures: DK, D, I

Belgium 1999/0349, RO: 22.12.1999

Greece 1999/0396, RO: 22.12.1999

Spain 1999/0405, RO: 22.12.1999

France 1999/0337, RO: 22.12.1999

Ireland 1999/0383, RO: 22.12.1999

Netherlands 1999/0355, LET — sent: 5.8.1999

Austria 1999/0418, RO: 22.12.1999  
 Portugal 1999/0407, RO: 22.12.1999  
 Finland 1999/0428, RO: 22.12.1999  
 Sweden 1999/0424, RO: 22.12.1999  
 United Kingdom 1999/0377, RO: 22.12.1999

31996L0049

Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail

Member States which have notified implementing measures: B, DK, D, E, F, I, L, NL, A, P, FIN, S, UK\*

Greece 1999/0397, RO: 22.12.1999  
 Ireland 1999/0384, RO: 22.12.1999  
 Portugal 1999/0408, RO: 22.12.1999

31996L0086

Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, F, I, L, NL, A, P, FIN, S, UK

Greece 1998/0022, decision to refer: 1.7.1999  
 Ireland 1998/0045, decision to refer: 28.7.1999  
 United Kingdom 1998/0094, termination: 1.7.1999

31996L0087

Commission Directive 96/87/EC of 13 December 1996 adapting to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, F, I, L, NL, A, FIN, S, UK

Greece 1999/0398, RO: 22.12.1999,  
 Ireland 1999/0385, RO: 22.12.1999,  
 Portugal 1999/0409, RO: 22.12.1999,

31996L0096

Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers

Member States which have notified implementing measures: all

Belgium 1998/0165, termination: 21.4.1999  
 Greece 1998/0191, termination: 13.10.1999

Ireland 1998/0212, termination: 21.4.1999  
 Italy 1998/0220, termination: 21.4.1999

31997L0026

Council Directive 97/26/EC of 2 June 1997 amending Directive 91/439/EEC on driving licences

Member States which have notified implementing measures: all

Greece 1998/0121, termination: 1.7.1999  
 France 1998/0133, termination: 21.4.1999  
 Ireland 1998/0142, termination: 22.12.1999  
 Portugal 1999/2022, termination: 1.7.1999  
 Italy 1999/2023, termination: 1.7.1999

31999L0048

Commission Directive 1999/48/EC of 21 May 1999 adapting for the second time to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, E, NL, A, FIN, UK

31993L0065

Council Directive 93/65/EEC of 19 July 1993 on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems

Member States which have notified implementing measures: all

#### Air transport: safety and social aspects

31994L0056

Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, NL, A, P, FIN, S, UK

Belgium 1997/0020, termination: 1.7.1999

Greece 1997/0047, referral: 21.12.1999

France 1997/0075, termination: 1.7.1999

Italy 1997/0096, termination: 1.7.1999

Luxembourg 1997/0107, referral: 19.4.1999

Netherlands 1997/0119, termination: 21.4.1999

Austria 1997/0136, termination: 22.12.1999

31997L0015

97/15/CE. Commission Directive 97/15/EC of 25 March 1997 adopting Eurocontrol standards and amending Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems (Text with EEA relevance).

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, I, L, NL, P, A, FIN, S, UK

Germany	1998/0015, RO: 24.6.1998
Greece	1998/0025, termination: 21.4.1999
Austria	1998/0071, termination: 1.7.1999

#### **Air transport: airport policy, environment**

31980L0051

Council Directive 80/51/EEC of 20 December 1979 on the limitation of noise emissions from subsonic aircraft

Member States which have notified implementing measures: all

United Kingdom	1995/2031, termination: 1.7.1999
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31996L0067

Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, UK

Belgium	1997/0543, decision to refer: 13.10.1999
Greece	1997/0591, termination: 21.4.1999
Spain	1997/0606, termination: 13.10.1999
Ireland	1997/0636, termination: 21.4.1999
Italy	1997/0653, termination: 1.7.1999
Luxembourg	1997/0667, termination: 28.7.1999
Portugal	1997/0705, withdrawal: 13.9.1999
Sweden	1997/0740, decision to refer: 28.7.1999

31998L0020

Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

Member States which have notified implementing measures: B, DK, F, I, NL, FIN, S, UK

Germany	1999/0246, RO — sent: 22.10.1999
Greece	1999/0286, RO — sent: 4.11.1999
Spain	1999/0295, RO — sent: 21.10.1999
France	1999/0212, termination: 13.10.1999
Ireland	1999/0274, RO — sent: 21.10.1999
Italy	1999/0255, termination: 22.12.1999
Luxembourg	1999/0221, RO — sent: 21.10.1999
Netherlands	1999/0236, termination: 22.12.1999
Austria	1999/0318, termination: 13.10.1999
Portugal	1999/0307, RO — sent: 9.11.1999
Sweden	1999/0326, termination: 13.10.1999
United Kingdom	1999/0265, termination: 13.10.1999

31999L0028

Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

Member States which have notified implementing measures: DK, F, I, NL, FIN, S, UK

#### **Sea transport: safety and technical aspects**

31995L0021

Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

Member States which have notified implementing measures: all except I

Italy	1996/0997, Judgment: 11.11.1999
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31996L0039

Commission Directive 96/39/EC of 19 June 1996 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (Text with EEA relevance)



Member States which have notified implementing measures: all except L		31997L0058		
Belgium	1997/0480, termination: 1.7.1999		Commission Directive 97/58/EC of 26 September 1997 amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisation and for the relevant activities of maritime administrations (Text with EEA relevance)	
Luxembourg	1997/2199, RO — sent: 14.12.1998			
United Kingdom	1997/0537, termination: 1.7.1999			
Portugal	1997/0525, termination: 21.4.1999			
			Member States which have notified implementing measures: all except L	
31996L0098		Germany	1998/0554, termination: 1.7.1999	
		Spain	1998/0589, termination: 21.4.1999	
Council Directive 96/98/EEC of 20 December 1996 on marine equipment		France	1998/0532, termination: 1.7.1999	
		Luxembourg	1998/0541, RO — sent: 23.7.1999	
Member States which have notified implementing measures: all except L		Netherlands	1998/0549, termination: 21.4.1999	
		Austria	1998/0603, termination: 1.7.1999	
Belgium	1998/0289, termination: 21.4.1999	Portugal	1998/0594, termination: 21.4.1999	
Denmark	1998/0300, termination: 1.7.1999	United Kingdom	1998/0568, termination: 13.10.1999	
Spain	1998/0343, termination: 1.7.1999			
Ireland	1998/0374, termination: 21.4.1999	31997L0070		
Italy	1998/0391, decision to refer: 1.7.1999		Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over	
Luxembourg	1998/0408, RO — sent: 4.5.1999			
Netherlands	1998/0420, termination: 21.4.1999			
Austria	1998/0428, termination: 13.10.1999		Member States which have notified implementing measures: B, DK, D, EL, E, IRL	
Portugal	1998/0447, termination: 1.7.1999	Germany		1999/0057, termination: 1.7.1999
Finland	1998/0462, termination: 21.4.1999	Spain		1999/0143, termination: 13.10.1999
Sweden	1998/0475, termination: 13.10.1999	France		1999/0002, decision to refer: 22.12.1999
United Kingdom	1998/0488, termination: 13.10.1999	Italy		1999/0072, decision to refer: 22.12.1999
31997L0034		Luxembourg		1999/0016, RO — sent: 14.7.1999
Commission Directive 97/34/EC of 6 June 1997 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (Text with EEA relevance)		Netherlands		1999/0044, decision to refer: 22.12.1999
		Austria		1999/0175, RO — sent: 30.7.1999
Member States which have notified implementing measures: all except L		Portugal	1999/0158, decision to refer: 22.12.1999	
		Finland	1999/0200, RO: 22.12.1999	
Belgium	1997/0551, termination: 1.7.1999	Sweden	1999/0188, RO — sent: 21.10.1999	
Italy	1997/0661, termination: 1.7.1999	United Kingdom	1999/0090, RO — sent: 2.8.1999	
Luxembourg	1997/2199, RO — sent: 14.12.1998			
United Kingdom	1997/0761, termination: 1.7.1999	31998L0018		
Portugal	1997/0713, termination: 21.4.1999		Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships	

Member States which have notified implementing measures: B, D, EL, E, IRL

Denmark	1999/0639, LET — sent: 16.11.1999
Germany	1999/0245, termination: 22.12.1999
Greece	1999/0285, termination: 13.10.1999
Spain	1999/0294, termination: 13.10.1999
France	1999/0211, SLET 22.12.1999
Italy	1999/0254, SLET 22.12.1999
Luxembourg	1999/0220, RO: 22.12.1999
Netherlands	1999/0235, RO: 22.12.1999
Austria	1999/0317, RO: 22.12.1999
Portugal	1999/0306, SLET 22.12.1999
Finland	1999/0331, RO: 22.12.1999
Sweden	1999/0325, RO: 22.12.1999
United Kingdom	1999/0264, SLET 22.12.1999

31998L0025

Commission Directive 98/25/EC of 27 April 1998 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, FIN, S, UK

Italy	1999/0369, RO: 22.12.1999
Netherlands	1999/0356, termination: 13.10.1999
Portugal	1999/0411, LET — sent: 5.8.1999

31998L0041

Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, FIN, UK

France	1999/0213, RO: 22.12.1999
Luxembourg	1999/0222, RO: 22.12.1999
Netherlands	1999/0237, RO: 22.12.1999
Austria	1999/0319, LET — sent: 10.5.1999
Portugal	1999/0308, RO: 22.12.1999
Sweden	1999/0327, RO: 22.12.1999

31998L0042

Commission Directive 98/42/EC of 19 June 1998 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (Text with EEA relevance)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, FIN, S, UK

Italy	1999/0373, RO: 22.12.1999
Netherlands	1999/0359, termination: 13.10.1999
Portugal	1999/0414, LET — sent: 5.8.1999

31998L0055

Council Directive 98/55/EC of 17 July 1998 amending Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods

Member States which have notified implementing measures: B, DK, D, EL, E, F, I, IRL, NL, A, FIN, S, UK

Denmark	1999/0117, termination: 1.7.1999
Spain	1999/0147, termination: 1.7.1999
France	1999/0007, termination: 1.7.1999
Ireland	1999/0107, termination: 1.7.1999
Italy	1999/0078, termination: 1.7.1999
Luxembourg	1999/0021, RO: 22.12.1999
Netherlands	1999/0049, termination: 1.7.1999
Austria	1999/0179, termination: 1.7.1999
Portugal	1999/0163, RO — sent: 23.7.1999
United Kingdom	1999/0095, termination: 13.10.1999

31998L0074

Commission Directive 98/74/EC of 1 October 1998 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, NL, S

31998L0085

Commission Directive 98/85/EC of 11 November 1998 amending Council Directive 96/98/EC on marine equipment (Text with EEA relevance)

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, A, P, FIN, S, UK

Belgium	1999/0354, LET — sent: 5.8.1999
Denmark	1999/0395, termination: 22.12.1999
Germany	1999/0367, termination: 22.12.1999
Greece	1999/0404, termination: 22.12.1999
France	1999/0341, termination: 22.12.1999
Italy	1999/0376, termination: 22.12.1999
Luxembourg	1999/0348, LET — sent: 5.8.1999
Netherlands	1999/0361, RO — sent: 27.1.2000
Portugal	1999/0417, termination: 22.12.1999
Finland	1999/0433, termination: 22.12.1999
United-Kingdom	1999/0382, termination: 13.10.1999

31998L0035

Council Directive 98/35/EC of 25 May 1998 amending Directive 94/58/EC on the minimum level of training of seafarers

Member States which have notified implementing measures: DK, D, IRL, FIN, UK

Belgium	1999/0462, RO: 22.12.1999
Denmark	1999/0525, termination: 22.12.1999
Germany	1999/0480, termination: 22.12.1999
Greece	1999/0534, LET — sent: 20.8.1999
Spain	1999/0543, RO: 22.12.1999
France	1999/0438, RO: 22.12.1999
Italy	1999/0493, RO: 22.12.1999
Luxembourg	1999/0452, RO: 22.12.1999
Netherlands	1999/0474, LET — sent: 20.8.1999
Austria	1999/0565, RO: 22.12.1999
Portugal	1999/0555, RO: 22.12.1999
Finland	1999/0590, termination: 22.12.1999
Sweden	1999/0578, RO: 22.12.1999

TELEVISION WITHOUT FRONTIERS

31997L0036

Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

Member States which have notified implementing measures: DK, E, IRL, P, FIN, S

Belgium	1999/0027, LET — sent: 12.3.1999
Germany	1999/0054, RO — sent: 16.8.1999, decision to refer: 22.12.1999
Greece	1999/0123, RO — sent: 3.8.1999, decision to refer: 22.12.1999
Spain	1999/0140, LET — sent: 12.13.1999, termination: 1.7.1999
France	1999/0001, RO — sent: 9.7.1999, decision to refer: 22.12.1999
Ireland	1999/0101, RO — sent: 4.7.1999
Italy	1999/0068, RO — sent: 4.8.1999, decision to refer: 22.12.1999
Luxembourg	1999/0013, RO — sent: 9.7.1999, decision to refer: 22.12.1999
Netherlands	1999/0039, RO — sent: 9.7.1999, decision to refer: 22.12.1999
Austria	1999/0170, RO — sent: 6.8.1999, decision to refer: 22.12.1999
United Kingdom	1999/0085, RO — sent: 9.7.1999, decision to refer: 22.12.1999

ENVIRONMENT

**General**

31997L0011

Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment

Member States which have notified implementing measures: B, DK, EL, NL, A, P, FIN, S, UK

Belgium	1999/0350, RO: 22.12.1999
Denmark	1999/0391, LET — sent: 5.8.1999
Germany	1999/2090, LET — sent: 19.7.1999
Spain	1999/0406, RO: 22.12.1999
France	1999/0338, RO: 22.12.1999
Finland	1999/2092, LET — sent: 19.7.1999
Greece	1999/0399, RO: 22.12.1999
Ireland	1999/0386, termination: 13.10.1999

Italy 1999/0368, termination: 22.12.1999  
 Luxembourg 1999/0343, RO: 22.12.1999  
 Austria 1999/0419, RO: 22.12.1999  
 Portugal 1999/0410, LET — sent: 5.8.1999  
 Sweden 1999/0425, termination: 22.12.1999  
 United Kingdom 1999/2094, RO: 22.12.1999

**Air**

31980L0779

Council Directive 80/779/EEC of 15 July 1980 on air quality limit values and guide values for sulphur dioxide and suspended particulates

Member States which have notified implementing measures: all

31994L0063

European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations

Member States which have notified implementing measures: all

United Kingdom 1995/2031, termination: 1.7.1999

31993L0012

Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels

Member States which have notified implementing measures: all

Spain 1994/0552, termination: 1.7.1999

31996L0061

Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control

Member States which have notified implementing measures: B, DK, IRL, NL, A

31996L0062

Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management

Member States which have notified implementing measures: D, I, P, IRL, S, UK

Germany 1998/0313, termination: 1.7.1999

Belgium 1998/2280, RO: 22.12.1999

Greece 1998/0328, referral: 2.12.1999  
 Spain 1998/0342, referral: 29.10.1999  
 Ireland 1998/0371, termination: 1.7.1999  
 Italy 1998/0388, termination: 22.12.1999  
 Portugal 1998/0445, termination: 13.10.1999  
 Sweden 1998/0473, termination: 20.1.1999  
 United Kingdom 1998/0487, termination: 1.7.1999

31997L0068

Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery

Member States which have notified implementing measures: all except F, IRL, I

Germany 1998/0320, termination: 21.4.1999  
 Austria 1998/0434, termination: 22.12.1999  
 Belgium 1998/0296, termination: 1.7.1999  
 France 1998/0362, referral: 26.8.1999  
 Greece 1998/0337, termination: 1.7.1999  
 Ireland 1998/0381, referral: 23.9.1999  
 Italy 1998/0398, referral: 3.11.1999  
 Luxembourg 1998/0415, termination: 1.7.1999  
 Portugal 1998/0455, termination: 22.12.1999  
 Sweden 1998/0481, termination: 1.7.1999  
 United Kingdom 1998/0492, termination: 22.12.1999

31998L0070

Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC

Member States which have notified implementing measures: DK, F, FIN

Belgium 1999/0610, LET — sent: 16.11.1999  
 Denmark 1999/0640, LET — sent: 16.11.1999  
 Germany 1999/0620, LET — sent: 16.11.1999  
 Greece 1999/0648, LET — sent: 16.11.1999  
 Spain 1999/0657, LET — sent: 16.11.1999

Ireland	1999/0636, LET — sent: 16.11.1999
Italy	1999/0627, LET — sent: 16.11.1999
Luxembourg	1999/0603, LET — sent: 16.11.1999
Netherlands	1999/0613, LET — sent: 16.11.1999
Austria	1999/0671, LET — sent: 16.11.1999
Portugal	1999/0665, LET — sent: 16.11.1999
Finland	1999/0681, LET — sent: 16.11.1999
Sweden	1999/0676, LET — sent: 16.11.1999
United Kingdom	1999/0633, LET — sent: 16.11.1999

Denmark	1998/0579, termination: 1.7.1999
Greece	1998/0584, termination: 22.12.1999
Portugal	1998/0597, termination: 1.7.1999
Austria	1998/0606, termination: 1.7.1999
Sweden	1998/0610, termination: 1.7.1999
France	1998/0533, termination: 1.7.1999

**Nature****Water**

31976L0160

Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water

Member States which have notified implementing measures: all

Germany	1997/2039, termination: 11.5.1999
Austria	1997/2187, termination: 1.7.1999

31980L0778

Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption

Member States which have notified implementing measures: B, DK, EL, IRL, A, P, FIN, S

31991L0271

Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment

Member States which have notified implementing measures: all

Italy	1993/0786, termination: 1.7.1999
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31998L0015

Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof

Member States which have notified implementing measures: all

Belgium	1998/2361, termination: 21.4.1999
Germany	1998/0557, termination: 22.12.1999
Italy	1998/0563, termination: 1.7.1999
United Kingdom	1998/0569, termination: 1.7.1999
Ireland	1998/0575, termination: 22.12.1999

31992L0043

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

Member States which have notified implementing measures: all except F

Greece	1994/0703, termination: 11.5.1999
France	1994/0673, referral: 15.7.1998
Finland	1996/0582, termination: 21.4.1999

31997L0049

Commission Directive 97/49/EC of 29 July 1997 amending Council Directive 79/409/EEC on the conservation of wild birds

Member States which have notified implementing measures: P, FIN, S

31997L0062

Council Directive 97/62/EC of 27 October 1997 adapting to technical and scientific progress Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

Member States which have notified implementing measures: P

**Noise**

31995L0027

European Parliament and Council Directive 95/27/EC of 29 June 1995 amending Council Directive 86/662/EEC on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders

Member States which have notified implementing measures: B

Belgium	1996/0016, termination: 1.7.1999
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**Chemicals and biotechnology**

		31996L0054	
31993L0090			Commission Directive 96/54/EC of 30 July 1996 adapting to technical progress for the 22nd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)
Commission Directive 93/90/EEC of 29 October 1993 concerning the list of substances referred to in Article 13 (1) (5th indent) of Council Directive 67/548/EEC			
Member States which have notified implementing measures: all except UK			Member States which have notified implementing measures: DK, E, F, IRL, L, NL, A, FIN, B, P, EL
United Kingdom	1993/1095, SLET — sent: 3.7.1997		
		Belgium	1998/0284, referral: 22.10.1999
		Greece	1998/0326, termination: 11.5.1999
31993L0101		Portugal	1998/0442, termination 1.7.1999
Commission Directive 93/101/EC of 11 November 1993 adapting to technical progress for the 20th time Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances		United Kingdom	1998/0486, LET — sent: 25.8.1998
		31996L0056	
Member States which have notified implementing measures: all			Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances
31994L0015			
Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms			Member States which have notified implementing measures: all except D
Member States which have notified implementing measures: all			
Belgium	1994/0634, termination: 21.4.1999	Belgium	1998/0286, termination: 21.4.1999
		Germany	1998/0312, referral: 22.10.1999
		Greece	1998/0327, termination: 11.5.1999
		Portugal	1998/0444, termination 1.7.1999
31994L0051			
Commission Directive 94/51/EC of 7 November 1994 adapting to technical progress Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms			
Member States which have notified implementing measures: all		31996L0082	
Belgium	1995/0239, termination: 21.7.1999		Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances
Luxembourg	1995/0344, RO 228, sent: 14.7.1999		
			Member States which have notified implementing measures: D, E, F, I, NL, A, FIN, S
31994L0069		Belgium	1999/0457, RO: 22.12.1999
Commission Directive 94/69/EC of 19 December 1994 adapting to technical progress for the twenty-first time Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances		Denmark	1999/0278, LET — sent: 10.5.1999
Member States which have notified implementing measures: all		Germany	1999/0240, RO: 22.12.1999
Belgium	1996/0589, termination 1.7.1999	Greece	1999/0283, RO — sent: 9.11.1999
Portugal	1996/1040, termination: 1.7.1999	Spain	1999/0291, termination: 13.10.1999
		France	1999/0208, RO — sent: 27.10.1999
		Finland	1999/2097, LET — sent: 22.7.1999
		Ireland	1999/0270, RO — sent: 27.10.1999
		Italy	1999/0250, termination: 22.12.1999
		Luxembourg	1999/0217, RO — sent: 27.10.1999



Netherlands	1999/0232, termination: 13.10.1999	<b>Waste</b>
Austria	1999/0313, RO — sent: 22.10.1999	
Portugal	1999/0302, RO — sent: 4.11.1999	
Sweden	1999/0323, termination: 13.10.1999	31994L0062
United Kingdom	1999/0261, RO: 22.12.1999	European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste
31997L0035		Member States which have notified implementing measures: DK, EL, IRL, NL, A, FIN, S, L, F
Commission Directive 97/35/EC of 18 June 1997 adapting to technical progress for the second time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms (Text with EEA relevance)		
Member States which have notified implementing measures: all except UK		
Belgium	1997/0483, termination: 21.4.1999	Belgium 1996/2223, termination: 1.7.1999
Greece	1997/0496, termination: 22.12.1999	France 1996/2225, termination: 22.12.1999
United Kingdom	1997/0538, LET — sent: 5.11.1997	Greece 1996/0911, referral: 13.4.1999
		Luxembourg 1993/1013, termination: 1.7.1999
		Portugal 1996/2207, termination: 1.7.1999
		United Kingdom 1996/2224, referral: 30.11.1999
31994L0067		
31997L0069		Council Directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste
Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)		
Member States which have notified implementing measures: NL, A, P, DK, EL		Member States which have notified implementing measures: all except B and I
Germany	1999/2059, RO 22.12.1999	Belgium 1997/0021, referral: 10.9.1999
Belgium	1999/0031, decision to refer: 22.12.1999	Greece 1997/0048, termination: 1.7.1999
Denmark	1999/0114, termination: 1.7.1999	Italy 1997/0097, referral: 3.11.1999
Greece	1999/0127, termination: 1.7.1999	Austria 1997/0137, termination: 1.7.1999
Netherlands	1999/0043, RO — sent: 30.7.1999	United Kingdom 1997/0182, termination: 1.7.1999
Austria	1999/0174, RO — sent: 25.1.2000	
Portugal	1999/0157, termination: 22.12.1999	31996L0059
United Kingdom	1999/0089, LET — sent: 12.3.1999	Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCBs/PCTs)
31998L0073		Member States which have notified implementing measures: B, DK, E, F, IRL, L, NL, A, P, FIN, S, I
Commission Directive 98/73/EC of 18 September 1998 adapting to technical progress for the 24th time Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances		
Member States which have notified implementing measures: E, IRL, UK		
		Belgium 1998/2211, termination 22.12.1999
		Germany 1998/0179, decision to refer: 1.7.1999
		Greece 1998/0190, referral: 1.12.1999
		Spain 1998/0199, termination: 22.12.1999
		Portugal 1998/0252, termination: 13.10.1999
		United Kingdom 1998/0276, referral: 6.12.1999
		Italy 1998/0219, termination: 13.10.1999
		Denmark 1998/0172, termination: 26.5.1999

**Radiation protection**

31989L0618

Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency

Member States which have notified implementing measures: B, DK, EL, F, IRL, NL, A, P, FIN, UK, L, E, I

Sweden 1996/0488, RO — sent: 25.6.1999

31992L0003

Council Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community

Member States which have notified implementing measures: all

Germany 1994/0413, referral: 12.6.1997, termination: 2.12.1998

**INFORMATION SOCIETY**

31992L0044

Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium 1995/2308, termination: 21.4.1999

31995L0047

Directive 95/47/EC of the European Parliament and of the Council of 24 October 1995 on the use of standards for the transmission of television signals

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, P, FIN, S, UK

Belgium 1996/0870, decision to refer: 1.7.1999

Greece 1996/0923, termination: 1.7.1999

France 1996/0966, referral: 26.8.1999

Italy 1996/1004, termination: 13.10.1999

Netherlands 1996/1034, decision to refer: 1.7.1999

Austria 1996/1089, referral: 28.10.1999

Portugal 1996/1054, termination: 21.4.1999

Sweden 1996/1127, termination: 1.7.1999

31995L0062

Directive 95/62/EC of the European Parliament and of the Council of 13 December 1995 on the application of open network provision (ONP) to voice telephony

Member States which have notified implementing measures: DK, D, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium 1997/2226, decision to refer: 1.7.1999

Greece 1997/0053, termination: 22.12.1999

31997L0013

Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece 1998/2081, termination: 13.10.1999

Netherlands 1998/2085, termination: 21.4.1999

31997L0033

Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of open network provision (ONP)

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece 1998/2082, termination: 13.10.1999

Spain 1998/2120, termination: 1.7.1999

Netherlands 1998/2086, termination: 21.4.1999

Portugal 1998/2087, termination: 21.4.1999

Sweden 1998/2088, termination: 1.7.1999

31997L0051

Directive 97/51/EC of the European Parliament and of the Council of 6 October 1997 amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, L, NL, A, P, FIN, S, UK

Greece	1998/0333, termination: 13.10.1999
France	1998/0359, decision to refer: 22.12.1999
Italy	1998/0394, referral: 3.11.1999
Portugal	1998/0451, termination: 13.10.1999
Sweden	1998/0478, termination: 22.12.1999

31997L0066

Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector

Member States which have notified implementing measures: D, E, I, NL, A, P, FIN, S

Belgium	1998/2332, RO — sent: 11.8.1999
Denmark	1998/2333, RO — sent: 2.8.1999
Greece	1998/2335, decision to refer: 22.12.1999
France	1998/2336, decision to refer: 22.12.1999
Ireland	1998/2337, RO — sent: 2.8.1999
Luxembourg	1998/2338, decision to refer: 22.12.1999
Netherlands	1998/2339, termination: 21.4.1999
Austria	1998/2340, termination: 21.4.1999
Portugal	1998/2341, termination: 21.4.1999
Finland	1998/2342, termination: 1.7.1999
Sweden	1998/2343, termination: 22.12.1999
United Kingdom	1998/2344, decision to refer: 22.12.1999

31998L0010

Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, L, NL, A, P, FIN, S, UK

Greece	1998/0338, termination: 13.10.1999
France	1998/0363, decision to refer: 22.12.1999
Ireland	1998/0382, termination: 1.7.1999
Italy	1998/0399, referral: 3.11.1999
Netherlands	1998/0423, termination: 21.4.1999
Portugal	1998/0456, termination: 1.7.1999
Sweden	1998/0482, termination: 22.12.1999

31998L0061

Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S

Belgium	1999/0033, RO — sent: 18.8.1999
Denmark	1999/0118, termination: 1.7.1999
Greece	1999/0135, termination: 13.10.1999
France	1999/0008, termination: 22.12.1999
Ireland	1999/0108, termination: 13.10.1999
Italy	1999/0079, decision to refer: 22.12.1999
Austria	1999/0180, termination: 1.7.1999
Finland	1999/0205, termination: 1.7.1999
Sweden	1999/0194, termination: 13.10.1999

INTERNAL MARKET

**Regulated professions (qualifications)**

31978L0686

Council Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services

Member States which have notified implementing measures: all

Austria 1999/0168, termination: 26.10.1999

31978L0687

Council Directive 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of dental practitioners

Member States which have notified implementing measures: all

Austria 1999/0169, termination: 26.10.1999

31989L0048

Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration

Member States which have notified implementing measures: all except EL

Greece 1991/0668, second decision to refer — sent: 20.5.1998

31997L0038

Commission Directive 97/38/EC of 20 June 1997 amending Annex C to Council Directive 92/51/EEC on a second general system for the recognition of professional education and training to supplement Council Directive 89/48/EEC (Text with EEA relevance)

Member States which have notified implementing measures: all except EL

Greece 1997/0600, decision to refer: 1.7.1999

Portugal 1997/0714, termination: 21.4.1999

31998L0021

Commission Directive 98/21/EC of 8 April 1998 amending Council Directive 93/16/EEC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (Text with EEA relevance)

Member States which have notified implementing measures: all except IRL, NL, P

Denmark 1999/0116, termination: 13.10.1999

Germany 1999/0059, termination: 28.7.1999

Greece 1999/0130, termination: 28.7.1999

Spain 1999/0144, termination: 1.7.1999

Ireland 1999/0104, decision to refer: 22.12.1999

Italy 1999/0075, termination: 22.12.1999

Luxembourg 1999/0018, termination: 1.7.1999

Netherlands 1999/0047, decision to refer: 22.12.1999

Austria 1999/0176, termination: 22.12.1999

Portugal 1999/0160, decision to refer: 22.12.1999

Finland 1999/0202, termination: 28.7.1999

Sweden 1999/0191, termination: 1.7.1999

United Kingdom 1999/0092, termination: 28.7.1999

31998L0063

Commission Directive 98/63/EC of 3 September 1998 amending Council Directive 93/16/EEC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (Text with EEA relevance)

Member States which have notified implementing measures: all except E, IRL, NL, P

Belgium 1999/0465, termination: 26.10.1999

Spain 1999/0546, RO: 22.12.1999

France 1999/0442, termination: 22.12.1999

Ireland 1999/0516, RO: 22.12.1999

Italy 1999/0496, termination: 22.12.1999

Netherlands 1999/0477, RO: 22.12.1999

Austria 1999/0571, termination: 22.12.1999

Portugal 1999/0559, RO: 22.12.1999

Sweden 1999/0581, termination: 26.10.1999

### Special arrangements relating to freedom of movement

31993L0007

Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

Member States which have notified implementing measures: all

Germany 1994/0532, termination: 1.7.1999

31996L0100

Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 amending the Annex to Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State

Member States which have notified implementing measures: all except A

France 1997/0624, termination: 22.12.1999

Austria 1997/0693, decision to refer: 22.12.1999

### Public procurement

31992L0013

Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Member States which have notified implementing measures: all except EL, P

Greece 1998/0185, decision to refer: 22.12.1999

Portugal 1998/0437, decision to refer: 22.12.1999

31992L0050

Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts

Member States which have notified implementing measures: all

Greece 1993/0711, termination: 1.7.1999

31993L0036

Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts

Member States which have notified implementing measures: all

Italy 1994/0722, termination: 1.7.1999

31993L0038

Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Member States which have notified implementing measures: all except EL, P

Spain 1997/0213, termination: 17.2.1999

Greece 1998/0186, RO — sent: 17.12.1998

Portugal 1998/0438, RO — sent: 2.2.1999

31997L0052

European Parliament and Council Directive 97/52/EC of 13 October 1997 amending Directives 92/50/EEC, 93/36/EEC and 93/37/EEC concerning the coordination of procedures for the award of public service contracts, public supply contracts and public works contracts respectively

Member States which have notified implementing measures: B, DK, IRL, NL, P, FIN, S

Belgium 1998/0547, termination: 1.7.1999

Germany 1998/0553, decision to refer: 22.12.1999

Greece 1998/0585, decision to refer: 22.12.1999

Spain 1998/0587, LET — sent: 18.12.1998

France 1998/0530, decision to refer: 22.12.1999

Ireland 1998/0572, termination: 1.7.1999

Italy 1998/0561, decision to refer: 22.12.1999

Luxembourg 1998/0539, LET — sent: 18.12.1998

Austria 1998/0601, RO — sent: 12.11.1999

Portugal 1998/0592, termination: 22.12.1999

United Kingdom 1998/0566, RO — sent: 6.8.1999

31998L0004

Directive 98/4/EC of the European Parliament and of the Council of 16 February 1998 amending Directive 93/38/EEC coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Member States which have notified implementing measures: B, DK, E, IRL, NL, FIN, S

Germany 1999/0243, LET — sent: 10.5.1999

Belgium 1999/0229, termination: 22.12.1999

France 1999/0210, LET — sent: 10.5.1999

Ireland 1999/0273, termination: 22.12.1999

Italy 1999/0253, LET — sent: 10.5.1999

Luxembourg 1999/0219, LET — sent: 10.5.1999

Netherlands 1999/0234, termination: 22.12.1999

Austria 1999/0315, LET — sent: 10.5.1999

United Kingdom 1999/0263, LET — sent: 10.5.1999

**Banks**

31992L0096

31995L0026

European Parliament and Council Directive 95/26/EC of 29 June 1995 amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision

Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (third life assurance Directive)

Member States which have notified implementing measures: all

Spain 1994/0145, termination: 21.4.1999

Member States which have notified implementing measures: all

Belgium 1996/0862, termination: 22.12.1999

Germany 1996/0890, termination: 13.10.1999

Spain 1996/0941, termination: 1.7.1999

France 1996/0958, referral: 3.3.1999

Ireland 1996/0980, termination: 1.7.1999

Italy 1996/0999, termination: 22.12.1999

Luxembourg 1996/1015, termination: 22.12.1999

**Stock exchanges and securities**

31993L0022

Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field

Member States which have notified implementing measures: all except L

Spain 1995/0475, termination: 1.7.1999

Luxembourg 1995/0566, judgment: 3.6.1999

**Insurance**

31997L0009

31991L0371

Council Directive 91/371/EEC of 20 June 1991 on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance

Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes

Member States which have notified implementing measures: all except L, P

Belgium 1998/0546, termination: 1.7.1999

France 1998/0529, RO — sent: 16.8.1999

Luxembourg 1998/0536, decision to refer: 22.12.1999

Austria 1998/0600, RO — sent: 16.8.1999

Portugal 1998/0591, RO — sent: 24.1.2000

Sweden 1998/0608, termination: 1.7.1999

Member States which have notified implementing measures: all

Spain 1993/0917, termination: 21.4.1999

31992L0049

Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)

**Payment systems**

31997L0005

Member States which have notified implementing measures: all

Spain 1994/0140, termination: 21.4.1999

Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers



Member States which have notified implementing measures: DK, E, IRL, L, NL, A, FIN, S, UK

Belgium	1999/0607, LET — sent: 16.11.1999
Germany	1999/0617, LET — sent: 16.11.1999
Greece	1999/0643, LET — sent: 16.11.1999
France	1999/0595, LET — sent: 16.11.1999
Italy	1999/0623, LET — sent: 16.11.1999
Portugal	1999/0661, LET — sent: 16.11.1999

31998L0026

Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems

Member States which have notified implementing measures: B, E, P, A, FIN

#### Financial information and company law

31990L0605

Council Directive 90/605/EEC of 8 November 1990 amending Directive 78/660/EEC on annual accounts and Directive 83/349/EEC on consolidated accounts as regards the scope of those Directives

Member States which have notified implementing measures: all except D

Germany 1993/0108, referral: 28.7.1997

#### Data protection

31995L0046

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Member States which have notified implementing measures: B, EL, E, I, A, P, FIN, S, UK

Belgium	1998/0545, termination: 4.5.1999
Denmark	1998/0576, decision to refer: 18.1.2000
Germany	1998/0552, decision to refer: 22.12.1999
Spain	1998/0586, RO — sent: 12.8.1999
France	1998/0528, RO — sent: 16.8.1999, decision to refer: 22.12.1999
Ireland	1998/0571, RO — sent: 16.8.1999, decision to refer: 22.12.1999

Italy	1998/0558, LET — sent: 18.12.1998, termination: 26.5.1999
Luxembourg	1998/0535, RO — sent: 26.8.1999, decision to refer: 22.12.1999
Netherlands	1998/0548, RO — sent: 16.8.1999, decision to refer: 22.12.1999
Austria	1998/0599, RO — sent: 16.8.1999, termination: 22.12.1999
Finland	1998/0611, LET — sent: 18.12.1998, termination: 22.12.1999
United Kingdom	1998/0565, RO: 1.7.1999, RO — sent: 3.9.1999

#### Industrial property

31989L0104

First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks

Member States which have notified implementing measures: all

#### Copyright and related rights

31992L0100

Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property

Member States which have notified implementing measures: all except IRL

Ireland 1994/0855, judgment: 12.10.1999

31993L0083

Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission

Member States which have notified implementing measures: all except IRL

Ireland 1995/0114, judgment: 25.11.1999

31996L0009

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases

Member States which have notified implementing measures: B, DK, D, E, F, I, NL, A, FIN, S, UK

Belgium 1998/0001, termination: 26.5.1999  
 Greece 1998/0019, referral: 21.12.1999  
 Ireland 1998/0043, referral: 4.10.1999  
 Luxembourg 1998/0058, referral: 17.9.1999  
 Netherlands 1998/0065, termination: 13.10.1999  
 Portugal 1998/0074, referral: 22.12.1999

ENERGY

### Electricity

311996L0092

Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity

Member States which have notified implementing measures: B, D, DK, E, EL, I, IRL, NL, A, P, FIN, S, UK.

France 1999/2185, RO — sent: 23.12.1999  
 Luxembourg 1999/2186, RO — sent: 23.12.1999

31998L0075

Commission Directive 98/75/EC of 1 October 1998 updating the list of entities covered by Directive 90/547/EEC on the transit of electricity through transmission grids (Text with EEA relevance)

Member States which have notified implementing measures: A, P

### Gas

311998L0030

Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas

Member States which have notified implementing measures: none.

### Renewable energy and energy efficiency

31995L0012

Commission Directive 95/12/EC of 23 May 1995 implementing Council Directive 92/75/EEC with regard to energy labelling of household washing machines

Member States which have notified implementing measures: B, D, DK, E, EL, F, I, IRL, L, NL, A, P, FIN, S, UK

Belgium 1996/0233, termination: 1.7.1999  
 Italy 1996/0309, termination: 1.7.1999

31995L0013

Commission Directive 95/13/EC of 23 May 1995 implementing Council Directive 92/75/EEC with regard to energy labelling of household electric tumble driers

Member States which have notified implementing measures: B, D, DK, E, EL, F, I, IRL, L, NL, A, P, FIN, S, UK

Belgium 1996/0234, termination: 1.7.1999  
 Italy 1996/0310, termination: 1.7.1999

31996L0057

Directive 96/57/EC of the European Parliament and of the Council of 3 September 1996 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof

Member States which have notified implementing measures: B, D, DK, E, EL, F, I, IRL, L, NL, A, P, FIN, S, UK

Belgium 1997/0542, termination: 1.7.1999  
 Italy 1997/0651, referral: 10.11.1999

31997L0017

Commission Directive 97/17/EC of 16 April 1997 implementing Council Directive 92/75/EEC with regard to energy labelling of household dishwashers (Text with EEA relevance)

Member States which have notified implementing measures: E, EL, F, I, IRL, L, NL.

31998L0011

Commission Directive 98/11/EC of 27 January 1998 implementing Council Directive 92/75/EEC with regard to energy labelling of household lamps (Text with EEA relevance)

Member States which have notified implementing measures: DK, E, F, S, UK

Belgium	1999/0461, LET — sent: 20.8.1999
Denmark	1999/0524, termination: 22.12.1999
Germany	1999/0484, LET — sent: 20.8.1999
Greece	1999/0533, LET — sent: 20.8.1999
France	1999/0437, termination: 22.12.1999
Ireland	1999/0512, LET — sent: 20.8.1999
Italy	1999/0492, LET — sent: 20.8.1999
Luxembourg	1999/0451, LET — sent: 20.8.1999
Netherlands	1999/0473, LET — sent: 20.8.1999
Austria	1999/0568, LET — sent: 20.8.1999
Portugal	1999/0554, LET — sent: 20.8.1999
Finland	1999/0589, LET — sent: 20.8.1999
Sweden	1999/0577, termination: 22.12.1999
United Kingdom	1999/0503, termination: 22.12.1999

31999L0009

Commission Directive 1999/9/EC of 26 February 1999 amending Directive 97/17/EC implementing Council Directive 92/75/EEC with regard to energy labelling of household dishwashers

Member States which have notified implementing measures: E, EL, F, I, IRL, L, NL

TAXATION

VAT

31996L0042

Council Directive 96/42/EC of 25 June 1996 amending Directive 77/388/EEC on the common system of value added tax

Member States which have notified implementing measures: all

Greece 1996/0933, decision to refer: 24.6.1998, termination: 1.7.1999

STATISTICS

31997L0077

Council Directive 97/77/EC of 16 December 1997 amending Directives 93/23/EEC, 93/24/EEC and 93/25/EEC on the statistical surveys to be carried out on pig, bovine animal and sheep and goat production

Member States which have notified implementing measures: all

Greece 1999/0129, termination: 1.7.1999

EXTERNAL TRADE

31998L00029

Council Directive 98/29/EC of 7 May 1998 on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover

Member States which have notified implementing measures: all except I

Italy 1999/0370, LET — sent: 5.8.1999; RO: 22.12.1999



Chapter	Sector	Sub-sector	Directives applicable on 31.12.1999	Directives applicable on 31 December 1999 (by MS)														Directives for which implementing measures notified														Percentages notified																
				B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
Telecommunications			13	13	13	13	13	13	13	13	13	13	13	13	13	13	10	12	13	11	13	9	12	11	12	12	12	13	13	13	11	77	92	100	85	100	69	92	85	92	92	92	92	100	100	100	85	
TV without frontiers			2	2	2	2	2	2	2	2	2	2	2	2	2	2	1	2	1	1	2	1	1	1	1	1	1	2	2	2	1	50	100	50	50	100	50	50	50	50	50	50	100	100	100	50		
Environment	Freedom of access to information		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	100	100	100	100	100	100	100	100	100	100	100	100	100	100				
	Environmental impact assessment		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	1	2	1	1	1	1	2	2	1	2	1	2	1	50	100	50	50	50	50	100	100	50	100	50	100	50	100	50			
	Air		17	17	17	17	18	19	17	17	17	17	17	17	19	17	17	15	16	15	15	16	16	14	16	15	17	15	17	15	15	88	94	88	83	84	94	82	94	88	100	88	89	88	88	88		
	Water		22	22	22	22	24	22	22	22	22	22	22	22	22	22	22	22	22	22	24	22	22	22	22	22	22	22	22	22	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100		
	Nature		12	12	12	12	13	13	12	12	12	12	12	13	12	12	12	12	12	12	13	13	11	12	12	12	12	12	12	100	100	100	100	92	92	100	100	100	100	100	100	100	100	100	100	100		
	Noise		24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100		
	Chemicals and biotechnology		43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	42	42	40	42	43	42	42	43	42	42	40	42	42	43	98	98	93	98	100	98	98	100	98	98	93	98	98	100	100		
	Waste		16	16	16	16	17	16	16	16	16	16	16	16	17	16	16	16	15	16	15	15	16	16	16	15	16	16	17	18	16	14	94	100	94	88	100	100	100	94	100	100	100	100	88			
	Environment and industry		7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	6	7	6	6	7	6	6	7	6	7	6	6	6	7	6	86	100	86	86	100	86	86	100	86	100	86	86	86	100	86	
	Radiation protection		6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
Agriculture	Veterinary matters		148	148	148	148	148	148	148	148	148	148	148	148	148	148	143	146	143	139	142	136	139	142	146	143	147	145	145	146	142	97	99	97	94	96	92	94	96	99	97	99	98	98	99	96		
	Plant health		88	88	88	88	88	88	88	88	88	88	88	88	88	88	88	86	88	84	81	86	87	88	87	81	85	84	86	87	87	87	98	100	95	92	98	99	100	99	92	97	95	98	99	99	99	
	Seeds and plants		77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	74	75	74	74	74	74	75	74	74	75	74	74	75	77	75	96	97	96	96	96	96	97	96	96	97	96	96	97	100	97	
	Feedingstuffs		86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	81	70	76	79	73	85	69	78	81	84	77	100	95	97	79	94	81	88	92	85	99	80	91	94	98	90	
Forestry		5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100			
Consumers			12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
Statistics			15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	14	14	15	15	15	15	15	15	100	100	100	100	100	100	93	93	100	100	100	100	100	100	100	100	100	100	
Total			1508	1505	1499	1507	1503	1502	1505	1499	1504	1503	1505	1501	1507	1498	1500	1504	1428	1456	1439	1383	1449	1412	1411	1416	1402	1447	1425	1407	1436	1437	1435	95	97	95	92	96	94	94	94	93	96	95	93	96	98	95

## PART 2: INFRINGEMENTS FOR NON-CONFORMITY

Sector	Directives (CELEX code)	Member State	Infringement No
Agriculture	31964L0433	B	1998/4244
Competition	31990L0387; 31990L0388	I	1996/4482
	31990L0388; 31996L0019; 31997L0033	B	1998/2071
	31990L0388; 31996L0019	P	1998/2072
	31990L0388; 31996L0019; 31997L0033	F	1998/2077
	31994L0046	EL	1998/2130
	31990L0388; 31997D0603	E	1998/2240
	31990L0388	I	1998/2241
	31990L0388; 31996L0019	EL	1999/2221
Television without frontiers	31989L0552	L	1992/2162
	31989L0552	F	1992/2164
Employment and social affairs	31980L0987	EL	1986/0116
	31976L0207	F	1990/2109
	31977L0187	I	1990/2144
	31989L0391	DK	1995/2134
	31989L0391	F	1995/2135
	31989L0391	IRL	1995/2136
	31989L0391	I	1995/2137
	31989L0391	L	1995/2138
	31989L0391	NL	1995/2139
	31989L0391	UK	1995/2141
	31992L0029	DK	1996/4780
	31989L0391	A	1997/2149
	31989L0391	FIN	1997/2173
	31989L0391	D	1997/2193
	31993L0104	DK	1997/4778
	31989L0391	B	1998/2015
	31998L0059	IRL	1998/2018
	31989L0391	S	1998/2182
	31989L0655	I	1998/2222
	31990L0270	I	1998/2224
	31990L0269	S	1998/2252
	31989L0654	S	1998/2270
	31998L0059	EL	1998/2327
	31992L0085	F	1998/2354
	31992L0085	IRL	1998/2356
	31992L0085	I	1998/2357
	31992L0085	L	1998/2358
	31992L0085	S	1998/2359
Industry	31990L0385	E	1993/2291
	31992L0027	D	1994/4336
	31993L0015	E	1994/4353
	31993L0015	D	1997/4054



Sector	Directives (CELEX code)	Member State	Infringement No
Industry (continued)	31992L42	D	1995/4082
	31965L0065; 31989L0381	B	1996/2094
	31980L0777	D	1996/2189
	31980L0777	I	1999/4849
	31995L0002	DK	1996/4762
	31995L0002	E	1997/4320
	31965L0065	D	1997/2076
	31989L0686	F	1997/2168
	31989L0686	D	1997/4213
	31976L0768	I	1998/2239
	31989L0105	A	1998/4052
	31989L0108; 31992L0001	F	1999/2081
	31996L0005; 31998L0036	I	1999/2131
	31989L0336	I	1999/4145
	31989L0336	D	1999/4147
	31970L0050; 31998L0013	E	1999/4424
	31994L11	F	1999/4634
	31989L105	F	1999/4750
	31993L0099	I	1999/4888
Environment	31979L0409	F	1984/0121
	31980L0836; 31984L0467	NL	1988/0488
	31980L0068	IRL	1989/0163
	31975L0440	I	1989/0206
	31985L0337	IRL	1989/0425
	31975L0440; 31979L0869	UK	1989/4571
	31975L0442; 31978L0319; 31986L0279; 31991L0689	D	1990/0038
	31985L0337	E	1990/0129
	31978L0659	I	1990/0211
	31984L0466	B	1990/0237
	31985L0337	D	1990/4710
	31976L0464	IRL	1990/5220
	31984L0466	E	1991/0723
	31980L0778	UK	1991/0772
	31985L0337	I	1991/0794
	31985L0337	EL	1991/2036
	31985L0337	P	1991/2168
	31986L0609	IRL	1991/2216
	31994L0062	D	1991/4489
	31984L0360	P	1992/2183
	31976L0464; 31986L0280; 31988L0347	I	1992/2184
	31983L0513	I	1992/2205
	31982L0176; 31984L0156	I	1992/2207
	31990L0219	F	1992/2248
	31990L0220	F	1992/2304
	31986L0280; 31988L0347	P	1992/2358
	31978L0659; 31979L0923	UK	1992/2362
	31979L0409	I	1992/4279
	31985L0337	UK	1992/5033

Sector	Directives (CELEX code)	Member State	Infringement No
Environment (continued)	31985L0337	D	1993/2003
	31979L0869	P	1993/2035
	31990L0313	F	1993/2058
	31980L0068	P	1993/2112
	31975L0439; 31987L0101	P	1993/2115
	31990L0219; 31990L0220	B	1993/2120
	31989L0369	B	1993/2121
	31989L0429	B	1993/2122
	31979L0409; 31991L0244	B	1993/2123
	31990L0219; 31990L0220	P	1993/2179
	31986L0609	L	1993/2190
	31980L0778	P	1993/2191
	31990L0313	E	1993/2197
	31986L0609	B	1993/2218
	31989L0618	D	1993/2276
	31989L0618	F	1993/2277
	31990L0313	B	1993/4372
	31990L0641	F	1994/2097
	31990L0313	D	1994/2196
	31991L0676	D	1994/2237
	31991L0676	IRL	1994/2238
	31991L0676	B	1994/2239
	31991L0676	I	1994/2245
	31979L0409	F	1994/4084
	31990L0313	P	1994/4682
	31978L0319; 31987L0217	IRL	1994/4723
	31979L0409	F	1994/4794
	31979L0409	FIN	1995/4543
	31990L0313	E	1995/4678
	31991L0676	UK	1996/2106
	31991L0676	EL	1996/2201
	31991L0676	A	1996/2229
	31991L0676	F	1996/2231
	31991L0676	I	1996/2232
	31979L0409	S	1996/4016
	31992L0043	F	1996/4513
	31994L0062	DK	1996/4515
	31991L0271	EL	1996/2036
	31991L0271	A	1997/2037
	31990L0219; 31990L0220	P	1997/2128
	31987L0217	B	1997/2166
	31986L0609	A	1997/2245
	31991L0676	P	1997/2247
	31976L0464; 31980L0068; 31984L0360; 31985L0337	B	1997/4357
	31986L0609	F	1998/2031
	31976L0160	DK	1998/2195
	31976L0160	FIN	1998/2197
	31992L0043	L	1998/2210
	31992L0043	B	1998/2226

Sector	Directives (CELEX code)	Member State	Infringement No
Environment (continued)	31992L0043	S	1998/2233
	31991L0156; 31991L0689; 31994L0062	I	1998/2329
	31975L0442; 31991L0689	D	1998/5056
	31975L0442; 31991L0689	A	1999/4401
	31975L0442; 31991L0156	B	1999/4760
Telecommunications	31995L0062	P	1997/2220
	31997L0013	I	1998/2075
	31997L0013	B	1998/2119
	31997L0013	F	1998/2121
	31997L0013; 31997L0033	F	1998/2122
	31997L0013	L	1998/2124
	31997L0033	L	1998/2125
	31997L0013	A	1998/2126
	31997L0033	B	1998/2131
	31992L0044; 31997L0051	L	1998/2374
	31998L0010	L	1998/2375
	31995L0062; 31998L0010	B	1998/2377
	31997L0033	D	1998/2378
	31997L0013; 31998L0061	E	1998/2379
	31998L0010	A	1999/2125
	31997L0013	D	1999/2130
Justice and home affairs	31968L0360; 31973L0148	I	1997/2100
	31990L0364; 31990L0365; 31993L0096	A	1997/2133
	31994L0080	D	1997/2140
	31994L0080	D	1997/2141
	31993L0109	D	1997/2153
	31994L0080	A	1998/2043
	31994L0080	A	1998/2044
	31994L0080	A	1998/2046
	31994L0080	A	1998/2048
	31994L0080	EL	1998/2051
	31990L0364; 31990L0365; 31993L0096	D	1998/2228
	31994L0040	P	1998/2368
	31964L0221	NL	1998/2394
Internal market	31985L0384; 31985L0614; 31986L0017	E	1990/0349
	31975L0362	E	1990/0981
	31989L0594	F	1992/2292
	31969L0665	P	1994/2236
	31992L0049; 31992L0096	F	1995/2046
	31992L0050; 31993L0036; 31993L0037	B	1994/2289
	31989L0665	E	1995/2054
	31992L0013	F	1995/2082
	31992L0013	UK	1995/2084
	31992L0049; 31992L0096	B	1995/2112
	31993L0037	P	1995/2149
	31986L0653	I	1995/2178
	31978L0686	I	1995/2179

Sector	Directives (CELEX code)	Member State	Infringement No
Internal market (continued)	31977L0092	E	1995/4242
	31989L0048; 31992L0051	E	1995/4918
	31977L0453	B	1996/2078
	31992L0049; 31992L0096	F	1996/2079
	31989L0048	F	1996/2254
	31978L0660	UK	1997/2235
	31983L0349	UK	1997/2238
	31990L0604	UK	1997/2242
	31990L0605	UK	1997/2243
	31985L0374	A	1997/2248
	31992L0050	I	1997/4522
	31985L0374	EL	1998/2231
	31985L0374	F	1998/2245
Consumers	31993L0013	NL	1994/2170
	31994L0047	S	1998/2008
	31994L0047	IRL	1998/2010
	31993L0013	F	1998/2025
	31993L0013	I	1998/2026
	31993L0013	EL	1998/2028
	31993L0013	D	1998/2029
	31993L0013	S	1998/2032
	31993L0013	IRL	1998/2033
	31994L0047	P	1998/2034
	31993L0013	DK	1998/2266
	31993L0013	FI	1998/2268
	31990L0314	EL	1998/2275
	31993L0013	A	1998/2286
	31990L0314	L	1998/2388
	31994L0047	L	1999/2041
	31994L0047	E	1999/2042
	31994L0047	I	1999/2043
	31993L0013	E	1999/2067
	31993L0013	L	1999/2068
31994L0047	B	1999/2133	
Taxation	31977L0799	D	1990/6019
	31977L0799	UK	1996/2196
Transport	31993L0075	F	1995/2216
	31991L0439	L	1996/2213
	31991L0439	EL	1996/2214
	31991L0439	I	1996/2219
	31991L0439	NL	1996/2220
	31991L0439	D	1997/2027
	31991L0439	A	1997/2028
	31993L0089	B	1997/2049
	31991L0670	F	1997/2143
	31992L0106	FI	1997/2145
	31994L0055	D	1998/2079

Sector	Directives (CELEX code)	Member State	Infringement No
Transport (continued)	31995L0019	P	1998/2168
	31996L0026	FI	1998/2269
	31996L0053	S	1998/2330
	31996L0053	F	1999/2002
	31996L0098	D	1999/2004
	31996L0018	B	1999/2135
	31996L0053	P	1999/2140
	31991L0439	E	1999/2167
	31994L0057	I	1999/2252
	31994L0057	D	1999/4137
	31996L0067	I	1999/4472

**PART 3: INFRINGEMENTS FOR INCORRECT APPLICATION OF NATIONAL MEASURES IMPLEMENTING THE DIRECTIVES**

Sector	Directives (CELEX code)	Member State	Infringement No
Agriculture	31983L0189; 31988L0182	NL	1993/2267
	31979L0112	E	1994/2110
	31979L0112	E	1994/2113
	31979L0112	E	1994/2118
	31979L0112	F	1994/2130
	31979L0112	F	1994/2132
	31979L0112	E	1994/2143
	31979L0112	E	1994/2144
	31979L0112	E	1994/2145
	31979L0112	F	1994/2225
	31979L0112	F	1994/2226
	31979L0112	F	1994/2227
	31979L0112	F	1994/2228
	31979L0112	F	1994/2229
	31979L0112	F	1994/2230
	31979L0112	F	1994/2231
	31979L0112	F	1994/2232
	31979L0112	F	1994/2233
	31979L0112	F	1994/2234
	31985L0073; 31993L0118	EL	1994/2181
	31979L0112	D	1994/4603
	31983L0189	I	1995/0652
	31972L0462; 31985L0073; 31990L0675; 31993L0118	EL	1995/2011
	31992D0486; 31993D01088; 31994D0034	D	1995/2122
	31969L0433; 31971L0118; 31977L0099; 31991L0495	F	1995/4080
	31964L0433; 31991L0498	F	1996/2022
	31964L0433; 31991L0498	I	1996/2024
	31964L0433; 31991L0498	IRL	1996/2026
	31992D0562; 31994D0562; 31994D0382; 31996D0449	E	1997/2117
	31971L118	UK	1997/2138
	31964L0433; 31996D0239; 31996D0362	UK	1997/2152
	31990L0667; 31996D0449	P	1997/2216
	31983L0189; 31998L0034	I	1998/4757
31989L0662; 31990L0425	B	1999/2141	
31964L0433; 31989L0662	F	1999/2247	
Competition	31995L0051	DK	1993/4863
	31990L0388; 31996L0002	EL	1996/2237
	31980L0723; 31993L0084	EL	1996/2253
	31996L0002	A	1997/4873
	31996L0002	EL	1998/2100
	31994L0046	EL	1998/4591
	31996L0002	I	1998/5110
	31997L0067	I	1999/4725
	31990L0388; 31996L0019	L	1999/4784
	31996L0092	E	1999/4915
Television without frontiers	31989L0552	I	1994/4750
	31989L0552	EL	1995/4452



Sector	Directives (CELEX code)	Member State	Infringement No
Television without frontiers (continued)	31989L0552	E	1998/4572
	31997L0036	B	1999/4250
Employment and social affairs	31968L0360	NL	1995/4787
	31975L0117; 31979L0007	EL	1991/4668
Industry	31976L0768	F	1992/4812
	31983L0189; 31988L0182	EL	1993/0508
	31990L0396	I	1993/2294
	31983L0189; 31988L0182	EL	1994/0621
	31989L106	EL	1994/4276
	31965L0065	UK	1994/4658
	31983L0417	NL	1995/2309
	31992L0050	I	1997/4954
	31992L0053; 31994L0012	S	1995/4067
	31973L0023	I	1995/4272
	31983L0189; 31988L0182	B	1996/0556
	31983L0189; 31988L0396	D	1996/4294
	31983L0189; 31988L0182	IRL	1996/0007
	31983L0189; 31988L0182	EL	1997/0032
	31983L0189; 31988L0182	F	1997/0193
	31983L0189; 31988L0182	F	1997/0194
	31983L0189; 31988L0182	F	1997/0199
	31988L0378	F	1997/2102
	31979L0112	P	1997/2196
	31993L0015	D	1997/4054
	31995L0002	E	1997/4320
	31989L0105	FIN	1997/4349
	31989L0392; 31993L0068	I	1997/4431
	31994L0012	D	1997/4441
	31992L0050	I	1997/4954
	31983L0189; 31988L0182	B	1998/0102
	31983L0189; 31988L0182	F	1998/0765
	31995L0002	E	1998/2309
	31979L0112	E	1998/2328
	31979L0112	EL	1998/4129
	31989L392	D	1998/4230
	31989L0392	B	1998/4233
	31989L0392	I	1998/4234
	31989L0392	E	1998/4235
	31989L0392	NL	1998/4236
	31994L0020	E	1998/4396
	31992L023	I	1998/4425
	31991L0441	I	1998/4647
	31994L0025	UK	1998/4724
	31998L0034	P	1999/4086
	31998L0034	S	1999/4391
	31998L0037	NL	1999/4309
	31998L0037	UK	1999/4332

Sector	Directives (CELEX code)	Member State	Infringement No
Industry (continued)	31973L0023	D	1999/4671
	31973L0023	NL	1999/4672
	31994L0025	P	1999/4690
	31994L0025	P	1999/4914
	31990L0396	D	1999/4966
	31989L0105	F	1999/5178
	31980L0777	D	1999/2189
Environment	31976L0160	UK	1986/0214
	31979L0409; 31985L0411	NL	1987/0176
	31976L0160	I	1987/0356
	31979L0409; 31985L0411	L	1988/0172
	31979L0409; 31985L0411	E	1988/0295
	31980L0836; 31984L0467	L	1988/0487
	31975L0442; 31978L0319	EL	1989/0138
	31976L0464	EL	1989/0303
	31976L0160	D	1989/0317
	31976L0160	B	1989/0416
	31976L0160	E	1989/0418
	31976L0464	D	1989/2343
	31979L0409; 31992L0043	F	1989/4910
	31975L0442	I	1990/0262
	31976L0464	E	1990/0960
	31976L0464	EL	1990/0979
	31976L0464; 31982L0176; 31983L0513; 31984L0156; 31986L0280; 31984L0491	E	1990/2190
	31976L0464; 31983L0513	NL	1990/4113
	31975L0439; 31987L0101	D	1990/5097
	31980L0068	UK	1990/5242
	31976L0464	B	1991/0205
	31976L0464	F	1991/0206
	31976L0464	L	1991/0207
	31976L0464	P	1991/0556
	31980L0779; 31984L0360; 31985L0203	EL	1991/0636
	31979L0409; 31992L0043	F	1991/0640
	31976L0464	I	1991/0642
	31979L0923	I	1991/0743
	31976L0464	UK	1991/0785
	31982L0501	I	1991/2065
	31979L0409; 31992L0043	E	1991/4380
	31979L0409; 31992L0043	F	1991/4599
	31975L0440	P	1992/2300
	31984L0156	P	1992/2303
	31979L0409; 31992L0043	F	1992/4052
	31975L0440	F	1992/4200
	31979L0409; 31992L0043	F	1992/4527
	31979L0409	D	1992/4575
	31975L0442; 31976L0160; 31976L0464; 31980L0068; 31996L0059	EL	1992/4682

Sector	Directives (CELEX code)	Member State	Infringement No
Environment (continued)	31975L0442; 31991L0156	P	1993/2159
	31979L0409	I	1993/2165
	31990L0313	UK	1993/4022
	31975L0442; 31976L0464; 31985L0337	P	1993/4085
	31979L0409	NL	1993/4479
	31989L0369	E	1993/4621
	31991L0676	E	1994/2240
	31991L0676	F	1994/2246
	31999L0157	F	1994/2270
	31999L0157	B	1994/2271
	31991L0157	EL	1994/2273
	31991L0157	E	1994/2277
	31991L0156	P	1994/2282
	31985L0337	P	1994/4239
	31979L0409; 31992L0043	F	1994/4733
	31986L0609	P	1994/4735
	31982L0501	E	1994/4865
	31979L0409	EL	1994/5069
	31989L0618	E	1995/2041
	31992L0043	S	1995/2223
	31992L0043	FIN	1995/2224
	31992L0043	D	1995/2225
	31992L0043	L	1995/2226
	31992L0043	NL	1995/2228
	31992L0043	IRL	1995/2229
	31992L0043	F	1995/2230
	31992L0043	E	1995/2231
	31979L0409; 31992L0043	B	1995/4435
	31975L0442; 31993R0259	D	1995/4727
	31979L0409; 31985L0337; 31992L0043	IRL	1995/4840
	31992L0014	B	1995/4970
	31992L0043	A	1996/2089
	31992L0043	DK	1996/2090
	31992L0043	I	1996/2091
	31992L0043	UK	1996/2092
	31976L0160	F	1996/2107
	31976L0160	P	1996/2108
	31976L0160	NL	1996/2109
	31991L0676	E	1996/2205
	31979L0409; 31992L0043	P	1996/2206
	31990L0313	D	1996/4055
	31992L0043	D	1996/4181
	31979L0409; 31992L0043	A	1996/4316
	31985L0337	E	1996/4361
	31985L0337	D	1996/4503
	31979L0409; 31985L0337; 31992L0043	A	1996/4505
	31979L0409; 31992L0043; 31985L0337	IRL	1996/4646
	31979L0923	UK	1996/4756
	31979L0409; 31992L0043	F	1997/2004

Sector	Directives (CELEX code)	Member State	Infringement No
Environment (continued)	31991L0271	E	1997/2069
	31991L0157	P	1997/2073
	31990L0313	P	1997/2093
	31980L0778	A	1997/2155
	31994L0062	B	1997/2175
	31975L0442; 31991L0689; 31994L0062	DK	1997/2176
	31991L0156; 31994L0062	D	1997/2177
	31991L0156; 31991L0689; 31994L0062	F	1997/2178
	31991L0156; 31991L0689; 31994L0062	L	1997/2179
	31991L0156; 31991L0689; 31994L0062	E	1997/2180
	31991L0156; 31991L0689; 31994L0062	IRL	1997/2181
	31991L0156; 31991L0689; 31994L0062	I	1997/2182
	31991L0156; 31991L0689; 31994L0062	FIN	1997/2183
	31991L0442; 31991L0689; 31994L0062	S	1997/2184
	31991L0156; 31991L0689; 31994L0062	UK	1997/2185
	31994L0062	NL	1997/2189
	31975L0442; 31991L0689; 31994L0062	EL	1997/2190
	31991L0676	L	1997/2192
	31980L0778	P	1997/4179
	31980L0778	IRL	1997/4409
	31979L0409	E	1997/4466
	31975L0442	F	1997/4626
	31991L0442; 31979L0409; 31985L0337; 31992L0043	IRL	1997/4705
	31975L0442; 31985L0337	EL	1997/4726
	31976L0160	UK	1997/4742
	31991L0676	B	1997/4750
	31975L0442; 31976L0464	IRL	1997/4792
	31976L0464; 31991L0271	P	1997/4796
	31991L0271	B	1998/2012
	31990L0220	F	1998/2023
	31975L0440; 31976L0464; 31978L0176; 31978L0659	B	1998/2060
	31975L0440; 31976L0464; 31978L0176; 31978L0659	E	1998/2062
	31975L0440; 31976L0464; 31978L0176; 31978L0659; 31979L0869; 31979L0923; 31980L0068; 31980L0778; 31991L0692	L	1998/2063
	31976L0464; 31978L0176; 31980L0068; 31991L0692	I	1998/2065
	31975L0440; 31978L0176; 31979L0869; 31979L0923	IRL	1998/2066
	31975L0440; 31976L0464; 31978L0176; 31978L0659	P	1998/2067
	31991L0676	NL	1998/2158
	31975L0442	E	1998/2162
	31991L0689	D	1998/2169
	31991L0689	A	1998/2170
	31991L0689	B	1998/2171
	31991L0689	DK	1998/2172
	31991L0689	F	1998/2173
	31991L0689	EL	1998/2174
	31991L0689	IRL	1998/2175
	31991L0689	I	1998/2176
	31991L0689	P	1998/2178

Sector	Directives (CELEX code)	Member State	Infringement No	
Environment (continued)	31991L0689	UK	1998/2179	
	31991L0271	D	1998/2194	
	31976L0160	F	1998/2196	
	31979L0409	FIN	1998/2208	
	31990L0220	F	1998/2238	
	31991L0692	F	1998/2276	
	31992L0043	EL	1998/2277	
	31992L0043	EL	1998/2291	
	31979L0409; 31992L0043	IRL	1998/2292	
	31979L0409; 31992L0043	I	1998/2293	
	31979L0409; 31992L0043	L	1998/2294	
	31979L0409; 31992L0043	NL	1998/2295	
	31979L0409; 31992L0043	P	1998/2296	
	31992L0043	D	1998/2298	
	31992L0043	E	1998/2299	
	31978L0659	FIN	1998/2349	
	31992L0043	D	1998/4096	
	31990L0313	B	1998/4154	
	31979L0409	NL	1998/4174	
	31979L0409	E	1998/4180	
	31979L0409; 31992L0043	P	1998/4203	
	31979L0409	E	1998/4341	
	31979L0409	A	1998/4442	
	31985L0337	IRL	1998/4701	
	31985L0337; 31992L0043	IRL	1998/4952	
	31991L0271	IRL	1998/5000	
	31991L0271	I	1999/2020	
	31992L0043	B	1999/2039	
	31975L0439; 31975L0442; 31986L0278; 31991L0692	EL	1999/2099	
	31975L0439; 31975L0442; 31986L0278; 31991L0692	I	1999/2100	
	31975L0439; 31975L0442; 31986L0278; 31991L0692	P	1999/2101	
	31975L0439; 31975L0442; 31986L0278; 31991L0692	E	1999/2102	
	31976L0160	FIN	1999/2136	
	31976L0160	S	1999/2142	
	31976L0160	DK	1999/2156	
	31976L0160	I	1999/2157	
	31989L0369; 31989L0429	F	1999/4014	
	31994L0062	E	1999/4222	
	31979L0409	IRL	1999/4437	
	Justice and home affairs	31990L0364; 31990L0365; 31990L0366	I	1994/2218
		31973L0148	F	1995/4317
		31964L0221	D	1997/2207
		31964L0221	F	1997/4106
31973L0148; 31990L0365		IRL	1998/4112	
31968L0360; 31973L0148		B	1998/4226	
31973L0148; 31990L0365		IRL	1998/4380	
31968L0360		EL	1998/4499	
31964L0221; 31973L0148		EL	1998/4734	

Sector	Directives (CELEX code)	Member State	Infringement No
Justice and home affairs (continued)	31973L0148	E	1998/5022
	31993L0096	NL	1998/5037
	31964L0221; 31968L0360	UK	1998/5046
	31968L0360; 31973L0148; 31990L0364; 31990L0365	S	1999/2011
Internal market	31978L0686	D	1987/0434
	31973L0148	B	1989/0228
	31968L0151; 31978L0660	D	1990/0322
	31978L0686; 31978L0687	E	1990/0411
	31978L0686; 31978L0687	I	1990/0412
	31989L0048	F	1990/4379
	31971L0305; 31977L0062; 31988L0295	I	1991/0725
	31985L0432	I	1991/0820
	31977L0453	E	1991/4352
	31991L0542	EL	1993/4368
	31988L0295	IRL	1994/0608
	31968L0368	EL	1994/4176
	31985L0384	I	1994/4270
	31989L0048	E	1994/4348
	31989L0048	D	1994/4568
	31992L0051	I	1994/4639
	31993L0037	B	1994/4646
	31993L0036; 31993L0037	NL	1994/4800
	31984L0005	E	1995/2048
	31993L0037	F	1995/2098
	31993L0037	F	1995/2107
	31992L0049	D	1995/2108
	31971L0305; 31993L0037	B	1995/2110
	31992L0049	B	1995/2112
	31991L0308	A	1995/2121
	31993L0038	F	1995/2252
	31992L0050	UK	1995/4052
	31989L0048	B	1995/4173
	31997L0092	E	1995/4242
	31989L0665; 31993L0037	A	1995/4325
	31978L0686	D	1995/4336
	31992L0050	B	1995/4379
	31992L0050; 31993L0036	I	1995/4415
	31989L0048	D	1995/4533
	31989L0440; 31989L0665	I	1995/4646
	31993L0036	I	1995/4716
	31989L0048	D	1995/4816
	31992L0050	I	1995/5004
	31977L0452; 31977L0453	B	1996/2068
	31978L0686; 31978L0687	I	1996/2179
	31992L0050	IRL	1996/4032
	31990L05311; 31992L0050; 31993L0036; 31993L0037; 31993L0038	A	1996/4081
	31992L0050	UK	1996/4463



Sector	Directives (CELEX code)	Member State	Infringement No
Internal market (continued)	31992L0050	F	1996/4543
	31993L0036	I	1996/4623
	31989L0665; 31992L0050; 31993L0036	A	1996/4698
	31992L0050	UK	1997/2136
	31993L0038	F	1997/4017
	31992L0050	D	1997/4076
	31993L0037	I	1997/4218
	31992L0050	I	1997/4230
	31993L0037	E	1997/4493
	31992L0050	I	1997/4498
	31992L0050	UK	1997/4872
	31992L0050	I	1997/4949
	31985L0384	B	1998/2227
	31993L0037	F	1998/4255
	31993L0037	A	1998/4428
	31992L0050	I	1998/4547
	31992L0050	D	1998/4610
	31993L0036	EL	1998/4984
	31992L0049; 31995L0026	P	1999/4692
	External relations	31977L0388	EL
Consumers	31983L0189; 31988L0182	NL	1993/2267
	31990L0088	UK	1994/2069
	31985L0073; 31993L0118	EL	1994/2181
	31972L0462; 31985L0073; 31990L0675; 31993L0118	EL	1995/2011
	31969L0433; 31971L0118; 31977L0099; 31991L0495	F	1995/4080
	31964L0433; 31991L0498	F	1996/2022
	31964L0433; 31991L0498	D	1996/2023
	31964L0433; 31991L0498	L	1996/2024
	31964L0433; 31991L0498	IRL	1996/2026
	31991L0628; 31991L0630; 3193L0119	A	1996/4426
	31941L0628	I	1996/4669
	31990L0667; 31996F0449	NL	1997/2111
	31994L0381	I	1997/2114
	31990L0667; 31994D0381; 31996D0449	S	1997/2116
	31990L0667; 31994D0381; 31996D0449	FIN	1997/2124
	31971L118	UK	1997/2138
	31964L0433; 31996D0239; 31996D0362	UK	1997/2152
	31964L433; 31989L0662	D	1997/2205
	31990L0667; 31996D0449	P	1997/2216
	31968L0193	D	1997/4242
	31991L0628; 31993L0119	F	1997/4345
	31991L0414	NL	1997/4420
	31993L0013	I	1997/4444
	31990L0428	D	1997/4585
	31971L0118; 31990L0675; 31991L0494	F	1997/4596
	31990L0428	DK	1997/4708
	31997L0504; 31987L0320	D	1997/4843

Sector	Directives (CELEX code)	Member State	Infringement No
Consumers (continued)	31990L0667	B	1998/2095
	31964L432; 31972L0462	A	1998/2106
	31964L0432; 31972L0462; 31991L0496	D	1998/2107
	31964L432; 31911L496	F	1998/2108
	31964L0432; 31991L0496	I	1998/2109
	31991L628	E	1998/2160
	31977L101; 31991L516; 31992L0087	F	1998/2244
	31991L0492	S	1998/2390
	31991L0174	E	1998/4270
	31991L0414	I	1998/4306
	31964L0433; 31991L0495	D	1998/4324
	31992L0353	B	1998/4449
	31993L0119	F	1998/4490
	31997L0099	D	1998/4563
	31966L0401	DK	1998/4661
	31964L0432; 31990L0425; 31998D0412	NL	1998/4884
	31998L0034	NL	1998/4944
	31998L0034	NL	1998/4945
	31977L0093; 31992L0076	EL	1998/5100
	31985L0073	B	1998/5126
	31991L0414	EL	1998/5134
	31964L0433	NL	1999/2050
	31991L0629; 31991L0630	D	1999/2060
	31991L0629; 31991L0630	EL	1999/2061
	31991L0629; 31991L0630	F	1999/2062
	31991L0629; 31991L0630	IRL	1999/2063
	31991L0629; 31991L0630	P	1999/2064
	31964L0433; 31995L0023	I	1999/2114
	31964L0433	B	1999/2138
	31989L0662; 31990L0425	B	1999/2141
	31964L0434; 31990L0425; 31991L0628	UK	1999/2166
	31991L0628; 31993L0119	B	1999/2189
	31964L0433; 31989L0662	F	1999/2247
	31964L0433; 31989L0662	D	1999/2248
	31991L0174	F	1999/4048
	31964L0433; 31989L0662; 31994L0065	S	1999/4183
	31970L0457	EL	1999/4265
	31964L0433; 31992L0120; 31996L0077	F	1999/4360
	31966L0400; 31966L0401; 31966L0402; 31968L0209	A	1999/4394
	31966L0400; 31966L0401; 31966L0402; 31966L0403	UK	1999/4501
	31997D0534; 31997D0866; 31998L0034	E	1999/4502
	31993L0119	F	1999/4506
	31991L0628	I	1999/4624
31968L0193; 31971L0140	D	1999/4724	
31989L0662; 31990L0425	F	1999/4832	
Taxation	31977L0388	EL	1988/0199
	31977L0388	IRL	1988/0200
	31977L0388	NL	1988/0201

Sector	Directives (CELEX code)	Member State	Infringement No
Taxation (continued)	31977L0388	UK	1988/0202
	31977L0388	F	1988/0213
	31977L0388	F	1989/5085
	31969L0335	EL	1991/2193
	31977L0388; 31989L0465	NL	1992/2241
	31977L0388; 31979L1072	F	1992/4607
	31977L0388	D	1993/2142
	31977L0388	B	1993/2174
	31977L0388	D	1993/2229
	31977L0388	UK	1994/2099
	31977L0388	NL	1994/2100
	31992L0077	P	1994/2178
	31995L0057	EL	1994/4034
	31992L0012	B	1994/4860
	31992L0012; 31992L0083; 31992L0075	F	1995/2151
	31977L0388	F	1995/4515
	31977L0388	A	1996/4733
	31992L0081; 31992L0082	FIN	1997/2071
	31977L0388	F	1997/2104
	31977L0388; 31992L0012	EL	1997/2148
	31977L0388	FIN	1997/2156
	31977L0388	E	1997/2172
	31977L0388	F	1997/2215
	31992L0012; 31992L0082	I	1997/2251
	31992L0083	EL	1997/4099
	31992L0012	A	1997/4358
	31977L0388	I	1997/4365
	31992L0082	I	1997/4868
	31977L0388	F	1998/2103
	31977L0388	D	1998/2133
	31977L0388	E	1998/2136
	31977L0388	FIN	1998/2137
	31977L0388	I	1998/2138
	31977L0388	P	1998/2139
	31977L0388	UK	1998/2140
	31977L0388	S	1998/2141
	31977L0388	D	1998/2232
	31992L0079; 31995L0059	F	1998/4061
	31977L0388	F	1998/4401
	31977L0388	EL	1998/4088
Transport	31992L2407; 31992L2408; 31992L2409	B	1995/2085
	31992L2407; 31992L2408; 31992L2409	L	1995/2086
	31992L2407; 31992L2408; 31992L2409	DK	1995/2087
	31992L2407; 31992L2408; 31992L2409	FIN	1995/2088
	31992L2407; 31992L2408; 31992L2409	S	1995/2089
	31992L2407; 31992L2408; 31992L2409	A	1995/2090
	31991L670	B	1995/4152
	31992L0106	I	1995/4557

Sector	Directives (CELEX code)	Member State	Infringement No
Transport (continued)	31993L0089	A	1996/2059
	31996L0067; 31997L0187	D	1998/5036
	31994L0057	F	1999/2007
	31994L0057	I	1999/2008
	31994L0057	IRL	1999/2009
	31994L0057	P	1999/2010
	31976L0135	F	1999/4252

## ANNEX V

## JUDGMENTS OF THE COURT OF JUSTICE UP TO 31 DECEMBER 1999 NOT YET IMPLEMENTED

BELGIUM

**Judgment given on 27.9.1988, Case C-42/87****Judgment given on 3.5.1994, Case C-47/93***Discrimination in public financing; non university further education*

Referred to the Court under Article 228(2), accompanied by a request for imposition of a penalty payment.

**Judgment given on 19.2.1991, Case C-375/89***Aid for IdealspunBeaulieu*

Proceedings in the Ghent Court of Appeal are still in motion.

**Judgment given on 24.3.1994, Case C-80/92***Free movement of wireless telephones*

Progress is being made.

**Judgment given on 15.10.1998, Case C-268/97**

*Non-conformity of Belgian legislation with Council Directive 86/609/EEC relating to the protection of animals used for experimental and other scientific purposes*

Article 228 proceedings have been commenced and are continuing solely in respect of non-compliance with Article 22 of the Directive.

**Judgment given on 21.1.1999, Case C-207/97**

*Failure to notify programmes to reduce pollution caused by certain dangerous substances discharged into the aquatic environment of the Community*

Progress is being made.

**Judgment given on 20.6.1999, Case C-172/98**

*Law on non-profit associations: obligation for the executive organ to include at least one Belgian member*

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 8.7.1999, Case C-203/98***Aerial photos, restriction on freedom to provide services*

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 14.9.1999, Case C-170/98**

*Cargo-sharing arrangements in the bilateral agreement between Belgium and Zaire*

The Belgian authorities have informed the Commission of the adaptation of the agreement. The measures are being examined.

**Judgment given on 14.9.1999, Case C-171/98**

*Cargo-sharing arrangements in the bilateral agreement between BLEU and Togo*

The Belgian authorities have communicated the measures implementing the Court's judgment, which are now being examined by the Commission.

**Judgment given on 14.9.99, Case C-201/98**

*Cargo-sharing arrangements in the bilateral agreements between Belgium and the MCWCS countries*

The Belgian authorities (BLEU) have informed the Commission of the adaptation of the agreement. The measures are being examined.

GERMANY

**Judgment given on 20.9.1990, Case C-5/89***Bug-Alutechnik — repayment of a grant*

The German authorities informed the Commission on 23 December 1999 that the Bundesverwaltungsgericht had rejected the recipient's request for a review for the aid and that the latter had repaid the aid in question. The case will be terminated in early 2000.

**Judgment given on 29.9.1998, Case C-191/95***Deposit of annual accounts with the Companies Register*

Progress is being made. The bill transposing the Directive was passed by the Bundestag in December 1999 and is due to be passed by the Bundesrat in early February 2000.

**Judgment given on 22.10.1998, Case C-301/95**

*Incorrect transposal of Council Directive 85/337/EEC on the assessment of the impact of certain public or private projects on the environment*

Article 228 proceedings are continuing.

**Judgment given on 22.4.1999, Case C-272/97**

*Failure to notify national measures transposing the Council Directive on consolidated accounts*

Progress is being made. The bill transposing the Directive was passed by the Bundestag in December 1999 and is due to be passed by the Bundesrat in early February 2000.

**Judgment given on 8.6.1999, Case C-198/97**

*Quality of bathing water*

The German authorities have communicated measures, which are being examined by the Commission.

**Judgment given on 9.9.1999, Case C-102/97**

*Disposal of waste oils, regeneration*

The Commission has contacted the German authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 9.9.1999, Case C-217/97**

*Access to information*

The Commission has contacted the German authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 11.11.1999, Case C-184/97**

*Failure to notify programmes to reduce pollution caused by certain dangerous substances discharged into the aquatic environment of the Community*

Recent judgment.

GREECE

**Judgment given on 8.11.1990, Case C-53/88**

*Protection of workers in the event of insolvency of employers*

The Greek authorities have communicated measures which are being examined by the Commission.

**Judgment given on 7.4.1992, Case C-45/91**

*Waste, village in Crete*

Proceedings before the Court are continuing; the Advocate-General delivered his conclusions on 28 September 1999.

**Judgment given on 23.3.1995, Case C-365/93**

*Recognition of higher education diplomas*

Proceedings before the Court are continuing.

**Judgment given on 2.7.1996, Case C-290/94**

*Access to employment: nationality discrimination*

Article 228 proceedings have been pursued through the issuing of a reasoned opinion. The referral to the Court pursuant to Article 228(2) of the Treaty has been stayed and the Greek authorities have been contacted in order to verify the situation regarding implementation of the Court's judgment.

**Judgment given on 22.10.1997, Case C-375/95**

*Tax on second-hand cars*

This case is partially settled, but proceedings are continuing in respect of one complaint outstanding.

**Judgment given on 27.11.1997, Case C-62/96**

*Licensing and flag rights for fishing vessels and merchant ships*

The Commission has received a draft decree terminating the infringement. Formal adoption and publication of the decree is awaited.

**Judgment given on 11.6.1998, Case C-232/95**

*Pollution of Lake Vegoritis, dangerous substances discharged into the aquatic environment*

The Greek authorities have communicated a series of measures designed to comply with the Court's judgment, and these are being examined by the Commission.

**Judgment given on 15.10.1998, Case C-385/97**

*Failure to notify national measures transposing Council Directive 93/118/EC on the financing of health inspections and controls of fresh meat and poultrymeat*

Article 228 proceedings have been commenced and are continuing.



**Judgment given on 29.10.1998, Case C-185/96**

*Nationality discrimination: recognition of large-family status*

Article 228 proceedings have been commenced.

**Judgment given on 8.7.1999, Case C-215/98**

*Absence of programmes required by Article 6 of Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances*

Article 228 proceedings have been commenced.

**Judgment given on 21.10.1999, Case C-391/98**

*Failure to notify national measures transposing Council Directive 93/43/EEC on the hygiene of foodstuffs*

The Commission has contacted the Greek authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 28.10.1999, Case C-187/98**

*Equality between men and women in matters of social security*

The Commission has contacted the Greek authorities to ascertain what measures are planned to comply with the Court's judgment.

SPAIN

**Judgment given on 22.3.1994, Case C-375/92**

*Restrictions on freedom to provide services as tourist guides*

Progress is being made. The Spanish authorities have transmitted draft provisions and adoption timetables; a few amendments are still needed in certain regional legislations.

**Judgment given on 17.7.1997, Case C-52/96**

*Transfer of pension rights*

Progress is being made. A Royal Decree terminating the infringement has been tabled and is due to be approved shortly by Spain's Council of Ministers.

**Judgment given on 9.10.1997, Case C-21/96**

*Radiological protection of patients subject to medical examination or treatment*

Progress is being made.

**Judgment given on 12.2.1998, Case C-92/96**

*Incorrect application of Council Directive 76/160/EEC concerning the quality of bathing water as regards inland waters*

Article 228 proceedings have been commenced.

**Judgment given on 28.5.1998, Case C-298/97**

*Failure to notify programmes required by Article 6 of Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances.*

Progress is being made. The Spanish authorities have submitted a copy of the Official Gazette containing the agreement of conformity of the Sectoral Environment Conference with the National Used Batteries programme. A copy of this programme will be notified to the Commission in the near future.

**Judgment given on 1.10.1998, Case C-71/97**

*Incorrect application of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources*

Progress is being made. The Spanish authorities have provided notification of designated vulnerable zones and codes of good agricultural practice. However, the Commission is still awaiting the official publication of these designations and codes for certain regions.

**Judgment given on 25.11.1998, Case C-214/96**

*Incorrect application of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (Article 7: pollution reduction programmes)*

The Spanish authorities have communicated all the catchment basin management plans, including provisions relating to discharges. These measures are being examined by the Commission.

FRANCE

**Judgment given on 11.6.1991, Case C-64/88**

*Fisheries: failure to monitor compliance with technical conservation measures*

Substantial shortcomings persist. Article 228 proceedings are in motion.

**Judgment given on 23.3.1997, Case C-197/96**

*Night work by women*

The case has been referred to the Court under Article 228(2) of the EC Treaty, together with a request for imposition of a penalty payment.

**Judgment given on 9.12.1997, Case C-265/95**

*Barriers to import of Spanish strawberries*

The Commission has contacted the French authorities to remind them of their obligations under the EC Treaty. The Commission is continuing to check whether the Court's judgment is being complied with in practice.

**Judgment given on 12.2.1998, Case C-144/97**

*Failure to notify national measures transposing Council Directive 92/74/EEC widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products*

The French authorities have submitted a draft decree terminating the infringement, and the Commission is awaiting enactment of this decree.

**Judgment given on 24.9.1998, Case C-35/97**

*Calculation of additional pension entitlements for frontier workers*

The Commission is keeping in touch with the French authorities in order to check whether the Court's judgment is being complied with.

**Judgment given on 15.10.1998, Case C-284/97**

*Failure to notify national measures transposing Council Directive 93/40/EEC amending Council Directive 81/851/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products*

The French authorities have submitted a draft decree terminating the infringement, and the Commission is awaiting enactment of this decree.

**Judgment given on 22.10.98, Case C-184/96**

*Preparations based on foie gras*

Progress is being made. The French authorities have submitted measures, and the Commission is awaiting enactment of these measures.

**Judgment given on 9.2.1999, Case C-354/97**

*Failure to notify national measures transposing Council Directive 94/28/EC laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of bovine animals, their semen, ova and embryos*

Article 228 proceedings have been commenced.

**Judgment given on 18.3.1999, Case C-166/97**

*Seine estuary: failure to classify a sufficiently large area as a special protection area (SPA) and to establish an adequate protection regime*

Article 228 proceedings have been commenced.

**Judgment given on 19.5.1999, Case C-225/97**

*Incorrect transposal of Council Directive 92/13/EEC on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (review procedures)*

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 18.7.1999, Case C-354/98**

*Failure to notify national measures transposing Council Directive 96/97/EEC amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes*

Article 228 proceedings have been commenced.

IRELAND

**Judgment given on 17.12.1998, Case C-353/96**

*Public supply contracts: fertiliser deliveries — Irish Forestry Board Ltd*

The Commission is keeping in touch with the Irish authorities in order to check whether the Court's judgment is being complied with.

**Judgment given on 21.9.1999, Case C-392/96**

*Non-conformity of Irish legislation with various provisions of Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment*

The Commission has contacted the Irish authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 12.10.1999, Case C-213/98**

*Failure to notify national measures transposing Council Directive 92/100/EEC on rental right and lending right and on certain rights related to copyright in the field of intellectual property*

Progress is being made.

**Judgment given on 25.11.99, Case C-212/98**

*Failure to notify national measures transposing Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission*

Recent judgment.

ITALY

**Judgment given on 1.6.1995, Case C-40/93**

*Admission to the profession of dentist*

Progress is being made. The Italian authorities have submitted a draft decree relating to the organisation of the aptitude test.

**Judgment given on 29.2.1996, Case C-307/94**

*Failure to notify measures transposing the Council Directive coordinating legislation relating to certain activities of pharmacists*

Progress is being made. Following the commencement of Article 228 proceedings and discussions with the Member State, the remaining difficulties are in the process of being resolved, in conjunction with the amendment of the abovementioned directive, which is due to be adopted shortly.

**Judgment given on 29.1.1998, Case C-280/95**

*Failure to comply with Decision 93/496/EEC of 9 June 1993 on the obligation to recover tax aid granted to professional road hauliers for the year 1992*

Progress is being made. The Italian authorities have submitted a draft law which terminates the infringement, and the Commission is awaiting enactment of this law.

**Judgment given on 18.6.1998, Case C-35/96**

*Compulsory tariffs to be applied by customs agents for providing customs clearance services*

The Commission has pursued its contacts with the Italian authorities. In the absence of a draft measure putting an end to the infringement, the commencement of Article 228 proceedings is being considered.

**Judgment given on 1.10.1998, Case C-285/96**

*Incorrect application of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (Article 7: pollution reduction programmes)*

The Italian authorities have submitted to the Commission a set of measures designed to give effect to the Court's judgment, and these are being examined.

**Judgment given on 25.3.1999, Case C-112/97**

*Failure to allow the installation of gas appliances which comply with Directive 90/396/EEC*

Article 228 proceedings have been commenced.

**Judgment given on 17.6.1999, Case C-336/97**

*Emergency plans for action outside establishments and informing of the population (Seveso Directive 82/501/EEC)*

The Commission is pursuing its contacts with the Italian authorities.

**Judgment given on 9.11.1999, Case C-365/97**

*Waste: San Rocco valley*

The Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment.

**Judgment given on 11.11.1999, Case C-315/98**

*Failure to notify national measures transposing Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions*

The Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment.

LUXEMBOURG

**Judgment given on 11.6.1998, Case C-206/96**

*Absence of pollution-reduction programmes regarding 99 substances on list II in the Annex to Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community*

The Commission is continuing its discussions with the Luxembourg authorities after having found that only a part of the necessary measures had been planned.

**Judgment given on 16.7.1998, Case C-339/97**

*Confined use of genetically-modified micro-organisms (Directive 94/51/EC)*

Article 228 proceedings have been actively pursued. Progress is being made.

**Judgment given on 29.10.1998, Case C-410/97**

*Failure to notify national measures transposing Council Directive 92/29/EEC on the minimum safety and health requirements for improved medical treatment on board vessels*

It has been decided to refer Luxembourg to the Court under Article 228(2) of the Treaty, together with a request for imposition of a penalty payment.

**Judgment given on 3.6.1999, Case C-417/97**

*Failure to notify national measures transposing Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field*

Progress is being made. The Commission is awaiting notification by the Luxembourg authorities of the Grand-Ducal Regulation which will put an end to this infringement.

**Judgment given on 14.9.1999, Case C-202/98**

*Cargo-sharing arrangements in the bilateral agreements between Luxembourg and the MCWCS countries*

The BLEU authorities have informed the Commission of the adaptation of these agreements. The measures are being examined.

**Judgment given on 24.10.1999, Case C-430/98**

*Failure to notify national measures transposing Council Directive 94/45/EC on the establishment of a European Works Council for the purposes of informing and consulting employees*

The Commission has contacted the Luxembourg authorities to ascertain what measures are planned to comply with the Court's judgment.

THE NETHERLANDS

**Judgment given on 19.5.1998, Case C-3/96**

*Failure to comply with obligation to designate special protection zones as required by Directive 79/409/EEC on the conservation of wild birds*

Article 228 proceedings are being actively pursued.

AUSTRIA

**Judgment given on 28.10.1999, Case C-328/96**

*Public works contract: construction of an administrative and cultural centre in lower Austria*

Recent judgment. The Commission has contacted the Austrian authorities to ascertain what measures are planned to comply with the Court's judgment.

PORTUGAL

**Judgment given on 28.5.1998, Case C-213/97**

*Incomplete or incorrect transposal of Article 3 of and Annexes I and II to of Council Directive 86/280/EEC, as amended by Directive 88/347/EEC, on limit values and quality objectives for discharges of certain dangerous substances*

Progress is being made. The Commission is awaiting notification of the programmes for the last two substances.

**Judgment given on 17.6.1998, Case C-214/97**

*Absence of cleaning-up plans required by Article 4 of Council Directive 75/440/EEC concerning the quality required of surface water intended for the abstraction of drinking water in the Member States*

Article 228 proceedings have been commenced and are being actively pursued.

**Judgment given on 18.6.1998, Case C-183/97**

*Non-conformity of national measures transposing Council Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances*

Progress is being made. The Commission is examining the measures communicated in order to ascertain whether the final outstanding complaint has been resolved.

**Judgment given on 18.6.1998, Case C-208/97**

*Absence of programmes required by Article 4 of Council Directive 84/156/EEC on limit values and quality objectives for mercury discharges by sectors other than the chloralkali electrolysis industry*

Article 228 proceedings have been pursued. Progress is being made. Programmes have been communicated and are being examined by the Commission.

**Judgment given on 21.1.1999, Case C-150/97**

*Assessment of the effects of certain public and private projects on the environment*

Article 228 proceedings have been commenced. The Portuguese authorities have communicated a Decree-Law repealing the provision condemned in the Court judgment. The Commission is awaiting publication of this Decree-Law.

UNITED KINGDOM

**Judgment given on 14.7.1998, Case C-56/90**

*Quality of waters at Blackpool and Southport*

Article 228 proceedings are being actively pursued.

**Judgment given on 22.4.1999, Case C-340/96**

*Quality of water intended for human consumption*

The United Kingdom authorities have communicated draft regulations, which are being examined by the Commission.

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## ANNEX VI

## APPLICATION OF COMMUNITY LAW BY NATIONAL COURTS: A SURVEY

## 1. Application of Article 234 of the EC Treaty

In 1999, 255 requests for preliminary rulings were made by the national courts to the Court of Justice of the European Communities (hereafter referred to as 'the Court of Justice') in cases where difficulties arose in the interpretation of Community law or where there were doubts as to the validity of Community Instruments.

When such references are recorded at the Court of Justice Registry, they are published in full in the *Official Journal of the European Communities*. The table below shows the number of references from each Member State over the last ten years<sup>(1)</sup>.

<sup>(1)</sup> The last three reports were published in OJ C 332, 3.11.1997, p. 198, OJ C 250, 10.8.1998, p. 195 and OJ C 354, 7.12.1999, p. 182.

## Number of references per Member State

	Year									
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Belgium	17	17	16	22	19	14	30	19	12	13
Denmark	5	2	3	7	4	8	4	7	7	3
Germany	34	50	62	57	44	51	66	46	49	49
Greece	2	2	1	5	—	10	4	2	5	3
Spain	6	4	5	7	13	10	6	9	55	4
France	21	24	15	22	36	43	24	10	16	17
Ireland	4	1	—	1	2	3	—	1	3	2
Italy	25	18	22	24	46	58	70	50	39	43
Luxembourg	4	2	1	1	1	2	2	3	2	4
Netherlands	9	17	18	43	13	19	10	24	21	23
Austria						2	6	35	16	56
Portugal	2	3	1	3	1	5	6	2	7	7
Finland						—	3	6	2	4
Sweden						6	4	7	6	5
United Kingdom	12	13	15	12	24	20	21	18	24	22
Total	142	186	162	204	203	251	256	239	264	255



As in 1998, references were made by courts in all Member States. In 1999, preliminary rulings accounted for about 47 % of the 543 cases brought before the Court. The table below shows the number of references from courts of final instance in each Member State and identifies the referring courts.

**Origin and number of references by courts of final instance in 1999, by Member State**

Belgium	Conseil d'État	1
Denmark	Højesteret	1
Germany	Bundesgerichtshof	2
	Bundesverwaltungsgericht	1
	Bundesfinanzhof	4
	Bundessozialgericht	9
Spain	Tribunal Supremo	2
France	Cour de cassation	1
	Conseil d'État	4
Ireland	Supreme Court	1
Italy	Consiglio di Stato	2
Luxembourg	Cour administrative	1
Netherlands	Raad van State	3
	Hoge Raad	8
	Centrale Raad van Beroep	3
	College van Beroep voor het Bedrijfsleven	3
Austria	Oberster Gerichtshof	5
	Bundesvergabeamt	1
	Verwaltungsgerichtshof	7
	Vergabekontrollsenat	1
Portugal	Supremo Tribunal Administrativo	4
Finland	Korkein Hallinto-oikeus	1
	Korkein oikeus	1
Sweden	Högsta Domstolen	1
	Regeringsrätten	3
United Kingdom	House of Lords	1
	Court of Appeal	2

Only the Greek courts of final instance made no requests for preliminary rulings.

## 2. Significant judgments by national courts of final instance

### 2.1. Introduction

The following analysis illustrates developments in how Community law is taken into account by the superior national courts.

The Commission has again had access to data gathered by the Research and Documentation Department of the Court of Justice. It was thus able to identify decisions which applied Community law, though it is not possible, by consulting databases, to identify cases where national courts ought to have applied Community law but where the judgment contains no reference to it. Moreover, the Commission cannot undertake a systematic analysis of the many judgments delivered each year by the superior courts in the various countries. Each year, some 1 200 judgments relating to Community law come to the attention of the Research and Documentation Department.

### 2.2. The research

Research was carried out on the following questions in relation to decisions given or reported for the first time in 1999:

1. Were there cases where decisions against which there was no appeal were taken without a reference for a preliminary ruling even though they turned on a point of Community law whose interpretation was less than perfectly obvious?

Were there any other decisions regarding preliminary rulings that merit attention?

2. Were there cases where courts, contrary to the rule in Case 314/85 *Foto-Frost*<sup>(1)</sup>, declared an act of a Community institution to be invalid?

3. Were there any decisions that were noteworthy as setting good or bad examples?

4. Were there any decisions that applied the rulings given in *Francovich*, *Factortame* and *Brasserie du Pêcheur*?

In view of certain decisions made by the European Court of Human Rights this year, a fifth question arises:

5. Were there any decisions of the European Court of Human Rights which are of interest for the purposes of this survey?

### Question 1

In *Germany* the Federal Administrative Court (*Bundesverwaltungsgericht*) heard a case concerning an application by a female warrant officer in the medical corps of the German army (*Bundeswehr*) to join the combat units' driving school. Without requesting a preliminary ruling from the Court of Justice, the *Bundesverwaltungsgericht* made an order of 20 May 1999<sup>(2)</sup>, rejecting the application on the grounds that the pertinent provisions of German law, and in particular Article 12a(4) of the Basic Law (*Grundgesetz*), preclude women from bearing arms and restrict them to the medical and music corps. According to the *Bundesverwaltungsgericht*, the German regulations are in accordance with Community law since Article 2(2) of Directive 76/207/EEC, on

<sup>(1)</sup> [1987] ECR 4199.

<sup>(2)</sup> Bundesverwaltungsgericht, decision of 20 May 1999, 1 WB 94/98. *Neue Zeitschrift für Verwaltungsrecht* 1999, 1343-1345 (= *Zeitschrift für Beamtenecht* 1999, 161-165; *Deutsche Verwaltungsblätter* 1999, 1437-1439; *Die Öffentliche Verwaltung* 1999, 914-916).

the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions<sup>(1)</sup>, excludes the armed forces from its scope. On 13 July 1998, the Hanover Administrative Court (*Verwaltungsgericht Hannover*) had already referred to the Court of Justice<sup>(2)</sup> for a ruling on whether Directive 76/207/EEC precludes the application of national provisions such as those of German law. The Court replied in its judgment of 11 January 2000<sup>(3)</sup>.

In Germany again, the First Chamber (*Erster Senat*) of the Federal Finance Court (*Bundesfinanzhof*) made a referral order on 9 September 1998 asking the Enlarged Chamber (*Großer Senat*) of the *Bundesfinanzhof*<sup>(4)</sup> to rule on whether the *Bundesfinanzhof* was obliged in a tax dispute to refer to the Court of Justice for the interpretation of Directive 78/660/EEC<sup>(5)</sup> on the annual accounts of certain types of companies. In Germany, the provisions on income tax refer to the commercial law transposing the Directive, which is not limited to certain types of company like the Directive itself but applies to all persons engaging in commercial activity<sup>(6)</sup>. Referring to the Court of Justice judgment of 17 July 1997 in *Leur-Bloem*<sup>(7)</sup>, the First Chamber argues that it is for the national court to assess the exact scope of a reference by national law to Community law, in this case the reference to the Directive by the German legislator.

By its decision of 29 April 1999, the Hamburg Finance Court (*Finanzgericht Hamburg*) asked the Court of Justice to rule on its own competence to interpret the Directive in tax disputes<sup>(8)</sup>.

In Belgium the Brussels Court of Appeal (*Cour d'appel de Bruxelles*) held on 5 March 1999<sup>(9)</sup> that a judgment by which the national court refers for a preliminary ruling to the Court of Justice cannot be appealed. According to the *Cour d'appel*, such a judgment is neither a final decision on the substance of the case or on subordinate matters nor an interlocutory decision taken for examination proposes or to regulate the parties' position provisionally pending a substantive

decision. By requesting a preliminary ruling, the court does not decide any question of law or fact and does not prejudge the outcome of the case. The *Cour d'appel* concludes that unless such a judgment causes some other form of immediate injury to one of the parties, it is a decision or measure regulating the court's transactions which, under the terms of Article 1046 of the Judicial Code, cannot be appealed. The reference to the Court of Justice by the Brussels Court of First Instance (*Tribunal de première instance de Bruxelles*) thus stands<sup>(10)</sup>. The appellant, who had referred the matter to the Court of Cassation (*Cour de Cassation*), has dropped the appeal.

The Belgian Court of Arbitration (*Cour d'arbitrage*), in its judgment of 30 September 1999, partially annulled Article 6 of the Law of 10 December 1997 prohibiting advertising of tobacco products, which transposes Directive 98/43/EC of 6 July 1998<sup>(11)</sup>. This was done without acceding to the request of certain parties to refer to the Court of Justice. Whereas Article 6(3) of the Directive provides for Member States to be able to postpone its implementation until 30 July 2002 (as regards the press) or 2003 (as regards sponsorship), Article 6 of the Belgian law provides that it enters into force on 1 January 1999. The claimants argued, *inter alia*, that banning advertising and sponsorship of tobacco products made it impossible to organise events — in particular motor racing events — which were funded or sponsored by the tobacco industry. Some of the claimants were specifically critical of the failure to make special arrangements for world-class events and to take advantage of the scope afforded by the Directive for postponing these bans where such events are concerned. The *Cour d'arbitrage* reviewed the aims of the law, namely to safeguard public health by cutting tobacco consumption and to reduce the social and financial costs of such consumption, and noted that, while the financial and job losses which would inevitably result from such bans were substantial, they could not in principle be disproportionate if they were the price to be paid for safeguarding public health effectively. On the other hand, as regards world-class events, it recognised that there was a significant risk of relocation since the other Member States might avail themselves of Article 6(3) of the Directive to postpone these bans. The *Cour d'arbitrage* also noted that the law's effectiveness will be significantly impaired since such events are mainly viewed by televised retransmission and many viewers would continue to see such programmes and would thus not be affected by the bans. Bearing these two points in mind, the *Cour d'arbitrage* held that the measure is disproportionate in the current circumstances and breaches the principles of equality and non-discrimination enshrined in Articles 10 and 11 of the Constitution, read in conjunction with the principle of freedom to engage in commerce and industry. The *Cour d'arbitrage* therefore annulled Article 6 of the Law, but only in so far as it applies to world-class events and activities before 1 January 2003. The *Cour d'arbitrage* was also asked to rule on the compatibility of the advertising ban with Article 28 (ex Article 30) of the EC Treaty. It considered that, quite apart from the fact that what was at issue was a sales technique, this measure would be equally applicable to all and would not represent a barrier to free movement of goods. In any case, it would be justified by the need to safeguard public health.

(1) OJ L 39, 14.2.1976, p. 40.

(2) OJ C 278, 5.9.1998, p. 31.

(3) Case C-285/98, judgment not yet published in the ECR. Unlike the Bundesverwaltungsgericht, the Court of Justice holds that Directive 76/207/EEC precludes the application of national provisions, such as those of German law, which impose a general exclusion of women from bearing arms and restrict them to the medical and music corps.

(4) Bundesfinanzhof, decision of 9 September 1998, I R 6/96. Sammlung der Entscheidungen und Gutachten des Bundesfinanzhofes Band 187, 215-223. The Enlarged Chamber of the Bundesfinanzhof consists of the President of the Bundesfinanzhof and a member of each of its chambers. According to Article 11(4), of the Code of Procedure before the Finance Court (*Finanzgerichtsordnung*), a question of basic importance may be put to the Enlarged Chamber when a chamber considers it necessary for the development of law or to ensure coherent jurisprudence.

(5) Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (OJ L 222, 14.8.1978, p. 11).

(6) See Article 5 of the Income Tax Act (*Einkommensteuergesetz*).

(7) Case C-28/95 [1997] ECR I-4161.

(8) OJ C 333, 20.11.1999, p. 13 (Case C-306/99); also published in *Betriebs-Berater* 1999, 1866-1867 (= *Entscheidungen der Finanzgerichte* 1999, 1022-1034; *Recht der Internationalen Wirtschaft* 1999, 793-800).

(9) *Cour d'appel de Bruxelles*, 5 March 1999, No 322/96.

(10) Case C-108/96, pending.

(11) Directive 98/43/EC of the European Parliament and of the Council of 6 July 1998 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products (OJ L 213, 30.7.1998, p. 9).

In Greece, the Council of State (*Symvoulío tis Epikrateias*), despite a dissenting minority view, declined to refer to the Court of Justice or avoided doing so in two cases. It rendered two judgments according to two different lines of reasoning, endorsing the administrative refusal of recognition in Greece to degrees from universities from other Member States, where some of the teaching had been carried out in Greece on the satellite campuses of these universities. Both the teaching by the satellites and the system of supervision and examination were the same as those in the 'parent' university and the instruction was given by staff from the parent university who travelled to Greece for this purpose. In both cases, the Greek qualifications body (the *Dikatsa*) had cited Articles 7 and 8 of Greek Law No 741/1997 and had refused to recognise the foreign degree as fully equivalent to the Greek one on the grounds that part of the studies, i.e. the first two years on the satellite campus, had taken place at a 'free study centre in Greece'.

In the first judgment (2807/1997<sup>(1)</sup>), the Sixth Chamber of the *Symvoulío tis Epikrateias* noted that Article 16 of the Constitution, which stipulates that only legal persons subject to public law and acting under the control of the State may provide higher education and forbids the creation of higher education establishments by private persons, conflicts with Articles 48, 52 and 126 of the EC Treaty (which after amendment of the Treaty have become Articles 39, 43 and 149 respectively) and Directive 89/48/EEC on mutual recognition of higher-education diplomas<sup>(2)</sup>.

While recognising that these provisions prevail over domestic law, the Sixth Chamber nonetheless seems initially to restrict this primacy to non-constitutional national law. In order to resolve the matter, the Chamber argued that it is for the Court of Justice, under Article 177 of the EC Treaty (now Article 234) to rule on whether the diploma in question is covered by Community law and, if so, whether the refusal to recognise it is compatible with Community law. However, although it is a court of last resort within the meaning of Article 177, the Sixth Chamber did not itself refer the matter for a preliminary ruling but referred the whole case, in view of its importance, to the plenum of the *Symvoulío tis Epikrateias*. Since the claimant subsequently dropped the case, the plenum did not give judgment.

When the same issue was raised by a different claimant, the *Symvoulío tis Epikrateias* followed an entirely different approach in judgment 3457/1998<sup>(3)</sup>. The administrative refusal to recognise the diploma in question was upheld solely on the basis of Article 126 of the EC Treaty (now Article 149), thus dropping the question of the primacy of Community law over the Constitution. The *Symvoulío tis Epikrateias* holds that Article 126, by guaranteeing the cultural and linguistic diversity of the Member States, excludes the content of education and the organisation of education systems from the sphere of Community

competence and thereby justifies the barriers which might result for the free movement of persons and capital and the free provision of services. Directive 89/48/EEC and the Articles 49, 57 and 66 of the EC Treaty to which it refers (Articles 40, 47 and 55 respectively following amendment) were not regarded as pertinent. Finally, the *Symvoulío tis Epikrateias* saw no reason to refer to the Court of Justice for a preliminary ruling.

In Italy, the Court of Cassation (*Corte di cassazione*) was asked to rule on whether Articles 15 and 18 of Council Regulation (EEC) No 1035/72 on the common organisation of the market in fruit and vegetables<sup>(4)</sup> mean that the members of a producers' organisation are entitled to the financial compensation provided for by the Regulation only if the organisation proves that it has paid its members an indemnity for the quantities of products that remain unsold<sup>(5)</sup>.

Applying the principle that a national court of last resort is not required to request a preliminary ruling from the Court of Justice where the legal instrument in question is *acte clair* or there is no reasonable doubt as to the interpretation of provisions of Community law, the *Corte di cassazione* itself construed these Articles. However, since it could not rely on the letter of the Articles or on previous judgments of the Court of Justice, which had never been asked to rule on this issue, the *Corte di cassazione* had to resort to a systematic and purposive interpretation of the Articles in order to reconstruct the intention of the Community legislator. The *Corte di cassazione* considered that the Articles required the organisation in question to prove that it had paid its members an indemnity for the unsold products. It therefore quashed the judgment given and referred the case to another chamber of the Bari Court of Appeal (*Corte d'Appello di Bari*) for a substantive decision in the light of this interpretation.

On 14 September 1999<sup>(6)</sup>, the *Corte di cassazione* found that, in certain cases, national courts whose decisions can be appealed in domestic law have a duty to refer to the Court of Justice.

The *Corte di cassazione* considered an appeal on grounds of jurisdiction (*regolamento di competenza*) by a limited company in a case before the Bologna District Court (*Tribunale di Bologna*). This concerned an application for reimbursement of the amounts paid by this firm as annual company registration dues which the appellant claimed were collected by the Italian State in breach of Community law. In its appeal, the firm contested the lawfulness of suspension of proceedings by the *Tribunale di Bologna*, which had held that the outcome depended on the interpretation by the Court of Justice in Case C-260/96, which at the time was pending<sup>(7)</sup>, and had stayed proceedings under Article 295 of the Italian Code of Civil Procedure to await the Court of Justice judgment. This Article requires a national court to

(1) *Symvoulío tis Epikrateias*, judgment of 8 July 1997. 2807/1997. Armenopoulos 1997, p. 1182-1194.

(2) Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ L 19, 24.1.1989, p. 16).

(3) *Symvoulío tis Epikrateias*, judgment of 25 September 1998, 3497/1998. Armenopoulos 1999, p. 125-135.

(4) OJ L 118, 20.5.1972, p. 1.

(5) *Corte di cassazione*. Sezione I civile. 7 May 1999, n° 4564, *Il massimario del Foro italiano*. 1999, col. 539.

(6) *Corte di Cassazione*. Sezione I civile, 14 September 1999, n° 9813. *Il massimario del Foro italiano*. 1999, col. 1030.

(7) Case C-260/96 *Ministero delle Finanze v Spac SpA* [1998] ECR I-4997, judgment of 15 September 1998.



suspend judgment if it itself or another court is to give a preliminary ruling in a matter which must be resolved in order to judge the case. This applies to references to the Court of Justice under Article 177 of the EC Treaty (now Article 234).

The *Corte di cassazione* construed Article 295 to mean that a national court which is not a court of last resort and which is unable to interpret directly a provision of Community law is required to refer the matter to the Court of Justice for a preliminary ruling even if the same points are at issue in a case currently before the Court of Justice. It therefore declared the stay of proceedings without reference to the Court of Justice to be unlawful since it would deprive the parties of the procedural guarantees afforded by a reference, i.e. the right to submit observations and to be served with a certified copy of the Court of Justice judgment.

In three decisions on 24 December 1998<sup>(1)</sup> on the compatibility with Community law of the provincial regulations on transport of waste, the *Netherlands Council of State (Raad van State)* found, without making any request for a preliminary ruling, that the ban on exporting waste from one province of the Netherlands to another is not a measure having an effect equivalent to a restriction on exports within the meaning of Article 34 of the EC Treaty (now Article 29) although the Court of Justice had found, on the basis of Article 9 of the EC Treaty (now Article 23), that *ad valorem* charges on trade in goods between regions of the same Member State constitute charges having an effect equivalent to customs duties<sup>(2)</sup>.

In *Royscott Leasing Ltd and others v Commissioners of Customs and Excise*<sup>(3)</sup>, in connection with Directive 77/388<sup>(4)</sup>, the Court of Appeal in the *United Kingdom* refused to withdraw the request for a preliminary ruling which it had made to the Court of Justice<sup>(5)</sup>, despite an intervening ruling by that Court in a case which related to the same Directive<sup>(6)</sup>. Although it considered that it was competent to do so, the Court of Appeal emphasised that this competence should be exercised only if it was clear that the reference was entirely without interest. It rejected the *Commissioners'* arguments and held that this condition was not met in the instant case. Firstly, the Court of Appeal took the view that the Court of Justice could itself ask the national court to withdraw a request for a preliminary ruling if it considered that the issue had been decided in another case and there was no prospect of a different answer. The fact that the Court of

Justice had not done so in this case in itself indicated that it did not regard the questions referred as being covered by the *acte clair* doctrine. Secondly, the further advanced the proceedings before the Court of Justice, the greater was the importance of its asking for the reference to be withdrawn. In the present case, the hearing was imminent and the Advocate General was to deliver his conclusions in about two months' time. Finally, at this advanced stage of proceedings before the Court of Justice, the Court of Appeal considered that withdrawing the reference for a preliminary ruling might unduly prolong the case as a whole.

In its judgment of 16 June 1999<sup>(7)</sup>, the *Swedish Supreme Administrative Court (Regeringsrätten)*, held that Article 234(3) of the EC Treaty (ex Article 177(3)) did not require it to refer to the Court of Justice before dismissing the appeal against the Government's decision of 5 February 1998 to withdraw the licence to operate the nuclear reactor of the Barsebäck 1 power station following the entry into force of the Nuclear Phase-out Act of 18 December 1997<sup>(8)</sup>. The claimants included not only the licensee but also its owner and a German firm which was one of the main shareholders in the owning company. They argued, *inter alia*, that the Government's decision to withdraw the licence was contrary to several rules of Community law. With regard to Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment<sup>(9)</sup>, as amended by Directive 97/1/EC, the *Regeringsrät* held that those of its provisions which were invoked were not essential to the material outcome of the case and that there was therefore no reason to ask for a preliminary ruling. As regards Directive 96/92/EC concerning common rules for the internal market in electricity, the *Regeringsrätten* held that the government's decision did not conflict with it. As regards the EC Treaty provisions invoked by the claimants, the *Regeringsrät*<sup>(10)</sup> considered that Articles 29 (ex Article 34) and 56 (ex Article 73B(1)) on the free movement of goods and capital were not applicable and that the government's decision did not represent a breach of Article 43 (ex Article 52) or the former Article 53 (annulled) on freedom of establishment. On the other hand, as regards the competition provisions invoked, i.e. Articles 82 (ex Article 86) and 86(1) (ex Article 90(1)) of the EC Treaty, the *Regeringsrät* referred to two Court of Justice judgments<sup>(11)</sup> and held that while certain matters of public interest of a non-economic nature were not subject to the competition rules, they had nonetheless to be so organised that they were compatible with the Community rules on free movement of goods and services and with competition. Referring again to the case law of the Court of Justice<sup>(12)</sup>, the *Regeringsrät* considered that regulations concerning such interests should not give rise to exorbitant prices and should allow supply to match demand. The *Regeringsrät* concluded that the main question arising in the instant case was

<sup>(1)</sup> Raad van State, *Icova BV v Gedeputeerde Staten ('GS') van Noord-Holland, Administratiefrechtelijke beslissingen*, 1999, n° 153; *Koks Nilo Milieu BV v GS van Noord-Holland, Milieu en recht*, 1999, Jur., p. 128-132 and *Van Vliet Recycling BV v GS van Utrecht, Milieu en Recht*, 1999, Jur., p. 122-127 pp.

<sup>(2)</sup> Joined Cases C-485/93 and C-486/93 *Simitzi* [1995] ECR I-2655, paragraph 27 judgment of 14 September 1995.

<sup>(3)</sup> Court of Appeal (England and Wales), 5 November 1998, *Royscot Leasing Ltd and others v Commissioners of Customs and Excise*. *Common Market Law Reports*, 1999, Vol. 1, 903-906.

<sup>(4)</sup> Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1)

<sup>(5)</sup> This has since given rise to the Court of Justice ruling of 5 October 1999. Case C-305/97 *Royscott Leasing*, not yet published in the ECR.

<sup>(6)</sup> Case C-43/96 *Commission v France* [1998] ECR I-3903, judgment of 18 June 1998.

<sup>(7)</sup> *Regeringsrättens dom i Mål nr 1424-1998, mål nr 2396-1998 och mål nr 2939-1998 meddelad i Stockholm den 16 juni 1999.*

<sup>(8)</sup> *Lagen (1997:1320) om kärnkraftens avveckling.*

<sup>(9)</sup> Council Directive 85/337/EEC of 27 June 1985 (OJ L 175, 5.7.1985, p. 40).

<sup>(10)</sup> Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 (OJ L 27, 30.1.1997, p. 20).

<sup>(11)</sup> Judgments of 30 April 1974. Case 155/73 *Sacchi* [1974] ECR 409 and 18 June 1991. Case C-260/89 *ERT* [1991] ECR I-2925.

<sup>(12)</sup> Judgments of 4 May 1988. Case 30/87 *Bodson* [1988] ECR 2479, and 23 April 1991. Case C-41/90 *Höfner* [1991] ECR I-1979.

whether the State-owned nuclear reactors should not be the first to be closed down. This could not be answered on the basis of Community jurisprudence but, since the Nuclear Phase-out Act was based on acceptable considerations of public interest and the government decision being challenged was compatible with the general principles of law, the Act in question and the principle of proportionality, it could not be in breach of Articles 82 and 86(1) of the EC Treaty. Here again, the Regeringsråd did not think it necessary to ask for a preliminary ruling from the Court of Justice.

In Sweden again, the Supreme Court (*Högsta Domstol*) gave judgment on 9 July 1998<sup>(1)</sup> on an appeal in connection with trade-mark law over the interpretation of Directive 89/104/EEC<sup>(2)</sup>. Article 6(1)(b) and (c). It did so without requesting a preliminary ruling from the Court of Justice. The issue was whether a non-franchised operator was entitled to use a protected motor car trade mark to indicate that he carried out repairs on this make. The *Högsta Domstol* concluded that the Directive did not prohibit such a practice provided the mark was not used in a fraudulent manner to give the impression that there was an economic relationship between the non-franchised operator and the brand. The Court of Justice plenum had recently ruled on the same issue in the *BMW* judgment<sup>(3)</sup>, reaching the same conclusion as regards application of Directive 89/104/EEC.

Mention should also be made of a preliminary ruling by the *Benelux* Court of Justice (*Benelux Gerechtshof*) on the concept of exhaustion of the right conferred by a trade mark according to Article 13A(8) of the *Benelux* Uniform Law on trade marks<sup>(4)</sup><sup>(5)</sup>. The claimant was the proprietor of a registered trade mark for bags and similar articles who marketed part of the collection in the European Union and claimed to reserve another part for the American market. The products intended for the two markets were distinguished by means of a monkey attached to each bag, of slightly different design for the products intended for the American market. The defendant had purchased a batch of products from a parallel importer with a view to resale in Belgium. This parallel importer had obtained these products from the claimant's American importer. The claimant stated in the court trying the substantive issue that it had never placed these products on the market within the European Union and had not given its consent for this to be done. Although the *Benelux Gerechtshof* stated that it was interpreting the provision in question in the light of Article 7(1) of the underlying Directive 89/104/EEC<sup>(6)</sup>, it did not ask the Court of Justice for a preliminary ruling.

With regard to the concept of placing of products on the Community market by the proprietor of the mark within the meaning of Article 13 A(8) of the Uniform Law, the *Benelux Gerechtshof* first states that this concept implies that the proprietor should have made the products available to a buyer for further commercial use within the Community and goes on to observe that Article 13 A(8) treats placing on the market by another person with the consent of the proprietor as equivalent to placing on the market by the proprietor. According to the *Benelux Gerechtshof*, this implies both that the proprietor of the mark should be aware of this act of making the products available and approve of it and that his consent should apply to each specimen of the product for which exhaustion is invoked. With regard to the burden of proof, the *Benelux Gerechtshof* considers that it is for the party against whom the proprietor is bringing an action based on Article 13A and who invokes exhaustion of the right to show that the products have been placed on the Community market by the proprietor or with his consent, even if he proves that he has purchased the products within the Community from a reseller established there.

## Question 2

In *France*, the Dijon Administrative Tribunal (*Tribunal administratif de Dijon*) gave a judgment on 5 January 1999<sup>(7)</sup> in the light of the *Foto Frost* jurisprudence<sup>(8)</sup> to the effect that, although the national courts have no jurisdiction to declare that acts of Community institutions are invalid, they may nonetheless dismiss grounds advanced for invalidity if they regard them as unfounded. The claimant sought reimbursement of a VAT credit which was refused by the authorities and argued that the Council Decision of 28 July 1989<sup>(9)</sup> was incompatible with the principle of proportionality. The Decision authorised France to continue temporarily and under certain conditions to exclude expenditure for accommodation, restaurants, hospitality and entertainment from the right to deduct VAT. The *Tribunal administratif* held that, since the claimant merely asserted that the principle of proportionality had been breached without specifying how, it had not advanced a sufficiently precise argument to cast serious doubt on the validity of the Decision and that it was therefore not necessary to ask the Court of Justice for a preliminary ruling.

In the *Netherlands*, the Supreme Court (*Hoge Raad*) had occasion to rule on whether a national court could verify whether a Member State's conduct in the course of a Community decisional process was compatible with the Treaties. The President of the District Court of The Hague (*Arrondissementsrechtbank te's-Gravenhage*), as the judge of first instance, had issued an injunction forbidding the national

(1) *Högsta domstolens dom i Mål nr T-4219/96*, meddelad i Stockholm den 9 juli 1998, *Nytt Juridiskt Arkiv* 1998 I p. 474-487.

(2) First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ L 40, 11.2.1989, p. 1).

(3) Case C-63/97 *BMW* [1999] ECR I-905, judgment of 23 February 1999.

(4) As amended by the Protocol signed in Brussels on 2 December 1992 to adapt the Uniform Law to Directive 89/104/EEC.

(5) *Benelux Gerechtshof*, 6 December 1999, *Nederlands juristenblad*, 2000, p. 163-164.

(6) First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ L 40, 11.2.1989, p. 1).

(7) *Tribunal administratif de Dijon*, première chambre. 5 January 1999. *Société BSAD*, n° 97-1250. *Revue de droit fiscal* 1999. Comm. 669. p. 1129-1130. *Revue de jurisprudence fiscale*. 1999. p. 333-334.

(8) Case C-314/85 [1987] ECR 4199, judgment of 22 October 1987.

(9) Council Decision 89/481/EEC of 28 July 1989 authorising the French Republic to apply a measure derogating from the second subparagraph of Article 17(6) of sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 239, 16.8.1989, p. 21).

government to vote in the Council in favour of revising Decision 91/482/EEC on the association of the overseas countries and territories with the European Economic Community<sup>(1)</sup>, on the grounds that this revision was contrary to the treaty rules in that it meant it would no longer be possible to import sugar from the OCTs free of duty. This injunction applied pending replies to the requests for preliminary rulings made by the same judge<sup>(2)</sup>. The *Hoge Raad* upheld the lifting of this injunction by the Court of Appeal of The Hague (*Gerechtshof te's-Gravenhage*) on the grounds that the system of judicial protection provided for by the EC Treaty did not allow for a judge sitting in chambers to be competent to intervene in the Community decisional process for reasons based on a breach of Community law<sup>(3)</sup>. The *Hoge Raad* referred to the exclusive competence of the Court of Justice to review the validity of Community Instruments and pointed out that proceedings for annulment under Article 230 of the EC Treaty may be brought only against Instruments which have been finally adopted. A judge sitting in chambers has only limited powers with respect to such Instruments subject to the conditions established by the case law of the Court of Justice.

### Question 3

In Germany, the principles developed by the Court of Justice in *Bosman*<sup>(4)</sup> have been applied by the Federal Court of Justice (*Bundesgerichtshof*) to interpretation of Article 12 of the Basic Law on professional freedom. In its judgment of 27 September 1999<sup>(5)</sup>, the *Bundesgerichtshof* declared void the 'training and promotion payment' clause in the Lower Saxony regional league rules for transfer of a semi-professional player. This requires a new employer taking on a sportsman to make a payment to the previous employer. The *Bundesgerichtshof* explicitly stated that the Court of Justice's reasoning in *Bosman* has to be followed when applying Article 12 of the Basic Law and found that the payment in question is a barrier to professional freedom, which is not justified by the aim of supporting the discovery of talent and training of young players. The *Bundesgerichtshof* also found that freedom of association as provided for in Article 9(1) of the Basic Law does not justify this barrier since the rules on the training and promotion payment are not necessary to ensure this freedom.

In Austria, the Supreme Court (*Oberster Gerichtshof*)<sup>(6)</sup> heard a case concerning a refusal of registration in the Austrian commercial register to the branch of a firm established under United Kingdom law which had its registered address in the UK although it engaged in no commercial activity there.

The competent court of first instance had refused registration on the basis of paragraph 10 of the Austrian law on private international

law (IPRG), which provides that a firm's capacity to have legal personality is to be assessed according to the law of the State in which the actual seat of the main office of the firm is located. Since the claimant had never engaged in commercial activity in the United Kingdom, there was no head office in that Member State and the firm could not have legal personality and was therefore not entitled to establish a branch in Austria. In accordance with the Court of Justice judgment of 9 March 1999 in *Centros*<sup>(7)</sup>, the *Oberster Gerichtshof* held that paragraph 10 of the IPRG was contrary to Articles 52 and 58 of the EC Treaty (now Articles 43 and 48) and that it was therefore not applicable in the instant case in view of the principles of the primacy and direct effect of Community law. It also held that the right to establish a company under the law of one Member State and to set up branches in other Member States was inherent in the freedom of establishment within a single market as guaranteed by the Treaty, even if the firm in question engaged in no commercial activity in the first Member State. Registration of the branch could therefore not be refused.

In Austria again, following the preliminary ruling by the Court of Justice in *Familiapress*<sup>(8)</sup>, the *Oberster Gerichtshof* sitting in chambers refused, in the order in question<sup>(9)</sup>, to apply the preliminary ruling on the grounds that the checks it required the national courts to carry out could not be made in the course of procedures in chambers.

In its preliminary ruling, the Court of Justice had stated that Article 30 of the EC Treaty (now Article 28) does not preclude application of legislation of a Member State the effect of which is to prohibit the distribution on its territory by an undertaking established in another Member State of a periodical produced in that latter State containing prize puzzles or competitions, provided that that prohibition is proportionate to the objective pursued, especially as regards the maintenance of press diversity. According to the ruling, this assumes that the newspapers offering the chance of winning a prize in games, puzzles or competitions are in competition with small newspaper publishers who are deemed to be unable to offer comparable prizes and that the prospect of winning is liable to bring about a shift in demand. Finally, it is for the national court to determine whether those conditions are satisfied on the basis of a study of the national press market concerned.

The *Oberster Gerichtshof* considered that it was incompatible with the purpose of a procedure in chambers to call on experts to study the market conditions in question and consumers' habits. According to the Austrian court, only evidence which can be provided immediately can be accepted in such a procedure, and this excludes expert opinions. Since it was not possible to study conditions on the press market as part of the proceedings of which it was seized, the *Oberster Gerichtshof* considered it sufficient for the claimant to have established the plausibility of these conditions being met and left it to the court trying the substantive issue to determine whether they actually obtained.

(1) Council Decision of 25 July 1991 (OJ L 263, 19.9.1991, p. 1).

(2) See Case C-17/98 *Emesa Sugar*, judgment of 8 February 2000, not yet published in the ECR.

(3) *Hoge Raad*, judgment of 10 September 1999. *Emesa Sugar* No C98/012 HR. *Nederlands Juristenblad* 1999, p. 1661.

(4) Case C-415/93 [1995] ECR I-4921, judgment of 15 December 1995.

(5) *Bundesgerichtshof*, judgment of 27 September 1999. II ZR 305/98. *Zeitschrift für Wirtschaftsrecht* 1999, 1807-1811 (= *Wertpapier-Mitteilungen* 1999, 2164-2168. *Neue Juristische Wochenschrift* 1999, 3552-3554; *Deutsches Steuerrecht* 1999, 1781-1784; *Versicherungsrecht* 1999, 1504-1507).

(6) *Oberster Gerichtshof*, 15 July 1999. 6 Ob 123/99b, *österreichisches Recht der Wirtschaft* 1999, p. 719.

(7) [1999] ECR I-1459.

(8) Case C-368/95 [1997] ECR I-3689, judgment of 26 June 1997.

(9) *Oberster Gerichtshof*, order of 23 March 1999, 4 Ob 249/98s. *Vereinigte Familiapress Zeitungsverlags-und Vertriebs GmbH v Heinrich Bauer Verlag*. *Wirtschaftsrechtliche Blätter* 1999, p. 378.



This reasoning, followed by the *Oberster Gerichtshof* in this order and in another order on the same date, was applied by the Vienna Higher Regional Court (*Oberlandesgericht Wien*) in a decision on 22 April 1999<sup>(1)</sup>

In its judgment of 15 April 1999<sup>(2)</sup>, the *Oberster Gerichtshof* ruled on whether the transfer of municipal or private music academies in Tirol province to a legal person subject to public law (deprivatisation) fell within the scope of Directive 77/187/EEC<sup>(3)</sup> with the result that the province had a duty to maintain the rights and obligations of the former music teachers. According to Article 1 (2) of the transposing law (*Arbeitsvertragsrechts-Anpassungsgesetz*, (AVRAG), it does not apply to the (existing) employment relationships of private employees of the provinces, associations of municipalities (*Gemeindeverbände*) and municipalities. In passing, the *Oberster Gerichtshof* confirmed that the Directive had not been transposed as regards employment relationships. It also stated that the music academies are undertakings within the meaning of the Directive. Referring to the Court of Justice judgment of 15 October 1996 in *Henke*<sup>(4)</sup>, it held that the Directive's scope does not cover reorganisation of the structures of the public administration or the transfer of administrative functions between public administrative authorities. However, it noted that the music academies did not perform any activity pertaining to the exercise of public authority, so that no reorganisation of the public administration was involved, and concluded that the contested operation constituted transfer of an economic entity which had retained its identity.

The *Oberster Gerichtshof* went on to state that exclusion of the employees of the provinces from the scope of the AVRAG was based on the allocation of powers by the Austrian constitution and thus did not release Austria from its obligation to transpose the Directive correctly since the Court of Justice has consistently held that a Member State cannot plead provisions, practices or situations pertaining to its internal legal order to justify failing to comply with the obligations and deadlines arising from Community directives. The *Oberster Gerichtshof* then referred to the Court's jurisprudence on direct effect, recognised that Directive 77/187/EEC had such effect and held that it was applicable in the instant case, with the result that the province of Tirol was obliged to maintain the rights and obligations of the former music teachers of the academies in question.

It is relevant that the *Oberster Gerichtshof*, in a judgment in 1998<sup>(5)</sup>, had already ruled that the AVRAG applied to a transfer of activities between legal persons subject to public law, although this was not expressly provided for by the law.

In a judgment of 24 February 1999<sup>(6)</sup>, the Austrian Constitutional Court (*Verfassungsgerichtshof*) considered whether the Austrian law on telecommunications ("TKG") is compatible with the pertinent Community law, in particular Directive 90/387/EEC<sup>(7)</sup>, as amended by Directive 97/51/EC.

Article 5a of the Directive as amended requires Member States to ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved. In Austrian law, this body is the *Telekom-Control-Kommission* (the TC Commission). This is not a court (*Gericht*) in terms of the Austrian legal system but a board (*Kollegialbehörde*) with judicial functions under Articles 20(2) and 133(4) of the Federal Constitution. It is thus a tribunal within the meaning of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and a court or tribunal within the meaning of Article 177 of the EC Treaty. Article 133(4) of the Constitution provides that appeals will not lie before the Higher Administrative Court (*Verwaltungsgerichtshof*) unless this is explicitly provided for by the ordinary law regulating the matter in question. Since the TKG does not provide for the TC Commission's decisions to be appealed to the *Verwaltungsgerichtshof*, the TC Commission acts as a court of last resort.

Recognising that Article 5a of the above Directive has direct effect, the *Verfassungsgerichtshof* held that the primacy of Community law over national law requires that Article 133(4) of the Constitution, which is the only obstacle to such an appeal, should be set aside in this case.

In a dispute between the Belgian pharmacists' association (*Ordre des pharmaciens*) and one of its members over the association's ban on advertising, the Court of Cassation (*Hof van cassatie*) ruled on application of the competition rules<sup>(8)</sup> to the liberal professions. The *Hof van cassatie* began by noting that, although pharmacists are not traders and perform a social function, they do nonetheless engage in the provision of goods and services and routinely seek economic gain. They must therefore be regarded as businesses for the purposes of the competition rules<sup>(9)</sup>. With regard to the pharmacists' association, the *Hof van cassatie* notes that it is a professional body with the mission, conferred by public authority, of ensuring professional standards and maintaining the honour, integrity and dignity of its members. In doing so, it admittedly does not pursue economic gain. However, it is nonetheless an association of businesses and the lawfulness of its decisions must be examined in the light of the competition rules by the bodies responsible for its regulation, to the extent that they impinge or tend to impinge on competition.

(1) *Oberster Gerichtshof*, order of 23 March 1999, 4 Ob 26/99y, Verein zur Förderung des freien Wettbewerbs im Medienwesen v Heinrich Bauer Spezialzeitschriften Verlage KG, Hamburg, *Wirtschaftsrechtliche Blätter* 1999, p. 240-244; *Oberlandesgericht Wien*, order of 22 April 1999, I R 41/99b, Verein zur Förderung des freien Wettbewerbs im Medienwesen v TV Spielfilm Verlag Gesellschaft mbH.

(2) OGH, 8 ObA 221/98b-g, *Wirtschaftsrechtliche Blätter* 1999, p. 467.

(3) Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (OJ L 61, 5.3.1977, p. 26).

(4) Case C-298/94 [1996] ECR I 5013.

(5) OGH, 23 December 1998, 9 ObA 153/98k, *Ecolex* 1999, p. 344.

(6) B 1625/98, *osterreichische Zeitschrift für Wirtschaftsrecht* 1999, p. 82.

(7) Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1999, p. 1).

(8) The matter had been referred to the *Hof van cassatie* on the basis of the provisions of the Law of 5 August 1991 on safeguarding of economic competition, which are modelled on Articles 81 (ex-Article 85) et seq. of the EC Treaty.

(9) *Hof van cassatie*, 7 May 1999. *Rechtskundig Weekblad*, 1999-2000, p. 112-115.

In Belgium again, the Brussels Court of Appeal (*Cour d'appel de Bruxelles*) found that the selective distribution network set up by the company SA Club Méditerranée constituted an agreement prohibited by Article 85(1) of the EC Treaty (now Article 81(1)) and was thus automatically void by virtue of paragraph 2 of the same Article<sup>(1)</sup>. Upholding the decision of the Brussels Commercial Court (*Tribunal de commerce de Bruxelles*) on an injunction sought by a travel agency to which the SA Club Méditerranée had refused permission to sell its products, the *Cour d'appel* concluded that this refusal was contrary to honest commercial practice, being based on an unlawful distribution system, and ordered its termination. The *Cour d'appel* defined the market in question as that of 'club village' holidays covering the whole of Belgium. As regards distortion of competition, it considered that, even if the SA Club Méditerranée's market share were under the 10 % threshold mentioned in the Commission's communication on agreements of minor importance, this communication in any case does not allow the *de minimis* rule to be applied to vertical agreements whose purpose is to fix retail prices or afford territorial protection to the companies participating or other companies. Since the SA Club Méditerranée controlled the prices to be charged by its distributors, the *Cour d'appel* concluded that the system fell within the scope of Article 85(1) of the Treaty. On examining the distribution network established, the *Cour d'appel* recognised that the nature of the product could for brand image reasons justify the establishment of a selective distribution system, provided this was based on objective qualitative criteria applied in a non-discriminatory manner, but noted that this was not the case in this instance. Firstly, the SA Club Méditerranée granted sales authorisations to different legal persons on the basis of strictly personal criteria, without stating what conditions had to be met in order to satisfy them, and this was considered to imply that the selection was arbitrary. Secondly, the *Cour d'appel* noted that the SA Club Méditerranée had itself admitted that its network was not based solely on qualitative criteria but that access was also restricted on the basis of quantitative considerations. Finally, the SA Club Méditerranée imposed retail price maintenance and this, in the view of the *Cour d'appel*, in itself implied that the network should be prohibited.

In Finland, in a judgment of 10 September 1999<sup>(2)</sup>, the Supreme Administrative Court (*Korkein hallinto-oikeus*) held that the national regulations on parallel imports of medicines were incompatible with the Community principle of free movement of goods as set out in the Treaty. These regulations require the format and dimensions of the packaging of imported medicines to match those used by the manufacturer or his approved importer. Although this requirement is intended to ensure that patients are not confused, the Supreme Administrative Court did not think the authorities had proved that such a measure was justified in order to safeguard public health. Given the principle of free circulation of goods, the National Agency for Medicines (*Lääkelaitos*) could not refuse a parallel importer authorisation to sell medicines on the grounds that he used a different size of packaging from the approved importer.

In two judgments given on the same day<sup>(3)</sup>, the French Council of State (*Conseil d'État*) found that the national provisions setting the

initial and final dates of the hunting season were contrary to the species preservation aims of Article 7(4) of Directive 79/409/EEC<sup>(4)</sup>.

In the first case, the claimants sought to have annulled as *ultra vires* an implicit decision by the Prime Minister rejecting an application for a decree in the forms provided for by Article 37 of the Constitution to rescind the provisions of the Law of 15 July 1994 determining the closed season for the hunting of migratory birds and replace them by new provisions in conformity with the Directive. The *Conseil d'État* took the view that, having regard to the hierarchy of statutes and the national authorities duty to ensure implementation of Community law, the Prime Minister was obliged, on receiving such applications, to take account of the fact that in the present state of scientific knowledge virtually all the provisions of the Law of 15 July 1994 determining the closed season for hunting of migratory birds were incompatible with the objectives of Article 7(4) of Directive 79/409/EEC as interpreted by the Court of Justice in a judgment of 19 January 1994<sup>(5)</sup>. The *Conseil d'État* found that the decision by which the Prime Minister had refused to initiate the procedure provided for in Article 37, second paragraph, of the Constitution to amend a legislative text by decree is not an act of government but is an aspect of the exercise of regulatory powers and may thus be regarded as an administrative decision which can be challenged as *ultra vires*. However, it also held that the case documentation did not establish that, at the dates on which they were taken, the decisions implicit in the Prime Minister's failure to respond within a four-month period to the claimants' applications showed any manifest error of judgment.

In the second case, the action for annulment related to a decision by the Minister for Regional Planning and the Environment to set the early opening of the waterfowl season at 1 September 1998. The *Conseil d'État* again found that the provisions setting the dates of early opening and temporary closing of the waterfowl season<sup>(6)</sup> were incompatible with the species preservation aims of Article 7(4) of Directive 79/409/EEC. Since these provisions were inapplicable, they could not justify the refusal by the minister with responsibility for hunting to exercise his regulatory powers in accordance with the Directive's aims when he was asked to do so.

In France again, a *Conseil d'État* judgment of 19 May 1999<sup>(7)</sup> recognised the admissibility of an application to have a decision of the French government annulled as *ultra vires*. This decision had been announced by a press release and, pursuant to Council Regulation No 2081/93<sup>(8)</sup>, determined how the sums allocated to France

(1) *Cour d'appel de Bruxelles*, 22 April 1999, *Revue de droit commercial belge*, 1999, p. 418-424.

(2) *Korkein hallinto-oikeus*, 10 September 1999, No 1789/3/98 2461.

(3) *Conseil d'État*, judgments of 3 December 1999 *Association ornithologique et mammalogique de Saône-et-Loire (AOMSL) v Rassemblement des Opposants à la Chasse (ROC)*. Nos 164789 and 165122, and *Association ornithologique et mammalogique de Saône-et-Loire (AOMSL) v Association France Nature Environnement*, Nos 199622 and 200124.

(4) Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1).

(5) Case C-435/92 *Association pour la protection des animaux sauvages and others v Préfet de Maine-et-Loire et préfet de Loire Atlantique* [1994] ECR I-67.

(6) Provisions inserted in the second paragraph of Article L. 224-2 of the Rural Code by the Law of 3 July 1998.

(7) *Conseil d'État*, 19 May 1999, *Région du Limousin v Ministre de l'Intérieur et de l'Aménagement*, n° 157675. *Revue française de droit administratif*, 1999, p. 896-897.

(8) Council Regulation (EEC) No 2081/93 of 20 July 1993 amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing Financial Instruments (OJ L 193, 31.7.1993, pp. 5 to 19).

by the European Commission as Structural Funds commitment appropriations for the period 1994 to 1999 were to be divided among the regions concerned. While the *Conseil d'État* rejected the substance of the claimant's case, it followed the reasoning of the government advocate in recognising that it was admissible. Referring in his conclusions to the Court of Justice judgment of 3 December 1992<sup>(1)</sup>, the government advocate had argued that when a national administrative court is acting as a court of Community law, the objective of ensuring effective judicial control implies that, in this type of procedure, every act at the level of the Member State which intervenes between Commission decisions and has binding effects on the further course of events should be regarded as an act capable of adversely affecting third parties.

In its judgment of 24 February 1999<sup>(2)</sup>, the French *Conseil d'État* considered the action for annulment as *ultra vires* of Decree No 98/52 of 28 January 1998 on requirements for placing on the market of homeopathic medicines. The associations bringing the action claimed that the Decree was contrary to the aims of Directive 92/73/EEC<sup>(3)</sup> and also cited the failure to enact, regulatory measures to render applicable Article L. 601-4 of the Public Health Code, derived from Law No 94-43 of 18 January 1994, which transposes the Directive into French law. The *Conseil d'État* found that Article L. 601-4 of the Public Health Code was incompatible with the Directive in that it extended the scope of the simplified registration procedure beyond the objectives the Directive laid down. It held that the government was justified in not enacting regulatory measures to allow this Article to be implemented since, by giving precedence to the Community Directive, the government had duly complied with the requirements inherent in the hierarchy of statutes in the internal legal order, as derived from Article 55 of the Constitution.

In *Greece*, judgment 2245/1999 of the Sixth Chamber of the Council of State (*Symvoulio tis Epikrateias*) for the first time applied the principle of proportionality in assessing the level of an administrative fine imposed for importing goods of French origin to Greece. There was no doubt that the applicants had infringed the Customs Code by declaring a value lower than the true value of the goods on the invoices submitted at the time of importation. They had therefore been fined a sum equal to three times the value of the tax they would have paid if they had declared the true value. Irrespective of whether Article 95 of the Treaty (now Article 90) was applicable in this case, the *Symvoulio tis Epikrateias* cited the judgment of the Court of Justice of 16 December 1992<sup>(4)</sup> and held that administrative penalties imposed for infringement of customs legislation should not exceed what was strictly necessary to accomplish the aim pursued and that disproportionate penalties represented a barrier to the exercise of the

Community freedoms. On the grounds that the court trying the substantive issue had not made such an assessment of proportionality, the *Symvoulio tis Epikrateias* partly quashed the judgment of the Court of Appeal, which had found the level of the contested fine to be lawful.

In *Italy*, the Court of Cassation (*Corte di cassazione*) considered an appeal in cassation from a sales agent against the judgment of the Rome District Court (*Tribunale di Roma*)<sup>(5)</sup>. The latter, sitting as an appellate court, had dismissed his application to obtain payment of various sums claimed on the basis of an agency contract concluded with a company subject to private law. The *Tribunale di Roma* had taken the view that such a contract was void, since the sales agent was not entered in a register prescribed for this purpose by the law<sup>(6)</sup>, and thus could not give rise to any payment. The *Corte di cassazione* granted this appeal, disapplying the national provision in question, which had been declared incompatible with Directive 86/653/EEC<sup>(7)</sup> by the Court of Justice judgment of 30 April 1998 in *Bellone*<sup>(8)</sup>.

However, the *Corte di cassazione* did not merely apply the Court of Justice ruling but broadened the concept of a directive's vertical direct effect to allow individuals to rely on it even if neither the State nor a public body are parties to the action. It argued that the existence of vertical direct effects should not be assessed on purely formal grounds and held that such effects also arose in the instant case, since it turned on a national provision of an imperative nature imposing a specific requirement in order to safeguard interests which are the responsibility of the public authorities. On this basis, since the only point to be verified is whether the national regulations are compatible with Community law, irrespective of the status of the parties to the dispute, the State would also be involved to the extent that these regulations protecting public interests relate to relationships between the State on the one hand and the agent and the companies concerned on the other. Such an action may thus be regarded as a dispute between a private individual and the State. However, the *Corte di cassazione* did not state what public interests are safeguarded by a law making the validity of an agency contract conditional on the agent's being entered in an appropriate register.

In *Portugal*, a noteworthy judgment was handed down on 22 June 1999 by the First Chamber of the Supreme Administrative Court (*Supremo Tribunal Administrativo*) in Cases 44.140/44.197<sup>(9)</sup>. Essentially, this judgment recognises the vertical direct effect of Articles 18, 24, 26 and 29 of Directive 93/37/EEC on public works contracts<sup>(10)</sup>, since these provisions had not been correctly transposed into national

(1) Case C-97/91 *Oleificio Borelli v Commission* [1992] ECR I-6313.

(2) *Conseil d'État*, 24 February 1999, *Association des patients de la médecine d'orientation anthroposophique et autres*, n° 195354; *Revue française de droit administratif*, 1999, p. 437-439; *L'actualité juridique, droit administratif*, 1999, p. 823-824.

(3) Council Directive 92/73/EEC of 22 September 1992 widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down additional provisions on homeopathic medicinal products (OJ L 297, 13.10.1992, pp 8 to 11).

(4) Case C-210/91 *Commission of the European Communities v Hellenic Republic* [1992] ECR I-6735.

(5) *Corte di cassazione, Sezione Lavoro*, 18 May 1999, n° 4817. *Il massimario del Foro italiano*, 1999, Col. 575-576; *Il Foro italiano*, 1999, I, Col. 2542-2550.

(6) Law No 204 of 3 May 1985, *Gazzetta Ufficiale della Repubblica Italiana* No 119 of 22 May 1985, p. 3623.

(7) Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (OJ L 382, 31.12.1986, p. 17).

(8) Case C-215/97 [1998] ECR I-2191.

(9) *Acórdãos Doutrinários do Supremo Tribunal Administrativo*, XXXVIII, N° 455, pages 1380 to 1390.

(10) Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts (OJ L 199, 9.8.1993, p. 54).



law. The applicant had asked for annulment of the decision of 8 July 1998 of the President of the Assembly of the Republic, awarding a competitor the contract for finishing work on the new extension to the Assembly's premises. This decision had been taken on the basis of Decree-Law No 405/93 of 10 December, which did not distinguish clearly between the two phases: checking of applicants' economic, financial and technical suitability and assessment of the bids submitted by tenderers. The national legislation in force at the time of the events failed to transpose correctly the pertinent provisions of the Directive. In the case in point, the decision of the bid assessment panel, which was endorsed by the defendant authority, had been based on criteria including tenderers' suitability, and in particular their economic, financial and organisational capacity. The *Supremo Tribunal Administrativo* referred to the principle of the primacy of Community law and explicitly concluded that this implied the possibility of invoking the vertical direct effect of clear, complete, precise and unconditional provisions contained in a directive which has been incorrectly transposed into national law. In the light of the factual and legal arguments presented, the *Supremo Tribunal Administrativo* accepted the applicant's argument based on infringement of Articles 18, 24, 26 and 29 of the Directive and quashed the contested decision on this basis without considering any of the other arguments for annulment which had been advanced.

In the *United Kingdom*, in *Gibson v East Riding of Yorkshire District Council*<sup>(1)</sup>, an hourly-paid swimming instructor employed by a local authority had no contractual right to paid annual leave. At the time of the events, Directive 93/104/EEC<sup>(2)</sup> on the organisation of working time had not yet been transposed in the United Kingdom, since this was accomplished only by the Working Time Regulations 1998, which entered into force on 1 October 1998. The lower tribunal had concluded that the claimant could not invoke the Directive since it did not meet the criteria laid down in the Court of Justice case-law for it to have direct effect, given that the text was complex and provided for exceptions and derogations which were also complex. On appeal, the Employment Appeal Tribunal found that the claimant was entitled to four weeks' annual paid holiday by virtue of Article 7 of the Directive<sup>(3)</sup>. It reviewed the principles applying and held that Article 7 was sufficiently precise and unconditional to have direct effect and that the claimant could rely on it against the defendant. While the contract in question did not confer the right to paid leave, the contractual rights of the person concerned had been altered by the Directive. Had the Directive been transposed within the period allowed, the claimant would have been entitled to paid holiday. As an emanation of the State, the defendant could not take advantage of the failure to transpose the Directive in order to reject its employee's request.

In the case *R v Secretary of State for Health and others ex parte Imperial Tobacco Ltd and others*<sup>(4)</sup>, the Court of Appeal lifted the injunction granted by the High Court<sup>(5)</sup> forbidding the Government of the United Kingdom to enact provisions transposing Directive 98/43/EC<sup>(6)</sup> until the Court of Justice had ruled on its validity<sup>(7)</sup>. However, the Court of Appeal granted the tobacco companies a stay of execution of its decision until the House of Lords had ruled on their application for leave to appeal<sup>(8)</sup>. The Government had argued that the appeal raised basic constitutional issues and that the High Court injunction jeopardised an important national and Community policy, namely ending the advertising and sponsoring of tobacco products. The tobacco companies argued that the Directive was unlawful since its main aim was to align the legislation of the Member States in the field of public health although the Treaty conferred no such power on the Community legislator. By a majority ruling, the Court of Appeal found that the High Court had been wrong to set aside the Community approach to interim measures and in particular the conditions for stay of execution of a national measure as set out in the *Zuckerfabrik* judgment<sup>(9)</sup>. As regards the first condition — the existence of serious doubts as to the validity of the Directive — the Court of Appeal thought it could not encroach upon the prerogatives of the Court of Justice when considering an application for interim relief, although it did recognise that the tobacco companies had strong grounds for arguing that the Directive was invalid. As regards the second condition — the need to establish that there is a threat of serious and irreparable damage — the Court of Appeal held that, while the High Court had rightly taken the view that the damage was probably not irreparable, it had not given this consideration the importance it ought to have in accordance with Community case-law, since it had not regarded it as a prerequisite for granting interim relief. Since the existence of a threat of serious and irreparable damage had not been established, the requirements for granting an injunction were not satisfied. The Court of Appeal also considered that an injunction such as had been granted by the High Court prevented the government from exercising its freedom of action in the field of public health.

Again in the United Kingdom, in *Marks & Spencer v Commissioners of Customs and Excise*<sup>(10)</sup>, the Court of Appeal ruled on the sixth VAT

(1) Employment Appeal Tribunal, 3 February 1999. *Gibson v East Riding of Yorkshire District Council*, Industrial Cases Reports, 1999, 622-630.

(2) Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993, p. 18).

(3) Article 7(1) of Directive 93/104/EEC provides that Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice.

(4) Court of Appeal (England and Wales), 16 December 1999, *R v Secretary of State for Health and others ex parte Imperial Tobacco Ltd and others*. The Times Law Reports 1999, 874-875. We do not yet have the full text of the judgment.

(5) High Court (England and Wales), 29 October 1999, *R v Secretary of State for Health and others, ex parte Imperial Tobacco Ltd and others*. The Times Law Reports 1999, 792-793.

(6) Directive 98/43/EC of the European Parliament and of the Council of 6 July 1998 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products (OJ L 213, 30.7.1998, p. 9).

(7) The Court of Appeal refers to a High Court reference of 2 February 1999 for a preliminary ruling, *R v Secretary of State for Health and others, ex parte Imperial Tobacco Ltd and others*, Case C-74/99, pending.

(8) The House of Lords subsequently granted the tobacco companies leave to appeal and extended the stay of execution of the Court of Appeal's decision until further notice.

(9) Joined Cases C-143/88 and C-92/89 *Zuckerfabrik* [1991] ECR I-415, judgment of 21 February 1991.

(10) *Simon's Tax Cases* 1999, 205.

Directive<sup>(1)</sup>. Most of the points of law at issue related to provisions of the sixth Directive which had been correctly transposed but had then been wrongly applied. When this was recognised by the authorities, the United Kingdom adopted regulations which had retroactive consequences for taxpayers. Marks & Spencer argued that the United Kingdom had levied a VAT in breach of the sixth Directive and that the existence of adverse retroactive effects for the taxpayer was contrary to the general principles of Community law. The Court of Appeal rejected this argument on the basis of the reasoning put forward by the tax authorities: once a directive has been correctly transposed, it ceases to represent an independent legal source. Marks & Spencer could therefore not invoke the sixth Directive directly, nor, in consequence, the general principles of Community law. The Court of Appeal nonetheless decided to request preliminary rulings on a number of issues unrelated to these arguments.

#### Question 4

In Germany, the Bonn Regional Court (*Landgericht Bonn*) gave judgment on 16 April 1999 in the course of an action for damages, holding that an action for annulment of a directive has no effect on the obligation to transpose it<sup>(2)</sup>. The Federal Republic of Germany was being sued by an investor for the damages he claimed to have sustained as a result of the lack of a deposit-guarantee scheme as required by Directive 94/19/EC<sup>(3)</sup>. The Federal Republic argued that the action for annulment of the Directive brought before the Court of Justice (which has since led to the judgment of 13 May 1997 in *Germany v Parliament and Council*<sup>(4)</sup>) suspended the obligation to transpose the Directive pending judgment by the Court. The *Landgericht* rejected this argument on the grounds that Article 189 of the EC Treaty (now Article 249) did not provide for any suspensive effect. The *Landgericht* also stated that any difficulties of restitution which might result from the annulment of a directive already implemented were a matter for the internal legal order of the Member State concerned. According to the settled case-law of the Court of Justice, and in particular the judgment of 8 October 1996 in *Dillenkofer*<sup>(5)</sup>, such issues did not affect the duty to transpose. Finally, the *Landgericht* did not consider it necessary to refer to the Court of Justice since the point at issue was not the interpretation of the EC Treaty but its application.

The Brussels Court of First Instance (*Rechtbank van eerste aanleg Brussel*)<sup>(6)</sup> awarded damages against the Belgian State for its failure to

transpose fully Article 7 of Directive 90/314/EEC<sup>(7)</sup> on package travel, package holidays and package tours. This requires travel organisers to have adequate security for the refund of money paid over and for repatriation of the consumer in the event of insolvency. The *Rechtbank* found that at the time when the organiser with whom the claimants had contracted was declared bankrupt, the Belgian State had not fulfilled its obligation to transpose Article 7 of the Directive correctly, fully and effectively. While the law of 16 February 1994 transposing the Directive had been adopted, the Royal Decree laying down the practical surety arrangements had not yet been issued. Referring to the Court of Justice judgment in *Franovich*<sup>(8)</sup>, the *Rechtbank* found that the failure to enact a measure transposing the directive by the due date is in itself a breach of Community law and entitles the injured parties to compensation in so far as it is possible to determine the effect of the measures prescribed by the Directive on the rights of individuals and there is a causal relationship between the State's failure to fulfil its obligations and the injury. Finally, the *Rechtbank* stated that the State's responsibility is based on Community law, which prevails over national law.

In a series of judgments<sup>(9)</sup>, the French Court of Cassation (*Cour de cassation*) found that Article L. 190, third paragraph, of the Code of Tax Procedures (*Livre des procédures fiscales*), setting a time limit for complaints<sup>(10)</sup>, is compatible with the Community legal order and can thus be relied on by the tax authorities to refuse applications for reimbursement of registration charges paid on the basis of Articles 812 (1) (1) and 816 (1) (2) of the General Tax Code. These provisions had been found to be partly incompatible with Directive 69/335/EEC<sup>(11)</sup> in a Court of Justice judgment of 13 February 1996<sup>(12)</sup>, whose effects the Court of Justice had declined to limit in

<sup>(7)</sup> OJ L 158, 23.6.1990, p. 59.

<sup>(8)</sup> Joined Cases C-6/90 and C-9/90 [1991] ECR I-5357, judgment of 19 November 1991.

<sup>(9)</sup> Cour de cassation, chambre commerciale, judgments of 19 October 1999. *Directeur général des impôts v Sologest SA*. No 1560 P: *Société nationale des établissements Piot pneu SA v Services fiscaux de l'Isère*. No 1558 P: *Directeur général des impôts et ministère de l'économie, des finances et de l'industrie v SA Belun*, No 1561 D. Cour de cassation, chambre commerciale, 14 December 1999, *Société Chauvin Arnoux v Direction générale des impôts*, No 2021 D.

<sup>(10)</sup> This provision relates to complaints based on non-conformity of the rule of law applied to set the tax with a rule of law which takes precedence, when this non-conformity has been established by a court decision.

<sup>(11)</sup> Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ L 269, 28.10.1969, p. 12).

<sup>(12)</sup> Case C-197/94 *Société Bautiaa* [1996] ECR I-505. See also the judgment of 9 July 1996 of the Court de cassation, chambre commerciale in *Direction générale des impôts v SA Etablissements Touillet*, declaring Article 812, §1(1) of the General Tax Code partly incompatible with Directive 65/335. In two other cases, the Cour de cassation partly quashed the judgments rendered by the courts trying the substantive issues, which had ordered reimbursement of the 3 % registration charge levied under Article 812 §1(1) of the General Tax Code, whereas Directive 69/335 allows capital duty to be levied at not more than 1 % [Cour de cassation, chambre commerciale, judgments of 23 February 1999 in *Direction générale des impôts v Société Thelu* and 12 January 1999 in *Direction générale des impôts v Société financière atlantic (SOFIA)*].

<sup>(1)</sup> Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

<sup>(2)</sup> *Landgericht Bonn*, judgment of 16 April 1999, 1 O 186/98, *Zeitschrift für Wirtschaftsrecht* 1999, 959-965 (= *Wertpapier-Mitteilungen* 1999, 1972-1978; *Europäische Zeitschrift für Wirtschaftsrecht* 1999, 732-736).

<sup>(3)</sup> Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (OJ L 135, 31.5.1994, p. 5).

<sup>(4)</sup> Case C-233/94 [1997] ECR I-2405.

<sup>(5)</sup> Case C-178/94 [1996] ECR I-4845.

<sup>(6)</sup> *Rechtbank van eerste aanleg Brussel*, 9 September 1999, *Consumentenrecht* 1999, pp. 305-317.

time. The *Cour de cassation* rejected these appeals, referring to a judgment of 15 September 1998<sup>(1)</sup>, in which the Court of Justice stated that the fact that it had given a preliminary ruling on the interpretation of a provision of Community law, without limiting its effects in time, did not affect the right of a Member State to rely on a peremptory time limit as a defence against actions for recovery of taxes levied in breach of this provision.

The *Cour de cassation*, also referred to the judgment of 2 December 1997<sup>(2)</sup>, in which the Court of Justice had pointed out that it was for the internal legal order of each Member State to regulate the procedural arrangements for actions to recover charges unduly levied, provided these arrangements are not less favourable than for similar claims under domestic law and do not make it virtually impossible or excessively difficult to assert the rights conferred by Community law, even if by definition the expiry of the time limits causes the action brought to be dismissed in whole or in part<sup>(3)</sup>.

In *Italy*, the Milan Magistrate's Court (*Pretura di Milano*) found in favour of a worker seeking compensation when the business he worked for was transferred within the meaning of Directive 77/187/EEC<sup>(4)</sup> on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses. The claimant sought payment by the Italian State of the sums he would have received from the transferee had the Directive been transposed by the due date. Because the Directive had not been transposed at the time when the business was transferred, although this had occurred after the transposal deadline, the claimant had been dismissed instead of retaining the rights arising from the employment relationship as safeguarded by the Directive.

While the operative part of this judgment<sup>(5)</sup> requires the Italian State to pay the applicant the damages and interest claimed for non-transposal of a directive, the grounds for the judgment indicate that the *Pretura di Milano* does not explicitly base its conclusions on the *Franovich* judgment of the Court of Justice but simply notes that the Directive had not been transposed at the time of the events<sup>(6)</sup> and that the national provisions since adopted were not in conformity with it.

In the *United Kingdom*, in *R v Secretary of State for Transport, ex parte*

*Factortame and others*<sup>(7)</sup>, the House of Lords upheld a High Court decision on the Government's responsibility for a breach of Community law. The claimants were the Spanish owners and operators of fishing vessels. They had established before the British courts<sup>(8)</sup> and the Court of Justice<sup>(9)</sup> that the Merchant Shipping Act 1988, which made registration of a fishing vessel in the United Kingdom dependent on conditions with regard to the nationality, residence and domicile of the vessel's owners, charterers and operators, breached the Community principle that there should be no discrimination based on nationality. The claimants subsequently sued the United Kingdom Government before the High Court for the injury caused them by this Act.

The High Court<sup>(10)</sup> regarded the breach of Community law as sufficiently serious, in the light of the Court of Justice case-law<sup>(11)</sup>, to entitle the claimants to compensation for the damage suffered. The Secretary of State's appeal against this decision had been rejected by the Court of Appeal<sup>(12)</sup>. This decision was appealed in turn to the House of Lords, which upheld the High Court's decision, considering that the deliberate enactment of legislation instituting nationality-based discrimination which inevitably breached Article 52 of the EC Treaty (now Article 43) is a manifest and unjustifiable breach of the Treaty, which is thus sufficiently serious to give rise to a right to compensation.

Again in the United Kingdom, the claimant in *R v Department of Social Security ex parte Scullion*<sup>(13)</sup> was a 63-year-old woman who in 1986 had been refused the invalid care allowance. To be eligible, the person concerned had to have been entitled to this benefit before reaching retirement age: 60 years for women and 65 for men. Together with other persons in the same position, she appealed against this decision. In the meantime, following the Court of Justice ruling in *Thomas*<sup>(14)</sup> that such discrimination could not be justified under Article 7(1)(a) of Directive 79/77/EEC<sup>(15)</sup> unless necessarily and objectively linked

(1) Case C-231/96 *Edilizia Industriale Siderurgica Srl (Edis) v Ministero delle Finanze* [1998] ECR I-4951, judgment of 15 September 1998.

(2) Case C-188/95 *Fantask* [1997] ECR I-6783.

(3) In connection with an appeal on the time limits for repayment, the Bethune Regional Court (Tribunal de Grande Instance de Béthune) has referred to the Court of Justice for a preliminary ruling on the lawfulness of Article L. 190 of the Code of Tax Procedures (Case C-88/99 *SA Roquette Frères v Direction des services fiscaux*, pending).

(4) Council Directive 77/187/EEC of 14 February 1977 (OJ L 61, 5.3.1977, p. 26).

(5) Judgment of 14 July 1998 of the Pretura di Milano, *Foderetti v Presidenza del Consiglio dei Ministri, Orientamenti della Giurisprudenza dei Lavoro*, 1999, p. 133-135.

(6) The Italian Republic gave effect to Directive 77/187/EEC by Article 47 of Law No 428 of 29 December 1990 (GURI, 12.1.1991, Suppl. ord.) enacting measures for the fulfilment of the obligations resulting from Italy's membership of the European Communities (the 'Legge comunitaria').

(7) House of Lords, 28 October 1999, *R v Secretary of State for Transport, ex parte Factortame and others*, *The Weekly Law Reports*, 1999. Vol. 3, 1062-1090.

(8) House of Lords, 9 July 1990, *R v Secretary of State for Transport, ex parte Factortame and others*. *The Law Reports, Appeal Cases*, 1991, Vol. 1, p. 503.

(9) Judgments of 4 October 1991, Case C-246/89 *Commission v United Kingdom of Great Britain and Northern Ireland* [1991] ECR I-4585 and 25 July 1991, Case C-221/89 *R v Secretary of State for Transport, ex parte Factortame Ltd and others* [1991] ECR I-3905.

(10) High Court (England and Wales), 31 July 1997, *R v Secretary of State for Transport, ex parte Factortame*, *Common Market Law Reports*, 1998. Vol. I. 1353-1429.

(11) Joined Cases C-46/93 and C-48/93 *Brasserie du Pêcheur and Factortame* [1996] ECR I-1029, judgment of 5 March 1996.

(12) Court of Appeal (England and Wales), 8 April 1998, *R v Secretary of State for Transport, ex parte Factortame*. *Common Market Law Reports*, 1998. Vol. 3, 912-918.

(13) High Court (England and Wales), 30 July 1999, *R v Department of Social Security, ex parte Scullion*, *Common Market Law Reports*, 1999. Vol. 3, 798-819.

(14) Case C-328/91 *Thomas et al.* [1993] ECR I-1247, judgment of 30 March 1993.

(15) Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 6, 10.1.1979, p. 24). Article 7(1)(2) provides that the Directive is without prejudice to the right of Member States to exclude from its scope the determination of pensionable age for the purposes of granting old-age and retirement pensions and the possible consequences thereof for other benefits.



to the difference in retirement ages, the House of Lords<sup>(1)</sup> had upheld a finding by the Court of Appeal<sup>(2)</sup> that the age difference for men and women provided for by the national regulations with respect to this benefit was contrary to the Directive. The Social Security Appeal Tribunal therefore reviewed the applications in the *Scullion* case and decided that the claimant was entitled to this benefit as from 1985. However, since she was already receiving an old-age pension, the national regulations on simultaneous payment of benefits meant that she was not entitled to receive the invalid care allowance at the same time but was entitled to the carer's premium introduced in 1990. The claimant therefore sought compensation from the Secretary of State for the injury suffered as a result of his breach of his duty to transpose the Directive. She was paid premium arrears as from 1990. However, since the Secretary of State refused to pay interest on this sum, an application for judicial review was made before the High Court.

The High Court stated that various factors should be taken into account within an overall approach to determine whether the breach was sufficiently serious. Firstly, there was no indication that the Government had sought legal advice as to whether the age difference for entitlement to the benefit fell within the scope of Article 7(1) of the Directive. Secondly, the principle of equal treatment set out in the Directive was of basic importance. Thirdly, the benefit in question targeted a particularly vulnerable group of persons and the Government could therefore have foreseen the injury done to the claimant and to other persons in the same position. Fourthly, despite the Commission's position and the case-law of the Court of Justice, the Government had not asked for a formal opinion from the Commission. Finally, while Article 7(1)(a) of the Directive allowed the Member States a measure of discretion, this applied only to determination of pensionable age and not to other benefits. This being so, the High Court found that the breach of the Directive was sufficiently serious and that since the other conditions giving right to compensation were met, the Secretary of State should pay the interest on the premium arrears. This judgment had major financial implications because of the number of persons concerned.

Again in the United Kingdom, in *Re Burns's Application for Judicial Review*<sup>(3)</sup>, the claimant, under threat of redundancy, had agreed to work on a night shift and subsequently asked to be transferred to a day shift. When her employer refused, she resigned on medical grounds. Having established that the claimant was to be regarded as a night worker, the High Court decided, in accordance with the judgment in *Dillenkofer*<sup>(4)</sup>, that failure to transpose Directive 93/104/EEC on the organisation of working time automatically

constituted a serious breach of Community law, with the result that the United Kingdom had a duty to compensate the claimant for any resulting injury. In the instant case, however, she had not established that she would have been able to force her employer to transfer her to day work and thus keep her job if she had been able to rely on provisions transposing the rights conferred by the Directive into national law.

#### Question 5

Finally, mention should be made in this review of two judgments of Community interest by the European Court of Human Rights (ECHR).

The first<sup>(5)</sup> relates to the concept of a 'fair and public hearing' within the meaning of Article 6 (1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. When assessing whether the length of civil proceedings before the Greek courts constituted a breach of this provision, the ECHR refused to take into account the time for which proceedings were stayed following a reference to the Court of Justice for a preliminary ruling in one of the cases (Case C-441/93<sup>(6)</sup> *Panagis Pafitis and others v Trapeza Kentrikis Eliados A E and others*), in which the Court of Justice rendered judgment on 12 March 1996.

In paragraph 95 of its judgment, the ECHR states that:

'As regards the proceedings before the Court of Justice of the European Communities, the Court notes that the Athens District Court decided on 3 August 1993 to refer a question to the Court of Justice, which gave judgment on 12 March 1996. During the intervening period the proceedings in the actions concerned were stayed, which prolonged them by two years, seven months and nine days. The Court cannot, however, take this period into consideration in its assessment of the length of each particular set of proceedings: even though it may at first sight appear relatively long, to take it into account would adversely affect the system instituted by Article 177 of the EEC treaty and work against the aim pursued in substance in that Article'.

On 18 February 1999<sup>(7)</sup>, the ECHR found that, by complying with Annex II to the Act concerning the election of representatives of the European Parliament by universal direct suffrage (annexed to Council Decision 76/787/EEC) and thus failing to apply the Act to Gibraltar, the United Kingdom had breached Article 3 of the Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, by which the contracting parties undertake to organise 'free elections... by secret ballot' to 'the legislature'.

The ECHR states in paragraphs 32 and 33 that:

'... acts of the EC as such cannot be challenged before the Court because the EC is not a Contracting Party. The Convention does not exclude the transfer of competences to international organisations provided that Convention rights continue to be "secured". Member States responsibility therefore continues even after such a transfer.

(1) House of Lords, 27 July 1993, *Thomas and others v Secretary of State for Social Security*.

(2) Court of Appeal (England and Wales), 31 July 1990, *Thomas v Chief Adjudication Officer and another*. The Law Reports; Queen's Bench Division. 1991. Vol. 2, p. 164-195.

(3) High Court (Northern Ireland), 15 March 1999. The Northern Ireland Law Reports, 1999, p. 175-182.

(4) Joined Cases C-178/94, C-179/94, C-188/94, C-189/94 and C-190/94 *Dillenkofer* [1996] ECR I-4845; judgment of 8 October 1996.

(5) European Court of Human Rights, judgment of 26 February 1998, *Pafitis v Greece*, *Revue universelle des droits de l'homme*. 1998, p. 140 et seq.

(6) [1996] ECR I-1347.

(7) European Court of Human Rights. *Matthews v United Kingdom*. *Journal des Tribunaux — Droit européen* — 1999, p. 65 et seq.

In the present case, the alleged violation of the Convention flows from an Annex to the 1976 Act, entered into by the United Kingdom, together with the extension to the European Parliament's competences brought about by the Maastricht Treaty. The Council Decision, the 1976 Act and the Maastricht Treaty, with its changes to the EEC Treaty, all constituted international instruments which were freely entered into by the United Kingdom. Indeed, the 1976 Act cannot be challenged before the European Court of Justice for the very reason that it is not a "normal" act of the Community, but is a treaty within the Community legal order. The Maastricht Treaty, too, is not an act of the Community, but a treaty by which a revision of the EEC Treaty was brought about. The United Kingdom, together with all the other parties to the Maastricht Treaty, is responsible *ratione materiae* under Article 1 of the Convention and, in particular, under Article 3 of Protocol 1, for the consequences of that Treaty.'

The ECHR then finds that the United Kingdom is responsible under Article 1 of the Convention for securing the rights guaranteed by Article 3 of Protocol 1 in Gibraltar regardless of whether the elections were purely domestic or European (paragraph 35) and that the European Parliament is sufficiently involved in the specific legislative processes leading to the passage of legislation under Articles 189b and 189c of the EC Treaty, and is sufficiently involved in the general democratic supervision of the activities of the European Community, to constitute part of the 'legislature' of Gibraltar for the purposes of Article 3 of Protocol 1 (paragraph 54). The ECHR concludes that the failure to organise elections to the European Parliament in Gibraltar constitutes a breach of Article 3. Two judges submitted a joint dissenting opinion.