

COURT OF JUSTICE  
OF THE EUROPEAN COMMUNITIES

# SELECTED INSTRUMENTS

**Relating to the  
Organization, Jurisdiction and Procedure of the Court**

1975 EDITION

LUXEMBOURG

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OF THE EUROPEAN COMMUNITIES

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## INTRODUCTION

*The edition of Selected Instruments on the Organization, Jurisdiction and Procedure of the Court of Justice of the European Communities published in 1963 was the first presentation in book form of all the provisions on this subject to be found in the Treaties establishing the European Communities, the Protocols and Conventions annexed thereto and in the implementing regulations made under those Treaties.*

*This was followed by a second edition in 1967 at the time when a number of provisions relating to the Court were amended by the Treaty establishing a Single Council and a Single Commission of the European Communities and when the jurisdiction of the Court was extended by various Association Agreements.*

*Since then amendments have been made following the enlargement of the Community by the accession of three States on 1 January 1973 and fresh Rules of Procedure were adopted on 4 December 1974. The jurisdiction of the Court was further extended by the Convention on Jurisdiction and Enforcement of Civil and Commercial Judgments and by the Convention on the Mutual Recognition of Companies and Legal Persons.*

*A fresh edition of the Selected Instruments was thus called for to take account of these changes.*

*This publication is issued in accordance with Article 23 of the Instructions to the Registrar of the Court and on the responsibility of the Registrar.*

*Luxembourg, February 1975*



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**I**

**EUROPEAN ECONOMIC COMMUNITY**

**EEC**

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## ABBREVIATIONS

Ass. Afr. and Mal.	Internal Agreement on the measures and procedures required for implementation of the Convention of Association between the European Economic Community and the African and Malagasy States associated with that Community
Ass. Greece	Agreement establishing an Association between the European Economic Community and Greece
Ass. Tanzania	Internal Agreement on the measures and procedures required for implementation of the Agreement establishing an Association between the European Economic Community and the United Republic of Tanzania, the Republic of Uganda and the Republic of Kenya
Ass. Turkey	Agreement establishing an Association between the European Economic Community and Turkey
Audit Board	Rules of the Audit Board
Bank	Statute of the European Investment Bank
Bank Staff Regs.	European Investment Bank Staff Regulations
Competition	Rules on competition
Cond. Emp.	Conditions of employment of other servants of the European Communities
Fin. Reg.	Financial Regulation No 73/91/ECSC, EEC, Euratom applicable to the general budget of the European Communities
Fund	European Development Fund
Lab. comm.	Rules of the Administrative Commission on Social Security for Migrant Workers attached to the Commission of the European Communities
Merger Treaty	Treaty establishing a Single Council and a Single Commission of the European Communities
P. P. J.	Protocol on the Privileges and Immunities of the European Communities

<b>EEC - Abbreviations</b>
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Prot. civ. judg.	Protocol on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters
Prot. Companies	Protocol on the interpretation by the Court of Justice of the Convention of 29 February 1968 on the mutual recognition of companies, firms and legal persons
Prot. France	Protocol on certain provisions relating to France
Reg. 5	Regulation No 5 of the Council of 3 December 1958 laying down detailed rules for the collection and transfer of financial contributions, the budgetary system and the management of the resources of the Development Fund for overseas countries and territories
Reg. 11	Regulation No 11 of the Council of 27 June 1960 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty
Reg. 17	Regulation No 17 of the Council of 6 February 1962 — First Regulation implementing Articles 85 and 86 of the Treaty
Reg. 26	Regulation No 26 of the Council of 4 April 1962 applying certain rules of competition to production of and trade in agricultural products
Reg. 1017/68	Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway
Staff Regs.	Staff Regulations of officials of the European Communities
Staff, sickness insurance	Rules on sickness insurance
Statute	Protocol on the Statute of the Court of Justice
Treaty	Treaty establishing the European Economic Community

SYNOPSIS OF ARTICLES OF THE TREATIES  
AND THE STATUTES OF THE COURT

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**A — GENERAL RULES OF THE TREATY<sup>1</sup>***Article 164*

The Court of Justice shall ensure that in the interpretation and application of this Treaty the law is observed.

*Article 165<sup>2</sup>*

The Court of Justice shall consist of nine Judges.

The Court of Justice shall sit in plenary session. It may, however, form chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with rules laid down for these purposes.

Whenever the Court of Justice hears cases brought before it by a Member State or by one of the institutions of the Community or, to the extent that the Chambers of the Court do not have the requisite jurisdiction under the Rules of Procedure, has to give preliminary rulings on questions submitted to it pursuant to Article 177, it shall sit in plenary session.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 167.

<sup>1</sup> Section 4 of Chapter I of Title I of Part five of the Treaty establishing the European Economic Community, signed at Rome on 25 March 1957.

<sup>2</sup> Article 3 of the Convention on certain Institutions common to the European Communities specifies:

'The jurisdiction which the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community confer upon the Court of Justice shall be exercised, in accordance with those Treaties, by a single Court of Justice composed and appointed as provided in Articles 165 to 167 of the Treaty establishing the European Economic Community and in Articles 137 to 139 of the Treaty establishing the European Atomic Energy Community.'

*Article 166*

The Court of Justice shall be assisted by four Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court of Justice, in order to assist the Court in the performance of the task assigned to it in Article 164.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Advocates-General and make the necessary adjustments to the third paragraph of Article 167.

*Article 167*

The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognized competence; they shall be appointed by common accord of the Governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Five and four Judges shall be replaced alternately.

Every three years there shall be a partial replacement of the Advocates-General. Two Advocates-General shall be replaced on each occasion.

Retiring Judges and Advocates-General shall be eligible for reappointment.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be reelected.

*Article 168*

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

*Article 169*

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a

reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

#### *Article 170*

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

#### *Article 171*

If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

#### *Article 172*

Regulations made by the Council pursuant to the provisions of this Treaty may give the Court of Justice unlimited jurisdiction in regard to the penalties provided for in such regulations.

### *Article 173*

The Court of Justice shall review the legality of acts of the Council and the Commission other than recommendations or opinions. It shall for this purpose have jurisdiction in actions brought by a Member State, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

### *Article 174*

If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

### *Article 175*

Should the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined

its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

#### *Article 176*

The institution whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 215<sup>1</sup>.

#### *Article 177*

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of the Treaty;
- (b) the validity and interpretation of acts of the institutions of the Community;
- (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

<sup>1</sup> Article 215 of the Treaty specifies:

'The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties. The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.'

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

*Article 178*

The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of Article 215<sup>1</sup>.

*Article 179*

The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the Limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment.

*Article 180*

The Court of Justice shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

- (a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connexion, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article 169;
- (b) measures adopted by the Board of Governors of the Bank. In this connexion, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 173;
- (c) measures adopted by the Board of Directors of the Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 173, and solely on the grounds

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<sup>1</sup> See footnote p. 19.



of non-compliance with the procedure provided for in Article 21 (2), (5), (6) and (7) of the Statute of the Bank<sup>1</sup>.

#### *Article 181*

The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

#### *Article 182*

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

#### *Article 183*

Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

#### *Article 184*

Notwithstanding the expiry of the period laid down in the third paragraph of Article 173, any party may, in proceedings in

<sup>1</sup> Under the terms of Article 21 (2), (5), (6) and (7) of the Statutes of the Bank:

'2. Applications made through the Commission shall be submitted for an opinion to the Member State in whose territory the project will be carried out. Applications made through a Member State shall be submitted to the Commission for an opinion. Applications made direct by an undertaking shall be submitted to the Member State concerned and to the Commission.

The Member State concerned and the Commission shall deliver their opinions within two months. If no reply is received within this period, the Bank may assume that there is no objection to the project in question.

5. Where the Management Committee delivers an unfavourable opinion, the Board of Directors may not grant the loan or guarantee concerned unless its decision is unanimous.

6. Where the Commission delivers an unfavourable opinion, the Board of Directors may not grant the loan or guarantee concerned unless its decision is unanimous, the director nominated by the Commission abstaining.

7. Where both the Management Committee and the Commission deliver an unfavourable opinion, the Board of Directors may not grant the loan or guarantee.'

which a regulation of the Council or of the Commission is in issue, plead the grounds specified in the first paragraph of Article 173, in order to invoke before the Court of Justice the inapplicability of that regulation.

*Article 185*

Actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

*Article 186*

The Court of Justice may in any cases before it prescribe any necessary interim measures.

*Article 187*

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 192<sup>1</sup>.

*Article 188*

The Statute of the Court of Justice is laid down in a separate Protocol.

The Court of Justice shall adopt its rules of procedure. These shall require the unanimous approval of the Council.

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<sup>1</sup> See p. 36.

## B — STATUTE OF THE COURT OF JUSTICE<sup>1</sup>

### *Article 1*

The Court established by Article 4 of this Treaty<sup>2</sup> shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

#### *TITLE I*

#### **Judges and Advocates-General**

### *Article 2*

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

### *Article 3*

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the Court competent to judge the members of the highest national judiciary.

<sup>1</sup> Protocol on the Statute of the Court of Justice, signed at Brussels on 17 April 1957.

<sup>2</sup> See p. 35.

#### *Article 4*

The Judges may not hold any political or administrative office.

The may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

#### *Article 5*

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

#### *Article 6*

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the Assembly and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

*Article 7*

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

*Article 8*

The provisions of Articles 2 to 7 shall apply to the Advocates-General.

*TITLE II*

**Organization**

*Article 9*

The registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 10*

The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

*Article 11*

Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

*Article 12*

On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in

the rules of procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### *Article 13*

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

#### *Article 14*

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

#### *Article 15*

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if seven members are sitting. Decisions of the Chambers shall be valid only if three Judges are sitting; in the event of one of the Judges of a Chamber being prevented from attending, a Judge of another Chamber may be called upon to sit in accordance with conditions laid down in the rules of procedure.

#### *Article 16*

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a Member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its Chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the Chamber of a Judge of the nationality of that party.

### *TITLE III*

#### **Procedure**

#### *Article 17*

The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer entitled to practise before a court of a Member State.

Other parties must be represented by a lawyer entitled to practise before a court of a Member State.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the rules of procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the rules of procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights

before the Court as are accorded by this Article to lawyers entitled to practise before a court of a Member State.

#### *Article 18*

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the rules of procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers entitled to practise before a court of a Member State and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

#### *Article 19*

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party against whom the application is made, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 175 of this Treaty<sup>1</sup>, by documentary evidence of the date on which an institution was, in accordance with that Article, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

<sup>1</sup> See p. 18.



*Article 20*

In the cases governed by Article 177 of this Treaty<sup>1</sup> the decision of the Court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council if the act the validity or interpretation of which is in dispute originates from the Council.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the Council, shall be entitled to submit statements of case or written observations to the Court.

*Article 21*

The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

*Article 22*

The Court may at any time entrust any individual, body, authority, committee or other organization it chooses with the task of giving an expert opinion.

*Article 23*

Witnesses may be heard under conditions laid down in the rules of procedure.

*Article 24*

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the rules of procedure.

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<sup>1</sup> See p. 19.

*Article 25*

Witnesses and experts may be heard on oath taken in the form laid down in the rules of procedure or in the manner laid down by the law of the country of the witness or expert.

*Article 26*

The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the rules of procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

*Article 27*

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

*Article 28*

The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

*Article 29*

During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

*Article 30*

Minutes shall be made of each hearing and signed by the President and the Registrar.

*Article 31*

The cause list shall be established by the President.

*Article 32*

The deliberations of the Court shall be and shall remain secret.

*Article 33*

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

*Article 34*

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

*Article 35*

The Court shall adjudicate upon costs.

*Article 36*

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the rules of procedure, adjudicate upon applications to suspend execution, as provided for in Article 185 of this Treaty<sup>1</sup>, or to prescribe interim measures in pursuance of Article 186<sup>1</sup>, or to suspend enforcement in accordance with the last paragraph of Article 192<sup>2</sup>.

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<sup>1</sup> See p. 22.

<sup>2</sup> See p. 36.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules of procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

### *Article 37*

Member States and institutions of the Community may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Community or between Member States and institutions of the Community.

Submissions made in an application to intervene shall be limited to supporting the submissions of one of the parties.

### *Article 38*

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

### *Article 39*

Member States, institutions of the Community and any other natural or legal persons may, in cases and under conditions to be determined by the rules of procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

*Article 40*

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

*Article 41*

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly, recording the existence of a new fact, recognizing that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of ten years from the date of the judgment.

*Article 42*

Periods of grace based on considerations of distance shall be determined by the rules of procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of force majeure.

*Article 43*

Proceedings against the Community in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Community. In the latter event the proceedings must be instituted within the period of two months provided for

in Article 173<sup>1</sup>; the provisions of the second paragraph of Article 175<sup>1</sup> shall apply where appropriate.

*Article 44*

The rules of procedure of the Court provided for in Article 188 of this Treaty<sup>2</sup> shall contain, apart from the provisions contemplated by this Statute, any other provisions necessary for applying and, where required, supplementing it.

*Article 45*

The Council may, acting unanimously, make such further adjustments to the provisions of this Statute as may be required by reason of measures taken by the Council in accordance with the last paragraph of Article 165 of this Treaty<sup>3</sup>.

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<sup>1</sup> See p. 18.

<sup>2</sup> See p. 22.

<sup>3</sup> See p. 15.

## C — SPECIAL PROVISIONS

### 1. Special provisions of the Treaty

#### *Article 4*

1. The tasks entrusted to the Community shall be carried out by the following institutions:

- an Assembly,
- a Council,
- a Commission,
- a Court of Justice.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

#### *Article 93*

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the common market having regard to Article 92<sup>1</sup>, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other in-

<sup>1</sup> Article 92 (1) of the EEC Treaty specifies:

'1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.'

interested State may, in derogation from the provisions of Articles 169 and 170<sup>1</sup>, refer the matter to the Court of Justice direct.

#### *Article 192*

Decisions of the Council or of the Commission which impose a pecuniary obligation on persons other than States shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the Government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

#### *Article 217*

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the rules of procedure of the Court of Justice, be determined by the Council, acting unanimously.

#### *Article 219*

Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

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<sup>1</sup> See pp. 16 — 17.



### Article 225

If measures taken in the circumstances referred to in Articles 223 and 224<sup>1</sup> have the effect of distorting the conditions of competition in the common market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in this Treaty.

By way of derogation from the procedure laid down in Articles 169 and 170<sup>2</sup>, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 223 and 224<sup>1</sup>. The Court of Justice shall give its ruling *in camera*.

### Article 228

1. Where this Treaty provides for the conclusion of agreements between the Community and one or more States or an

<sup>1</sup> The powers of Member States provided for in Articles 223 and 224 refer to the protection of the interests of security of Member States. These provisions specify:

#### Article 223

'1. The provisions of this Treaty shall not preclude the application of the following rules:

- (a) No Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;
- (b) Any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

2. During the first year after the entry into force of this Treaty, the Council shall, acting unanimously, draw up a list of products to which the provisions of paragraph 1 (b) shall apply.

3. The Council may, acting unanimously on a proposal from the Commission, make changes in this list.

#### Article 224

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the common market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.'

<sup>2</sup> See pp. 16 — 17.

international organization, such agreements shall be negotiated by the Commission. Subject to the powers vested in the Commission in this field, such agreements shall be concluded by the Council, after consulting the Assembly where required by this Treaty.

The Council, the Commission or a Member State may obtain beforehand the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 236<sup>1</sup>.

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<sup>1</sup> According to Article 236 of the Treaty:

'The Government of any Member State or the Commission may submit to the Council proposals for the amendment of this Treaty.

If the Council, after consulting the Assembly and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the Governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.'

## **2. Treaty establishing a Single Council and a Single Commission of the European Communities<sup>1</sup>**

### *Article 6*

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

### *Article 10*

2. (3) The members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with the provisions of Article 13 or deprived of his right to a pension or other benefits in its stead.

### *Article 13*

If any member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has

<sup>1</sup> Signed at Brussels on 8 April 1965 and came into force on 1 July 1967.

been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

*Article 30*

The provisions of the Treaties establishing the European Economic Community and the European Atomic Energy Community relating to the jurisdiction shall be applicable to the provisions of this Treaty and of the Protocol annexed thereto<sup>1</sup>, with the exception of those which represent amendments to Articles of the Treaty establishing the European Coal and Steel Community, in respect of which the provisions of the Treaty establishing the European Coal and Steel Community shall remain applicable.

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<sup>1</sup> Protocol on the Privileges and Immunities of the European Communities.

### **3. Statute of the European Investment Bank <sup>1</sup>**

#### *Article 29*

Disputes between the Bank on the one hand, and its creditors, debtors or any other person on the other, shall be decided by the competent national courts, save where jurisdiction has been conferred on the Court of Justice.

The Bank shall have an address for service in each Member State. It may, however, in any contract, specify a particular address for service or provide for arbitration.

The property and assets of the Bank shall not be liable to attachment or to seizure by way of execution except by decision of a court.

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<sup>1</sup> Signed at Rome on 25 March 1957.

#### **4. Protocol on the Privileges and Immunities of the European Communities<sup>1</sup>**

##### *Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorization of the Court of Justice.

##### *Article 21*

Articles 12 to 15 and Article 18<sup>2</sup> shall apply to the Judges, the Advocates-General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice<sup>3</sup> concerning immunity from legal proceedings of Judges and Advocates-General.

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<sup>1</sup> Signed at Brussels on 8 April 1965.

<sup>2</sup> Articles 12 to 15 and Article 18 establish the privileges and immunities of officials and other servants of the European Communities.

<sup>3</sup> See p. 23.

## **5. Protocol on certain provisions relating to France<sup>1</sup>**

### **I**

3. (2) If the Commission and the French Government do not agree on the question whether the level of the monetary reserves of the franc area can be considered satisfactory, they shall refer the matter for an opinion to a person or body chosen by common accord as arbitrator. In the event of disagreement, the arbitrator shall be designated by the President of the Court of Justice.

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<sup>1</sup> Signed at Rome on 25 March 1957.

**6. Protocol on the interpretation by the Court of Justice  
of the Convention of 29 February 1968 on the  
Mutual Recognition of Companies, Firms and Legal Persons<sup>1</sup>**

*Article 1*

The Court of Justice of the European Communities shall have jurisdiction to give preliminary rulings on the interpretation of the Convention on the Mutual Recognition of Companies, Firms and Legal Persons and of the Joint Declaration No 1 in the Protocol annexed to that Convention, signed at Brussels on 29 February 1968, and also on the interpretation of the present Protocol.

*Article 2*

1. Where a question relating to the interpretation of the Convention or of one of the other instruments specified in Article 1 is raised before any court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.
2. Where such a question is raised in a case pending before a court of a Contracting State against whose judgment there is no judicial remedy under national law, that court shall bring the matter before the Court of Justice.

*Article 3*

1. Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Com-

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<sup>1</sup> Signed at Luxembourg on 3 June 1971 by Belgium, France, Federal Republic of Germany, Italy, Luxembourg and the Netherlands (unofficial translation).



munity and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is required to give preliminary ruling, shall also apply to any proceedings for the interpretation of the Convention and the other instruments specified in Article 1.

2. The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community<sup>1</sup>.

#### *Article 4*

This Protocol shall apply to the European territories of the Contracting States, to the French overseas departments and to the French overseas territories.

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Protocol or at any later time, by notifying the Secretary-General of the Council of the European Communities, that this Protocol shall be applicable to Surinam and the Netherlands Antilles.

#### *Article 5*

This Protocol shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

#### *Article 6*

This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last signatory State to take this step; provided that it shall at the earliest enter into force at the same time as the Convention of 29 February 1968 on the Mutual Recognition of Companies, Firms and Legal Persons.

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<sup>1</sup> See p. 22.

*Article 7*

The Secretary-General of the Council of the European Communities shall notify the signatory States of

- (a) the deposit of each instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) any declaration received pursuant to the second paragraph of Article 4.

*Article 8*

This Protocol is concluded for an unlimited period.

*Article 9*

Any Contracting State may request the revision of this Protocol. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

**7. Protocol concerning the interpretation by the Court of Justice  
of the Convention of 27 September 1968 on Jurisdiction  
and the Enforcement of Judgments in Civil  
and Commercial Matters<sup>1</sup>**

*Article 1*

The Court of Justice of the European Communities shall have jurisdiction to give preliminary rulings concerning the interpretation of the convention on jurisdiction and the enforcement of judgments in civil and commercial matters and the Protocol annexed to that convention, signed at Brussels on 27 September 1968, and concerning the interpretation of this Protocol.

*Article 2*

The following courts and tribunals shall have the power to ask the Court of Justice to give preliminary rulings on questions of interpretation:

1. in Belgium: la Cour de Cassation — het Hof van Cassatie and le Conseil d'État — de Raad van State,  
in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,  
in France: la Cour de Cassation and le Conseil d'État,  
in Italy: la Corte Suprema di Cassazione,  
in Luxembourg: la Cour supérieure de Justice, when sitting as Supreme Court of Appeal,  
in the Netherlands: de Hoge Raad;
2. the courts and tribunals of the Contracting States when they are hearing appeals;

<sup>1</sup> Signed at Luxembourg on 3 June 1971 by Belgium, France, Federal Republic of Germany, Italy, Grand Duchy of Luxembourg and the Netherlands and entered into force for these States on 1 September 1975 (Official Journal of the European Communities, Volume 18, No L 204, of 2 August 1975, p. 28). Only the French, German, Italian and Dutch texts of the Protocol are authentic. The versions in the other official languages of the Communities are simply translations and not authentic.

3. in the cases provided for in Article 37 of the convention<sup>1</sup>, the courts and tribunals mentioned in the said article.

### Article 3

1. Where a question relating to the interpretation of the convention and the other texts mentioned in Article 1 is raised in a case pending before a court or tribunal indicated in Article 2 (1), that court or tribunal shall, if it considers that a decision on the question is necessary to enable it to give judgment, be bound to request the Court of Justice to give a ruling thereon.
2. Where such a question is raised before any court or tribunal indicated in Article 2 (2) and (3), that court or tribunal may, in the circumstances specified in paragraph 1, request the Court of Justice to give a ruling.

### Article 4

1. The competent authority of a Contracting State may ask the Court of Justice to give a ruling on a question of interpretation of the convention and of the other texts mentioned in Article 1 if decisions made by courts or tribunals of that State are in conflict with the interpretation given either by the Court of Justice or by a decision of a court or tribunal of another Contracting State mentioned in Article 2 (1) and (2). The provisions of this paragraph shall apply only to judgments at law.
2. The interpretation given by the Court of Justice following such a request shall not affect the decisions in respect of which the interpretation was requested.

<sup>1</sup> Article 37 of the Convention specifies:

The appeal shall be lodged in accordance with the rules governing trial proceedings:

- (I) In Belgium, with the *tribunal de première instance* or *rechtbank van eerste aanleg*;
  - (II) In the Federal Republic of Germany, with the *Oberlandesgericht*;
  - (III) In France, with the *cour d'appel*;
  - (IV) In Italy, with the *corte d'appello*;
  - (V) In Luxembourg, with the *Cour supérieure de justice* as dealing with civil appeals;
  - (VI) In the Netherlands, with the *Arrondissementsrechtbank*.
- Any judgment rendered in response to an appeal may be contested only by an appeal for reversal (*pourvoi en cassation*) and in the Federal Republic of Germany, by a complaint on a point of law (*Rechtsbeschwerde*).

3. The Attorney-Generals at the Supreme Courts of Appeal of the Contracting States or any other authorities designated by a Contracting State shall be empowered to lay before the Court of Justice a request for interpretation in conformity with paragraph 1.

4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities which, within a period of two months as from this notice, may submit briefs or written observations to the Court.

5. The procedure provided for in this Article shall not involve either the levying or reimbursement of costs or expenses.

#### *Article 5*

1. Except where this Protocol provides otherwise, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is required to give a preliminary ruling, shall apply also to the procedure for the interpretation of the convention and the other texts mentioned in Article 1.

2. The Rules of Procedure of the Court of Justice shall be adapted and supplemented, as necessary, in conformity with Article 188 of the Treaty establishing the European Economic Community<sup>1</sup>.

#### *Article 6*

This Protocol shall apply to the European territory of the Contracting States, to the French overseas departments and to the French overseas territories.

The Kingdom of the Netherlands may, at the time of signing or of ratifying this Protocol, or at any time subsequently, by notifying the Secretary-General of the Council of the European

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<sup>1</sup> See p. 22.

Communities, declare that this Protocol shall apply to Surinam and to the Netherlands Antilles.

#### *Article 7*

This Protocol shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

#### *Article 8*

This Protocol shall come into force on the first day of the third month following the deposit of the instrument of ratification of the last signatory State to complete this formality. However, its entry into force shall occur at the earliest at the same time as that of the convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters.

#### *Article 9*

The Contracting States recognize that any State which becomes a member of the European Economic Community and to which Article 63 of the convention on jurisdiction and the enforcement of judgments in civil and commercial matters<sup>1</sup> applies, must accept the provisions of this Protocol, subject to such adaptations as may be required.

#### *Article 10*

The Secretary-General of the Council of the European Communities shall notify the signatory States of:

- (a) the deposit of any instrument of ratification;

<sup>1</sup> Article 63 of the Convention specifies:

'The Contracting States shall recognize that all States becoming members of the European Economic Community shall have the obligation to agree that this Convention shall be taken as a basis for the negotiations necessary to ensure the implementation of Article 220, last sub-paragraph, of the Treaty establishing the European Economic Community, in relations between the Contracting States and the acceding State.

A special convention may be made between the Contracting States on the one hand and the acceding State on the other hand to ensure the necessary adjustments.'

- (b) the date of entry into force of this Protocol;
- (c) the declarations received pursuant to Article 4 (3);
- (d) the declarations received pursuant to Article 6 (2).

*Article 11*

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of those of their legislative provisions which will require that an amendment be made to the list of courts and tribunals specified in Article 2 (1).

*Article 12*

This Protocol shall be concluded for an unlimited period.

*Article 13*

Each Contracting State may ask for this Protocol to be revised. In that event, a revision conference shall be convened by the President of the Council of the European Communities.

## 8. Budgetary rules

### (a) *Rules of the Audit Board*<sup>1</sup>

#### *Article 7*

If an auditor no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, particularly if he has violated one of the obligations set out in Article 5<sup>2</sup>, the Court of Justice may compulsorily retire him, on application by the Councils or the Audit Board. In the event of such serious misconduct, the auditor may also, subject to the same conditions, be declared to have forfeited any pension rights or other benefits in their stead.

The Court of Justice may provisionally suspend the auditor from office on application by the Councils or the Audit Board.

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<sup>1</sup> Adopted by the Council of the EEC on 15 May 1959 (OJ Special Edition 1959 — 1962, p. 36).

<sup>2</sup> Article 5 specifies:

'The office of auditor shall be incompatible with any other office in the service of the Communities.

When entering upon their duties the auditors shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, and in particular their duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.'



(b) *Financial Regulation No 73/91/ECSC, EEC, Euratom of 25 April 1973 applicable to the general budget of the European Communities*<sup>1</sup>

*Article 19*

Each institution shall appoint a financial controller who shall be the official in charge of the control of commitments and authorization of all expenditure and also the control of all revenue.

.....

The financial controller may be assisted in his duties by one or more assistant financial controllers.

The special rules applicable to such officials, which shall be laid down within the framework of the measures of implementation taken under Article 118, shall be determined in such a way as to guarantee the independence of their duties. The measures taken in respect of their appointment and promotion, disciplinary action or transfers, various methods of interruption or termination of appointment, shall be subject to reasoned decisions to be forwarded, for information, to the European Parliament, the Council and the Commission.

The persons concerned, and the institutions employing them, may institute proceedings before the Court of Justice.

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<sup>1</sup> Adopted by the Council of the European Communities (OJ L 116 of 1. 5. 1973, p. 1).

## 9. Staff Regulations of Officials of the European Communities

### (a) *Staff Regulations*<sup>1</sup>

#### *Article 19*

An official shall not, without permission from the appointing authority, disclose on any grounds whatever, in any legal proceedings information of which he has knowledge by reason of his duties. Permission shall be refused only where the interests of the Communities so require and such refusal would not entail criminal consequences as far as the official is concerned. An official shall continue to be bound by this obligation after leaving the service.

The provisions of the preceding paragraph shall not apply to an official or former official giving evidence before the Court of Justice of the European Communities or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of one of the three European Communities.

#### *Article 22*

An official may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part in the course of or in connexion with the performance of his duties.

A reasoned decision shall be given by the appointing authority in accordance with the procedure laid down in regard to disciplinary matters.

<sup>1</sup> Supplement to the OJ C 12 of 24. 3. 1973, p. 3.

The Court of Justice of the European Communities shall have unlimited jurisdiction in disputes arising under this provision.

#### *Article 26*

(1) The personal file of an official shall contain:

- (a) all documents concerning his administrative status and all reports relating to his ability, efficiency and conduct;
- (b) any comments by the official on such documents.

(7) The personal file shall be confidential and may be consulted only in the offices of the administration. It shall, however, be forwarded to the Court of Justice of the European Communities if an action concerning the official is brought before the Court.

#### *Article 90*

1. Any person to whom these Staff Regulations apply may submit to the appointing authority, a request that it take a decision relating to him. The authority shall notify the person concerned of its reasoned decision within four months from the date on which the request was made. If at the end of that period no reply to the request has been received, this shall be deemed to constitute an implied decision rejecting it, against which a complaint may be lodged in accordance with the following paragraph.

2. Any person to whom these Staff Regulations apply may submit to the appointing authority a complaint against an act adversely affecting him, either where the said authority has taken a decision or where it has failed to adopt a measure prescribed by the Staff Regulations. The complaint must be lodged within three months. The period shall start to run:

- on the date of publication of the act if it is a measure of a general nature;
- on the date of notification of the decision to the person concerned, but in no case later than the date on which the

latter received such notification, if the measure affects a specified person; if, however, an act affecting a specified person also contains a complaint against another person, the period shall start to run in respect of that other person on the date on which he receives notification thereof but in no case later than the date of publication;

- on the date of expiry of the period prescribed for reply where the complaint concerns an implied decision rejecting a request as provided in paragraph 1.

The authority shall notify the person concerned of its reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it, against which an appeal may be lodged under Article 91.

3. A request or complaint by an official shall be submitted through his immediate superior, except where it concerns that person, in which case it may be submitted direct to the authority next above.

### *Article 91*

1. The Court of Justice of the European Communities shall have jurisdiction in any dispute between the Communities and any person to whom these Staff Regulations apply regarding the legality of an act embodying a complaint against such person within the meaning of Article 90 (2). In disputes of a financial character the Court of Justice shall have unlimited jurisdiction.

2. An appeal to the Court of Justice of the European Communities shall lie only if:

- the appointing authority has previously has a complaint submitted to it pursuant to Article 90 (2) within the period prescribed therein, and
- the complaint has been rejected by express decisions or by implied decision.

3. Appeals under paragraph 2 shall be filed within three months. The period shall begin:

- on the date of notification of the decision taken in response to the complaint;
- on the date of expiry of the period prescribed for the reply where the appeal is against an implied decision rejecting a complaint submitted pursuant to Article 90 (2); nevertheless, where a complaint is rejected by express decision after being rejected by implied decision but before the period for lodging an appeal has expired, the period for lodging the appeal shall start to run afresh.

4. By way of derogation from paragraph 2, the person concerned may, after submitting a complaint to the appointing authority pursuant to Article 90 (2), immediately file an appeal with the Court of Justice, provided that such appeal is accompanied by an application either for a stay of execution of the contested act or for the adoption of interim measures. The proceedings in the principal action before the Court of Justice shall then be suspended until such time as an express or implied decision rejecting the complaint is taken.

5. Appeals under this Article shall be investigated and heard as provided in the Rules of Procedure of the Court of Justice of the European Communities.

#### *Annex II, Article 7<sup>1</sup>*

The Invalidation Committee shall consist of three doctors:

- one appointed by the institution to which the official concerned belongs;
- one appointed by the official concerned; and
- one appointed by agreement between the first two doctors.

Should the official concerned fail to appoint a doctor, the President of the Court of Justice of the European Communities shall appoint one.

<sup>1</sup> This Article forms part of Section 4 ('Invalidation Committee') of Annex II: 'Composition and procedure of the bodies provided for in Article 9 of the Staff Regulations.'

(b) *Conditions of employment of other servants*<sup>1</sup>

*Article 46*<sup>2</sup>

Title VII of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 73*<sup>3</sup>

Title VII of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 81*<sup>4</sup>

Any dispute between the institution and member of the local staff shall be submitted to the competent court in accordance with the laws in force in the place where the servant performs his duties.

*Article 83*<sup>5</sup>

Article 11, the first paragraph of Article 12, Article 14, the first paragraph of Article 16, Articles 17, 19 and 22, the first and second paragraphs of Article 23 and the second paragraph of Article 25 of the Staff Regulations, concerning the rights and obligations of officials, and Articles 90 and 91 of the Staff Regulations, concerning appeals, shall apply by analogy.

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<sup>1</sup> Supplement to the OJ C 12 of 24. 3. 1973, p. 63.

<sup>2</sup> This Article forms part of Title II: 'Temporary Staff.'

<sup>3</sup> This Article forms part of Title III: 'Auxiliary Staff.'

<sup>4</sup> This Article forms part of Title IV: 'Local Staff.'

<sup>5</sup> This Article forms part of Title V: 'Special Advisers.'

(c) *Rules on Sickness Insurance*<sup>1</sup>

*Article 16*

**A p p e a l s**

1. Any person to whom these Rules apply shall be entitled to resort to the appeal procedure provided for in Articles 90 and 91 of the Staff Regulations<sup>2</sup>.

2. Before taking a decision regarding a complaint submitted under Article 90 (2) of the Staff Regulations, the appointing authority shall consult the Management Committee.

The Management Committee may instruct its chairman to make further investigations. Where the point at issue is of a medical nature, the Management Committee may seek expert medical advice before giving its Opinion. The cost of the expert opinion shall be borne by the Scheme.

The Management Committee shall give its Opinion within two months of the request being received. The Opinion shall be transmitted simultaneously to the appointing authority and to the person concerned.

Should the Management Committee fail to deliver an Opinion within the period prescribed above, the appointing authority may take its decision.

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<sup>1</sup> Adopted on 31 October 1974 and taking effect from 1 November 1974.

<sup>2</sup> See pp. 55 — 57.

(d) *European Investment Bank Staff Regulations*

*Article 41*

Disputes, of any nature, between the Bank and individual members of staff, shall be brought before the Court of Justice of the European Communities.

In addition to proceedings being instituted before the Court of Justice, an amicable settlement shall be sought before the Bank's Conciliation Board in respect of disputes other than such as arise from application of the disciplinary measures provided for under Article 38<sup>1</sup>.

The Conciliation Board shall consist of three members. When the Board is obliged to meet, one of its members shall be nominated by the President of the Bank, another by the official concerned, both nominations being made within one week of one party so requesting the other. The third member, who shall be the Chairman of the Board, shall be nominated by the first two nominees within one week of their being nominated. He need not be a member of the Bank. If, within one week following their nomination, the first two members are unable to agree on the nomination of the Chairman, such nomination shall be under-

<sup>1</sup> Article 38 specifies:

'The following disciplinary measures may, depending upon individual cases, be taken against members of staff who fail to fulfil their obligations to the Bank:

- (1) written reprimand;
- (2) a maximum of one year's suspension of incremental advancement;
- (3) summary dismissal for grave misconduct, with or without severance grant;
- (4) summary dismissal for grave misconduct with loss of severance grant and reduction of pension rights to the proportion referred to in the final paragraph of Article 36.

The disciplinary measures provided for under (3) and (4) shall be taken after a Joint Committee has delivered its opinion under the conditions set out in Article 40. This Committee shall not be required to deliver its opinion in the case of grave misconduct involving prosecution, following the member of staff concerned having been found committing, attempting to commit, or just having committed a crime.

The Committee may confer and deliver its reasoned opinion and the President his decision, even when the member of staff concerned has ceased employment with the Bank. In this case, the President may, upon termination of the employment of the member of staff with the Bank, withhold payment of the grant referred to in Article 34 until a final decision has been reached in respect of the member of staff concerned.'



taken by the President of the Court of Justice of the European Communities.

The conciliation procedure shall be deemed to have failed if:

- (1) the President of the Court of Justice has not nominated the Chairman referred to in the foregoing paragraph within four weeks of communication of the President of the Bank's petition to this effect;
- (2) the Conciliation Board does not reach a settlement acceptable to both sides within two weeks of its formation.

## 10. Rules on competition

(a) *Regulation No 17 of the Council of 6 February 1962 — First Regulation implementing Articles 85 and 86 of the Treaty*<sup>1</sup>

### Article 9

1. Subject to review of its decision by the Court of Justice, the Commission shall have sole power to declare Article 85 (1) inapplicable pursuant to Article 85 (3) of the Treaty.

<sup>1</sup> OJ Special Edition 1959 — 1962, p. 87.  
Articles 85 and 86 of the Treaty specify:

### Article 85

'1. The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decision by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connexion with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings;
- any decision or category of decisions by associations of undertakings;
- any concerted practice or category of concerted practices;

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

### *Article 17*

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty<sup>1</sup> to review decisions whereby the Commission has fixed a fine or periodic penalty payment; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

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*(continued)*

### *Article 86*

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connexion with the subject of such contracts.'

<sup>1</sup> See p. 17.

(b) *Regulation No 26 of the Council of 4 April 1962 applying certain rules of competition to production of and trade in agricultural products*<sup>1</sup>

### Article 2

1. Article 85 (1) of the Treaty<sup>2</sup> shall not apply to such of the agreements, decisions and practices referred to in the preceding Article as form an integral part of a national market organization or are necessary for attainment of the objectives set out in Article 39 of the Treaty<sup>3</sup>. In particular, it shall not apply to agreements, decisions and practices of farmers, farmers' associations, or associations of such associations belonging to a single Member State which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, and under which there is no obligation to charge identical prices, unless the Commission finds that competition is thereby excluded or that the objectives of Article 39 of the Treaty are jeopardized.

2. After consulting the Member States and hearing the undertakings or associations of undertakings concerned and any other

<sup>1</sup> OJ Special Edition 1959 — 1962, p. 129.

<sup>2</sup> For text of Article 85 (1) of the EEC Treaty, see p. 62, footnote.

<sup>3</sup> Article 39 of the EEC Treaty specifies:

'1. The objectives of the common agricultural policy shall be:

- (a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilization of the factors of production, in particular labour;
- (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- (c) to stabilize markets;
- (d) to assure the availability of supplies;
- (e) to ensure that supplies reach consumers at reasonable prices.

2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:

- (a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
- (b) the need to effect the appropriate adjustments by degrees;
- (c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.'

natural or legal person that it considers appropriate, the Commission shall have sole power, subject to review by the Court of Justice, to determine, by decision which shall be published, which agreements, decisions and practices fulfil the conditions specified in paragraph 1.

- (c) *Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway*<sup>1</sup>

*Article 24*

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty<sup>2</sup> to review decisions whereby the Commission has fixed a fine or periodic penalty payment; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

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<sup>1</sup> OJ Special Edition 1968 (I), p. 302.

<sup>2</sup> See p. 17.

## 11. European Development Funds

- (a) *Regulation No 5 of the Council of 3 December 1958 laying down detailed rules for the collection and transfer of financial contributions, the budgetary system and the management of the resources of the Development Fund for overseas countries and Territories*<sup>1</sup>

### *Article 25*

Decisions approving plans and allocating funds shall provide that disputes between the Community on the one hand the legal person mentioned in Article 19 above<sup>2</sup> on the other arising from their implementation shall be within the jurisdiction of the Court of Justice.

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<sup>1</sup> Unofficial translation.

<sup>2</sup> Paragraph 2 of Article 19 provides:

'Aid shall be granted only to legal persons having no gainful objects and being subject to public control such as public regional or local bodies, public and public utility establishments and semi-public organizations.'

- (b) *Financial Regulation of the European Development Fund (1963) established by the internal agreement for the financing and administration of Community aid*<sup>1</sup>

*Article 55*

The Commission shall ensure that financing agreements provide:

- (1) That disputes arising between the European Economic Community or the Bank on the one hand and the recipients of all aid granted from the Fund's resources on the other regarding the interpretation or implementation of the said financing agreements shall be settled by the Court of Justice of the European Communities;
- (2) That, whenever possible, agreements and transactions entered into with natural or legal persons for the implementation of plans and programmes financed by the Fund shall contain a clause allowing for settlement of the dispute by arbitration at the request of either party.

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<sup>1</sup> Adopted by the Council by Regulation No 64/356/EEC of 1 June 1964 (unofficial translation).



- (c) *Financial Regulation of the European Development Fund (1969) established by the internal agreement for the financing and administration of Community aid*<sup>1</sup>

*Article 64*

The Commission shall ensure that financing agreements provide:

- (1) That disputes arising between the European Economic Community or the Bank on the one hand and the recipients of all aid granted from the resources of the Fund on the other on the interpretation or implementation of such financing agreements shall be settled by the Court of Justice of the European Communities;
- (2) That agreements and transactions entered into with natural or legal persons for the implementation of operations financed by the Fund shall contain a clause allowing for settlement of the dispute, at the request of one of the parties, in accordance with the provisions relating to arbitration procedure set out in the general clauses and conditions governing the award and carrying out of public contracts financed by the Fund, as provided by Article 16 of Protocol No 6 annexed to the Convention and by Article 14 of Annex VI to the Decision.

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<sup>1</sup> Adopted by the Council on 26 January 1971 (unofficial translation).

## 12. Association agreements

(a) *Agreement of 9 July 1961 establishing an Association between the European Economic Community and Greece*<sup>1</sup>

### *Article 67*<sup>2</sup>

1. Each of the parties referred to in Article 65 of this Agreement may submit to the Council of Association any dispute relating to the application or interpretation of this Agreement which concerns the Community, a Member State of the Community or Greece.

2. The Council of Association may settle the dispute by decision; it may also decide to submit the dispute to the Court of Justice of the European Communities or to any other existing court or tribunal.

3. If the Council of Association is unable to settle the dispute in accordance with paragraph 2 of this Article, or has not designated a court or tribunal to settle the dispute in accordance with that paragraph, or if the court or tribunal designated in accordance with that paragraph has not settled the dispute, either Party may notify the other Party of the appointment of an

<sup>1</sup> Signed at Athens on 9 July 1961 and entered into force on 1 November 1962 (OJ Special Edition, Second Series, Part I, External Relations [1], p. 4).

<sup>2</sup> Article 4 of the Agreement on measures and procedures required for the implementation of the Agreement establishing an Association between the European Economic Community and Greece, signed at Athens on 9 July 1961 (OJ Special Edition, Second Series, Part I, External Relations [1], p. 58), specifies:

'Where a Member State considers it necessary to invoke Articles 10, 55, 56 and 67 of the Agreement of Association on matters which are not within the province of the Community, that State shall first consult the other Member States.

If the Council of Association is to adopt a position on measures taken by the Member State referred to in the preceding paragraph, the Community shall adopt the same position as the Member State concerned unless the Representatives of the Member States meeting in the Council should unanimously decide otherwise.'

arbitrator, and the other Party shall be required to appoint a second arbitrator within two months. For the purposes of this procedure the Community and the Member States shall be considered to be a single Party to the dispute.

A third arbitrator, who shall act as Chairman, shall be appointed in accordance with the provisions of paragraph 4 below.

Arbitration rulings shall be given by a simple majority.

4. During the first five years after the entry into force of this Agreement the third arbitrator shall be the President of the Court of Justice of the European Communities.

After that period, and unless the Council of Association has decided otherwise, the third arbitrator shall be appointed by mutual agreement of the first two arbitrators. Failing agreement within two months, he shall be appointed by the President of the International Court of Justice from among persons who, in the Signatory States of the Convention on the Organization for Economic Cooperation and Development, exercise or have exercised high judicial functions.

5. Each Party shall take the measures necessary to comply with such decision.

(b) *Agreement of 12 September 1963 establishing an Association between the European Economic Community and Turkey*<sup>1</sup>

*Article 25*<sup>2</sup>

1. The Contracting Parties may submit to the Council of Association any dispute relating to the application or interpretation of this Agreement which concerns the Community, a Member State of the Community, or Turkey.
2. The Council of Association may settle the dispute by decision; it may also decide to submit the dispute to the Court of Justice of the European Communities or to any other existing court or tribunal.
3. Each Party shall be required to take the measures necessary to comply with such decisions.
4. Where the dispute cannot be settled in accordance with paragraphs 2 of this Article, the Council of Association shall determine, in accordance with Article 8 of this Agreement, the detailed rules for arbitration or for any other judicial procedure to which the Contracting Parties may resort during the transitional and final stages of this Agreement.

<sup>1</sup> Signed at Ankara on 12 September 1963 and entered into force on 1 December 1964 (OJ C 113 of 24. 12. 1973, p. 2).

<sup>2</sup> Article 4 of the Agreement on measures and procedures required for the implementation of the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963, specifies (unofficial translation):

'Where a Member State considers it necessary to invoke Article 25 of the Agreement of Association on matters which are not within the province of the Community, that State shall first consult the other Member States.

If the Council of Association is to adopt a position on measures taken by the Member State referred to in the preceding paragraph, the Community shall adopt the same position as the Member State concerned unless the Representatives of the Member States meeting in the Council should unanimously decide otherwise.'

(c) *Internal Agreement of 29 July 1969 on the measures and procedures required for implementation of the Convention of Association between the European Economic Community and the African and Malagasy States Associated with that Community*<sup>1</sup>

*Article 7*

Disputes arising between Member States, between a Member State and an institution of the Community, or between institutions of the Community concerning the convention of Association, the Protocols annexed thereto or this Internal Agreement shall, at the request of the party making the complaint, be submitted to the Court of Justice of the European Communities under the conditions laid down in the Treaty and the Protocol on the Statute of the Court of Justice annexed to the Treaty.

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<sup>1</sup> Signed at Yaounde on 29 July 1969 and entered into force on 1 January 1971 (unofficial translation).

- (d) *Internal Agreement of 24 September 1969 on the measures and procedures required for implementation of the Agreement establishing an Association between the European Economic Community and the United Republic of Tanzania, the Republic of Uganda and the Republic of Kenya*<sup>1</sup>

*Article 7*

Disputes arising between Member States, between a Member State and an institution of the Community, or between institutions of the Community concerning the Agreement of Association, the Protocols annexed thereto or this Internal Agreement shall, at the request of the party making the complaint, be submitted to the Court of Justice of the European Communities under the conditions laid down in the Treaty and the Protocol on the Statute of the Court of Justice annexed to the Treaty.

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<sup>1</sup> Signed at Arusha on 24 September 1969 and entered into force on 1 January 1971 (unofficial translation).

**13. Regulation No 11 of the Council of 27 June 1960 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79 (3) of the Treaty<sup>1</sup>**

*Article 25*

2. Pursuant to Article 172 of the Treaty<sup>2</sup>, the Court of Justice shall have unlimited jurisdiction in regard to any penalty imposed under Articles 17 and 18<sup>3</sup>. The Commission may not proceed with the enforcement of a penalty until the period allowed for appeal has expired.

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<sup>1</sup> OJ Special Edition 1959 — 1962, p. 60.

Article 79 (3) of the EEC Treaty lays down rules for the abolition of discrimination which takes the form of carriers charging different rates and imposing different conditions of carriage on the grounds of the country of origin or of destination of the goods in question.

<sup>2</sup> See p. 17.

<sup>3</sup> Penalties are provided for under Article 17 of the Regulation where an undertaking fails to submit certain information and under Article 18 where the Commission is satisfied that there is discrimination.

## 14. Social security for Migrant Workers

*Rules of the Administrative Commission on Social Security for Migrant Workers attached to the Commission of the European Communities*<sup>1</sup>

### *Article 14*

Where the provisions of these Rules require interpretation, such interpretation shall be given by the Court of Justice in accordance with Article 177 of the Treaty establishing the European Economic Community<sup>2</sup>.

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<sup>1</sup> Adopted by the Administrative Commission at its meeting of 20 — 21 March 1973 (OJ C 68 of 21. 8. 1973, p. 25).

<sup>2</sup> See p. 19.



**II**

**EUROPEAN ATOMIC ENERGY COMMUNITY**

**Euratom**

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## ABBREVIATIONS

Audit Board	Rules of the Audit Board
Cond. Empl.	Conditions of employment of other servants of the European Communities
Fin. Reg.	Financial Regulation No 73/91/ECSC, EEC, Euratom of 25 April 1973 applicable to the general budget of the European Communities
Merger Treaty	Treaty establishing a Single Council and a Single Convention of the European Communities
Staff, sickness insurance	Rules on Sickness Insurance
P. P. J.	Protocol on the Privileges and Immunities of the European Communities
Staff Regs.	Staff Regulations of the European Communities
Statute	Statute of the Court of Justice of the European Atomic Energy Community (Euratom)
Treaty	Treaty establishing the European Atomic Energy Community (Euratom)

SYNOPSIS OF ARTICLES OF THE TREATIES  
AND THE STATUTES OF THE COURT

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## A — GENERAL RULES OF THE TREATY<sup>1</sup>

### *Article 136*

The Court of Justice shall ensure that in the interpretation and application of this Treaty the law is observed.

### *Article 137<sup>2</sup>*

The Court of Justice shall consist of nine Judges.

The Court of Justice shall sit in plenary session. It may, however, form chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with rules laid down for these purposes.

Whenever the Court of Justice hears cases brought before it by a Member State or by one of the institutions of the Community or, to the extent that the Chambers of the Court do not have the requisite jurisdiction under the Rules of Procedure, has to give preliminary rulings on questions submitted to it pursuant to Article 150, it shall sit in plenary session.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 139.

<sup>1</sup> Section IV of Chapter I of Title Three of the Treaty establishing the European Atomic Energy Community (Euratom), signed at Rome on 25 March 1957.

<sup>2</sup> Article 3 of the Convention on certain Institutions common to the European Communities specifies:

'The jurisdiction which the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community confer upon the Court of Justice shall be exercised, in accordance with those Treaties, by a single Court of Justice composed and appointed as provided in Articles 165 to 167 of the Treaty establishing the European Economic Community and in Articles 137 to 139 of the Treaty establishing the European Atomic Energy Community.'

*Article 138*

The Court of Justice shall be assisted by four Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court of Justice, in order to assist the Court in the performance of the task assigned to it in Article 136.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Advocates-General and make the necessary adjustments to the third paragraph of Article 139.

*Article 139*

The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognized competence; they shall be appointed by common accord of the Governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Five and four Judges shall be replaced alternately.

Every three years there shall be a partial replacement of the Advocates-General. Two Advocates-General shall be replaced on each occasion.

Retiring Judges and Advocates-General shall be eligible for reappointment.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

*Article 140*

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

*Article 141*

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a



reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

#### *Article 142*

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

#### *Article 143*

If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

#### *Article 144*

The Court of Justice shall have unlimited jurisdiction in:

- (a) proceedings instituted under Article 12<sup>1</sup> to have the appropriate terms fixed for the granting by the Commission of licences or sub-licences;

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<sup>1</sup> See p. 102.

- (b) proceedings instituted by persons or undertakings against sanctions imposed on them by the Commission under Article 83<sup>1</sup>.

#### *Article 145*

If the Commission considers that a person or undertaking has committed an infringement of this Treaty to which the provisions of Article 83<sup>1</sup> do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with its national law.

If the State concerned does not comply with such a request within the period laid down by the Commission, the latter may bring an action before the Court of Justice to have the infringement of which the person or undertaking is accused established.

#### *Article 146*

The Court of Justice shall review the legality of acts of the Council and the Commission other than recommendations or opinions. It shall for this purpose have jurisdiction in actions brought by a Member State, the Council or the Commission on grounds of lack competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of

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<sup>1</sup> See p. 106.

its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

#### *Article 147*

If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

#### *Article 148*

Should the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

#### *Article 149*

The institution whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 188<sup>1</sup>.

#### *Article 150*

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of this Treaty;
- (b) the validity and interpretation of acts of the institutions of the Community;
- (c) the interpretation of the statutes of bodies established by an act of the Council, save where those statutes provide otherwise.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

#### *Article 151*

The Court of Justice shall have jurisdiction in disputes relating to the compensation for damage provided for in the second paragraph of Article 188<sup>1</sup>.

#### *Article 152*

The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and

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<sup>1</sup> Article 188 of the Treaty specifies:

'The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties. The personal liability of its servants towards the Community shall be governed by the provisions laid down in the Staff Regulations or in the Conditions of Employment applicable to them.'

under the conditions laid down in the Staff Regulations or the Conditions of Employment.

*Article 153*

The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

*Article 154*

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

*Article 155*

Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

*Article 156*

Notwithstanding the expiry of the period laid down in the third paragraph of Article 146, any party may, in proceedings in which a regulation of the Council or of the Commission is in issue, plead the grounds specified in the first paragraph of Article 146, in order to invoke before the Court of Justice the inapplicability of that regulation.

*Article 157*

Save as otherwise provided in this Treaty, actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

*Article 158*

The Court of Justice may in any cases before it prescribe any necessary interim measures.

*Article 159*

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 164<sup>1</sup>.

*Article 160*

The Statute of the Court of Justice is laid down in a separate Protocol.

The Court of Justice shall adopt its rules of procedure. These shall require the unanimous approval of the Council.

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<sup>1</sup> See p. 109.

## B — STATUTE OF THE COURT OF JUSTICE<sup>1</sup>

### *Article 1*

The Court established by Article 3 of this Treaty<sup>2</sup> shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

### *TITLE I*

#### **Judges and Advocates-General**

### *Article 2*

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

### *Article 3*

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the Court competent to judge the members of the highest national judiciary.

<sup>1</sup> Protocol on the Statute of the Court of Justice, signed at Brussels on 17 April 1957.

<sup>2</sup> See p. 102.

#### *Article 4*

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

#### *Article 5*

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

#### *Article 6*

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the Assembly and to the President of the Commission and shall notify it to the President of the Council.



In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

*Article 7*

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

*Article 8*

The provisions of Articles 2 to 7 shall apply to the Advocates-General.

*TITLE II*

**Organization**

*Article 9*

The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 10*

The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

*Article 11*

Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

*Article 12*

On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the rules of procedure, to participate in preparatory inquiries in

cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 13*

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

*Article 14*

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

*Article 15*

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if seven members are sitting. Decisions of the Chambers shall be valid only if three Judges are sitting; in the event of one of the Judges of a Chamber being prevented from attending, a Judge of another Chamber may be called upon to sit in accordance with conditions laid down in the rules of procedure.

*Article 16*

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or on which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge

or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its Chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the Chamber of a Judge of the nationality of that party.

### *TITLE III*

#### **Procedure**

#### *Article 17*

The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or a lawyer entitled to practise before a court of a Member State.

Other parties must be represented by a lawyer entitled to practise before a court of a Member State.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the rules of procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the rules of procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers entitled to practise before a court of a Member State.

#### *Article 18*

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the rules of procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers entitled to practice before a court of a Member State and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

#### *Article 19*

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party against whom the application is made, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 148 of this Treaty<sup>1</sup>, by documentary evidence of the date on which an institution was, in accordance with that Article, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

#### *Article 20*

A case governed by Article 18 of this Treaty<sup>2</sup> shall be brought before the Court by an appeal addressed to the

<sup>1</sup> See p. 86.

<sup>2</sup> See p. 103.

Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

#### *Article 21*

In the cases governed by Article 150 of this Treaty<sup>1</sup>, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council if the act the validity or interpretation of which is in dispute originates from the Council.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the Council, shall be entitled to submit statements of case or written observations to the Court.

#### *Article 22*

The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

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<sup>1</sup> See p. 87.

*Article 23*

The Court may at any time entrust any individual, body, authority, committee or other organization it chooses with the task of giving an expert opinion.

*Article 24*

Witnesses may be heard under conditions laid down in the rules of procedure.

*Article 25*

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the rules of procedure.

*Article 26*

Witnesses and experts may be heard on oath taken in the form laid down in the rules of procedure or in the manner laid down by the law of the country of the witness or expert.

*Article 27*

The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the rules of procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

*Article 28*

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil

proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

*Article 29*

The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

*Article 30*

During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

*Article 31*

Minutes shall be made of each hearing and signed by the President and the Registrar.

*Article 32*

The cause list shall be established by the President.

*Article 33*

The deliberations of the Court shall be and shall remain secret.

*Article 34*

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

*Article 35*

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

*Article 36*

The Court shall adjudicate upon costs.

### *Article 37*

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the rules of procedure, adjudicate upon applications to suspend execution, as provided for in Article 157 of this Treaty<sup>1</sup>, or to prescribe interim measures in pursuance of Article 158<sup>2</sup>, or to suspend enforcement in accordance with the last paragraph of Article 164<sup>3</sup>.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules of procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

### *Article 38*

Member States and institutions of the Community may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Community or between Member States and institutions of the Community.

Submissions made in an application to intervene shall be limited to supporting the submissions of one of the parties.

### *Article 39*

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

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<sup>1</sup> See p. 88.

<sup>2</sup> See p. 89.

<sup>3</sup> See p. 109.



*Article 40*

Member States, institutions of the Community and any other natural or legal persons may, in cases and under conditions to be determined by the rules of procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

*Article 41*

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

*Article 42*

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognizing, that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of ten years from the date of the judgment.

*Article 43*

Periods of grace based on considerations of distance shall be determined by the rules of procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

*Article 44*

Proceedings against the Community in matters arising from non-contractual liability shall be barred after a period of five

years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Community. In the latter event the proceedings must be instituted within the period of two months provided for in Article 146<sup>1</sup>; the provisions of the second paragraph of Article 148<sup>2</sup> shall apply where appropriate.

#### *Article 45*

The rules of procedure of the Court provided for in Article 160 of this Treaty<sup>3</sup> shall contain, apart from the provisions contemplated by this Statute, any other provisions necessary for applying and, where required, supplementing it.

#### *Article 46*

The Council may, acting unanimously, make such further adjustments to the provisions of this Statute as may be required by reason of measures taken by the Council in accordance with the last paragraph of Article 137 of this Treaty<sup>4</sup>.

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<sup>1</sup> See p. 85.

<sup>2</sup> See p. 86.

<sup>3</sup> See p. 89.

<sup>4</sup> See p. 82.

## C — SPECIAL PROVISIONS

### 1. Special provisions of the Treaty

#### *Article 3*

1. The tasks entrusted to the Community shall be carried out by the following institutions:

- an Assembly,
- a Council,
- a Commission,
- a Court of Justice.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

#### *Article 12*

Member States, persons or undertakings shall have the right, on application to the Commission, to obtain non-exclusive licences under patents, provisionally protected patent rights, utility models or patent applications owned by the Community, where they are able to make effective use of the inventions covered thereby.

Under the same conditions, the Commission shall grant sub-licences under patents, provisionally protected patent rights, utility models or patent applications, where the Community holds contractual licences conferring power to do so.

The Commission shall grant such licences or sub-licences on terms to be agreed with the licensees and shall furnish all the information required for their use. These terms shall relate in particular to suitable remuneration and, where appropriate, to

the right of the licensee to grant sub-licences to third parties and to the obligation to treat the information as a trade secret.

Failing agreement on the terms referred to in the third paragraph, the licensees may bring the matter before the Court of Justice so that appropriate terms may be fixed.

#### *Article 18*<sup>1</sup>

An Arbitration Committee is hereby established for the purposes provided for in this Section. The Council shall appoint the members and lay down the rules of procedure of this Committee, acting on a proposal from the Court of Justice.

An appeal, having suspensory effect, may be brought by the parties before the Court of Justice against a decision of the Arbitration Committee within one month of notification thereof. The Court of Justice shall confine its examination to the formal validity of the decision and to the interpretation of the provisions of this Treaty by the Arbitration Committee.

The final decisions of the Arbitration Committee shall have the force of *res judicata* between the parties concerned. They shall be enforceable as provided in Article 164<sup>2</sup>.

#### *Article 21*<sup>1</sup>

If the proprietor does not propose that the matter be referred to the Arbitration Committee, the Commission may call upon the Member State concerned or its appropriate authorities to grant the licence or cause it to be granted.

If, having heard the proprietor's case, the Member State, or its appropriate authorities, considers that the conditions of Article 17<sup>3</sup> have not been complied with, it shall notify the

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<sup>1</sup> This article concerns the grant of licences.

<sup>2</sup> See p. 109.

<sup>3</sup> Article 17 of the Treaty specifies:

'1. Failing amicable agreement, non-exclusive licences may be granted either by arbitration or under compulsory powers in accordance with Articles 18 to 23:

Commission of its refusal to grant the licence or to cause it to be granted.

If it refuses to grant the licence or to cause it to be granted, or if, within four months of the date of the request, no information is forthcoming with regard to the granting of the licence, the Commission shall have two months in which to bring the matter before the Court of Justice.

The proprietor must be heard in the proceedings before the Court of Justice.

If the judgment of the Court of Justice establishes that the conditions of Article 17 have been complied with, the Member State concerned, or its appropriate authorities, shall take such measures as enforcement of that judgment may require.

*(continued)*

- (a) to the Community or to Joint Undertakings accorded this right under Article 48 in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with nuclear research, where the granting of such licences is necessary for the continuance of their own research or indispensable to the operation of their installations.  
If the Commission so requests, such licences shall include the right to authorize third parties to make use of the invention, where they are carrying out work for or orders placed by the Community or Joint Undertakings;
- (b) to persons or undertakings which have applied to the Commission for them in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with an essential to the development of nuclear energy in the Community, provided that all the following conditions are fulfilled:
  - (i) At least four years have elapsed since the filing of the patent application, save in the case of an invention relating to a specifically nuclear subject;
  - (ii) The requirements arising out of the development of nuclear energy, in the Commission's conception of such development, in the territory of a Member State where an invention is protected, are not being met with regard to that invention;
  - (iii) The proprietor, having been called upon to meet such requirements either himself or through his licensees, has not complied with this request;
  - (iv) The persons or undertakings applying for licences are in a position to meet such requirements effectively by making use of the invention.

Member States may not, in order to meet such requirements, take any coercive measures provided for in their national legislation which will limit the protection accorded to the invention, save at the prior request of the Commission.

2. A non-exclusive licence may not be granted as provided for in paragraph 1 where the proprietor can establish the existence of legitimate reasons, in particular that he has not had sufficient time at his disposal.

3. The granting of a licence pursuant to paragraph 1 shall confer a right to full compensation, the amount of which shall be agreed between the proprietor of the patent, provisionally protected patent right or utility model and the licensee.

4. The provisions of this Article shall not affect those of the Paris Convention for the Protection of Industrial Property.

*Article 38*

The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil.

In cases of urgency, the Commission shall issue a directive requiring the Member State concerned to take, within a period laid down by the Commission, all necessary measures to prevent infringement of the basic standards and to ensure compliance with regulations.

Should the State in question fail to comply with the Commission directive within the period laid down, the Commission or any Member State concerned may forthwith, by way of derogation from Articles 141 and 142<sup>1</sup> bring the matter before the Court of Justice.

*Article 81<sup>2</sup>*

(3) If the carrying out of an inspection is opposed, the Commission shall apply to the President of the Court of Justice for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice shall give a decision within three days.

(4) If there is danger in delay, the Commission may itself issue a written order, in the form of a decision, to proceed with the

<sup>1</sup> See pp. 83 — 84.

<sup>2</sup> This Article forms part of Chapter VII of Title Two of the Treaty concerning safeguards.

Paragraphs (1) and (2) of Article 81 specifies:

'The Commission may send inspectors into the territories of Member States. Before sending an inspector on his first assignment in the territory of a Member State, the Commission shall consult the State concerned; such consultation shall suffice to cover all future assignments of this inspector.

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Chapter, to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials and to ensure compliance with the provisions of Article 77. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.'

inspection. This order shall be submitted without delay to the President of the Court of Justice for subsequent approval.

*Article 82<sup>1</sup>*

Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 79<sup>2</sup>. They shall report any infringement to the Commission.

The Commission may issue a directive calling upon the Member State concerned to take, by a time limit set by the Commission, all measures necessary to bring such infringement to an end; it shall inform the Council thereof.

If the Member State does not comply with the Commission directive by the time limit set, the Commission or any Member State concerned may, in derogation from Articles 141 and 142<sup>3</sup>, refer the matter to the Court of Justice direct.

*Article 83<sup>4</sup>*

1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Chapter, the Commission may impose sanctions on such persons or undertakings.

These sanctions shall be, in order of severity:

- (a) a warning;
- (b) the withdrawal of special benefits such as financial or technical assistance;

<sup>1</sup> This article forms part of Chapter VII of Title Two of the Treaty concerning safeguards.

<sup>2</sup> Article 79 of the Treaty specifies:

'The Commission shall require that operating records be kept and produced in order to permit accounting for ores, source materials and special fissile materials used or produced. The same requirement shall apply in the case of the transport of source materials and special fissile materials.

Those subject to such requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and to the first paragraph of this Article.

The nature and the extent of the requirements referred to in the first paragraph of this Article shall be defined in a regulation made by the Commission and approved by the Council.'

<sup>3</sup> See pp. 83 — 84.

<sup>4</sup> This Article forms part of Chapter VII of Title Two of the EAEC Treaty concerning safeguards.

- (c) the placing of the undertaking for a period not exceeding four months under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking;
- (d) total or partial withdrawal of source materials or special fissile materials.

2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of Member States in accordance with Article 164<sup>1</sup>.

By way of derogation from Article 157<sup>2</sup>, appeals brought before the Court of Justice against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice may, however, on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

There shall be an appropriate legal procedure to ensure the protection of interests that have been prejudiced.

### *Article 103*

Member States shall communicate to the Commission draft agreements or contracts with a third State, an international organization or a national of a third State to the extent that such agreements or contracts concern matters within the purview of his Treaty.

If a draft agreement or contract contains clauses which impede the application of this Treaty, the Commission shall, within one month of receipt of such communication, make its comments known to the State concerned.

The State shall not conclude the proposed agreement or contract until it has satisfied the objections of the Commission or complied with a ruling by the Court of Justice, adjudicating urgently upon an application from the State, on the compatibility

<sup>1</sup> See p. 109.

<sup>2</sup> See p. 88.



of the proposed clauses with the provisions of this Treaty. An application may be made to the Court of Justice at any time after the State has received the comments of the Commission.

#### *Article 104*

No person or undertaking concluding or renewing an agreement or contract with a third State, an international organization or a national of a third State after the entry into force of this Treaty may invoke that agreement or contract in order to evade the obligations imposed by this Treaty.

Each Member State shall take such measures as it considers necessary in order to communicate to the Commission, at the request of the latter, all information relating to agreements or contracts concluded after the entry into force of this Treaty, within the purview thereof, by a person or undertaking with a third State, an international organization or a national of a third State. The Commission may require such communication only for the purpose of verifying that such agreements or contracts do not contain clauses impeding the implementation of this Treaty.

On application by the Commission, the Court of Justice shall give a ruling on the compatibility of such agreements or contracts with the provisions of this Treaty.

#### *Article 105*

The provisions of this Treaty shall not be invoked so as to prevent the implementation of agreements or contracts concluded before its entry into force by a Member State, a person or an undertaking with a third State, an international organization or a national of a third State where such agreements or contracts have been communicated to the Commission not later than thirty days after the entry into force of this Treaty.

Agreements or contracts concluded between the signature and the entry into force of this Treaty by a person or an undertaking with a third State, an international organization or a national of a third State shall not, however, be invoked as grounds for failure to implement this Treaty if, in the opinion of the Court of Justice, ruling on an application from the Com-

mission, one of the decisive reasons on the part of either of the parties in concluding the agreement or contract was an intention to evade the provisions of this Treaty.

#### *Article 164*

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the Government of each Member State shall designate for this purpose and shall make known to the Commission, to the Court of Justice and to the Arbitration Committee set up by Article 18<sup>1</sup>.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

#### *Article 190*

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the rules of procedure of the Court of Justice, be determined by the Council, acting unanimously.

#### *Article 193*

Member States undertake not to submit a dispute concerning the interpretation of this Treaty to any method of settlement other than those provided for therein.

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<sup>1</sup> See p. 103.

## 2. Treaty establishing a Single Council and a Single Commission of the European Communities<sup>1</sup>

### *Article 6*

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

### *Article 10*

2 (3) The members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with the provisions of Article 13 or deprived of his right to a pension or other benefits in its stead.

### *Article 13*

If any member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

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<sup>1</sup> Signed at Brussels on 8 April 1965 and came into force on 1 July 1967.

*Article 30*

The provisions of the Treaties establishing the European Economic Community and the European Atomic Energy Community relating to the jurisdiction shall be applicable to the provisions of this Treaty and of the Protocol annexed thereto<sup>1</sup>, with the exception of those which represent amendments to Articles of the Treaty establishing the European Coal and Steel Community, in respect of which the provisions of the Treaty establishing the European Coal and Steel Community shall remain applicable.

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<sup>1</sup> Protocol on the Privileges and Immunities of the European Communities.

### **3. Protocol on the Privileges and Immunities of the European Communities<sup>1</sup>**

#### *Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorization of the Court of Justice.

#### *Article 21*

Articles 12 to 15 and Article 18 (e) shall apply to the Judges, the Advocates-General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice<sup>2</sup> concerning immunity from legal proceedings of Judges and Advocates-General.

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<sup>1</sup> Signed at Brussels on 8 April 1965.

<sup>2</sup> Articles 12 to 15 and Article 18 establish the privileges and immunities of officials and other servants of the European Communities.

<sup>3</sup> See p. 90.

## 4. Budgetary provisions

### (a) *Rules of the Audit Board*<sup>1</sup>

#### *Article 7*

If an auditor no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, particularly if he has violated one of the obligations set out in Article 5<sup>2</sup> the Court of Justice may compulsorily retire him, on application by the Councils or the Audit Board. In the event of such serious misconduct, the auditor may also, subject to the same conditions, be declared to have forfeited any pension rights or other benefits in their stead.

The Court of Justice may provisionally suspend the auditor from office on application by the Councils or the Audit Board.

An auditor who has ceased to perform his duties before the end of his normal term shall be replaced for the remainder of that term. The Council may, acting unanimously, decide that such a vacancy need not be filled.

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<sup>1</sup> Adopted by the Council on 15 May 1959 (OJ Special Edition, 1959 — 1962, p. 37).

<sup>2</sup> Article 5 specifies:

'The office of auditor shall be incompatible with any other office in the service of the Communities.

When entering upon their duties the auditors shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, and in particular their duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits'.

- (b) *Financial Regulation No 73/91/ECSC, EEC, Euratom of 25 April 1973 applicable to the general budget of the European Communities*<sup>1</sup>

*Article 19*

Each institution shall appoint a financial controller who shall be the official in charge of the control of commitments and authorization of all expenditure and also the control of all revenue.  
.....

The financial controller may be assisted in his duties by one or more assistant financial controllers.

The special rules applicable to such officials, which shall be laid down within the framework of the measures of implementation taken under Article 118, shall be determined in such a way as to guarantee the independence of their duties. The measures taken in respect of their appointment and promotion, disciplinary action or transfers, various methods of interruption or termination of appointment, shall be subject to reasoned decisions to be forwarded, for information, to the European Parliament, the Council and the Commission.

The persons concerned, and the institutions employing them, may institute proceedings before the Court of Justice.

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<sup>1</sup> Adopted by the Council of the European Communities (OJ L 116 of 1. 5. 1973, p. 1).

## **5. Conditions of Employment of Officials of the European Communities**

### *(a) Staff Regulations<sup>1</sup>*

#### *Article 19*

An official shall not, without permission from the appointing authority, disclose on any grounds whatever, in any legal proceedings information of which he has knowledge by reason of his duties. Permission shall be refused only where the interests of the Communities so require and such refusal would not entail criminal consequences as far as the official is concerned. An official shall continue to be bound by this obligation after leaving the service.

The provisions of the preceding paragraph shall not apply to an official or former official giving evidence before the Court of Justice of the European Communities or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of one of the three European Communities.

#### *Article 22*

An official may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part in the course of or in connexion with the performance of his duties.

A reasoned decision shall be given by the appointing authority in accordance with the procedure laid down in regard to disciplinary matters.

The Court of Justice of the European Communities shall have unlimited jurisdiction in disputes arising under this provision.

<sup>1</sup> Supplement to OJ C 12 of 24. 3. 1973, p. 3.



*Article 26*

(1) The personal file of an official shall contain:

- (a) all documents concerning his administrative status and all reports relating to his ability, efficiency and conduct;
- (b) any comments by the official on such documents.

(7) The personal file shall be confidential and may be consulted only in the offices of the administration. It shall, however, be forwarded to the Court of Justice of the European Communities if an action concerning the official is brought before the Court.

*Article 90*

1. Any person to whom these Staff Regulations apply may submit to the appointing authority, a request that it take a decision relating to him. The authority shall notify the person concerned of its reasoned decision within four months from the date on which the request was made. If at the end of that period no reply to the request has been received, this shall be deemed to constitute an implied decision rejecting it, against which a complaint may be lodged in accordance with the following paragraph.

2. Any person to whom these Staff Regulations apply may submit to the appointing authority a complaint against an act adversely affecting him, either where the said authority has taken a decision or where it has failed to adopt a measure prescribed by the Staff Regulations. The complaint must be lodged within three months. The period shall start to run:

- on the date of publication of the act if it is a measure of a general nature;
- on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification, if the measure affects a specified person; if, however, an act affecting a specified person also contains a complaint against another person, the period shall start to run in respect of that other

person on the date on which he receives notification thereof but in no case later than the date of publication;

- on the date of expiry of the period prescribed for reply where the complaint concerns an implied decision rejecting a request as provided in paragraph 1.

The authority shall notify the person concerned of its reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it, against which an appeal may be lodged under Article 91.

3. A request or complaint by an official shall be submitted through his immediate superior, except where it concerns that person, in which case it may be submitted direct to the authority next above.

### *Article 91*

1. The Court of Justice of the European Communities shall have jurisdiction in any dispute between the Communities and any person to whom these Staff Regulations apply regarding the legality of an act embodying a complaint against such person within the meaning of Article 90 (2). In disputes of a financial character the Court of Justice shall have unlimited jurisdiction.

2. An appeal to the Court of Justice of the European Communities shall lie only if:

- the appointing authority has previously had a complaint submitted to it pursuant to Article 90 (2) within the period prescribed therein, and
- the complaint has been rejected by express decisions or by implied decision.

3. Appeals under paragraph 2 shall be filed within three months. The period shall begin:

- on the date notification of the decision taken in response to the complaint;

— on the date of expiry of the period prescribed for the reply where the appeal is against an implied decision rejecting a complaint submitted pursuant to Article 90 (2); nevertheless, where a complaint is rejected by express decision after being rejected by implied decision but before the period for lodging an appeal has expired, the period for lodging the appeal shall start to run afresh.

4. By way of derogation from paragraph 2, the person concerned may, after submitting a complaint to the appointing authority pursuant to Article 90 (2), immediately file an appeal with the Court of Justice, provided that such appeal is accompanied by an application either for a stay of execution of the contested act or for the adoption of interim measures. The proceedings in the principal action before the Court of Justice shall then be suspended until such time as an express or implied decision rejecting the complaint is taken.

5. Appeals under this Article shall be investigated and heard as provided in the Rules of Procedure of the Court of Justice of the European Communities.

#### *Annex II, Article 7<sup>1</sup>*

The Invalidation Committee shall consist of three doctors:

- one appointed by the institution to which the official concerned belongs;
- one appointed by the official concerned; and
- one appointed by agreement between the first two doctors.

Should the official concerned fail to appoint a doctor, the President of the Court of Justice of the European Communities shall appoint one.

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<sup>1</sup> This Article forms part of Section 4 ('Invalidation Committee') of Annex II: 'Composition and procedure of the bodies provided for in Article 9 of the Staff Regulations.'

(b) *Conditions of employment of other servants*<sup>1</sup>

*Article 46*<sup>2</sup>

Title VII of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 73*<sup>3</sup>

Title VII of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 81*<sup>4</sup>

Any dispute between the institution and a member of the local staff shall be submitted to the competent court in accordance with the laws in force in the place where the servant performs his duties.

*Article 83*<sup>5</sup>

Article 11, the first paragraph of Article 12, Article 14, the first paragraph of Article 16, Articles 17, 19 and 22, the first and second paragraphs of Article 23 and the second paragraph of Article 25 of the Staff Regulations, concerning the rights and obligations of officials, and Articles 90 and 91 of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 97*<sup>6</sup>

Titles VI and VII of the Staff Regulations, concerning disciplinary proceedings and appeals, shall apply by analogy to establishment staff of the Joint Nuclear Research Centre.

<sup>1</sup> Supplement to OJ C 12 of 24. 3. 1973, p. 63.

<sup>2</sup> This Article forms part of Title II: 'Temporary Staff.'

<sup>3</sup> This Article forms part of Title III: 'Auxiliary Staff.'

<sup>4</sup> This Article forms part of Title IV: 'Local Staff.'

<sup>5</sup> This Article forms part of Title V: 'Special Advisers.'

<sup>6</sup> This Article forms part of Title VI: 'Establishment staff of the Joint Nuclear Research Centre.'

(c) *Rules on Sickness Insurance*<sup>1</sup>

*Article 16*

**A p p e a l s**

1. Any person to whom these Rules apply shall be entitled to resort to the appeal procedure provided for in Articles 90 and 91 of the Staff Regulations<sup>2</sup>.

2. Before taking a decision regarding a complaint submitted under Article 90 (2) of the Staff Regulations, the appointing authority shall consult the Management Committee.

The Management Committee may instruct its chairman to make further investigations. Where the point at issue is of a medical nature, the Management Committee may seek expert medical advice before giving its Opinion. The cost of the expert opinion shall be borne by the Scheme.

The Management Committee shall give its Opinion within two months of the request being received. The Opinion shall be transmitted simultaneously to the appointing authority and to the person concerned.

Should the Management Committee fail to deliver an Opinion within the period prescribed above, the appointing authority may take its decision.

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<sup>1</sup> Adopted on 31 October 1974 and taking effect from 1 November 1974.

<sup>2</sup> See pp. 116—117.

**III**

**EUROPEAN COAL AND STEEL COMMUNITY**

**ECSC**

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## ABBREVIATIONS

Aid and research ECSC	Communication of the High Authority concerning application for and grant of financial aid for technical and economic research
Cond. Empl.	Conditions of employment of other servants of the European Communities
Fin. Reg.	Financial Regulation No 73/91/ECSC, EEC, Euratom applicable to the general budget of the European Communities
Merger Treaty	Treaty establishing a Single Council and a Single Commission of the European Communities
P. P. J.	Protocol on the Privileges and Immunities of the European Communities
Rail. tariffs	Agreement on the establishment of through international railway tariffs
Staff Regs.	Staff Regulations of the European Communities
Staff, sickness ins.	Rules on sickness insurance
Statute	Protocol on the Statute of the Court of Justice
Treaty	Treaty establishing the European Coal and Steel Community



## SYNOPSIS OF ARTICLES OF THE TREATIES AND THE STATUTES OF THE COURT

ECSC	EEC	Euratom			
<b>Treaties</b>					
Art. 7	p. 148	Art. 4 (1)	p. 35	Art. 3 (1)	p. 102
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Art. 32	p. 127	Art. 165	p. 15	Art. 137	p. 82
Art. 32 a	p. 128	Art. 166	p. 16	Art. 138	p. 83
Art. 32 b	p. 128	Art. 167	p. 16	Art. 139	p. 83
Art. 32 c	p. 128	Art. 168	p. 16	Art. 140	p. 83
Art. 33	p. 129	Art. 173	p. 18	Art. 146	p. 85
Art. 34	p. 130	Art. 174	p. 18	Art. 147	p. 86
Art. 35	p. 130	Art. 176	p. 19	Art. 149	p. 86
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Art. 39	p. 132	Art. 185	p. 22	Art. 157	p. 88
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SYNOPSIS OF ARTICLES OF THE TREATIES  
AND THE STATUTES OF THE COURT (*cont'd*)

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## A — GENERAL RULES OF THE TREATY<sup>1</sup>

### *Article 31*

The Court shall ensure that in the interpretation and application of this Treaty, and of rules laid down for the implementation thereof, the law is observed.

### *Article 32<sup>2</sup>*

The Court of Justice shall consist of nine judges.

The Court shall sit in plenary session. It may, however, form chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with rules laid down for these purposes.

<sup>1</sup> Chapter IV of Title Two of the Treaty establishing the European Coal and Steel Community, signed at Paris on 18 April 1951.

<sup>2</sup> Articles 3 and 4 of the Convention on common institutions specifies:

#### *Article 3*

'The jurisdiction which the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community confer upon the Court of Justice shall be exercised, in accordance with those Treaties, by a single Court of Justice composed and appointed as provided in Articles 165 to 167 of the Treaty establishing the European Economic Community and in Articles 137 to 139 of the Treaty establishing the European Atomic Energy Community.

#### *Article 4*

1. Upon taking up its duties, the single Court of Justice referred to in Article 3 shall take the place of the Court provided for in Article 32 of the Treaty establishing the European Coal and Steel Community. It shall exercise the jurisdiction conferred upon that Court by that Treaty in accordance with the provisions thereof.

The President of the single Court of Justice referred to in Article 3 shall exercise the powers conferred by the Treaty establishing the European Coal and Steel Community upon the President of the Court provided for in that Treaty.

2. To this end, on the date when the single Court of Justice referred to in Article 3 takes up its duties:

(a) Article 32 of the Treaty establishing the European Coal and Steel Community shall be repealed and the following provisions substituted therefor: . . .'

Whenever the Court of Justice hears cases brought before it by a Member State or by one of the institutions of the Community or, to the extent that the Chambers of the Court do not have the requisite jurisdiction under the Rules of Procedure, has to give preliminary rulings on questions submitted to it pursuant to Article 41, it shall sit in plenary session.

Should the Court so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 32b.

#### *Article 32a*

The Court of Justice shall be assisted by four Advocates-General.

It shall be the duty of the Advocate-General acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court, in order to assist the Court in the performance of the task assigned to it in Article 31.

Should the Court so request, the Council may, acting unanimously, increase the number of Advocates-General and make the necessary adjustments to the third paragraph of Article 32b.

#### *Article 32b*

The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognized competence; they shall be appointed by common accord of the Governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Five and Four Judges shall be replaced alternately.

Every three years there shall be a partial replacement of the Advocates-General. Two Advocates-General shall be replaced on each occasion.

Retiring Judges and Advocates-General shall be eligible for reappointment.

The Judges shall elect the President of the Court from among their number for a term of three years. He may be re-elected.

### *Article 32c*

The Court shall appoint its Registrar and lay down the rules governing his service.

### *Article 33*

The Court shall have jurisdiction in actions brought by a Member State or by the Council to have decisions or recommendations of the High Authority declared void on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The Court may not, however, examine the evaluation of the situation, resulting from economic facts or circumstances, in the light of which the High Authority took its decisions or made its recommendations, save where the High Authority is alleged to have misused its powers or to have manifestly failed to observe the provisions of this Treaty or any rule of law relating to its application.

Undertakings<sup>1</sup> or the associations referred to in Article 48<sup>2</sup> may, under the same conditions, institute proceedings against decisions or recommendations concerning them which are individual in character or against general decisions or recommenda-

<sup>1</sup> Article 80 of the Treaty specifies:

'For the purposes of this Treaty, 'undertaking' means any undertaking engaged in production in the coal or the steel industry within the territories referred to in the first paragraph of Article 79, and also, for the purposes of Articles 65 and 66 and of information required for their application and proceedings in connexion with them, any undertaking or agency regularly engaged in distribution other than sale to domestic consumers or small craft industries.'

<sup>2</sup> Article 48, first paragraph, of the Treaty stipulates:

'The right of undertakings to form associations shall not be affected by this Treaty. Membership of such associations must be voluntary. Associations may engage in any activity which is not contrary to the provisions of this Treaty or to the decisions or recommendations of the High Authority.'

tions which they consider to involve a misuse of powers affecting them.

The proceedings provided for in the first two paragraphs of this Article shall be instituted within one month of the notification or publication, as the case may be, of the decision or recommendation.

#### *Article 34*

If the Court declares a decision or recommendation void, it shall refer the matter back to the High Authority. The High Authority shall take the necessary steps to comply with the judgment. If direct and special harm is suffered by an undertaking or group of undertakings by reason of a decision or recommendation held by the Court to involve a fault of such a nature as to render the Community liable, the High Authority shall, using the powers conferred upon it by this Treaty, take steps to ensure equitable redress for the harm resulting directly from the decision or recommendation declared void and, where necessary, pay appropriate damages.

If the High Authority fails to take within a reasonable time the necessary steps to comply with the judgment, proceedings for damages may be instituted before the Court.

#### *Article 35*

Wherever the High Authority is required by this Treaty, or by rules laid down for the implementation thereof, to take a decision or make a recommendation and fails to fulfil this obligation, it shall be for States, the Council, undertakings or associations, as the case may be, to raise the matter with the High Authority.

The same shall apply if the High Authority, where empowered by this Treaty, or by rules laid down for the implementation thereof, to take a decision or make a recommendation,



abstains from doing so and such abstention constitutes a misuse of powers.

If at the end of two months the High Authority has not taken any decision or made any recommendation, proceedings may be instituted before the Court within one month against the implied decision of refusal which is to be inferred from the silence of the High Authority on the matter.

#### *Article 36*

Before imposing a pecuniary sanction or ordering a periodic penalty payment as provided for in this Treaty, the High Authority must give the party concerned the opportunity to submit its comments.

The Court shall have unlimited jurisdiction in appeals against pecuniary sanctions and periodic penalty payments imposed under this Treaty.

In support of its appeal, a party may, under the same conditions as in the first paragraph of Article 33 of this Treaty, contest the legality of the decision or recommendation which that party is alleged not to have observed.

#### *Article 37*

If a Member State considers that in a given case action or failure to act on the part of the High Authority is of such a nature as to provoke fundamental and persistent disturbances in its economy, it may raise the matter with the High Authority.

The High Authority, after consulting the Council, shall, if there are grounds for so doing, recognize the existence of such a situation and decide on the measures to be taken to end it, in accordance with the provisions of this Treaty, while at the same time safeguarding the essential interests of the Community.

When proceedings are instituted in the Court under this Article against such a decision or against an express or implied decision refusing to recognize the existence of the situation referred to above, it shall be for the Court to determine whether it is well founded.

If the Court declares the decision void, the High Authority shall, within the terms of the judgment of the Court, decide on the measures to be taken for the purposes indicated in the second paragraph of this Article.

#### *Article 38*

The Court may, on application by a Member State or the High Authority, declare an act of the Assembly or of the Council to be void.

Application shall be made within one month of the publication of the act of the Assembly or the notification of the act of the Council to the Member States or to the High Authority.

The only grounds for such application shall be lack of competence or infringement of an essential procedural requirement.

#### *Article 39*

Actions brought before the Court shall not have suspensory effect.

The Court may, however, if it considers that circumstances so require, order that application of the contested decision or recommendation be suspended.

The Court may prescribe any other necessary interim measures.

#### *Article 40*

Without prejudice to the first paragraph of Article 34, the Court shall have jurisdiction to order pecuniary reparation from the Community, on application by the injured party, to make good any injury caused in carrying out this Treaty by a wrongful act or omission on the part of the Community in the performance of its functions.

The Court shall also have jurisdiction to order the Community to make good any injury caused by a personal wrong by a servant of the Community in the performance of his duties. The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or the Conditions of Employment applicable to them.

All other disputes between the Community and persons other than its servants to which the provisions of this Treaty or the rules laid down for the implementation thereof do not apply shall be brought before national courts or tribunals.

*Article 41*

The Court shall have sole jurisdiction to give preliminary rulings on the validity of acts of the High Authority and of the Council where such validity is in issue in proceedings brought before a national court or tribunal.

*Article 42*

The Court shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

*Article 43*

The Court shall have jurisdiction in any other case provided for by a provision supplementing this Treaty.

It may also rule in all cases which relate to the subject matter of this Treaty where jurisdiction is conferred upon it by the law of a Member State.

*Article 44*

The judgments of the Court shall be enforceable in the territory of Member States under the conditions laid down in Article 92<sup>1</sup>.

*Article 45*

The Statute of the Court is laid down in a Protocol annexed to this Treaty.

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<sup>1</sup> See p. 155.

## B — STATUTE OF THE COURT OF JUSTICE<sup>1</sup>

### *Article 1*

The Court of Justice established by Article 7 of the Treaty<sup>2</sup> shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

#### TITLE I

#### Judges

#### OATH OF OFFICE

### *Article 2*

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### PRIVILEGES AND IMMUNITIES

### *Article 3*

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

<sup>1</sup> Protocol on the Statute of the Court of Justice, signed at Paris on 18 April 1951. The Convention on common Institutions stipulates in its Article 4(2)(b): 'The provisions of the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Coal and Steel Community, in so far as they are in conflict with Articles 32 to 32c of that Treaty, shall be repealed.'

<sup>2</sup> See p. 148.

The Court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

#### DISQUALIFICATIONS

##### *Article 4*

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council, acting by a two-thirds majority.

They may not acquire or retain, directly or indirectly, any interest in any business related to coal and steel during their term of office and for three years after ceasing to hold office.

#### PECUNIARY RIGHTS

##### *Article 5*

(See Article 6 of the Merger Treaty <sup>1</sup>).

#### RESIGNATION

##### *Article 6*

Apart from normal replacement, the duties of a Judge shall end on his death or resignation.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

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<sup>1</sup> See p. 159.

Save where Article 7 applies, a Judge shall continue to hold office until his successor takes up his duties.

*Article 7*

A Judge may be deprived of his office only if, in the unanimous opinion of the other Judges, he no longer fulfils the requisite conditions.

The President of the Council, the President of the High Authority and the President of the Assembly shall be notified thereof by the Registrar.

A vacancy shall arise on the bench upon this notification.

*Article 8*

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

*TITLE II*

**Organization**

*Article 9*

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

*Article 10*

(See Articles 32a (1) and 32c of the Treaty <sup>1</sup>).

**ADVOCATES-GENERAL**

*Article 11*

(See Article 32a (2) of the Treaty <sup>1</sup>).

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<sup>1</sup> See p. 128.

### *Article 12*

(See Article 32b (1), (3) and (4) of the Treaty <sup>1</sup>).

### *Article 13*

The provisions of Articles 2 and 5 and of Article 8 shall apply to the Advocates-General.

An Advocate-General may be deprived of his office only if he no longer fulfils the requisite conditions. The decision shall be taken by the Council, acting unanimously, after the Court has delivered its opinion.

### REGISTRAR

### *Article 14*

The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

### *Article 15*

(See Article 6 of the Merger Treaty <sup>2</sup>).

### STAFF OF THE COURT

### *Article 16*

1. Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.
2. On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid

<sup>1</sup> See pp. 128 — 129.

<sup>2</sup> See p. 159.

down in the rules of procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### FUNCTIONING OF THE COURT

##### *Article 17*

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

#### COMPOSITION OF THE COURT

##### *Article 18*

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if seven members are sitting. Decisions of the Chambers shall be valid only if three Judges are sitting; in the event of one of the Judges of a Chamber being prevented from attending, a Judge of another Chamber may be called upon to sit in accordance with conditions laid down in the rules of procedure.

#### SPECIAL RULES

##### *Article 19*

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or on which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.



If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its Chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the Chamber of a Judge of the nationality of that party.

### TITLE III

#### Procedure

#### REPRESENTATION OF AND ASSISTANCE TO THE PARTIES

#### *Article 20*

The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by a lawyer entitled to practise before a court of a Member State.

Undertakings and all other natural or legal persons must be assisted by a lawyer entitled to practise before a court of a Member State.

Such agents and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in rules drawn up by the Court and submitted for the approval of the Council, acting unanimously.

As regards such lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in those rules.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers entitled to practise before a court of a Member State.

#### STAGES OF PROCEDURE

##### *Article 21*

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the rules of procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of witnesses, experts, agents, and lawyers entitled to practise before a court of a Member State and of the submissions of the Advocate-General.

#### APPLICATIONS

##### *Article 22*

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the name and address of the party and the description of the signatory, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the decision the annulment of which is sought or, in the case of proceedings against an implied decision, by documentary evi-

dence of the date on which the request was lodged. If the documents are not submitted with the application, the Registrar shall ask the party concerned to procedure them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

#### TRANSMISSION OF DOCUMENTS

##### *Article 23*

Where proceedings are instituted against a decision of one of the institutions of the Community, that institution shall transmit to the Court all the documents relating to the case before the Court.

#### PREPARATORY INQUIRIES

##### *Article 24*

The Court may require the parties, their representatives or agents or the Governments of the Member States to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

##### *Article 25*

The Court may at any time entrust any individual, body, authority, committee or other organization it chooses with the task of holding an inquiry or giving an expert opinion; to this end it may compile a list of individuals or bodies approved as experts.

#### HEARING TO BE PUBLIC

##### *Article 26*

The hearing in court shall be public, unless the Court decides otherwise for serious reasons.

MINUTES

*Article 27*

Minutes shall be made of each hearing and signed by the President and the Registrar.

HEARINGS

*Article 28*

The cause list shall be established by the President.

Witnesses may be heard under conditions laid down in the rules of procedure. They may be heard on oath.

During the hearings the Court may also examine experts, persons entrusted with holding an inquiry, and the parties themselves. The latter, however, may address the Court only through their representatives or their lawyers.

Where it is established that a witness or expert has concealed facts or falsified evidence on any matter on which he has testified or been examined by the Court, the Court is empowered to report the misconduct to the Minister of Justice of the State of which the witness or expert is a national, in order that he may be subjected to the relevant penal provisions of the national law.

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals, under conditions laid down in rules drawn up by the Court and submitted for the approval of the Council, acting unanimously.

SECURITY OF THE DELIBERATIONS OF THE COURT

*Article 29*

The deliberations of the Court shall be and shall remain secret.

JUDGMENTS

*Article 30*

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

*Article 31*

Judgments shall be signed by the President, the Judge acting as Rapporteur and the Registrar. They shall be read in open court.

COSTS

*Article 32*

The Court shall adjudicate upon costs.

SUMMARY PROCEDURE

*Article 33*

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the rules of procedure, adjudicate upon applications to suspend execution, as provided for in the second paragraph of Article 39<sup>1</sup> of this Treaty, or to prescribe interim measures in pursuance of the last paragraph of Article 39, or to suspend enforcement in accordance with the third paragraph of Article 92<sup>2</sup>.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules provided for in Article 18 of this Statute.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

INTERVENTION

*Article 34*

Natural or legal persons establishing an interest in the result of any case submitted to the Court may intervene in that case.

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<sup>1</sup> See p. 132.

<sup>2</sup> See p. 155.

Submissions made in an application to intervene shall be limited to supporting or requesting the rejection of the submissions of one of the parties.

JUDGMENT BY DEFAULT

*Article 35*

Where the defending party in proceedings in which the Court has unlimited jurisdiction, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

THIRD-PARTY PROCEEDINGS

*Article 36*

Natural or legal persons and the institutions of the Community may, in cases and under conditions to be determined by the rules of procedure, institute third-party proceedings to contest a judgment rendered without their being heard.

INTERPRETATION

*Article 37*

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

REVISION OF A JUDGMENT

*Article 38*

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as

to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognizing that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of ten years from the date of the judgment.

#### TIME LIMITS

##### *Article 39*

The proceedings provided for in Articles 36 and 37<sup>1</sup> of this Treaty must be instituted within the time limit of one month provided for in the last paragraph of Article 33<sup>2</sup>.

Periods of grace based on considerations of distance shall be laid down in the rules of procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

#### PERIODS OF LIMITATION

##### *Article 40*

Proceedings provided for in the first two paragraphs of Article 40 of this Treaty<sup>3</sup> shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the

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<sup>1</sup> See p. 131.

<sup>2</sup> See p. 130.

<sup>3</sup> See p. 132.

Community. In the latter event the proceedings must be instituted within the time limit of one month provided for in the last paragraph of Article 33<sup>1</sup>; the provisions of the last paragraph of Article 35<sup>2</sup> shall apply where appropriate.

SPECIAL RULES RELATING TO DISPUTES  
BETWEEN MEMBER STATES

*Article 41*

Where a dispute between Member States is brought before the Court under Article 89 of this Treaty<sup>3</sup>, the other Member States shall be notified forthwith by the Registrar of the subject matter of the dispute.

Each Member State shall have the right to intervene in the proceedings.

The disputes referred to in this Article must be dealt with in plenary session.

*Article 42*

If a State intervenes in a case before the Court as provided for in the preceding Article, the interpretation contained in the judgment shall be binding upon that State.

PROCEEDINGS BY THIRD PARTIES

*Article 43*

Decisions taken by the High Authority under Article 63 (2) of this Treaty<sup>4</sup> must be notified to the purchaser and to the undertakings concerned; if the decision concerns all or a large number of undertakings, publication may be substituted for individual notification.

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<sup>1</sup> See p. 130.

<sup>2</sup> See p. 131.

<sup>3</sup> See p. 155.

<sup>4</sup> See p. 149.



Appeals may be brought, under Article 36 of this Treaty<sup>1</sup>, by any person on whom a periodic penalty payment has been imposed under the fourth subparagraph of Article 66 (5)<sup>2</sup>.

#### RULES OF PROCEDURE

##### *Article 44*

The Court of Justice shall adopt its rules of procedure. These shall require the unanimous approval of the Council. The rules of procedure shall contain all the provisions necessary for applying and, where required, supplementing this Statute.

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<sup>1</sup> See p. 131.

<sup>2</sup> Infringement of the rules on concentrations. The fourth subparagraph states: 'The High Authority shall allow the parties concerned a reasonable period in which to comply with its decisions, on expiration of which it may impose daily penalty payments not exceeding one tenth of 1‰ of the value of the rights or assets in question.'

## C — SPECIAL PROVISIONS

### 1. Special provisions of the Treaty

#### *Article 7*

The institutions of the Community shall be:

- a High Authority, assisted by a Consultative Committee;
- a Common Assembly (hereinafter called the 'Assembly');
- a Special Council of Ministers (hereinafter called the 'Council');
- a Court of Justice (hereinafter called the 'Court').

#### *Article 47*

The High Authority may obtain the information it requires to carry out its tasks. It may have any necessary checks made.

The High Authority must not disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components. Subject to this reservation, it shall publish such data as could be useful to Governments or to any other parties concerned.

The High Authority may impose fines or periodic penalty payments on undertakings which evade their obligations under decisions taken in pursuance of this Article or which knowingly furnish false information. The maximum amount of such fines

shall be 1 % of the annual turnover, and the maximum amount of such penalty payments shall be 5 % of the average daily turnover for each day's delay.

Any breach of professional secrecy by the High Authority which has caused damage to an undertaking may be the subject of an action for compensation before the Court, as provided in Article 40<sup>1</sup>.

### *Article 63*

1. If the High Authority finds that discrimination is being systematically practised by purchasers, in particular under provisions governing contracts entered into by bodies dependent on a public authority, it shall make appropriate recommendations to the Governments concerned.

2. Where the High Authority considers it necessary, it may decide that:

- (a) undertakings must frame their conditions of sale in such a way that their customers and commission agents acting on their behalf shall be under an obligation to comply with the rules made by the High Authority in application of this Chapter;
- (b) undertakings shall be held responsible for infringements of this obligation by their direct agents or by commission agents acting on their behalf.

In the event of an infringement of this obligation by a purchaser, the High Authority may restrict or, should the infringement be repeated, temporarily prohibit dealings with that purchaser by Community undertakings. If this is done, the purchaser shall have the right, without prejudice to Article 33<sup>2</sup>, to bring an action before the Court.

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<sup>1</sup> See p. 132.

<sup>2</sup> See p. 129.

*Article 65<sup>1</sup>*

4. Any agreement or decision prohibited by paragraph 1 of this Article<sup>2</sup> shall be automatically void and may not be relied upon before any court or tribunal in the Member States.

The High Authority shall have sole jurisdiction, subject to the right to bring actions before the Court, to rule whether any such agreement or decision is compatible with this Article.

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<sup>1</sup> This Article forms part of Chapter VI of Title Three of the Treaty: Agreements and Concentrations.

<sup>2</sup> Article 65 (1) and (2) specify:

'1. All agreements between undertakings, decisions by associations of undertakings and concerted practices tending directly or indirectly to prevent, restrict or distort normal competition within the common market shall be prohibited, and in particular those tending:

- (a) to fix or determine prices;
- (b) to restrict or control production, technical development or investment;
- (c) to share markets, products, customers or sources of supply.

2. However, the High Authority shall authorize specialization agreements or joint-buying or joint-selling agreements in respect of particular products, if it finds that:

- (a) such specialization or such joint-buying or -selling will make for a substantial improvement in the production or distribution of those products;
- (b) the agreement in question is essential in order to achieve these results and is not more restrictive than is necessary for that purpose; and
- (c) the agreement is not liable to give the undertakings concerned the power to determine the prices, or to control or restrict the production or marketing, of a substantial part of the products in question within the common market, or to shield them against effective competition from other undertakings within the common market.

If the High Authority finds that certain agreements are strictly analogous in nature and effect to those referred to above, having particular regard to the fact that this paragraph applies to distributive undertakings, it shall authorize them also when satisfied that they meet the same requirements.

Authorizations may be granted subject to specified conditions and for limited periods. In such cases the High Authority shall renew an authorization once or several times if it finds that the requirements of subparagraphs (a) to (c) are still met at the time of renewal.

The High Authority shall revoke or amend an authorization if it finds that as a result of a change in circumstances the agreement no longer meets these requirements, or that the actual results of the agreement or of the application thereof are contrary to the requirements for its authorization.'

Article 66<sup>1</sup>

5. If a concentration should occur which the High Authority finds has been effected contrary to the provisions of paragraph 1 but which nevertheless meets the requirements of paragraph 2<sup>2</sup>, the High Authority shall make its approval of that concentration subject to payment by the persons who have acquired or re-

<sup>1</sup> This Article forms part of Chapter VI of Title Three of the Treaty: Agreements and Concentrations.

<sup>2</sup> Article 66(1), (2) and (3) specify:

'1. Any transaction shall require the prior authorization of the High Authority, subject to the provisions of paragraph 3 of this Article, if it has in itself the direct or indirect effect of bringing about within the territories referred to in the first paragraph of Article 79, as a result of action by any person or undertaking or group of persons or undertakings, a concentration between undertakings at least one of which is covered by Article 80, whether the transaction concerns a single product or a number of different products, and whether it is effected by merger, acquisition of shares or parts of the undertaking or assets, loan, contract or any other means of control. For the purpose of applying these provisions, the High Authority shall, by regulations made after consulting the Council, define what constitutes control of an undertaking.

2. The High Authority shall grant the authorization referred to in the preceding paragraph if it finds that the proposed transaction will not give to the persons or undertakings concerned the power, in respect of the product or products within its jurisdiction:

- to determine prices, to control or restrict production or distribution or to hinder effective competition in a substantial part of the market for those products; or
- to evade the rules of competition instituted under this Treaty, in particular by establishing an artificially privileged position involving a substantial advantage in access to supplies or markets.

In assessing whether this is so, the High Authority shall, in accordance with the principle of non-discrimination laid down in Article 4 (b), take account of the size of like undertakings in the Community, to the extent it considers justified in order to avoid or correct disadvantages resulting from unequal competitive conditions.

The High Authority may make its authorization subject to any conditions which it considers appropriate for the purposes of this paragraph.

Before ruling on a transaction concerning undertakings at least one of which is not subject to Article 80, the High Authority shall obtain the comments of the Governments concerned.

3. The High Authority shall exempt from the requirement of prior authorization such classes of transactions as it finds should, in view of the size of the assets or undertakings concerned, taken in conjunction with the kind of concentration to be effected, be deemed to meet the requirements of paragraph 2. Regulations made to this effect, with the assent of the Council, shall also lay down the conditions governing such exemption.'

grouped the rights or assets in question of the fine provided for in the second subparagraph of paragraph 6; the amount of the fine shall not be less than half of the maximum determined in that subparagraph should it be clear that authorization ought to have been applied for. If the fine is not paid, the High Authority shall take the steps hereinafter provided for in respect of concentrations found to be unlawful.

If a concentration should occur which the High Authority finds cannot fulfil the general or specific conditions to which an authorization under paragraph 2 would be subject, the High Authority shall, by means of a reasoned decision, declare the concentration unlawful and, after giving the parties concerned the opportunity to submit their comments, shall order separation of the undertakings or assets improperly concentrated or cessation of joint control, and any other measures which it considers appropriate to return the undertakings or assets in question to independent operation and restore normal conditions of competition. Any person directly concerned may institute proceedings against such decisions, as provided in Article 33<sup>1</sup>. By way of derogation from Article 33, the Court shall have unlimited jurisdiction to assess whether the transaction effected is a concentration within the meaning of paragraph 1 and of regulations made in application thereof. The institution of proceedings shall have suspensory effect. Proceedings may not be instituted until the measures provided for above have been ordered, unless the High Authority agrees to the institution of separate proceedings against the decision declaring the transaction unlawful.

The High Authority may at any time, unless the third paragraph of Article 39<sup>2</sup> is applied, take or cause to be taken such interim measures of protection as it may consider necessary to

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<sup>1</sup> See p. 129.

<sup>2</sup> See p. 132.

safeguard the interests of competing undertakings and of third parties, and to forestall any step which might hinder the implementation of its decisions. Unless the Court decides otherwise, proceedings shall not have suspensory effect in respect of such interim measures.

6. The High Authority may impose fines not exceeding:

- 3 % of the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons who have evaded the obligations laid down in paragraph 4;
- 10 % of the value of the assets acquired or regrouped, on natural or legal persons who have evaded the obligations laid down in paragraph 1; this maximum shall be increased by one twenty-fourth for each month which elapses after the end of the twelfth month following completion of the transaction until the High Authority establishes that there has been an infringement;
- 10 % of the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons who have obtained or attempted to obtain authorization and paragraph 2 by means of false or misleading information;
- 15 % of the value of the assets acquired or regrouped, on undertakings within its jurisdiction which have engaged in or been party to transactions contrary to the provisions of this Article.

Persons fined under this paragraph may appeal to the Court as provided in Article 36<sup>1</sup>.

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<sup>1</sup> See p. 131.

*Article 87*

The High Contracting Parties undertake not to avail themselves of any treaties, conventions or declarations made between them for the purpose of submitting a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

*Article 88*

If the High Authority considers that a State has failed to fulfil an obligation under this Treaty, it shall record this failure in a reasoned decision after giving the State concerned the opportunity to submit its comments. It shall set the State a time limit for the fulfilment of its obligation.

The State may institute proceedings before the Court within two months of notification of the decision; the Court shall have unlimited jurisdiction in such cases.

If the State has not fulfilled its obligation by the time limit set by the High Authority, or if it brings an action which is dismissed, the High Authority may, with the assent of the Council acting by a two-thirds majority:

- (a) suspend the payment of any sums which it may be liable to pay to the State in question under this Treaty;
- (b) take measures, or authorize the other Member States to take measures, by way of derogation from the provisions of Article 4, in order to correct the effects of the infringement of the obligation.

Proceedings may be instituted before the Court against decisions taken under subparagraphs (a) and (b) within two months of their notification; the Court shall have unlimited jurisdiction in such cases.

If these measures prove ineffective, the High Authority shall bring the matter before the Council.



### *Article 89*

Any dispute between Member States concerning the application of this Treaty which cannot be settled by another procedure provided for in this Treaty may be submitted to the Court on application by one of the States which are parties to the dispute.

The Court shall also have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty, if the dispute is submitted to it under a special agreement between the parties.

### *Article 92*

Decisions of the High Authority which impose a pecuniary obligation shall be enforceable.

Enforcement in the territory of Member States shall be carried out by means of the legal procedure in force in each State, after the order for enforcement in the form in use in the State in whose territory the decision is to be enforced has been appended to the decision, without other formality than verification of the authenticity of the decision. This formality shall be carried out at the instance of a Minister designated for this purpose by each of the Governments.

Enforcement may be suspended only by a decision of the Court.

### *Article 95*

In all cases not provided for in this Treaty where it becomes apparent that a decision or recommendation of the High Authority is necessary to attain, within the common market in coal and steel and in accordance with Article 5<sup>1</sup>, one of the objectives of the Community set out in Articles 2, 3 and 4<sup>1</sup>, the decision may

<sup>1</sup> Articles 2, 3, 4 and 5 specify:

#### *Article 2*

'The European Coal and Steel Community shall have as its task to contribute, in harmony with the general economy of the Member States and through the establish-

be taken or the recommendation made with the unanimous assent of the Council and after the Consultative Committee has been consulted.

Any decision so taken or recommendation so made shall determine what penalties, if any, may be imposed.

If, after the end of the transitional period provided in the Convention on the Transitional Provisions, unforeseen difficulties emerging in the light of experience in the application of this Treaty, or fundamental economic or technical changes directly

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*(continued)*

ment of a common market as provided in Article 4, to economic expansion, growth of employment and a rising standard of living in the Member States.

The Community shall progressively bring about conditions which will of themselves ensure the most rational distribution of production at the highest possible level of productivity, while safeguarding continuity of employment and taking care not to provoke fundamental and persistent disturbances in the economies of Member States.

### Article 3

The institutions of the Community shall, within the limits of their respective powers, in the common interest:

- (a) ensure an orderly supply to the common market, taking into account the needs of third countries;
- (b) ensure that all comparably placed consumers in the common market have equal access to the sources of production;
- (c) ensure the establishment of the lowest prices under such conditions that these prices do not result in higher prices charged by the same undertakings in other transactions or in a higher general price level at another time, while allowing necessary amortization and normal return on invested capital;
- (d) ensure the maintenance of conditions which will encourage undertakings to expand and improve their production potential and to promote a policy of using natural resources rationally and avoiding their unconsidered exhaustion;
- (e) promote improved working conditions and an improved standard of living for the workers in each of the industries for which it is responsible, so as to make possible their harmonization while the improvement is being maintained;
- (f) promote the growth of international trade and ensure that equitable limits are observed in export pricing;
- (g) promote the orderly expansion and modernization of production, and the improvement of quality, with no protection against competing industries that is not justified by improper action on their part or in their favour.

affecting the common market in coal and steel, make it necessary to adapt the rules for the High Authority's exercise of its powers, appropriate amendments may be made; they must not, however, conflict with the provisions of Articles 2, 3 and 4 or interfere with the relationship between the powers of the High Authority and those of the other institutions of the Community.

These amendments shall be proposed jointly by the High Authority and the Council, acting by an eight-ninths majority of its members, and shall be submitted to the Court for its opinion.

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*(continued)*

#### *Article 4*

The following are recognized as incompatible with the common market for coal and steel and shall accordingly be abolished and prohibited within the Community, as provided in this Treaty:

- (a) import and export duties, or changes having equivalent effect, and quantitative restrictions on the movement of products;
- (b) measures or practices which discriminate between producers, between purchasers or between consumers, especially in prices and delivery terms or transport rates and conditions, and measures or practices which interfere with the purchaser's free choice of supplier;
- (c) subsidies or aids granted by States, or special charges imposed by States, in any form whatsoever;
- (d) restrictive practices which tend towards the sharing or exploiting of markets.

#### *Article 5*

The Community shall carry out its task in accordance with this Treaty, with a limited measure of intervention.

To this end the Community shall:

- provide guidance and assistance for the parties concerned, by obtaining information, organizing consultations and laying down general objectives;
- place financial resources at the disposal of undertakings for their investment and bear part of the cost of readaptation;
- ensure the establishment, maintenance and observance of normal competitive conditions and exert direct influence upon production or upon the market only when circumstances so require;
- publish the reasons for its actions and take the necessary measures to ensure the observance of the rules laid down in this Treaty.

The institutions of the Community shall carry out these activities with a minimum of administrative machinery and in close cooperation with the parties concerned.

In considering them, the Court shall have full power to assess all points of fact and of law. If as a result of such consideration it finds the proposals compatible with the provisions of the preceding paragraph, they shall be forwarded to the Assembly and shall enter into force if approved by a majority of three quarters of the votes cast and two thirds of the members of the Assembly.

## **2. Treaty establishing a Single Council and a Single Commission of the European Communities<sup>1</sup>**

### *Article 6*

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

### *Article 10*

2. (3) The members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with the provisions of Article 13 or deprived of his right to a pension or other benefits in its stead.

### *Article 13*

If any member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been

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<sup>1</sup> Signed at Brussels on 8 April 1965 and came into force on 1 July 1967.

guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

### *Article 30*

The provisions of the Treaties establishing the European Economic Community and the European Atomic Energy Community relating to the jurisdiction shall be applicable to the provisions of this Treaty and of the Protocol annexed thereto<sup>1</sup>, with the exception of those which represent amendments to Articles of the Treaty establishing the European Coal and Steel Community, in respect of which the provisions of the Treaty establishing the European Coal and Steel Community shall remain applicable.

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<sup>1</sup> Protocol on the Privileges and Immunities of the European Communities.

### **3. Protocol on the Privileges and Immunities of the European Communities<sup>1</sup>**

#### *Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorization of the Court of Justice.

#### *Article 21*

Articles 12 to 15 and Article 18<sup>2</sup> shall apply to the Judges, the Advocates-General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice<sup>3</sup> concerning immunity from legal proceedings of Judges and Advocates-General.

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<sup>1</sup> Signed at Brussels on 8 April 1965.

<sup>2</sup> Articles 12 to 15 and Article 18 establish the privileges and immunities of officials and other servants of the European Communities.

<sup>3</sup> See p. 134.

#### **4. Conditions of Employment of Officials of the European Communities**

##### *(a) Staff Regulations<sup>1</sup>*

###### *Article 19*

An official shall not, without permission from the appointing authority, disclose on any grounds whatever, in any legal proceedings information of which he has knowledge by reason of his duties. Permission shall be refused only where the interests of the Communities so require and such refusal would not entail criminal consequences as far as the official is concerned. An official shall continue to be bound by this obligation after leaving the service.

The provisions of the preceding paragraph shall not apply to an official or former official giving evidence before the Court of Justice of the European Communities or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of one of the three European Communities.

###### *Article 22*

An official may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part in the course of or in connexion with the performance of his duties.

A reasoned decision shall be given by the appointing authority in accordance with the procedure laid down in regard to disciplinary matters.

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<sup>1</sup> Supplement to OJ C 12 of 24. 3. 1973, p. 3.



The Court of Justice of the European Communities shall have unlimited jurisdiction in disputes arising under this provision.

### *Article 26*

(1) The personal file of an official shall contain:

- (a) all documents concerning his administrative status and all reports relating to his ability, efficiency and conduct;
- (b) any comments by the official on such documents.

(7) The personal file shall be confidential and may be consulted only in the offices of the administration. It shall, however, be forwarded to the Court of Justice of the European Communities if an action concerning the official is brought before the Court.

### *Article 90*

1. Any person to whom these Staff Regulations apply may submit to the appointing authority, a request that it take a decision relating to him. The authority shall notify the person concerned of its reasoned decision within four months from the date on which the request was made. If at the end of that period no reply to the request has been received, this shall be deemed to constitute an implied decision rejecting it, against which a complaint may be lodged in accordance with the following paragraph.

2. Any person to whom these Staff Regulations apply may submit to the appointing authority a complaint against an act adversely affecting him, either where the said authority has taken a decision or where it has failed to adopt a measure prescribed by the Staff Regulations. The complaint must be lodged within three months. The period shall start to run:

- on the date of publication of the act if it is a measure of a general nature;

- on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification, if the measure affects a specified person; if, however, an act affecting a specified person also contains a complaint against another person, the period shall start to run in respect of that other person on the date on which he receives notification thereof but in no case later than the date of publication;
- on the date of expiry of the period prescribed for reply where the complaint concerns an implied decision rejecting a request as provided in paragraph 1.

The authority shall notify the person concerned of its reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it, against which an appeal may be lodged under Article 91.

3. A request or complaint by an official shall be submitted through his immediate superior, except where it concerns that person, in which case it may be submitted direct to the authority next above.

#### *Article 91*

1. The Court of Justice of the European Communities shall have jurisdiction in any dispute between the Communities and any person to whom these Staff Regulations apply regarding the legality of an act embodying a complaint against such person within the meaning of Article 90 (2). In disputes of a financial character the Court of Justice shall have unlimited jurisdiction.

2. An appeal to the Court of Justice of the European Communities shall lie only if:

- the appointing authority has previously had a complaint submitted to it pursuant to Article 90(2) within the period prescribed therein, and

— the complaint has been rejected by express decisions or by implied decision.

3. Appeals under paragraph 2 shall be filed within three months. The period shall begin:

- on the date of notification of the decision taken in response to the complaint;
- on the date of expiry of the period prescribed for the reply where the appeal is against an implied decision rejecting a complaint submitted pursuant to Article 90(2); nevertheless, where a complaint is rejected by express decision after being rejected by implied decision but before the period for lodging an appeal has expired, the period for lodging the appeal shall start to run afresh.

4. By way of derogation from paragraph 2, the person concerned may, after submitting a complaint to the appointing authority pursuant to Article 90(2), immediately file an appeal with the Court of Justice, provided that such appeal is accompanied by an application either for a stay of execution of the contested act for the adoption of interim measures. The proceedings in the principal action before the Court of Justice shall then be suspended until such time as an express or implied decision rejecting the complaint is taken.

5. Appeals under this Article shall be investigated and heard as provided in the Rules of Procedure of the Court of Justice of the European Communities.

#### *Annex II, Article 7<sup>1</sup>*

The Invalidation Committee shall consist of three doctors:

- one appointed by the institution to which the official concerned belongs;

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<sup>1</sup> This Article forms part of Section 4 ('Invalidation Committee') of Annex II: 'Composition and procedure of the bodies provided for in Article 9 of the Staff Regulations.'

- one appointed by the official concerned; and
- one appointed by agreement between the first two doctors.

Should the official concerned fail to appoint a doctor, the President of the Court of Justice of the European Communities shall appoint one.

(b) *Conditions of employment of other servants*<sup>1</sup>

*Article 46*<sup>2</sup>

Title VII of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 73*<sup>3</sup>

Title VII of the Staff Regulations, concerning appeals, shall apply by analogy.

*Article 81*<sup>4</sup>

Any dispute between the institution and a member of the local staff shall be submitted to the competent court in accordance with the laws in force in the place where the servant performs his duties.

*Article 83*<sup>5</sup>

Article 11, the first paragraph of Article 12, Article 14, the first paragraph of Article 16, Articles 17, 19 and 22, the first and second paragraphs of Article 23 and the second paragraph of Article 25 of the Staff Regulations, concerning the rights and obligations of officials, and Articles 90 and 91 of the Staff Regulations, concerning appeals, shall apply by analogy.

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<sup>1</sup> Supplement to OJ C 12 of 24. 3. 1973, p. 63.

<sup>2</sup> This Article forms part of Title II: 'Temporary Staff.'

<sup>3</sup> This Article forms part of Title III: 'Auxiliary Staff.'

<sup>4</sup> This Article forms part of Title IV: 'Local Staff.'

<sup>5</sup> This Article forms part of Title V: 'Special Advisers.'

(c) *Rules on Sickness Insurance*<sup>1</sup>

*Article 16*

**A p p e a l s**

1. Any person to whom these Rules apply shall be entitled to resort to the appeal procedure provided for in Articles 90 and 91 of the Staff Regulations<sup>2</sup>.

2. Before taking a decision regarding a complaint submitted under Article 90 (2) of the Staff Regulations, the appointing authority shall consult the Management Committee.

The Management Committee may instruct its chairman to make further investigations. Where the point at issue is of a medical nature, the Management Committee may seek expert medical advice before giving its Opinion. The cost of the expert opinion shall be borne by the Scheme.

The Management Committee shall give its Opinion within two months of the request being received. The Opinion shall be transmitted simultaneously to the appointing authority and to the person concerned.

Should the Management Committee fail to deliver an Opinion within the period prescribed above, the appointing authority may take its decision.

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<sup>1</sup> Adopted on 31 October 1974 and taking effect from 1 November 1974.

<sup>2</sup> See pp. 163 — 165.

**5. Agreement of 21 March 1955 on the establishment  
of through international railway tariffs<sup>1</sup>**

*Article 16*

The Court of Justice of the European Coal and Steel Community shall have jurisdiction, under the conditions laid down in Article 89 of the Treaty<sup>2</sup>, to decide any dispute between Member States as to the interpretation or application of this Agreement.

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<sup>1</sup> Concluded by the Representatives of the Governments of the Member States of the ECSC, meeting in Council, on 21 March 1955 and entering into force ten days after its publication. (Special Edition of OJ 1952 - 1958, p. 25).

<sup>2</sup> See p. 155.

**6. Communication of the High Authority concerning applications for and the grant of financial aid for technical and economic research (coal, iron ore, steel)<sup>1</sup>**  
**Annex: Particulars of the obligations of recipients of financial aid as to the protection and dissemination of the results of the research<sup>2</sup>**

*Article 11*

4. If the High Authority and the recipient of aid are not agreed on the question whether the applicant for a licence is an interested party, this question shall first be settled, in accordance with the provisions of Article 14, by a decision of the Court of Justice of the European Communities. If the Court of Justice declares that the applicant for the licence is an interested party, the High Authority may issue sublicences in accordance with paragraphs 2 and 3.

*Article 12*

4. The share of the High Authority in the royalties<sup>3</sup> or profits<sup>4</sup> (paragraphs 1 to 3) shall be mutually agreed between the contracting parties within the six months following the termination of the research work.

Failing agreement within this period, the Court of Justice of the European Communities shall give a decision in accordance with the provisions of Article 14.

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<sup>1</sup> No 13 of the communication states:

'As a general rule, the law applicable to legal relations between the recipient of aid and the High Authority shall, under the terms of the agreement, be that of the country in which the research is carried out.'

<sup>2</sup> Unofficial translation.

<sup>3</sup> Royalty for the issue of licences for patent rights or for the passing on of knowledge acquired.

<sup>4</sup> Profits realized from the indirect use of the results of research (manufacture and sale of machinery or appliances by the recipient of aid).



*Article 14*

1. In contracts for financial aid, the High Authority shall agree with the recipients of aid that the Court of Justice of the European Communities shall have jurisdiction in accordance with Article 42<sup>1</sup> of the Treaty in any dispute arising out of the agreement for financial aid.

2. The same clause shall be inserted by the High Authority in agreements to be made in accordance with paragraphs 2 to 5 of Article 11<sup>2</sup>. It shall also be agreed with persons or undertakings which, when acquiring rights arising from inventions or patent rights, shall be subrogated to the obligations of the recipient of aid (Articles 6<sup>3</sup> and 13<sup>4</sup>).

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<sup>1</sup> See p. 133.

<sup>2</sup> Sub-licences granted by the High Authority on the basis of licences made available without charge to the High Authority by the recipient of aid.

<sup>3</sup> Transfer of rights by the recipient of aid.

<sup>4</sup> Declaration of patent rights in countries outside the Community.

**7. Financial Regulation No 73/91/ECSC, EEC, Euratom  
of 25 April 1973 applicable to the general budget  
of the European Communities<sup>1</sup>**

*Article 19*

Each institution shall appoint a financial controller who shall be the official in charge of the control of commitments and authorization of all expenditure and also the control of all revenue.

.....  
The financial controller may be assisted in his duties by one or more assistant financial controllers.

The special rules applicable to such officials, which shall be laid down within the framework of the measures of implementation taken under Article 118, shall be determined in such a way as to guarantee the independence of their duties. The measures taken in respect of their appointment and promotion, disciplinary action or transfers, various methods of interruption or termination of appointment, shall be subject to reasoned decisions to be forwarded, for information, to the European Parliament, the Council and the Commission.

The persons concerned, and the institutions employing them, may institute proceedings before the Court of Justice.

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<sup>1</sup> Adopted by the Council of the European Communities (OJ L 116 of 1. 5. 1973, p. 1).

## **IV**

### **RULES OF THE COURT**

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**ABBREVIATIONS**

Instr.	Instructions to the Registrar
Rules	Rules of Procedure
Supp. Rules	Supplementary Rules

## **A — RULES OF PROCEDURE<sup>1</sup>**

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<sup>1</sup> Done at Luxembourg, 4 December 1974 (OJ L 350 of 28. 12. 1974, p. 1 and OJ L 102 of 22. 4. 1975, p. 24).



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## Interpretation

### Article 1

In these rules

- |  |                   |
|--|-------------------|
| — means the Treaty establishing the European Coal and Steel Community  | 'ECSC Treaty'     |
| — means the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community . . . . . | 'ECSC Statute'    |
| — means the Treaty establishing the European Economic Community . . .  | 'EEC Treaty'      |
| — means the Protocol on the Statute of the Court of Justice of the European Economic Community . . . . .       | 'EEC Statute'     |
| — means the Treaty establishing the European Atomic Energy Community (Euratom) . . . . .                       | 'Euratom Treaty'  |
| — means the Protocol on the Statute of the Court of Justice of the European Atomic Energy Community . . . . .  | 'Euratom Statute' |

For the purposes of these rules, 'institutions' means the institutions of the European Communities and the European Investment Bank.

TITLE I

ORGANIZATION OF THE COURT

Chapter 1

JUDGES AND ADVOCATES-GENERAL

*Article 2*

The term of office of a Judge shall begin on the date laid down in the instrument of his appointment. In the absence of any provision regarding the date, the term shall begin on the date of the instrument.

*Article 3*

1. Before taking up his duties, a Judge shall at the first public sitting of the Court which he attends after his appointment take the following oath:

'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court'.

2. Immediately after taking the oath, a Judge shall sign a solemn declaration by which he undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

*Article 4*

When the Court is called upon to decide whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President shall invite the

Judge concerned to appear in the Deliberation Room and make his observations; the Registrar shall be absent from the hearing.

#### *Article 5*

Articles 2, 3 and 4 of these rules shall apply in a corresponding manner to Advocates-General.

#### *Article 6*

Judges and Advocates-General shall rank equally in precedence according to their seniority in office.

Where there is equal seniority in office precedence shall be determined by age.

Retiring Judges and Advocates-General who are reappointed shall retain their former precedence.

## Chapter 2

### PRESIDENCY OF THE COURT AND CONSTITUTION OF THE CHAMBERS

#### *Article 7*

1. The Judges shall, immediately after the partial replacement provided for in Article 32b of the ECSC Treaty<sup>1</sup>, Article 167 of the EEC Treaty<sup>2</sup> and Article 139 of the Euratom Treaty<sup>3</sup> elect one of their number as President of the Court for a term of three years.

2. If the office of the President of the Court falls vacant before the normal date of expiry thereof, the Court shall appoint a successor for the remainder of the term.

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<sup>1</sup> See p. 128.

<sup>2</sup> See p. 16.

<sup>3</sup> See p. 83.

3. The elections provided for in this Article shall be by secret ballot, the Judge obtaining an absolute majority being elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes the oldest of them shall be deemed elected.

#### *Article 8*

The President shall direct the judicial business and the administration of the Court; he shall preside at hearings and at deliberations in the Deliberation Room.

#### *Article 9*

1. The Court shall set up two Chambers and shall decide which Judges and Advocates-General shall be attached to them.

2. As soon as an application originating proceedings has been lodged, the President shall assign the case to one of the Chambers and designate from that Chamber a Judge to act as Rapporteur and the Advocate-General.

In cases which devolve directly on a Chamber by virtue of these rules the powers of the President of the Court shall be exercised by the President of the Chamber.

3. For the purposes of preparatory inquiries in and of the hearing of cases, the Court shall each year lay down the composition of the Chambers, which shall be published in the *Official Journal of the European Communities*. A Chamber shall be so constituted as to include in any event the President of the Chamber and the Judge Rapporteur in the case.

4. These rules shall apply in a corresponding manner to the proceedings before the Chambers.

*Article 10*

The Court shall designate for a period of one year the Presidents of the Chambers and the first Advocate-General.

The provisions of Article 7(2) and (3) shall apply in a corresponding manner.

*Article 11*

When the President of the Court is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised by a President of a Chamber according to the order of precedence laid down in Article 6 of these rules.

If the President of the Court and the President of the Chambers are all prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the other Judges according to the order of precedence laid down in Article 6 of these Rules.

**Chapter 3**

**REGISTRY**

**Section 1 — the Registrar and Assistant Registrars**

*Article 12*

1. The Court shall appoint the Registrar. Two weeks before the date fixed for making the appointment, the President shall inform the Members of the Court of the applications which have been made for the post.
2. An application shall be accompanied by full details of the candidate's age, nationality, university degrees, knowledge of languages, present and past occupations and experience, if any, in judicial and international fields.
3. The appointment shall be made following the procedure laid down in Article 7(3) of these rules.

4. The Registrar shall be appointed for a term of six years. He may be reappointed.

5. The Registrar shall take the oath in accordance with Article 3 of these rules.

6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Court shall reach its decision after having given the Registrar an opportunity of making his observations.

7. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Court shall appoint a new Registrar for a term of six years.

#### *Article 13*

The Court may, following the procedure laid down in respect of the Registrar, appoint one or more Assistant Registrars to assist the Registrar and to take his place so far as the Instructions to the Registrar referred to in Article 15 of these rules allow.

#### *Article 14*

Where the Registrar and the Assistant Registrars are absent or prevented from attending or their posts are vacant at the same time, the President shall designate an official to carry out temporarily the duties of Registrar.

#### *Article 15*

Instructions to the Registrar<sup>1</sup> shall be adopted by the Court acting on a proposal from the President.

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<sup>1</sup> See p. 243.

*Article 16*

1. There shall be kept in the Registry, under the control of the Registrar, a register initialled by the President, in which all pleadings and supporting documents shall be consecutively entered in the order in which they are lodged.
2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.
3. Entries in the register and the notes provided for in the preceding paragraph shall constitute official records.
4. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 15 of these rules.
5. Interested persons may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale to be fixed by the Court acting on a proposal from the Registrar.

The parties to a case may on payment of the appropriate charge also obtain copies of pleadings and authenticated copies of judgments and orders.

6. Notice shall be given in the *Official Journal of the European Communities* of the date of registration of the application originating the proceedings, the names and permanent residences of the parties, the subject matter of the dispute and the submissions made in the application.

*Article 17*

1. The Registrar shall be responsible, under the authority of the President, for the acceptance, transmission and custody of documents and for effecting such service as is provided for by these rules.
2. The Registrar shall assist the Court, the Chambers, the President and the Judges in all their official functions.



*Article 18*

The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the publications of the Court.

*Article 19*

Subject to Articles 4 and 27 of these rules, the Registrar shall attend the sittings of the Court and of the Chambers.

**Section 2 — Other departments**

*Article 20*

1. The officials and other servants of the Court shall be appointed in accordance with the provisions of the Staff Regulations.

2. Before taking up his duties, an official shall take the following oath before the President, in the presence of the Registrar:

'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the Court of Justice of the European Communities'.

*Article 21*

The organization of the departments of the Court shall be laid down, and may be modified, by the Court on a proposal from the Registrar.

*Article 22*

The Court shall set up a translating service staffed by experts with adequate legal training and a thorough knowledge of several official languages of the Court.

*Article 23*

The Registrar shall be responsible, under the authority of the President, for the administration of the Court, its financial management and its accounts; he shall be assisted in this by an administrator.

C h a p t e r 4

ASSISTANT RAPPORTEURS

*Article 24*

1. Where the Court is of the opinion that the consideration of and preparatory inquiries in cases before it so require, it shall, pursuant to Article 16 of the ECSC Statute<sup>1</sup> and Articles 12 of the EEC<sup>2</sup> and Euratom Statutes<sup>3</sup>, propose the appointment of Assistant Rapporteurs.
2. Assistant Rapporteurs shall in particular assist the President in connexion with applications for the adoption of interim measures and assist the Judge Rapporteurs in their work.
3. In the performance of their duties the Assistant Rapporteurs shall be responsible to the President of the Court, the President of a Chamber or a Judge Rapporteur, as the case may be.
4. Before taking up his duties, an Assistant Rapporteur shall take before the Court the oath set out in Article 3 of these rules.

C h a p t e r 5

THE WORKING OF THE COURT

*Article 25*

1. The dates and times of the sittings of the Court shall be fixed by the President.

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<sup>1</sup> See p. 137.

<sup>2</sup> See p. 25.

<sup>3</sup> See p. 92.

2. The dates and times of the sittings of the Chambers shall be fixed by their respective Presidents.
3. The Court and the Chambers may choose to hold one or more particular sittings in a place other than that where the Court has its seat.

#### *Article 26*

1. Where, by reason of a Judge being absent or prevented from attending, there is an even number of Judges, the most junior Judge within the meaning of Article 6 of these rules shall abstain from taking part in the deliberations.
2. If after the Court has been convened it is found that the quorum of seven Judges has not been attained, the President shall adjourn the sitting until there is a quorum.
3. If in any Chamber the quorum of three Judges has not been attained, the President of that Chamber shall so inform the President of the Court who shall designate another Judge to complete the Chamber.

The same provision shall apply where both Advocates-General attached to a Chamber are absent or prevented from attending at the same time.

#### *Article 27*

1. Deliberations of the Court and Chambers shall take place in the Deliberation Room.
2. Only those Judges who were present at the oral proceedings and the Assistant Rapporteur, if any, entrusted with the consideration of the case may take part in the deliberations.
3. Every Judge taking part in the deliberations shall give his view and the reasons for it.
4. Any Judge may require that any question be formulated in the language of his choice and be communicated in writing to the Court or Chamber before being put to the vote.

5. The opinion reached by the majority of the Judges after final discussion shall determine the decision of the Court. Votes shall be cast in reverse order to the order of precedence laid down in Article 6 of these rules.
6. Differences of view on the substance, wording or order of questions, or on the interpretation of the voting shall be settled by decision of the Court or Chamber.
7. Where the deliberations of the Court concern questions of its own administration, the Advocates-General shall take part and have a vote. The Registrar shall be present, unless the Court decides to the contrary.
8. Where the Court sits without the Registrar being present it shall, if necessary, instruct the most junior Judge within the meaning of Article 6 of these rules to draw up minutes. The minutes shall be signed by this Judge and by the President.

#### *Article 28*

1. Subject to any special decision of the Court, its vacations shall be as follows:
  - from 18 December to 10 January,
  - from the Sunday before Easter to the second Sunday after Easter,
  - from 15 July to 15 September.During the vacations, the functions of President shall be exercised at the place where the Court has its seat either by the President himself, keeping in touch with the Registrar, or by a President of a Chamber or by such other Judge as he may invite to take his place.
2. In a case of urgency, the President may convene the Judges and the Advocates-General during the vacations.
3. The Court shall observe the official holidays of the place where it has its seat.
4. The Court may, in proper circumstances, grant leave of absence to any Judge or Advocate-General.

## Chapter 6

### LANGUAGES<sup>1</sup>

#### Article 29

1. The language of a case shall be Danish, Dutch, English, French, German, Irish or Italian.
2. The language of a case shall be chosen by the applicant, except that:
  - (a) where the application is made against a Member State or a natural or legal person having the nationality of a Member State, the language of the case shall be the official language of that State; where that State has more than one official language, the applicant may choose between them;
  - (b) at the joint request of the parties the Court may authorize another of the languages mentioned in paragraph 1 of this Article to be used as the language of the case for all or part of the proceedings;
  - (c) at the request of one of the parties, and after the opposite party and the Advocate-General have been heard, the Court, may, by way of derogation from subparagraphs (a) and (b), authorize another of the languages mentioned in paragraph 1 of this Article to be used as the language of the case for all or part of the proceedings; such a request may not be submitted by an institution of the European Communities.

Where Article 103 of these rules applies, the language of the case shall be the language of the national court or tribunal which refers the matter to the Court.

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<sup>1</sup> Article 7 of Council Regulation No 1 of 15 April 1958 determining the languages used by the European Economic Community (European Atomic Energy Community) (OJ Special Edition 1952 - 1958, p. 59), modified by Annex I of the Act concerning the Conditions of Accession and the Adjustments to the Treaties specifies:  
'The languages to be used in the proceedings of the Court of Justice shall be laid down in its Rules of Procedure.'

3. The language of the case shall in particular be used not only in parties' written statements and oral addresses to the Court and in supporting documents but also in the minutes and decisions of the Court.

Supporting documents expressed in any other language must be accompanied by a translation into the language of the case.

In the case of long documents translations may be confined to extracts. However, the Court or Chamber may, of its own motion or at the request of a party, at any time call for a complete or fuller translation.

4. Where a witness or expert states that he is unable adequately to express himself in one of the languages referred to in paragraph 1 of this Article, the Court or Chamber may authorize him to give his evidence in another language. The Registrar shall arrange for translation into the language of the case.

5. The President of the Court and the Presidents of Chambers in conducting oral proceedings, the Judge Rapporteur both in his preliminary report and in his report at the hearing, Judges and Advocates-General in putting questions and Advocates-General in delivering their opinions may use a language referred to in paragraph 1 of this Article other than the language of the case. The Registrar shall arrange for translation into the language of the case. .

### *Article 30*

1. The Registrar shall, at the request of any Judge, of the Advocate-General or of a party, arrange for anything said or written in the course of the proceedings before the Court or a Chamber to be translated into the languages he chooses from those referred to in Article 29(1).

2. Publications of the Court shall be issued in the languages referred to in Article 1 of Council Regulation No 1<sup>1</sup>.

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<sup>1</sup> Article 1 of Regulation No 1 specifies:

'The official languages and the working languages of the institutions of the Community shall be Danish, German, English, French, Italian and Dutch.'

*Article 31*

Texts of documents drawn up in the language of the case or in any other language authorized by the Court pursuant to Article 29(4) of these rules shall be authentic.

Chapter 7

RIGHTS AND OBLIGATIONS OF AGENTS, ADVISERS AND LAWYERS

*Article 32*

1. Agents representing a State or an institution, as well as advisers and lawyers, appearing before the Court or before any judicial authority to whom the Court has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.
2. Agents, advisers and lawyers shall enjoy the following further privileges and facilities:
  - (a) papers and documents relating to the proceedings shall be exempt from both search and seizure;  
in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court for inspection in the presence of the Registrar and of the person concerned;
  - (b) agents, advisers and lawyers shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;
  - (c) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.

*Article 33*

In order to qualify for the privileges, immunities and facilities specified in Article 32, persons entitled to them shall furnish proof of their status as follows:

- (a) agents shall produce an official document issued by the State or institution which they represent; a copy of this document shall be forwarded without delay to the Registrar by the State or institution concerned;
- (b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

#### *Article 34*

The privileges, immunities and facilities specified in Article 32 of these rules are granted exclusively in the interests of the proper conduct of proceedings.

The Court may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

#### *Article 35*

1. Any adviser or lawyer whose conduct towards the Court, a Chamber, a Judge, an Advocate-General or the Registrar is incompatible with the dignity of the Court, or who uses his rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order of the Court or Chamber, after the Advocate-General has been heard; the person concerned shall be given an opportunity to defend himself.

The order shall have immediate effect.

2. Where an adviser or lawyer is excluded from the proceedings the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another adviser or lawyer.

3. Decisions taken under this Article may be rescinded.



*Article 36*

The provisions of this Chapter shall apply to university teachers who have a right of audience before the Court in accordance with Article 20 of the ECSC Statute<sup>1</sup> and Articles 17 of the EEC<sup>2</sup> and Euratom Statutes<sup>3</sup>.

*TITLE II*

**PROCEDURE**

**Chapter 1**

**WRITTEN PROCEDURE**

*Article 37*

1. The original of every pleading shall be signed by the party's agent or lawyer.

It shall be lodged together with two copies for the Court and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time limits laid down by the Court, translations of all pleadings into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 of this Article shall apply in a corresponding manner.

3. All pleadings shall bear a date. In the reckoning of time limits for taking steps in proceedings, the only relevant date shall be that of lodgment at the Registry.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

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<sup>1</sup> See p. 139.

<sup>2</sup> See p. 27.

<sup>3</sup> See p. 94.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

### *Article 38*

1. An application of the kind referred to in Article 22 of the ECSC Statute<sup>1</sup> and Articles 19 of the EEC<sup>2</sup> and Euratom Statutes<sup>3</sup> shall state:

- (a) the name and permanent residence of the applicant;
- (b) the name of the party against whom the application is made;
- (c) the subject matter of the dispute and the grounds on which the application is based;
- (d) the form of order sought by the applicant;
- (e) the nature of any evidence founded upon by him.

2. For the purpose of the proceedings, the application shall state an address for service in the place where the Court has its seat. It shall also give the name of a person who is authorized and has expressed willingness to accept service.

3. The lawyer acting for a party must lodge at the Registry a certificate that he is entitled to practise before a Court of a Member State.

4. The application shall be accompanied, where appropriate, by the documents specified in the second paragraph of Article 22 of the ECSC Statute<sup>1</sup> and in the second paragraph of Articles 19 of the EEC<sup>2</sup> and Euratom Statutes<sup>3</sup>.

5. An application made by a legal person governed by private law shall be accompanied by:

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<sup>1</sup> See p. 140.

<sup>2</sup> See p. 28.

<sup>3</sup> See p. 95.

- (a) the instrument or instruments constituting and regulating that legal person;
- (b) proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorized for the purpose.

6. An application submitted under Articles 42<sup>1</sup> and 89<sup>2</sup> of the ECSC Treaty, Articles 181 and 182<sup>3</sup> of the EEC Treaty and Articles 153 and 154<sup>4</sup> of the Euratom Treaty shall be accompanied by a copy of the arbitration clause contained in the contract governed by private or public law entered into by the Communities or on their behalf, or, as the case may be, by a copy of the special agreement concluded between the Member States concerned.

7. If an application does not comply with the requirements set out in paragraphs 2 to 6 of this Article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them whether by putting the application itself in order or by producing any of the abovementioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Court shall, after hearing the Advocate-General, decide whether to reject the application on the ground of want of form.

### *Article 39*

The application shall be served on the defendant. In a case where Article 38(7) applies, service shall be effected as soon as the application has been put in order or the Court has declared it admissible notwithstanding the failure to observe the formal requirements set out in that Article.

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<sup>1</sup> See p. 133.

<sup>2</sup> See p. 155.

<sup>3</sup> See p. 21.

<sup>4</sup> See p. 88.

*Article 40*

1. Within one month after service on him of the application, the defendant shall lodge a defence, stating:

- (a) the name and permanent residence of the defendant;
- (b) the points of fact and law relied on;
- (c) the form of order sought;
- (d) the nature of any evidence founded upon by him.

The provisions of Article 38(2) to (5) of these rules shall apply in a corresponding manner to the defence.

2. The time limit laid down in paragraph 1 of this Article may be extended by the President on a reasoned application by the defendant.

*Article 41*

1. The application originating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant.

2. The President shall fix the time limits within which these pleadings are to be lodged.

*Article 42*

1. In reply or rejoinder a party may indicate further evidence. The party must, however, give reasons for the delay in indicating it.

2. No fresh issue may be raised in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the written procedure.

If in the course of the written procedure one of the parties raises a fresh issue which is so based, the President may, even after the expiry of the normal procedural time limits, acting on a report of the Judge Rapporteur and after hearing the Advocate-General, allow the other party time to answer on that issue.

The decision on the admissibility of the issue shall be reserved for the final judgment.

*Article 43*

The Court may, at any time, after hearing the parties and the Advocate-General, order that for the purpose of the written or oral procedure or of its final judgment, a number of related cases concerning the same subject matter shall be dealt with jointly. The decision to join the cases may subsequently be rescinded.

*Article 44*

1. After the rejoinder provided for in Article 41(1) of these rules has been lodged, the President shall fix a date on which the Judge Rapporteur is to present his preliminary report as to whether a preparatory inquiry is necessary. The Court shall decide the question after hearing the Advocate-General. The same procedure shall apply:

- (a) where no reply or no rejoinder has been lodged within the time limit fixed in accordance with Article 41(2) of these rules;
- (b) where the party concerned waives his right to lodge a reply or rejoinder.

2. Where the Court orders a preparatory inquiry and does not undertake it itself, it shall assign the inquiry to the Chamber.

Where the Court decides to open the oral procedure without an inquiry, the President shall fix the opening date.

**Chapter 2**

**PREPARATORY INQUIRIES**

**Section 1 — Measures of inquiry**

*Article 45*

1. The Court, after hearing the Advocate-General, shall prescribe the measures of inquiry that it considers appropriate by

means of an order setting out the issues of fact to be determined. The order shall be served on the parties.

2. Without prejudice to Articles 24 and 25 of the ECSC Statute<sup>1</sup>, Articles 21 and 22 of the EEC Statute<sup>2</sup> or Articles 22 and 23 of the Euratom Statute<sup>3</sup>, the following measures of inquiry may be adopted:

- (a) the personal appearance of the parties;
- (b) a request for information and production of documents;
- (c) oral testimony;
- (d) experts' reports;
- (e) an inspection of the place or thing in question.

3. The measures of inquiry which the Court has ordered may be conducted by the Court itself, or be assigned to the Judge Rapporteur.

The Advocate-General shall take part in the measures of inquiry.

4. Evidence may be submitted in rebuttal and previous evidence may be amplified.

#### *Article 46*

1. A Chamber to which a preparatory inquiry has been assigned may exercise the powers vested in the Court by Articles 45 and 47 to 53 of these rules; the powers vested in the President of the Court may be exercised by the President of the Chamber.

2. Articles 56 and 57 of these rules shall apply in a corresponding manner to proceedings before the Chamber.

3. The parties shall be entitled to attend the measures of inquiry.

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<sup>1</sup> See p. 141.

<sup>2</sup> See p. 29.

<sup>3</sup> See p. 96 — 97.

**Section 2 — Summoning and examination of witnesses and experts**

*Article 47*

1. The Court may, either of its own motion or on application by a party, and after hearing the Advocate-General, order that certain facts be proved by witnesses. The order of the Court shall set out the facts to be proved.

The Court may summon a witness of its own motion or on application by a party or at the instance of the Advocate-General.

An application by a party for the examination of a witness shall state about what facts and for what reasons the witness should be examined.

2. The witness shall be summoned by an order of the Court containing the following information:

- (a) the surname, forenames, description and address of the witness;
- (b) an indication of the facts about which the witness is to be examined;
- (c) where appropriate, particulars of the arrangements made by the Court for reimbursement of expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

The order shall be served on the parties and the witness.

3. The Court may make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Court of a sum sufficient to cover the taxed costs thereof; the Court shall fix the amount of the payment.

The cashier shall advance the funds necessary in connexion with the examination of any witness summoned by the Court of its own motion.

4. After the identity of each witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in these rules.

The witness shall give his evidence to the Court, the parties having been given notice to attend. After the witness has given his main evidence the President may, at the request of a party or of his own motion, put questions to him.

The other Judges and the Advocate-General may do likewise.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

5. After giving his evidence, the witness shall take the following oath:

'I swear that I have spoken the truth, the whole truth and nothing but the truth.'

The Court may, after hearing the parties, exempt a witness from taking the oath.

6. Under the President's direction, the Registrar shall draw up minutes of the evidence of each witness. The minutes shall be read out and signed by the witness, by the President or by the Judge Rapporteur, and by the Registrar. They shall constitute an official record.

#### *Article 48*

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Court, the Court may impose upon him a pecuniary penalty not exceeding 250 EMA units of account and may order that a further summons be served on the witness at his own expense.

The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereof.



3. If a witness upon whom a penalty has been imposed proffers a valid excuse to the Court, the penalty may be cancelled.
4. Penalties imposed and other measures ordered under this Article shall be enforced in accordance with Articles 44<sup>1</sup> and 92<sup>2</sup> of the ECSC Treaty, Articles 187<sup>3</sup> and 192<sup>4</sup> of the EEC Treaty and Articles 159<sup>5</sup> and 164<sup>6</sup> of the Euratom Treaty.

#### *Article 49*

1. The Court may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time limit within which he is to make his report.
2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.
3. At the request of the expert, the Court may order the examination of witnesses. Their examination shall be carried out in accordance with Article 47 of these rules.
4. The expert may give his opinion only on points which have been expressly referred to him.
5. After the expert has made his report, the Court may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. After making his report, the expert shall take the following oath before the Court:

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<sup>1</sup> See p. 133.

<sup>2</sup> See p. 155.

<sup>3</sup> See p. 22.

<sup>4</sup> See p. 36.

<sup>5</sup> See p. 89.

<sup>6</sup> See p. 109.

'I swear that I have conscientiously and impartially carried out my task.'

The Court may, after hearing the parties, exempt the expert from taking the oath.

#### *Article 50*

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereof, the matter shall be decided upon by the Court.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate any evidence founded upon.

#### *Article 51*

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services.

The cashier of the Court shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

#### *Article 52*

The Court may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses

or experts, as provided for in the supplementary rules mentioned in Article 111 of these rules.

*Article 53*

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.
2. The parties may inspect the minutes and any expert's report at the Registry and obtain copies at their own expense.

**Section 3 — Closure of the preparatory inquiry**

*Article 54*

Unless the Court prescribes a period within which the parties may lodge written observations, the President shall fix the date for the opening of the oral procedure after the preparatory inquiry has been completed.

Where a period had been prescribed for the lodging of written observations, the President shall fix the date for the opening of the oral procedure after that period has expired.

**Chapter 3**

**ORAL PROCEDURE**

*Article 55*

1. Subject to the priority of decisions provided for in Article 85 of these rules, the Court shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications originating them respectively.

The President may in special circumstances order that a case be given priority over others.

2. On a joint application by the parties the President may order that a case in which the preparatory inquiry has been completed be deferred. In the absence of agreement between the parties the President shall refer the matter to the Court for a decision.

*Article 56*

1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

2. The oral proceedings in cases which are heard *in camera* shall not be published.

*Article 57*

The President may in the course of the hearing put questions to the agents, advisers or lawyers of the parties.

The other Judges and the Advocate-General may do likewise.

*Article 58*

A party may address the Court only through his agent, adviser or lawyer.

*Article 59*

1. The Advocate-General shall deliver his opinion orally at the end of the oral procedure.

2. After the Advocate-General has delivered his opinion, the President shall declare the oral procedure closed.

*Article 60*

The Court may at any time, after hearing the Advocate-General, order any measure of inquiry to be taken or that a

previous inquiry be repeated or expanded. The Court may direct the Chamber or the Judge Rapporteur to carry out the measures so ordered.

*Article 61*

The Court may after hearing the Advocate-General order the reopening of the oral procedure.

*Article 62*

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.
2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 4

JUDGMENTS

*Article 63*

The judgment shall contain:

- a statement that it is the judgment of the Court,
- the date of its delivery,
- the names of the President and of the Judges taking part in it,
- the name of the Advocate-General,
- the name of the Registrar,
- the description of the parties,
- the names of the agents, advisers and lawyers of the parties,

- the submissions of the parties,
- a statement that the Advocate-General has been heard,
- a summary of the facts,
- the grounds for the decision,
- the operative part of the judgment, including the decision as to costs.

*Article 64*

1. The judgment shall be delivered in open court; the parties shall be given notice to attend to hear it.
2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the parties shall be served with certified copies of the judgment.
3. The Registrar shall record on the original of the judgment the date on which it was delivered.

*Article 65*

The judgment shall be binding from the date of its delivery.

*Article 66*

1. Without prejudice to the provisions relating to the interpretation of judgments the Court may, of its own motion or on application by a party made within two weeks after the delivery of a judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.
2. The parties, whom the Registrar shall duly notify, may lodge written observations within a period prescribed by the President.
3. The Court shall make its decisions in the Deliberation Room after hearing the Advocate-General.

4. The original of the rectification order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the rectified judgment.

*Article 67*

If the Court should omit to give a decision on a particular point at issue or on costs, any party may within a month after service of the judgment apply to the Court to supplement its judgment.

The application shall be served on the opposite party and the President shall prescribe a period within which that party may lodge written observations.

After these observations have been lodged, the Court shall, after hearing the Advocate-General, decide both on the admissibility and on the merits of the application.

*Article 68*

The Registrar shall arrange for the publication of reports of cases before the Court.

Chapter 5

COSTS

*Article 69*

1. The Court shall give a decision as to costs in its final judgment or in the order which closes the proceedings.
2. The unsuccessful party shall be ordered to pay the costs if they have been asked for in the successful party's pleading.

Where there are several unsuccessful parties the Court shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court may order that the parties bear their own costs in whole or in part.

The Court may order even a successful party to pay costs which the Court considers that party to have unreasonably or vexatiously caused the opposite party to incur.

4. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs, unless the discontinuance or withdrawal is justified by the conduct of the opposite party.

If the opposite party has not asked for costs, the parties shall bear their own costs.

5. Where a case does not proceed to judgment the costs shall be in the discretion of the Court.

#### *Article 70*

Without prejudice to the second subparagraph of Article 69(3) of these rules, in proceedings under Article 95(2) of these rules, institutions shall bear their own costs.

#### *Article 71*

Costs necessarily incurred by a party in enforcing a judgment or order of the Court shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

#### *Article 72*

Proceedings before the Court shall be free of charge, except that:

- (a) where a party has caused the Court to incur avoidable costs the Court may, after hearing the Advocate-General, order that party to refund them;



- (b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges referred to in Article 16(5) of these rules.

*Article 73*

Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:

- (a) sums payable to witnesses and experts under Article 51 of these rules;
- (b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.

*Article 74*

1. If there is a dispute concerning the costs to be recovered, the Chamber to which the case has been assigned shall, on application by the party concerned and after hearing the opposite party and the Advocate-General, make an order, from which no appeal shall lie.
2. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.

*Article 75*

1. Sums due from the cashier of the Court shall be paid in the currency of the country where the Court has its seat.

At the request of the person entitled to any sum, it shall be paid in the currency of the country where the expenses to be refunded were incurred or where the steps in respect of which payment is due were taken.

2. Other debtors shall make payment in the currency of their country of origin.
3. Conversions of currency shall be made at the official rates of exchange ruling on the day of payment in the country where the Court has its seat.

## Chapter 6

### LEGAL AID

#### *Article 76*

1. A party who is wholly or in part unable to meet the costs of the proceedings may at any time apply for legal aid.

The application shall be accompanied by evidence of the applicant's need of assistance, and in particular by a document from the competent authority certifying his lack of means.

2. If the application is made prior to proceedings which the applicant wishes to commence, it shall briefly state the subject of such proceedings.

The application need not be made through a lawyer.

3. The President shall designate a Judge to act as Rapporteur. The Chamber to which the latter belongs shall, after considering the written observations of the opposite party and after hearing the Advocate-General, decide whether legal aid should be granted in full or in part, or whether it should be refused. Where there is manifestly no cause of action, legal aid shall be refused.

The Chamber shall make an order without giving reasons, and no appeal shall lie therefrom.

4. The Chamber may at any time, either of its own motion or on application, withdraw legal aid if the circumstances which led to its being granted alter during the proceedings.

5. Where legal aid is granted, the cashier of the Court shall advance the funds necessary to meet the expenses.

In its decision as to costs the Court may order the payment to the cashier of the Court of the whole or any part of amounts advanced as legal aid.

The Registrar shall take steps to obtain the recovery of these sums from the party ordered to pay them.

## Chapter 7 DISCONTINUANCE

### *Article 77*

If, before the Court has given its decision, the parties reach a settlement of their dispute and intimate to the Court the abandonment of their claims, the Court shall order the case to be removed from the register.

This provision shall not apply to proceedings under Articles 33 and 35 of the ECSC Treaty<sup>1</sup>, Articles 173 and 175 of the EEC Treaty<sup>2</sup> or Articles 146 and 148 of the Euratom Treaty<sup>3</sup>.

### *Article 78*

If the applicant informs the Court in writing that he wishes to discontinue the proceedings, the Court shall order the case to be removed from the register.

## Chapter 8 SERVICE *Article 79*

1. Where these rules require that a document be served on a person, the Registrar shall ensure that service is effected at that

<sup>1</sup> See p. 129, 130.

<sup>2</sup> See p. 18.

<sup>3</sup> See p. 85, 86.

person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgment of receipt or by personal delivery of the copy against a receipt.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 37(1) of these rules.

2. The official record of dispatch together with the acknowledgment or the receipt shall be annexed to the original of the document.

## Chapter 9

### TIME LIMITS

#### *Article 80*

1. In the reckoning of any period of time prescribed by the ECSC, EEC or Euratom Treaties, the Statutes of the Court or these rules for the taking of any procedural step, the day of the event from which the period is to run shall be excluded.

Time shall continue to run during vacations.

2. If the period would otherwise end on a Sunday or on an official holiday it shall be extended until the end of the first following working day.

A list of official holidays drawn up by the Court shall be published in the *Official Journal of the European Communities*.

#### *Article 81*

1. The period of time allowed for commencing proceedings against a measure adopted by an institution shall run from the day following the receipt by the person concerned of notification of the measure or, where the measure is published, from the 15th day after publication thereof in the *Official Journal of the European Communities*.

2. The extension, on account of distance, of prescribed time limits shall be provided for in a decision of the Court which shall be published in the *Official Journal of the European Communities*.

### Article 82

Any time limit prescribed pursuant to these rules may be extended by whoever prescribed it.

## TITLE III

### SPECIAL FORMS OF PROCEDURE

#### Chapter 1

##### SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

### Article 83

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to the second paragraph of Article 39 of the ECSC Treaty<sup>1</sup>, Article 185 of the EEC Treaty<sup>2</sup> or Article 157 of the Euratom Treaty<sup>3</sup>, shall be admissible only if the applicant is challenging that measure in proceedings before the Court.

An application for the adoption of any other interim measure referred to in the third paragraph of Article 39 of the ECSC Treaty<sup>1</sup>, Article 186 of the EEC Treaty<sup>1</sup> or Article 158 of the Euratom Treaty<sup>4</sup> shall be admissible only if it is made by a party to a case before the Court and relates to that case.

2. An application of a kind referred to in paragraph 1 of this Article shall state the subject matter of the dispute, the circum-

<sup>1</sup> See p. 132.

<sup>2</sup> See p. 22.

<sup>3</sup> See p. 88.

<sup>4</sup> See p. 89.

stances giving rise to urgency and the factual and legal grounds establishing a *prima facie* case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 37 and 38 of these rules.

#### *Article 84*

1. The application shall be served on the opposite party, and the President shall prescribe a short period within which that party may submit written or oral observations.

2. The President may order a preparatory inquiry.

The President may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.

#### *Article 85*

The President shall either decide on the application himself or refer it to the Court.

If the President is absent or prevented from attending, Article 11 of these rules shall apply in a corresponding manner.

Where the application is referred to it, the Court shall postpone all other cases, and shall give a decision after hearing the Advocate-General. Article 84 shall apply in a corresponding manner.

#### *Article 86*

1. The decision on the application shall take the form of a reasoned order, from which no appeal shall lie. The order shall be served on the parties forthwith.

2. The enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision of the Court on the substance of the case.

#### *Article 87*

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

#### *Article 88*

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

#### *Article 89*

The provisions of this Chapter shall apply in a corresponding manner to applications to suspend the enforcement of a decision of the Court or of any measure adopted by another institution, submitted pursuant to Articles 44<sup>1</sup> and 92<sup>2</sup> of the ECSC Treaty, Articles 187<sup>3</sup> and 192<sup>4</sup> of the EEC Treaty or Articles 159<sup>5</sup> and 164<sup>6</sup> of the Euratom Treaty. The order granting the application shall fix a date on which the interim measure is to lapse.

#### *Article 90*

1. An application of a kind referred to in the third and fourth paragraphs of Article 81 of the Euratom Treaty<sup>7</sup> shall contain:

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<sup>1</sup> See p. 133.

<sup>2</sup> See p. 155.

<sup>3</sup> See p. 22.

<sup>4</sup> See p. 36.

<sup>5</sup> See p. 89.

<sup>6</sup> See p. 109.

<sup>7</sup> See p. 105.

- (a) the names and addresses of the persons or undertakings to be inspected;
  - (b) an indication of what is to be inspected and of the purpose of the inspection.
2. The President shall give his decision in the form of an order. Article 86 of these rules shall apply in a corresponding manner.

If the President is absent or prevented from attending, Article 11 of these rules shall apply.

## Chapter 2

### PROCEDURAL ISSUES

#### *Article 91*

1. A party wishing to apply to the Court for a decision on a preliminary objection or on any other procedural issue shall make the application by a separate document.

The application must state the grounds of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party is to lodge a document containing that party's submissions and the grounds for them.

3. Unless the Court decides otherwise, the remainder of the proceedings shall be oral.

4. The Court shall, after hearing the Advocate-General, decide on the application or reserve its decision for the final judgment.

If the Court refuses the application or reserves its decision, the President shall prescribe new time limits for the further steps in the proceedings.



*Article 92*

The Court may at any time of its own motion consider whether there exists any absolute bar to proceeding with a case, and shall give its decision in accordance with Article 91(3) and (4) of these rules.

Chapter 3

INTERVENTION

*Article 93*

1. An application to intervene must be made before the opening of the oral procedure.
2. The application shall contain:
  - (a) the description of the case;
  - (b) the description of the parties;
  - (c) the name and permanent residence of the intervener;
  - (d) the reasons for the intervener's interest in the result of the case, having regard to Article 37 of the EEC Statute<sup>1</sup> and Article 38 of the Euratom Statute<sup>2</sup>;
  - (e) submissions supporting or opposing the submissions of a party to the original case;
  - (f) an indication of any evidence founded upon and, in an annex, the supporting documents;
  - (g) the intervener's address for service at the place where the Court has its seat.

The intervener shall be represented in accordance with the first and second paragraphs of Article 20 of the ECSC Statute<sup>3</sup> and with Articles 17 of the EEC<sup>4</sup> and Euratom Statutes<sup>5</sup>.

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<sup>1</sup> See p. 32.

<sup>2</sup> See p. 99.

<sup>3</sup> See p. 139.

<sup>4</sup> See p. 27.

<sup>5</sup> See p. 94.

Articles 37 and 38 of these rules shall apply in a corresponding manner.

3. The application shall be served on the parties to the original case. The Court shall give the parties an opportunity to submit their written or oral observations and shall, after hearing the Advocate-General, give its decision in the form of an order.

4. If the Court allows the intervention, the intervener shall receive a copy of every document served on the parties.

5. The intervener must accept the case as he finds it at the time of his intervention.

The President shall prescribe a period within which the intervener is to state in writing the grounds for his submissions, and a period within which the parties to the original case may answer them.

## Chapter 4

### JUDGMENTS BY DEFAULT AND APPLICATION TO SET THEM ASIDE

#### *Article 94*

1. If a defendant on whom an application originating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply for judgment by default.

The application shall be served on the defendant. The President shall fix a date for the opening of the oral procedure.

2. Before giving judgment by default the Court shall, after hearing the Advocate-General, consider whether the originating application is admissible, whether the appropriate formalities have been complied with, and whether the applicant's submissions appear well founded. The Court may order a preparatory inquiry.

3. A judgment by default shall be enforceable. The Court may, however, grant a stay of execution until the Court has given its

decision on any application under paragraph 4 to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment and must be lodged in the form prescribed by Articles 37 and 38 of these rules.

5. After the application has been served, the President shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with Article 44 *et seq.* of these rules.

6. The Court shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

## Chapter 5

### CASES ASSIGNED TO CHAMBERS

#### Article 95

1. Cases referred for a preliminary ruling under Article 41 of the ECSC Treaty<sup>1</sup>, Article 177 of the EEC Treaty<sup>2</sup> and Article 150 of the Euratom Treaty<sup>3</sup> may be assigned by the Court to the Chambers. This provision shall apply to cases which are of an

<sup>1</sup> See p. 133.

<sup>2</sup> See p. 19.

<sup>3</sup> See p. 87.

essentially technical nature or concern matters for which there is already an established body of case law.

The decision to assign shall be taken by the full Court following presentation by the Judge-Rapporteur of his preparatory report and after the Advocate-General has been heard.

A case may not be so assigned if, pursuant to Article 20 of the EEC Statute<sup>1</sup>, or Article 21 of the Euratom Statute<sup>2</sup>, a Member State has exercised its right to submit a statement of case or written observations, unless the State concerned has signified that it has no objection, or if an institution expressly requests in its observations that the case be decided in plenary session.

The Chamber to which a case is assigned pursuant to Article 9(2) of these rules shall have jurisdiction in the cases brought before it under this Article.

2. Proceedings commenced by an official or other servant of an institution against the institution shall, with the exception of applications for the adoption of interim measures, be tried by a Chamber designated each year by the Court for that purpose.
3. The Chamber may refer to the Court the cases referred to in paragraphs 1 and 2 above.

### *Article 96*

1. Where an application for the adoption of interim measures is made to the President in the course of proceedings under Article 95(2) of these rules but the President is absent or prevented from hearing the application, his place shall be taken by the President of the designated Chamber.

2. Without prejudice to his power of referral under Article 85 of these rules, the President may refer the application to the designated Chamber.

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<sup>1</sup> See p. 29.

<sup>2</sup> See p. 96.

## Chapter 6

### EXCEPTIONAL REVIEW PROCEDURES

#### Section 1 — Third party proceedings

##### Article 97

1. Articles 37 and 38 of these rules shall apply in a corresponding manner to an application originating third party proceedings. In addition such an application shall:

- (a) specify the judgment contested;
- (b) state how that judgment is prejudicial to the rights of the third party;
- (c) indicate the reasons why the third party was unable to take part in the original case.

The application must be made against all the parties to the original case.

Where the judgment has been published in the *Official Journal of the European Communities*, the application must be lodged within two months of the publication.

2. The Court may, on application by the third party, order a stay of execution of the judgment. The provisions of Title 3, Chapter 1, of these rules shall apply in a corresponding manner.

3. The contested judgment shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third party proceedings shall be annexed to the original of the contested judgment. A note of the judgment in the third party proceedings shall be made in the margin of the original of the contested judgment.

#### Section 2 — Revision

##### Article 98

An application for revision of a judgment shall be made within three months of the date on which the applicant receives knowledge of the facts on which the application is based.

*Article 99*

1. Articles 37 and 38 of these rules shall apply in a corresponding manner to an application for revision. In addition such an application shall:
  - (a) specify the judgment contested;
  - (b) indicate the points on which the judgment is contested;
  - (c) set out the facts on which the application is based;
  - (d) indicate the nature of the evidence to show that there are facts justifying revision of the judgment, and that the time limit laid down in Article 98 has been observed.
2. The application must be made against all parties to the case in which the contested judgment was given.

*Article 100*

1. Without prejudice to its decision on the merits, the Court sitting in the Deliberation Room shall, after hearing the Advocate-General and having regard to the written observations of the parties, give in the form of a judgment its decision on the admissibility of the application.
2. If the Court finds the application admissible, it shall proceed to consider the merits of the application and shall give its decision in the form of a judgment in accordance with these rules.
3. The original of the revising judgment shall be annexed to the original of the judgment revised. A note of the revising judgment shall be made in the margin of the original of the judgment revised.

**Chapter 7**

APPEALS AGAINST DECISIONS OF THE ARBITRATION COMMITTEE

*Article 101*

1. An application originating an appeal under the second paragraph of Article 18 of the Euratom Treaty shall state:

- (a) the name and permanent address of the applicant;
  - (b) the description of the signatory;
  - (c) a reference to the arbitration committee's decision against which the appeal is made;
  - (d) the description of the parties;
  - (e) a summary of the facts;
  - (f) the grounds of the application and the form of order sought by the applicant.
2. Articles 37(3) and (4) and 38(2), (3) and (5) of these rules shall apply in a corresponding manner.

A certified copy of the contested decision shall be annexed to the application.

3. As soon as the application has been lodged, the Registrar of the Court shall request the arbitration committee registry to transmit to the Court the papers in the case.

4. Articles 39, 40, 55 *et seq.* of these rules shall apply in a corresponding manner to these proceedings.

5. The Court shall give its decision in the form of a judgment. Where the Court sets aside the decision of the arbitration committee it may remit the case to the committee.

## Chapter 8

### INTERPRETATION OF JUDGMENTS

#### *Article 102*

1. An application for interpretation of a judgment shall be made in accordance with Articles 37 and 38 of these rules. In addition it shall specify:

- (a) the judgment in question;
- (b) the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the judgment was given.

2. The Court shall give its decision in the form of a judgment after having given the parties an opportunity to submit their observations and after hearing the Advocate-General.

The original of the interpreting judgment shall be annexed to the original of the judgment interpreted. A note of the interpreting judgment shall be made in the margin of the original of the judgment interpreted.

## Chapter 9

### PRELIMINARY RULINGS AND OTHER REFERENCES FOR INTERPRETATION

#### *Article 103*

1. In cases referred to in Article 20 of the EEC Statute<sup>1</sup> and Article 21 of the Euratom Statute<sup>2</sup>, the provisions of Article 44 *et seq.* of these rules shall apply in a corresponding manner after the written statements of case or written observations provided for in those Articles 20 and 21 have been lodged.

The same provisions shall apply even where such documents are not lodged within the time prescribed in those Articles 20 and 21, or where the parties to the main action, the Member States, the Commission or, as the case may be, the Council declare an intention to dispense with them.

2. The provisions of paragraph 1 shall apply to the references for a preliminary ruling provided for in the Protocol concerning the interpretation by the Court of Justice of the Convention of 29 February 1968 on the Mutual Recognition of Companies and Legal Persons<sup>3</sup> and the Protocol concerning the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of civil and commercial judgments<sup>4</sup>, signed at Luxembourg on 3 June 1971, and to the references provided for by Article 4 of the latter Protocol.

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<sup>1</sup> See p. 29.

<sup>2</sup> See p. 96.

<sup>3</sup> See p. 44.

<sup>4</sup> See p. 47.



The provisions of paragraph 1 shall apply also to references for preliminary rulings provided for by other existing or future agreements.

3. In cases provided for in Article 41 of the ECSC Treaty<sup>1</sup>; the text of the decision to refer the matter shall be served on the parties in the case, the Member States, the High Authority and the Special Council of Ministers.

These parties, States and institutions may, within two months from the date of such service, lodge written statements of case or written observations.

After these documents have been lodged, or where they have not been lodged within the time prescribed in the preceding subparagraph, the procedure shall follow Article 44 *et seq.* of these rules.

#### *Article 104*

As regards the representation and attendance of the parties to the main action in the preliminary ruling procedure the Court shall take account of the rules of procedure applicable before the national court or tribunal which made the reference.

In special circumstances the Court may grant, as legal aid, assistance for the purpose of facilitating the representation and attendance of a party.

### Chapter 10

#### SPECIAL PROCEDURES UNDER ARTICLES 103 TO 105 OF THE EURATOM TREATY

#### *Article 105*

1. Four certified copies shall be lodged of an application under the third paragraph of Article 103 of the Euratom Treaty<sup>2</sup>. The Commission shall be served with a copy.

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<sup>1</sup> See p. 133.

<sup>2</sup> See p. 107.

2. The application shall be accompanied by the draft of the agreement or contract in question, by the observations of the Commission addressed to the State concerned and by all other supporting documents.

The Commission shall submit its observations to the Court within a period of 10 days, which may be extended by the President after the State concerned has been heard.

A certified copy of the observations shall be served on that State.

3. As soon as the application has been lodged, the President shall designate a Judge to act as Rapporteur.

4. The decision shall be taken in the Deliberation Room after the Advocate-General has been heard.

The agents and advisers of the State concerned and of the Commission shall be heard if they so request.

#### *Article 106*

1. In cases provided for in the last paragraph of Article 104 and the last paragraph of Article 105 of the Euratom Treaty<sup>1</sup>, the provisions of Article 37 *et seq.* of these rules shall apply in a corresponding manner.

2. The application shall be served on the State to which the respondent person or undertaking belongs.

### Chapter 11

#### OPINIONS

#### *Article 107*

1. A request by the Council for an Opinion under Article 228 of the EEC Treaty<sup>2</sup> shall be served on the Commission. Such a

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<sup>1</sup> See p. 108.

<sup>2</sup> See p. 37.

request by the Commission shall be served on the Council and on the Member States. Such a request by a Member State shall be served on the Council, the Commission and the other Member States.

The President shall prescribe a period within which the institutions and Member States which have been served with a request may submit their written observations.

2. The Opinion may deal not only with the question whether the envisaged agreement is compatible with the provisions of the EEC Treaty but also with the question whether the Community or any Community institution has the power to enter into that agreement.

#### *Article 108*

1. As soon as the request for an Opinion has been lodged, the President shall designate a Judge to act as Rapporteur.

2. The Court sitting in the Deliberation Room shall, after hearing the Advocate-General, deliver a reasoned Opinion.

3. The Opinion signed by the President, by the Judges who took part in the deliberations and by the Registrar shall be served on the Council, the Commission and the Member States.

#### *Article 109*

Requests for the Opinion of the Court under the fourth paragraph of Article 95 of the ECSC Treaty<sup>1</sup> shall be submitted jointly by the High Authority and the Special Council of Ministers.

The Opinion shall be delivered in accordance with the provisions of the preceding Article. It shall be communicated to the High Authority, the Special Council of Ministers and the European Parliament.

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<sup>1</sup> See p. 155.

MISCELLANEOUS PROVISIONS

*Article 110*

1. The President shall instruct any person who is required to take an oath before the Court, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. The witness shall take the oath either in accordance with the first subparagraph of Article 47 (5) or in the manner laid down by his national law.

Where his national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witness may make such an affirmation under the conditions and in the form prescribed in his national law.

Where his national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in paragraph 1 shall be followed.

3. Paragraph 2 shall apply *mutatis mutandis* to experts, a reference to the first subparagraph of Article 49(6) replacing in this case the reference to the first subparagraph of Article 47(5) of these Rules of Procedure.

*Article 111*

Subject to the provisions of Article 188 of the EEC Treaty<sup>1</sup> and Article 160 of the Euratom Treaty<sup>2</sup> and after consultation with the Governments concerned, the Court shall adopt supplementary rules<sup>3</sup> concerning its practice in relation to:

- (a) letters rogatory;
- (b) applications for legal aid;

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<sup>1</sup> See p. 22.

<sup>2</sup> See p. 89.

<sup>3</sup> See p. 233.

- (c) reports of perjury by witness or experts, delivered pursuant to Articles 28 of the ECSC<sup>1</sup> and Euratom Statutes<sup>2</sup> and Article 27 of the EEC Statute<sup>3</sup>.

#### *Article 112*

These rules replace the Rules of Procedure of the Court of Justice of the European Communities of 3 March 1959 as amended by the Decision of the Court of 11 November 1959 (OJ 1960 p. 17).

#### *Article 113*

These rules, which are authentic in the languages mentioned in Article 29(1) of these rules, shall be published in the *Official Journal of the European Communities*.

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<sup>1</sup> See p. 142.

<sup>2</sup> See p. 30.

<sup>3</sup> See p. 97.

ANNEX I

Decision on official holidays<sup>1</sup>

*Article 1*

For the purposes of Article 80(2) of the Rules of Procedure the following shall be official holidays:

- New Year's Day;
- Easter Monday;
- 1 May;
- Ascension Day;
- Whit Monday;
- 23 June;
- 24 June, where 23 June is a Sunday;
- 15 August;
- 1 November;
- 25 December;
- 26 December.

*Article 2*

Article 80(2) of the Rules of Procedure shall apply only to the official holidays mentioned in Article 1 of this Decision.

*Article 3*

This Decision, which shall constitute Annex I to the Rules of Procedure, shall enter into force on the same day as those rules.

It shall be published in the *Official Journal of the European Communities*.

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<sup>1</sup> Done at Luxembourg, 4 December 1974 (L 350 of 28. 12. 1974, p. 27).

ANNEX II

Decision on extension of time limits on account of distance<sup>1</sup>

Article 1

In order to take account of distance, procedural time limits for all parties save those habitually resident in the Grand Duchy of Luxembourg shall be extended as follows:

- for the Kingdom of Belgium: two days,
- for the Federal Republic of Germany, the European territory of the French Republic and the European territory of the Kingdom of the Netherlands: six days,
- for the European territory of the Kingdom of Denmark, for Ireland, for the Italian Republic and for the United Kingdom: ten days,
- for other European countries and territories, two weeks,
- for other countries, departments and territories: one month.

Article 2

This Decision, which shall constitute Annex II to the Rules of Procedure, shall enter into force on the same day as those rules.

It shall be published in the *Official Journal of the European Communities*.

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<sup>1</sup> Done at Luxembourg, 4 December 1974 (OJ L 350 of 28. 12. 1974, p. 28).

**B — SUPPLEMENTARY RULES<sup>1</sup>**

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<sup>1</sup> Done at Luxembourg, 4 December 1974 (OJ L 350 of 28. 12. 1974, p. 29).





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CHAPTER I

**Letters rogatory**

*Article 1*

Letters rogatory shall be issued in the form of an order which shall contain the names, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their agents, lawyers or advisers, indicate their addresses for service and briefly describe the subject matter of the dispute.

Notice of the order shall be served on the parties by the Registrar.

*Article 2*

The Registrar shall send the order to the competent authority named in Annex I of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official languages of the Member State to which it is addressed.

The authority named pursuant to the first paragraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first paragraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar of the Court.

The Registrar shall be responsible for the translation of the documents into the language of the case.

*Article 3*

The Court shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate to the parties.

CHAPTER II

**Legal aid**

*Article 4*

The Court, by any order by which it decides that a person is entitled to receive legal aid, shall order that a lawyer be appointed to act for him.

If the person does not indicate his choice of lawyer, or if the Court considers that his choice is unacceptable, the Registrar shall send a copy of the order and of the application for legal aid to the authority named in Annex II, being the competent authority of the State concerned. The Court, in the light of the suggestions made by that authority, shall of its own motion appoint a lawyer to act for the person concerned.

*Article 5*

The Court shall advance the funds necessary to meet expenses. It shall adjudicate on the lawyer's disbursements and fees; the President may, on application by the lawyer, order that he receive an advance.

CHAPTER III

**Reports of perjury by a witness or expert**

*Article 6*

The Court, after hearing the Advocate-General, may decide to report to the competent authority referred to in Annex III of the Member State, whose courts have penal jurisdiction in any case of perjury on the part of a witness or expert before the Court, account being taken of the provisions of Article 110 of the Rules of Procedure<sup>1</sup>.

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<sup>1</sup> See p. 229.

*Article 7*

The Registrar shall be responsible for communicating the Decision of the Court.

The Decision shall set out the facts and circumstances on which the report is based.

**Final provisions**

*Article 8*

These Supplementary Rules replace the Supplementary Rules of 9 March 1962 (OJ 1962, p. 1113).

*Article 9*

These rules, which shall be authentic in the languages referred to in Article 29(1) of the Rules of Procedure<sup>1</sup>, shall be published in the *Official Journal of the European Communities*.

These rules shall enter into force on the date of their publication.

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<sup>1</sup> See p. 190.

ANNEX I

List referred to in the first paragraph of Article 2

*Belgium*

The Minister of Justice

*Denmark*

The Minister of Justice

*France*

The Minister of Justice

*Germany*

The Federal Minister of Justice

*Ireland*

The Minister for Justice

*Italy*

The Minister of Justice

*Luxembourg*

The Minister of Justice

*Netherlands*

The Minister of Justice

*United Kingdom*

The Secretary of State

ANNEX II

List referred to in the second paragraph of Article 4

*Belgium*

The Minister of Justice

*Denmark*

The Minister of Justice

*France*

The Minister of Justice

*Germany*

Bundesrechtsanwaltskammer

*Ireland*

The Minister of Justice

*Italy*

The Minister of Justice

*Luxembourg*

The Minister of Justice

*Netherlands*

Algemene Raad van de Nederlandse Orde van Advocaten

*United Kingdom*

The Law Society, London  
(for applicants resident in England or Wales)

The Law Society of Scotland, Edinburgh  
(for applicants resident in Scotland)

The Incorporated Law Society of Northern Ireland, Belfast  
(for applicants resident in Northern Ireland)



*ANNEX III*

**List referred to in Article 6**

*Belgium*

The Minister of Justice

*Denmark*

The Minister of Justice

*France*

The Minister of Justice

*Germany*

The Federal Minister of Justice

*Ireland*

The Attorney General

*Italy*

The Minister of Justice

*Luxembourg*

The Minister of Justice

*Netherlands*

The Minister of Justice

*United Kingdom*

Her Majesty's Attorney General, for witnesses or experts resident in England or Wales

Her Majesty's Advocate, for witnesses or experts resident in Scotland

Her Majesty's Attorney General, for witnesses or experts resident in Northern Ireland.

## **C — INSTRUCTIONS TO THE REGISTRAR<sup>1</sup>**

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<sup>1</sup> Done at Luxembourg, 4 December 1974 (OJ L 350 of 28. 12. 1974, p. 33).



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SECTION ONE

**Responsibilities of the Registry**

*Article 1*

1. The Registry shall be open to the public from Monday to Friday from 10 a.m. to 12 noon and from 3 p.m. to 6 p.m., except on the official holidays listed in Annex I to the Rules of Procedure.

Outside the opening hours of the Registry procedural documents may be validly lodged with the janitor, who shall record the date and time of such lodging.

2. In any event the Registry shall at every public hearing held by the Court or a Chamber be open to the public half an hour before the hearing begins.

*Article 2*

The Registrar shall be responsible for maintaining the files of pending cases and for keeping them fully up to date.

*Article 3*

1. The Registrar shall be responsible for drawing up minutes of judgments, orders and other decisions. He shall submit them to the responsible Judges for their signatures.

2. The Registrar shall ensure that where the ECSC, EEC or Euratom Treaty, the ECSC, EEC or Euratom Statute, the Rules of Procedure or any other act giving powers to the Court of Justice provide for a document to be served, a notice to be given or a communication to be made the steps are carried out in accordance with the Rules of Procedure; the documents, notices and communications shall be sent by registered post, accompanied by a note signed by the Registrar giving the number of the case and the registration number of the document, together with a brief indication as to its nature. A copy of the note shall be appended to the original document.

3. The parties shall be served with the pleadings and other documents relating to the proceedings.

Where a document is very bulky and only one specimen of it is lodged at the Registry, the Registrar shall, after consulting the Judge-Rapporteur, inform the parties by registered letter that the document may be inspected by them at the Registry.

4. Where in the submission in the application originating proceedings it is contended that an act of a Community institution not being a party to the action is illegal, the Registrar shall transmit a copy of the application to the institution in accordance with the second paragraph of Articles 18, of the Statutes of the Court of Justice of the EEC<sup>1</sup> and the Euratom<sup>2</sup> and the second paragraph of Article 21 of the Statute of the Court of Justice of the ECSC<sup>3</sup>.

The Registrar shall not transmit other written pleadings to the institution, unless the institution has been allowed to intervene in accordance with Article 93(4) of the Rules of Procedure<sup>4</sup>.

#### *Article 4*

1. A party who has lodged a procedural document at the Registry shall, if he so requests, be given a receipt.

2. Unless otherwise expressly authorized by the President or the Court, the Registrar shall decline to accept or, as the case may be, shall without delay return by registered post any pleading or other document not provided for in the Rules of Procedure or not worded in the language of the case.

3. On a procedural document which has been lodged on a date other than the date of its registration, a note shall be made stating that it has been so lodged.

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<sup>1</sup> See p. 94.

<sup>2</sup> See p. 28.

<sup>3</sup> See p. 140.

<sup>4</sup> See p. 218.

*Article 5*

1. The Registrar shall, after consulting the President and the Judge-Rapporteur, take all measures necessary for implementing Article 38 (7) of the Rules of Procedure<sup>1</sup>.

He shall prescribe the period mentioned in that Article and shall communicate it to the person concerned by registered letter with a form for acknowledgment of receipt.

If the person concerned does not comply with the directions of the Registrar, the latter shall refer the matter to the President of the Court.

2. Requests to the Registrar of the Arbitration Committee pursuant to Article 101(3) of the Rules of Procedure<sup>2</sup> shall be sent by registered letter with a form for acknowledgment of receipt.

The papers shall be returned to the Registry of the Arbitration Committee after the Decision of the Court is pronounced or after the case is removed from the Court Register.

*Article 6*

1. Where a Decision or order is delivered in open court a note to that effect shall be made at the foot of the text; the note shall be in the language of the case and shall read as follows:

'Delivered in open court in . . . . (date)

(Signature)

Registrar

(Signature)

President'

2. The notes in the margins to judgments, as required by Articles 66(4)<sup>3</sup>, 94(6)<sup>4</sup>, 97(3)<sup>5</sup>, 100(3)<sup>6</sup> and 102(2)<sup>7</sup>, of the Rules of Procedure, shall be made in the language of the case; the President and the Registrar shall initial them.

<sup>1</sup> See p. 196.

<sup>2</sup> See p. 224.

<sup>3</sup> See p. 207.

<sup>4</sup> See p. 219.

<sup>5</sup> See p. 222.

<sup>6</sup> See p. 223.

<sup>7</sup> See p. 224.



*Article 7*

1. Before every public hearing of the Court or a Chamber the Registrar shall draw up a cause list in the respective language of each case.

This list shall contain:

- the date, hour and place of the hearing,
- the references to the cases which will be called,
- the names of the parties;
- the names and descriptions of the parties' agents, advisers and lawyers.

The cause list shall be displayed at the entrance to the courtroom.

2. The Registrar shall draw up in the respective language of each case the minutes of every public hearing.

The minutes shall contain:

- the date and place of the hearing,
- the names of the Judges, Advocates-General and Registrar present,
- the reference to the case,
- the names of the parties,
- the names and descriptions of the parties' agents, advisers and lawyers,
- the names, forenames, descriptions and permanent addresses of the witnesses or experts examined,
- an indication of the evidence produced at the hearing,
- an indication of the documents lodged by the parties in the course of the hearing,
- the decisions of the Court, the Chamber or the President of the Court or Chamber, given at the hearing.

If the oral procedure in the case extends over several successive hearings, it may be reported in a single set of minutes.

### *Article 8*

The Registrar shall ensure that a person or body responsible for making an investigation or giving an expert opinion in accordance with Article 49 of the Rules of Procedure<sup>1</sup> is in possession of the material necessary for carrying out his task.

### *Article 9*

Certificates as provided for in Article 33(b) of the Rules of Procedure<sup>2</sup> shall be delivered to the adviser or lawyer concerned if he so requests, where this step is required for the proper conduct of proceedings.

The certificates shall be drawn up by the Registrar.

### *Article 10*

For the purposes of Article 32 of the Rules of Procedure<sup>3</sup> an extract from the cause list shall be transmitted in advance to the Minister of Foreign Affairs of the place where the Court is sitting.

## SECTION TWO

### **Keeping of the Register**

### *Article 11*

The Registrar shall be responsible for keeping up to date the Register of cases brought before the Court.

### *Article 12*

When an application originating proceedings is registered, the case shall be given a serial number followed by a mention of the year and a statement of either the name of the applicant

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<sup>1</sup> See p. 202.

<sup>2</sup> See p. 192.

<sup>3</sup> See p. 192.

or the subject matter of the application. Cases shall be referred to by their serial numbers.

An application for the adoption of interim measures shall be given the same serial number as the principal action, followed by the letter 'R'.

#### *Article 13*

The pages of the Register shall be numbered in advance.

At regular intervals the President and the Registrar shall check the Register and initial it in the margin against the last entry.

#### *Article 14*

The procedural documents in cases brought before the Court, including documents lodged by the parties and documents served by the Registrar, shall be entered in the Register.

An annex which has not been lodged at the same time as the procedural document to which it relates shall be separately registered.

#### *Article 15*

1. Entries in the Register shall be made chronologically in the order in which the documents to be registered are lodged; they shall be numbered consecutively.

2. Procedural documents shall be registered as soon as they are lodged at the Registry.

Documents drawn up by the Court shall be registered on the day of issue.

3. The entry in the Register shall contain the information necessary for identifying the document and in particular:

- the date of registration,
- the reference to the case,

- the nature of the document,
- the date of the document.

The entry shall be made in the language of the case; numbers shall be written in figures and usual abbreviations shall be permitted.

4. Where a correction is made in the Register a note to that effect, initialled by the Registrar, shall be made in the margin.

#### *Article 16*

The registration number of every document drawn up by the Court shall be noted on its first page.

A note of the registration, worded as follows, shall be stamped on the original of every document lodged by the parties:

'Registered at the Court of Justice under No . . . . .

Luxembourg, . . . . . day of . . . . . 19 . . . '

This note shall be signed by the Registrar.

### SECTION THREE

#### Scale of charges of the Registry of the Court

#### *Article 17*

No Registry charges may be imposed save those referred to in this section.

#### *Article 18*

Registry charges may be paid either in cash to the cashier of the Court or by bank transfer to the Court account at the bank named in the demand for payment.

#### *Article 19*

Where the party owing Registry charges has been granted legal aid, Article 76(5) of the Rules of Procedure<sup>1</sup> shall apply.

<sup>1</sup> See p. 211.

*Article 20*

Registry charges shall be as follows:

- (a) for an authenticated copy of a judgment or order, a certified copy of a procedural document or set of minutes, an extract from the Court Register, a certified copy of the Court Register or a certified copy made pursuant to Article 72(b) of the Rules of Procedure<sup>1</sup>: Lfrs 60 a page;
- (b) for a translation made pursuant to Article 72(b) of the Rules of Procedure<sup>1</sup>: Lfrs 500 a page.

No page shall contain more than 40 lines.

This scale applies to the first copy; the charge for further copies shall be Lfrs 50 for each page or part of a page.

The charges referred to in this Article shall as from 1 January 1975 be increased by 10 % each time the cost-of-living index published by the Government of the Grand Duchy of Luxembourg is increased by 10 %.

*Article 21*

1. Where pursuant to Articles 47(3)<sup>2</sup>, 51(1)<sup>3</sup> and 76(5)<sup>4</sup> of the Rules of Procedure an application is made to the cashier of the Court for an advance payment, the Registrar shall direct that particulars of the costs for which the advance payment is required be delivered.

Witnesses must supply evidence of their loss of earnings and experts must supply a note of fees for their services.

2. The Registrar shall order payment by the cashier of the Court of sums payable pursuant to the preceding paragraph, against a receipt or other proof of payment.

Where he is of the opinion that the amount applied for is excessive, he may of his own motion reduce it or order payment by instalments.

<sup>1</sup> See p. 210.

<sup>2</sup> See p. 200.

<sup>3</sup> See p. 203.

<sup>4</sup> See p. 211.

3. The Registrar shall order the cashier of the Court to refund the costs of letters rogatory payable in accordance with Article 3 of the Supplementary Rules<sup>1</sup> to the authority designated by the competent authority referred to in Article 2 of those rules, in the currency of the State concerned against proof of payment.

4. The Registrar shall order the cashier of the Court to make the advance payment referred to in the second paragraph of Article 5 of the Supplementary Rules of Procedure<sup>2</sup>, subject to the second subparagraph of paragraph 2 of this Article.

### *Article 22*

1. Where sums paid out by way of legal aid pursuant to Article 76(5) of the Rules of Procedure<sup>3</sup> are recoverable, payment of the sums shall be demanded by registered letter, signed by the Registrar. The letter shall state not only the amount payable but also the method of payment and the period prescribed.

The same provision shall apply to the implementation of Article 72(a) of the Rules of Procedure<sup>4</sup> and Article 21(1), (3) and (4) of these instructions.

2. If the sums demanded are not paid within the period prescribed by the Registrar, he shall request the Court to make an enforceable Decision and to order its enforcement in accordance with Articles 44<sup>5</sup> and 92<sup>6</sup> of the ECSC Treaty, 187<sup>7</sup> and 192<sup>8</sup> of the EEC Treaty or 159<sup>9</sup> and 164<sup>10</sup> of the Euratom Treaty.

Where a party is by a judgment or order directed to pay costs to the cashier of the Court, the Registrar shall, if the costs are not paid within the period prescribed, apply for payment of the costs to be enforced.

<sup>1</sup> See p. 237.

<sup>2</sup> See p. 238.

<sup>3</sup> See p. 209.

<sup>4</sup> See p. 211.

<sup>5</sup> See p. 133.

<sup>6</sup> See p. 155.

<sup>7</sup> See p. 22.

<sup>8</sup> See p. 36.

<sup>9</sup> See p. 89.

<sup>10</sup> See p. 109.

SECTION FOUR

**Publications of the Court**

*Article 23*

The Registrar shall be responsible for the publications of the Court.

*Article 24*

There shall be published in the languages referred to in Article 1 of Council Regulation No 1<sup>1</sup> Reports of Cases before the Court which shall, subject to a decision to the contrary, contain the judgments of the Court together with the submissions of the Advocates-General and the opinions given and the interim orders made in the course of the calendar year.

*Article 25*

The Registrar shall cause the following to be published in the *Official Journal of the European Communities*:

- (a) notices of applications originating proceedings, as referred to in Article 16(6) of the Rules of Procedure<sup>2</sup>;
- (b) notices of the removal of cases from the Register;
- (c) subject to a decision by the Court to the contrary, the operative part of every judgment and interim order;
- (d) the composition of the Chambers;
- (e) the appointment of the President of the Court;
- (f) the appointment of the Registrar;
- (g) the appointment of the Assistant Registrar and the Administrator.

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<sup>1</sup> See p. 190.

<sup>2</sup> See p. 185.

**Final provisions**

*Article 26*

These instructions replace the instructions issued by the Court of Justice of the European Communities on 23 June 1960 (OJ 1960, p. 1417) as amended by the Decisions of the Court of 6 April 1962 (OJ 1962, p. 1115) and 13 July 1965 (OJ 1965, p. 2413).

*Article 27*

These instructions, which are authentic in the languages referred to in Article 29(1) of the Rules of Procedure<sup>1</sup> shall be published in the *Official Journal of the European Communities*.

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<sup>1</sup> See p. 190.



V

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## ABBREVIATIONS

Aid and research ECSC	Communication of the High Authority concerning applications for and the grant of financial aid for technical and economic research (coal, iron ore, steel)
Ass. Afr. and Mad.	Internal Agreement of 29 July 1969 on the measures and procedures required for implementation of the Convention of Association between the European Economic Community and the African and Malagasy States associated with that Community
Ass. Greece	Agreement of 9 July 1961 establishing an Association between the European Economic Community and Greece
Ass. Tanzania	Internal Agreement of 24 September 1969 on the measures and procedures required for implementation of the Agreement establishing an Association between the European Economic Community and the United Republic of Tanzania, the Republic of Uganda and the Republic of Kenya (Art. 7)
Ass. Turkey	Agreement of 12 September 1963 establishing an Association between the European Economic Community and Turkey
Audit Board	Rules of the Audit Board
Bank Staff Regs.	European Investment Bank Staff Regulations
Bank	Statute of the European Investment Bank
Cond. Emp.	Conditions of employment of other servants
CJ	Court of Justice
CS	Contracting State
EAEC	European Atomic Energy Community
ECSC	European Coal and Steel Community
EDF I	European Development Fund Financial Regulation (1958)

EDF II	European Development Fund Financial Regulation (1963)
EDF III	European Development Fund Financial Regulation (1969)
EEC	European Economic Community
EP	European Parliament
Fin. Reg.	Financial Regulation No 73/91/ECSC, EEC, Euratom applicable to the general budget of the European Communities
Fund	Financial Regulation of the European Development Fund
Gen. Prov.	General Provisions
HA	High Authority (ECSC)
Instr.	Instructions to the Registrar of the Court of Justice of the European Communities
JR	Judge-Rapporteur
Lab. Com.	Rules of the Administrative Commission on Social Security for Migrant Workers attached to the Commission of the European Communities
MS	Member State
Merger Treaty	Treaty establishing a Single Council and a Single Commission of the European Communities
PCJ	President of the Court of Justice
PCh	President of the Chamber
Prot. civ. judg.	Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters
Prot. companies	Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 29 February 1968 on the mutual recognition of companies, firms and legal persons
Prot. France	Protocol on certain provisions relating to France
PPI	Protocol on the Privileges and Immunities of the European Communities
PS EAEC	Protocol on the Statute of the Court of Justice of the European Atomic Energy Community

PS ECSC	Protocol on the Statute of the Court of Justice of the European Coal and Steel Community
PS EEC	Protocol on the Statute of the Court of Justice of the European Economic Community
Rail Tariff	Agreement of 21 March 1955 on the establishment of through international railway tariffs
Reg. 11	Regulation No 11 of the Council of 27 June 1960 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty (Art. 25)
Reg. 17	Regulation No 17 of the Council of 6 February 1962 — First Regulation implementing Articles 85 and 86 of the Treaty
Reg. 26	Regulation No 26 of the Council of 4 April 1962 applying certain rules of competition to production of and trade in agricultural products
Reg. 1017/68	Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway
RP	Rules of Procedure of the Court of Justice of the European Communities
SR	Supplementary Rules of the Court of Justice of the European Communities
Staff Regs.	Staff Regulations of officials of the European Communities
Staff sickn. ins.	Rules relating to insurance against sickness
Tr. EAEC	Euratom Treaty, Treaty establishing the European Atomic Energy Community
Tr. ECSC	Treaty establishing the European Coal and Steel Community
Tr. EEC	Treaty establishing the European Economic Community



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