

**Synopsis of the work  
of the Court of Justice  
of the European Communities  
in 1975**

**LUXEMBOURG 1976**

## Table of contents

	<i>Page</i>
Foreword .....	5
I — Cases decided by the Court of Justice in 1975 .....	7
Subject-matter of the cases decided by the Court .....	9
Cases brought in 1975 .....	18
II — Decisions of national courts on Community Law .....	21
III — Information on Community Law .....	29
Annex I: Visits in 1975 .....	31
Annex II: Composition of the Court of Justice for the judicial year 1975/1976	32
Annex III: Former Presidents, former Members of the Court of Justice.....	33
Annex IV: Summary of the types of procedure before the Court of Justice....	35
Annex V: Information and documentation on the Court of Justice and its work	37

## Foreword

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

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

The synopsis is published in the working languages of the Communities (Danish, Dutch, English, French, German, Italian). It is obtainable free of charge on request (specifying the language required) from the Information Bureaux of the European Communities at the following addresses:

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*In 1975 the Court of Justice of the European Communities was visited by a number of people of importance.*

*On 21 January 1975 Jean Lecanuet, Garde des Sceaux, Minister of Justice of the French Republic, gave into the keeping of the Court of Justice the 'Bronze Age', an outstanding bronze statue by Rodin from the Musée Rodin in Paris. The President and Members of the Court, representatives of the Luxembourg authorities and of the Diplomatic Corps were present at this ceremony.*

*On 10 and 11 March 1975 the Court of Justice received 80 high-ranking judges from the supreme courts of the Member States. Two study days devoted to problems of Community case-law were organized for them.*

*On 12 March 1975 the Court of Justice received Manfred Lachs, President of the International Court of Justice at The Hague.*

*A second group of high-ranking judges from the Member States was received for two study days on 13 and 14 May 1975.*

*On Monday 16 June, Cearbhall Ó Dálaigh, President of the Irish Republic, paid an official visit to the Court of Justice of which he had been a Member as Judge (and for a time as President of Chamber) from 9 January 1973 to 12 December 1974.*

*The Court itself visited the Italian Corte Costituzionale, the Corte di Cassazione, the Consiglio di Stato and the Consiglio Suprema della Magistratura in Rome from 3 to 6 June 1975. It was received by Mr Leone, President of the Italian Republic.*

*On 26 and 27 June 1975 the Court was visited by the President and a delegation of four administrative directors of the Bundeskartellamt Berlin.*

*On 8 October 1975 it was visited by Sam Silkin, the British Attorney-General.*

## I — Cases decided by the Court of Justice in 1975

### **Judgments delivered**

During 1975 the Court of Justice of the European Communities delivered 78 judgments: 11 in direct actions, 45 in cases referred to the Court for preliminary rulings by the national courts of the Member States, and 22 in actions brought by officials of the Communities.

### **Documentation**

The written procedure in these cases runs to some 80 000 pages, of which 32 962 have been translated by the Language Division into the six official languages of the Community. In addition, the translation of the case-law of the Court prior to 1973 into English and Danish is progressing.

### **Hearings**

These cases gave rise to 183 public hearings.

### **Lawyers**

During these hearings, apart from the representatives or agents of the Council, the Commission and the Member States, the Court heard:

- 21 Belgian lawyers,
- 1 British lawyer,
- 27 French lawyers,
- 21 lawyers from the Federal Republic of Germany,
- 31 Italian lawyers,
- 14 Luxembourg lawyers,<sup>1</sup>
- 7 Netherlands lawyers.

### **Duration of proceedings**

Proceedings lasted for the following periods of time:

In cases brought directly before the Court the average duration for most of them has been rather more than 9 months, the shortest being 6 months and the longest having been exceptionally extended to 2 years and 9 months by reason of procedural incidents (the sugar cases).

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<sup>1</sup> This figure does not include the Luxembourg lawyers who are sometimes chosen as 'Addressees for service' by the lawyers of parties who are not domiciled at the seat of the Court.

In cases arising from questions referred by national courts for preliminary rulings, the average duration has been rather more than 6 months (including judicial vacations), the shortest having taken 3½ months and the longest 10 months.

The judgments delivered during 1975 may be analysed as follows:

1. Action brought by the Commission for failure to fulfil an obligation (against the Federal Republic of Germany) .....	1
2. Actions brought by natural or legal persons .....	10
— concerning agricultural markets	1
— concerning cartels and dominant positions	5
— concerning non-contractual liability	4
3. Actions brought by officials of the Communities .....	22
4. References made to the Court of Justice by national courts for preliminary rulings on the interpretation or the validity of provisions of Community law .....	45
	—
	<b>78</b>

The President of the Court also delivered five orders for interim measures concerning competition.

## *Subject-matter of the cases decided by the Court*

### **1. Jurisdiction of the Communities in the matter of external relations**

On 14 July 1975 the Court of Justice received a request for an opinion from the Commission of the European Communities pursuant to the second subparagraph of Article 228 (1) of the Treaty establishing the EEC, under which:

'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'.

The object of this request was to obtain the opinion of the Court on the compatibility with the EEC Treaty of a draft 'Understanding on a Local Cost Standard' drawn up under the auspices of the OECD, and more particularly on the question whether the Community has the power to conclude the said Understanding and, if so, whether that power is exclusive.

On 11 November 1975 the Court expressed its opinion that the Community has exclusive power to participate in the Understanding which was the subject-matter of the Commission's request.

In its grounds for this opinion the Court analysed the way in which the Treaty conceives of the common commercial policy:

'Such a policy is conceived in [Article 113] in the context of the operation of the common market, for the defence of the common interests of the Community, within which the particular interests of the Member States must endeavour to adapt to each other.

Quite clearly, however, this conception is incompatible with the freedom to which the Member States could lay claim by invoking a concurrent power, so as to ensure that their own interests were separately satisfied in external relations, at the risk of compromising the effective defence of the common interests of the Community.

In fact, any unilateral action on the part of the Member States would lead to disparities in the conditions for the grant of export credits, calculated to distort competition between undertakings of the various Member States in external markets. Such distortion can be eliminated only by means of a strict uniformity of credit conditions granted to undertakings in the Community, whatever their nationality.

It cannot therefore be accepted that, in a field such as that governed by the Understanding in question, which is covered by export policy and more

generally by the common commercial policy, the Member States should exercise a power concurrent to that of the Community, in the Community sphere and in the international sphere. The provisions of Articles 113 and 114 concerning the conditions under which, according to the Treaty, agreements on commercial policy must be concluded show clearly that the exercise of concurrent powers by the Member States and the Community in this matter is impossible.

To accept that the contrary were true would amount to recognizing that, in relations with third countries, Member States may adopt positions which differ from those which the Community intends to adopt, and would thereby distort the institutional framework, call into question the mutual trust within the Community and prevent the latter from fulfilling its task in the defence of the common interest.

It is of little importance that the obligations and financial burdens inherent in the execution of the agreement envisaged are borne directly by the Member States. The "internal" and "external" measures adopted by the Community within the framework of the common commercial policy do not necessarily involve, in order to ensure their compatibility with the Treaty, a transfer to the institutions of the Community of the obligations and financial burdens which they may involve: such measures are solely concerned to substitute for the unilateral action of the Member States, in the field under consideration, a common action based upon uniform principles on behalf of the whole of the Community.

Similarly, in relation to products subject to the ECSC Treaty, it is of little importance to note that the power of the Member States to conclude the understanding envisaged is safeguarded by Article 71 of that Treaty, according to which:

*"The powers of the Governments of Member States in matters of commercial policy shall not be affected by this Treaty . . ."*

In this instance the matter has been referred to the Court pursuant to the second subparagraph of Article 228 (1) of the EEC Treaty. The opinion which it has been called upon to give therefore bears upon the problem of the compatibility of the agreement envisaged with the provisions of the EEC Treaty and will define the power of the Community to conclude that agreement solely in relation to those provisions.

Independently of the question whether, in view of the necessity of ensuring that international transactions to which the Communities are party should have as uniform a character as possible, Article 71 of the ECSC Treaty retains its former force following the entry into force of the EEC Treaty, that provision cannot in any event render inoperative Articles 113 and 114 of the EEC Treaty and affect the vesting of power in the Community for the negotiation and conclusion of international agreements in the realm of common commercial policy.'



## **2. Powers of the institutions and balance between the institutions**

In a case arising under the Treaty establishing the ECSC, a British company brought an action in 1975 pursuant to Article 35 of the ECSC Treaty against the Commission (successor to the High Authority) for failure to act.

Fearing that the price policy pursued by the *National Coal Board* – a policy which it considered to be abusive – would exclude it from the market and force it to close two coking plants, with an accompanying loss of 650 jobs, the applicant ‘grafted’ onto its action for failure to act a request to the President of the Court to make an interim order for measures of conservation.

The National Coal Board, intervening on behalf of the Commission, requested, for its part, that if the President ordered measures of conservation he should also lay down sufficient guarantees to cover the eventuality of the applicant undertaking failing in its submissions on the substantive issue.

In an Order by way of an interim ruling of 21 October 1975 the President of the Court stated that it is for the Commission to take the measures which it considers strictly necessary, and subject to all appropriate guarantees, for the purpose of keeping in operation the two plants threatened with closure and only for the shortest time which it considers to be necessary for the completion of the proceedings in the main action.

It would in fact be contrary to the institutional balance of powers under the Treaty for the Court to give an interim ruling, substituting itself for the Commission in the exercise of a power which, in the final analysis, it is for the latter to exercise subject to the supervision of the Court, and in connexion with which it possesses all the necessary information.

## **3. Failure to fulfil an obligation under the Treaty**

The Court of Justice had occasion only once during 1975 to find that a State had failed to fulfil its obligations under the Treaties. For the first time since those Treaties came into existence, it was the Federal Republic of Germany which was at fault.

The facts, a mixture of linguistics and oenology, are that the German law on vine products of 14 July 1971 states that the appellation ‘Sekt’ may only describe a German sparkling wine which satisfies certain conditions as to *quality* and that the appellation ‘Prädikatssekt’ may only describe a sparkling wine containing at least 60% of German grapes. The appellation ‘Weinbrand’ may be used only for a domestic product which satisfies the criterion of ‘spirits obtained by distilling quality wine’. Sparkling wines and spirits obtained by distilling foreign wines are restricted to the appellations ‘Schaumwein’, ‘Qualitätsschaumwein’, ‘Branntwein aus Wein’ and ‘Qualitätsbranntwein aus Wein’.

The Court of Justice ruled that although the Treaty is not an obstacle to the power of each Member State to legislate in matters of *indications of origin*, it nevertheless prohibits them from introducing new measures of an *arbitrary and unjustified nature*, and that the imposition of *generic appellations* to discriminate between

*national produce and the products of other Member States is incompatible with the Treaty (Case 12/74 – Commission v Federal Republic of Germany – Judgment of 20 February 1975).*

#### **4. Competition**

In 1975 competition once again provided one of the broad themes of Community case-law, being involved both in direct actions and in references for preliminary rulings.

In a decision of 1973 the Commission refused to apply the exclusion clause laid down in Article 85 (3) of the EEC Treaty to an agreement concluded between two German undertakings, according to which one of the undertakings, which specialized in the manufacture of a compound potassium fertilizer, sold to the other its excess straight potash for marketing.

On an application by the two undertakings the Court of Justice annulled the Commission's decision on the ground that the objective and effects of the agreement at issue were to allow the undertaking producing the compound fertilizer to concentrate its efforts on the production and marketing of its product and to relieve it of the necessity of maintaining expensive marketing machinery for the distribution of its remaining production of straight potash. This was a technical agreement which did not infringe the Community rules, particularly because the quantities involved constituted only an insignificant part of the market and because there was no *duty*, but merely an *option* to sell the residual quantity to the second undertaking (Joined Cases 19 and 20/74 – *Kali-Salz, Kali-Chemie v Commission* – Judgment of 14 May 1975).

On another occasion the Court of Justice dismissed as unfounded an action for the annulment of a decision of the Commission instituted by an organization for the sale by auction of fresh citrus fruit and apples and pears of non-European origin imported into the Netherlands (Case 71/74 – *Frubo v Commission* – Judgment of 15 May 1975).

In an action brought by a motor vehicle manufacturing company established in Belgium against the Commission, the Court of Justice held that functions governed by public law which are delegated by a Member State, the performance of which is reserved exclusively to the manufacturer or to his sole authorized agent, may amount to abuse of a dominant position to the extent to which the manufacturer or his agent are free to determine the price of their services. In the case in point however, the Court did not find that there was an abuse of a dominant position, in view of the fact that the vehicle manufacturing company reduced the charge imposed (the case involved the technical inspection of vehicles of European manufacture imported into Belgium) to the level of the real cost of the operation and refunded the excess to those concerned at a time prior to the Commission's investigations (Case 26/75 – *General Motors Continental v Commission* – Judgment of 13 November 1975).

In an action brought against the Commission by the Groupement des papiers peints de Belgique pursuant to Article 85 (1) of the EEC Treaty, the Court of

Justice annulled as unfounded the Commission's decision imposing on the said Groupement and its associates fines for the boycott of a wholesaler who was alleged to have contravened the Groupement's agreement concerning the advertising of reductions.

The Court stated in the grounds of its judgment that the Commission had not proved that the agreement at issue adversely affected the free movement of goods between Member States. Although an agreement on prices of the type at issue, being exclusively concerned with the marketing of specified products within a single Member State, may be such as to affect trade between Member States (cf. Case 8/72 – *Cementhandelaren v Commission*), this is not necessarily so in every case. Article 190 of the EEC Treaty lays on the Commission a duty to give sufficient reason for its decisions, particularly where aspects of a decision go beyond established policy. A mere reference to a single case cannot, in this instance, constitute sufficient reason for the decision (Case 73/74 – *Groupement de fabricants de papiers peints de Belgique v Commission* – Judgment of 26 November 1975).

Finally, the Court has annulled as unfounded part of the Commission's decision imposing heavy fines on almost all producers of sugar in the original six Member States of the Community. The Commission's objections were therefore partially set aside by the Court. In all other cases the latter reduced substantially the amount of the fines on the ground that the common organization of the market in sugar, which is tending to emerge from its initial transitional phase and has only left a residual field available for competition, has helped to ensure that sugar producers continue to behave in an uncompetitive manner.

'It is beyond doubt that, as the beforementioned system of national quotas stopped production moving gradually to areas particularly suitable for the cultivation of sugar beet and, in addition, prevented any large increase in production, it cut down the amounts which producers can sell in the common market (No 16).

This restriction, together with the relatively high transport costs, is likely to have a not inconsiderable effect on one of the essential elements of competition, namely the supply, and consequently on the volume and pattern of trade between Member States (No 17).

So far more particularly as the legislative background and economic context of the conduct complained of is concerned no decision as to the amount of the fines can be made without taking account of the fact that the sugar market is not organized on the basis of the Community treated as a geographical unit but as a system designed to maintain any partitioning of national markets, in particular by means of national quotas within the limits of which manufacturers producing sugar and at the same time farmers growing beet are in general protected (No 613).

The Commission has failed to take sufficient account of the extent to which this system was capable of affecting conditions on the sugar market (No 614).

The common organization of the market in sugar, which moreover is tending to emerge from its initial transitional phase and for the reasons which have just

been given only left a residual field available for competition, has therefore helped to ensure that sugar producers continue to behave in an uncompetitive manner (No 619).

Although this situation cannot lead to acceptance of practices which are likely to make still worse what are, from the point of view of the Treaty, the disadvantages of such a system, it nevertheless means that the behaviour of the parties concerned cannot be regarded with the usual severity (No 620).'

(Joined Cases 40 to 48/73, 50/73, 54 to 56/73, 111/73, 113 and 114/73 – Judgment of 16 December 1975).

## **5. Freedom of movement for persons**

It will be recalled that the end of 1974 was marked by the first reference for a preliminary ruling by a United Kingdom court. It involved a problem concerning freedom of movement for workers which arose in the wake of the arrival in Great Britain of a Netherlands national who had been offered employment as a secretary by the Church of Scientology, an institution which has been declared to be 'socially harmful' in Great Britain.

In 1975 the same provisions relating to freedom of movement for workers, the restrictions thereto for reasons of public policy, public security or public health and the Council directive according to which all restrictive measures must be based exclusively on the personal conduct of the individual, were the subject-matter of an interpretation by the Court.

In Case 67/74, *Bonsignore*, the Court ruled that measures restricting the freedom of movement could not be employed for purposes of general prevention. In the case in point the Government of the Federal Republic of Germany wished, on the basis of the concept of public policy, to expel an Italian worker who had killed his brother accidentally while handling a firearm which was in his possession illegally.

The personal behaviour of *Bonsignore* being irrelevant, the Court did not accept the German argument that by deporting him an example would be made which would deter foreign workers who might be tempted to possess firearms illegally (Case 64/74 – *Bonsignore v Oberstadtdirektor der Stadt Köln* – Judgment of 26 February 1975).

In Case 36/75, *Rutili*, the Court gave a similarly strict interpretation of restrictive measures. It restated the criterion established by the Convention for the Protection of Human Rights and Fundamental Freedoms, according to which infringements of the rights guaranteed by that Convention cannot go beyond what is necessary in order to safeguard those requirements 'in a democratic society' (Case 36/75 – *Rutili v Ministère de l'intérieur* – Judgment of 28 October 1975).

## **6. Social security**

During 1975 the Court of Justice pursued the 'social line' which it has set itself and, case by case, a true European social law is being elaborated by way of interpretation.

Some ten judgments concerning the interpretation of provisions on social security for migrant workers have been given this year. The Court reaffirmed its case-law concerning educational grants by ensuring that the children of a migrant worker enjoy the same conditions for admission to education as those of nationals of the State of residence (Case 68/74 – *Alaimo v Préfet du Rhône* – Judgment of 29 January 1975). We should note two further important judgments in this field of the equality of treatment of migrant workers and nationals concerning social advantages granted in the receiving State. In one of them (Case 7/75 – *F. v Belgian State* – Judgment of 17 June 1975), the Court ruled that the handicapped child of a worker enjoys the same advantages as nationals of the State in which he is resident and that such advantages cannot come to an end even if, at the attainment of his majority, he is prevented by reason of his handicap from attaining the status of worker. In the other case (Case 32/75 – *Cristini v SNCF* – Judgment of 30 September 1975), the Court of Justice ruled that children of migrant workers could benefit from the social advantages granted by French legal provisions which are in principle reserved solely to French nationals, such as cards granting reductions in fares issued by the SNCF to large families.

## 7. Common Customs Tariff

Several problems concerning classification under the nomenclature of the Common Customs Tariff have been referred to the Court of Justice. These questions are of little legal interest but require the judges in Luxembourg to resolve highly technical and sometimes rather abstruse problems. Must the machine for tamping, levelling and adjusting (a vehicle running on rails intended for use in the maintenance of railways, used for packing or tamping ballast material under the sleepers and straightening railway lines) be classified as a mechanically propelled railway coach or as earth-moving machinery (Case 35/75 – *Matisa v Hauptzollamt Berlin* – Judgment of 23 October 1975)? How is a xerographic duplicator to be classified, as a photographic camera or as an office machine? The classification of the machine in question had already been the subject-matter of a supplementary note by the Council to the Common Customs Tariff and of tariff concessions effected under the auspices of GATT. The validity of these documents was contested in this case but it was confirmed by the Court (Case 38/75 – *Douaneagent der NV Nederlandse Spoorwegen v Inspecteur der invoerrechten en accijnzen* – Judgment of 19 November 1975).

The classification of compound products presented the Court of Justice with problems of interpretation of the general rules of the Common Customs Tariff. What is the principal component of facing panels made of compressed wood fibre impregnated with asphalt and covered on their inner surface with a layer of asphalt? The Court ruled that where the broad guidelines for the interpretation of the Common Customs Tariff are inapplicable, whether it is a question of the priority of a more specific heading over more general headings, or of the classification of compound products according to the material which gives them their essential character, the goods must be classified under the heading which involves the highest rate of duty (Case 28/75 – *Baupla v Oberfinanzdirektion* – Judgment of 25 September 1975).

Finally, these questions had to include problems involving foodstuffs: cherries imported from Yugoslavia temporarily put up in syrup and intended for use in the chocolate industry must be classified under the heading covering fruit fit for human consumption (Case 37/75 – *Bagusat KG v Hauptzollamt Berlin Packhof* – Judgment of 11 November 1975) and, lastly, the apparently trivial fact of a difference of a few grammes in the contents of bottles of orange concentrate, by which the Court of Justice was led to assess the determining factor for the definition of tariff headings: the effective net weight of imported goods or the minimum weight per unit agreed in the contract of sale. The Court judged that it is the effective net weight which is the determining factor for classification (Case 91/74 – *Hauptzollamt Hamburg Ericus v Hamburg Import-Kompanie* – Judgment of 10 June 1975).

## 8. Common agricultural policy – market in wine

The Court of Justice received references for preliminary rulings from the *Cours d'appel*, Bordeaux (Joined Cases 89/74, 18 and 19/75 – *Cour d'appel de Bordeaux – A. and Others* – Judgment of 30 September 1975), Aix-en-Provence (Joined Cases 10 to 14/75 – *Cour d'appel d'Aix-en-Provence – L. and Others* – Judgment of 30 September 1975) and Lyon (Case 64/75, *Procureur Général près la Cour d'appel de Lyon v H.M. and J.C.C. Institut national des appellations d'Origine (Paris) and Direction générale des impôts du département du Rhône* – Judgment of 9 December 1975).

The factor common to these three cases is the problem of the validity of methods of analysis allowing it to be determined whether a wine has been 'enriched', that is to say, whether its alcoholic content has been artificially increased either by fortification, that is to say, the direct addition of alcohol to the wine or to the grape must, or by chaptalization (named after the inventor of the technique, Chaptal), that is to say, the addition of sugar to the grape must or to the grapes.

One of these methods of analysis is the so-called '100° method', which consists in weighing the remaining dry extract after evaporation of the volatile substances in the wine at 100°. The Code du vin laid down a presumption of over-alcoholization on the basis of a given ratio between the alcohol and the dry extract, above which figure the wine is presumed to have been enriched.

The Court of Justice was required to state whether the Community regulations authorize the retention at national level of the provisions of the Code du vin and whether the use of the 100° method of analysis, as applied in France, is compatible with Community provisions.

The Court ruled that in the present state of Community law a Member State may employ, as a means of supervision at the national level, a legal presumption of over-alcoholization, based upon the 100° method, on condition that this presumption shall be capable of being refuted (it must not therefore be an irrebuttable presumption) and that it shall be applied in such a manner that it does not constitute a disadvantage, whether in law or in fact, to wines from other Member States (furthermore, therefore, it must not be discriminatory).

In the cases (Joined Cases 10 to 14/75) referred by the Cour d'appel, Aix-en-Provence, which concerned wines imported from Italy, the problem posed was that of accompanying documents. Community rules provide, in respect of trade between Member States, that the competent body of the producing Member State shall issue an accompanying document certifying, following an analytical and organoleptic examination of the product, that the wine is of wholesome and good merchantable quality.

The Court of Justice ruled that a Member State may not require in respect of wines coming from another Member State accompanying documents other than those covered by the Community regulations.

## **9. Trade union rights**

An action was brought before the Court of Justice by the European Public Service Unions for the annulment of a decision of the Council (Case 72/74 – *Union Syndicale v Council* – Judgment of 18 March 1975).

This action was dismissed as inadmissible, in the same way as the two actions brought in 1974 by the union organizations of European officials against the Commission and the Council. The legal reasoning of the Court has not varied: the Staff Regulations of Officials allow only individual actions and the organizations formed for the defence of the collective interests of a category of individuals cannot be deemed to be directly and individually concerned by a measure affecting the general interests of that category.

## *Cases brought in 1975*

130 cases were brought before the Court of Justice in 1975. They concern:

1. Actions for failure to fulfil an obligation brought by the Commission against France and Italy .....	2	
2. Action brought by the Federal Republic of Germany .....	1	
3. Actions brought by natural or legal persons:		
— against the Commission .....	30	
— against the Council .....	0	
— against the Council and the Commission .....	2	
	—	
	Direct actions	35
4. Actions brought by officials of the Communities .....	26	
5. References to the Court of Justice by national courts for preliminary rulings on the interpretation or validity of provisions of Community law ..	69	

The origin of those references:

*Belgium:* 7 references from courts of first instance or of appeal:  
— 1 from the Cour de cassation  
— 6 from other courts.

*Denmark:* 1 reference from a court of first instance.

*France:* 15 references:  
— 2 from the Cour de cassation  
— 13 from other courts.

*Germany:* 26 references:  
— 2 from the Bundesgerichtshof  
— 4 from the Bundesfinanzhof  
— 2 from the Bundessozialgericht  
— 18 from other courts.



- Italy:* 14 references from courts of first instance or of appeal:  
— 1 from the Corte suprema di cassazione  
— 13 from other courts.
- Luxembourg:* 1 reference from a supreme court.
- Netherlands:* 4 references:  
— 1 from the College van Beroep  
— 1 from the Tarief Commissie  
— 2 from other courts.
- United Kingdom:* 1 reference from a court of first instance.

The subject-matter of these references includes, *inter alia*:

Subject-matter	Cases <sup>1</sup>
Common Customs Tariff (Article 3)	11
Free movement of goods (Articles 9–11)	5
Customs duties (Articles 12–17)	4
Industrial property (Article 36)	6
Agricultural markets (Articles 38–47)	30
Freedom of movement for workers (Article 48)	5
Social security for migrant workers (Article 51)	14
Freedom to provide services (Articles 59–60)	1
Cartels, dominant positions (Articles 85–90)	6
State aids (Articles 92–94)	
Quantitative restrictions (Articles 30–35)	1
State monopolies (Article 37)	3
Internal taxation (Articles 95–99)	3
Approximation of laws (Articles 100–102)	1
Social policy (Articles 119–122)	1

<sup>1</sup> No attempt should be made to relate the total of these figures to those provided on the preceding page since the cases are set out according to the subject-matter of actions, with the consequence that certain actions appear under several headings

These figures show:

- an appreciable increase in the number of cases in comparison with 1974 (of the order of 14%);
- a substantial increase in references for preliminary rulings (100%);
- a better balance in the national origin of references and a greater diversification of the subject-matter of those references;
- a very marked diminution in staff cases in comparison with preceding years.

Furthermore, various judgments of considerable interest are cited in the context of decisions of national courts on Community law (see below, II).

## II — Decisions of national courts on Community Law

This summary of Community case-law would be incomplete without some mention of the more important decisions given by national courts applying Community law. It is true that it is not always possible to obtain full information regarding this case-law. However, a promising start has been made in this field thanks to the cooperation between the Directorate of Library and Documentation of the Court of Justice and a very large number of national courts<sup>1</sup>.

The comparative table below indicates the number of Community cases decided directly by national courts, supreme or otherwise, in 1975, which have come to the notice of the above directorate, whether or not they involved the use of the procedure for preliminary rulings:

Member States	Supreme courts	Courts of appeal or of first instance	Total
Belgium	3	9	12
Denmark	0	1	1
France	10	8	18
Germany	18	29	47
Italy	3	14	17
Luxembourg	2	0	2
Netherlands	10	4	14
United Kingdom	1	9	10
Total	47	74	121

<sup>1</sup> The Court of Justice is very interested in receiving a copy of any decision given by national courts on points of Community law, at the following address: Court of Justice of the European Communities, Boîte postale 1406, Luxembourg.

Member State	Number	Courts giving judgment																	
Belgium	12	3 judgments given by supreme courts	<table> <tr> <td>Conseil d'État</td> <td>1</td> </tr> <tr> <td>Cour de cassation</td> <td>1</td> </tr> <tr> <td>Hof van cassatie</td> <td>1</td> </tr> <tr> <td></td> <td style="border-top: 1px solid black;">3</td> </tr> </table>	Conseil d'État	1	Cour de cassation	1	Hof van cassatie	1		3								
		Conseil d'État	1																
Cour de cassation	1																		
Hof van cassatie	1																		
	3																		
9 judgments given by courts of appeal or of first instance	<table> <tr> <td>Tribunal du travail du Nivelles</td> <td>1</td> </tr> <tr> <td>Tribunal du travail de Bruxelles</td> <td>2</td> </tr> <tr> <td>Rechtbank van Koophandel Brussel</td> <td>1</td> </tr> <tr> <td>Tribunal de Liège</td> <td>1</td> </tr> <tr> <td>Tribunal de Commerce de Liège</td> <td>1</td> </tr> <tr> <td>Cour d'appel de Liège</td> <td>1</td> </tr> <tr> <td>Cour du travail de Bruxelles</td> <td>1</td> </tr> <tr> <td>Tribunal correctionnel de Liège</td> <td>1</td> </tr> <tr> <td></td> <td style="border-top: 1px solid black;">9</td> </tr> </table>	Tribunal du travail du Nivelles	1	Tribunal du travail de Bruxelles	2	Rechtbank van Koophandel Brussel	1	Tribunal de Liège	1	Tribunal de Commerce de Liège	1	Cour d'appel de Liège	1	Cour du travail de Bruxelles	1	Tribunal correctionnel de Liège	1		9
Tribunal du travail du Nivelles	1																		
Tribunal du travail de Bruxelles	2																		
Rechtbank van Koophandel Brussel	1																		
Tribunal de Liège	1																		
Tribunal de Commerce de Liège	1																		
Cour d'appel de Liège	1																		
Cour du travail de Bruxelles	1																		
Tribunal correctionnel de Liège	1																		
	9																		
Denmark	1	1 judgment given by a court of first instance	<table> <tr> <td>Sø- og Handelsretten København</td> <td>1</td> </tr> </table>	Sø- og Handelsretten København	1														
Sø- og Handelsretten København	1																		
France	18	10 judgments given by supreme courts	<table> <tr> <td>Cour de cassation</td> <td>6</td> </tr> <tr> <td>Conseil d'État</td> <td>4</td> </tr> <tr> <td></td> <td style="border-top: 1px solid black;">10</td> </tr> </table>	Cour de cassation	6	Conseil d'État	4		10										
		Cour de cassation	6																
Conseil d'État	4																		
	10																		
8 judgments given by courts of appeal or of first instance	<table> <tr> <td>Cour d'appel de Dijon</td> <td>1</td> </tr> <tr> <td>Cour d'appel de Paris</td> <td>3</td> </tr> <tr> <td>Tribunal d'instance de Lille</td> <td>2</td> </tr> <tr> <td>Cour d'appel de Lyon</td> <td>1</td> </tr> <tr> <td>Commission de 1<sup>re</sup> instance du Contentieux de la Sécurité sociale et de la Mutualité sociale agricole de Paris</td> <td>1</td> </tr> <tr> <td></td> <td style="border-top: 1px solid black;">8</td> </tr> </table>	Cour d'appel de Dijon	1	Cour d'appel de Paris	3	Tribunal d'instance de Lille	2	Cour d'appel de Lyon	1	Commission de 1 <sup>re</sup> instance du Contentieux de la Sécurité sociale et de la Mutualité sociale agricole de Paris	1		8						
Cour d'appel de Dijon	1																		
Cour d'appel de Paris	3																		
Tribunal d'instance de Lille	2																		
Cour d'appel de Lyon	1																		
Commission de 1 <sup>re</sup> instance du Contentieux de la Sécurité sociale et de la Mutualité sociale agricole de Paris	1																		
	8																		

Member State	Number	Courts giving judgment																																	
Germany	47	18 judgments given by supreme courts	<table> <tr><td>Bundesverfassungsgericht</td><td>1</td></tr> <tr><td>Bundesfinanzhof</td><td>12</td></tr> <tr><td>Bundessozialgericht</td><td>2</td></tr> <tr><td>Bundesverwaltungsgericht</td><td>3</td></tr> <tr><td colspan="2"><hr/></td></tr> <tr><td></td><td>18</td></tr> </table>	Bundesverfassungsgericht	1	Bundesfinanzhof	12	Bundessozialgericht	2	Bundesverwaltungsgericht	3	<hr/>			18																				
		Bundesverfassungsgericht	1																																
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Bundesverwaltungsgericht	3																																		
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	18																																		
29 judgments given by courts of appeal or of first instance	<table> <tr><td>OLG Karlsruhe</td><td>1</td></tr> <tr><td>Landgericht Köln</td><td>1</td></tr> <tr><td>Landgericht München</td><td>1</td></tr> <tr><td>Finanzgericht Baden-Württemberg</td><td>1</td></tr> <tr><td>Finanzgericht Berlin</td><td>5</td></tr> <tr><td>Finanzgericht Bremen</td><td>1</td></tr> <tr><td>Finanzgericht Hamburg</td><td>7</td></tr> <tr><td>Hessisches Finanzgericht</td><td>3</td></tr> <tr><td>Finanzgericht Münster</td><td>2</td></tr> <tr><td>Finanzgericht Rheinland-Pfalz</td><td>1</td></tr> <tr><td>Bayerischer Verwaltungsgerichtshof</td><td>1</td></tr> <tr><td>Verwaltungsgericht Köln</td><td>1</td></tr> <tr><td>Verwaltungsgericht München</td><td>1</td></tr> <tr><td>Landessozialgericht Berlin</td><td>1</td></tr> <tr><td>Sozialgericht Augsburg</td><td>2</td></tr> <tr><td colspan="2"><hr/></td></tr> <tr><td></td><td>29</td></tr> </table>	OLG Karlsruhe	1	Landgericht Köln	1	Landgericht München	1	Finanzgericht Baden-Württemberg	1	Finanzgericht Berlin	5	Finanzgericht Bremen	1	Finanzgericht Hamburg	7	Hessisches Finanzgericht	3	Finanzgericht Münster	2	Finanzgericht Rheinland-Pfalz	1	Bayerischer Verwaltungsgerichtshof	1	Verwaltungsgericht Köln	1	Verwaltungsgericht München	1	Landessozialgericht Berlin	1	Sozialgericht Augsburg	2	<hr/>			29
OLG Karlsruhe	1																																		
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Landessozialgericht Berlin	1																																		
Sozialgericht Augsburg	2																																		
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	29																																		
Italy	17	3 judgments given by supreme courts	<table> <tr><td>Corte di cassazione</td><td>1</td></tr> <tr><td>Corte suprema di cassazione</td><td>1</td></tr> <tr><td>Corte costituzionale</td><td>1</td></tr> <tr><td colspan="2"><hr/></td></tr> <tr><td></td><td>3</td></tr> </table>	Corte di cassazione	1	Corte suprema di cassazione	1	Corte costituzionale	1	<hr/>			3																						
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Corte suprema di cassazione	1																																		
Corte costituzionale	1																																		
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14 judgments given by courts of appeal or of first instance	<table> <tr><td>Pretura di Abbiategrasso</td><td>1</td></tr> <tr><td>Pretura di Padova</td><td>1</td></tr> <tr><td>Corte d'appello di Roma</td><td>1</td></tr> <tr><td>Pretura di Roma</td><td>1</td></tr> <tr><td>Pretura di Napoli</td><td>1</td></tr> <tr><td>Pretura di Bovino</td><td>1</td></tr> <tr><td>Tribunale amministrativo regionale del Lazio</td><td>3</td></tr> <tr><td>Tribunale di Bolzano</td><td>1</td></tr> <tr><td>Tribunale civile e penale di Como</td><td>1</td></tr> <tr><td>Pretura di Padova, sede di Conselva</td><td>1</td></tr> <tr><td>Tribunale di Genova</td><td>1</td></tr> <tr><td>Tribunale di Trento</td><td>1</td></tr> <tr><td colspan="2"><hr/></td></tr> <tr><td></td><td>14</td></tr> </table>	Pretura di Abbiategrasso	1	Pretura di Padova	1	Corte d'appello di Roma	1	Pretura di Roma	1	Pretura di Napoli	1	Pretura di Bovino	1	Tribunale amministrativo regionale del Lazio	3	Tribunale di Bolzano	1	Tribunale civile e penale di Como	1	Pretura di Padova, sede di Conselva	1	Tribunale di Genova	1	Tribunale di Trento	1	<hr/>			14						
Pretura di Abbiategrasso	1																																		
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Corte d'appello di Roma	1																																		
Pretura di Roma	1																																		
Pretura di Napoli	1																																		
Pretura di Bovino	1																																		
Tribunale amministrativo regionale del Lazio	3																																		
Tribunale di Bolzano	1																																		
Tribunale civile e penale di Como	1																																		
Pretura di Padova, sede di Conselva	1																																		
Tribunale di Genova	1																																		
Tribunale di Trento	1																																		
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	14																																		

Member State	Number	Courts giving judgment		
Luxembourg	2	2 judgments given by a supreme court	Conseil d'État Cour de cassation	1 1 <hr/> 2
Netherlands	14	10 judgments given by supreme courts	Hoge Raad Centrale Raad van beroep College van beroep voor het bedrijfsleven	2 1 7 <hr/> 10
		4 judgments given by courts of appeal or of first instance	Gerechtshof Arnhem Arrondissementsrechtbank Rotterdam Arrondissementsrechtbank Amsterdam Kantongerecht Rotterdam	1 1 1 1 <hr/> 4
United Kingdom	10	5 judgments given by supreme courts	High Court of Justice Court of Justice of England High Court (Chancery Division)	2 2 1 <hr/> 5
		5 judgments given by courts of appeal or of first instance	Court of Appeal, Civil Division Court of Session (Edinburgh) Metropolitan Magistrate Marylebone National Insurance Commissioner	1 1 1 2 <hr/> 5

Certain of these judgments merit particular attention:

**Corte costituzionale of the Italian Republic, Judgment of 22 October 1975** (Soc. Industrie Chimiche Italia Centrale v Minister for Foreign Trade)

In this judgment the Italian Corte costituzionale recalled certain principles already set out in its judgment of 27 December 1973:

'As far as Italy is concerned, the allocation of legislative powers to the institutions of the European Communities and the corresponding limitation of the powers of Member States are rooted in Article 11 of the Constitution which authorizes the delegation of State powers – in the legislative, executive and judicial fields – to the Community.

Regulations adopted by the relevant institutions of the Communities (Council and Commission) pursuant to Article 189 of the Treaty of Rome are governed by the Community legal order. Community law and the internal law of Member States may be conceived of as independent and distinct systems, albeit coordinated according to the balance of powers laid down and guaranteed by the Treaties establishing the Communities and by subsequent Treaties.

Fundamental considerations of equality and of legal certainty demand that Community rules – which it is impossible to describe either as sources of international law, of foreign law or of domestic law of the Member States – should be fully and directly applicable throughout all the Member States without there being any need for internal legislation for this purpose.

It also follows from the logic of the Community system that Community regulations, as direct sources of rights and duties, both for the Member States and for their citizens as persons under the jurisdiction of the Community, cannot be the subject of national legislative measures aimed at postponing their entry into force or restricting their scope, even partially . . .

.....

Further on, the Corte costituzionale adds the following considerations:

‘As regards subsequent domestic provisions, adopted in laws or measures having the status of ordinary law, the Corte costituzionale is of the opinion that the legal order in force does not confer on Italian courts the power to annul them on the basis of the hypothesis of the general supremacy of Community law over national law. It is certainly not possible to accept the solution which was examined and rejected by the Corte di cassazione of a declaration of the nullity of the subsequent internal law, since it cannot be accepted that the transfer to Community authorities of the power to adopt rules of law on the basis of a precise criterion governing the distribution of powers in certain fields “in order to carry out their task . . . in accordance with the provisions of this Treaty” (cf. Article 189 of the Treaty of Rome) should entail as a consequence that the sovereign will of the legislative bodies of the Member States should be totally deprived of all effect, in so far as it is manifested in the matters reserved by the Treaties to Community rules; on the contrary, this transfer raises the different problem of the constitutionality of the various legislative measures.

Nor does it appear possible to conceive of the possibility of an annulment as being the result of a choice between the Community provision and the domestic provision, a choice to be made on each occasion by the Italian court on the basis of an assessment of their respective merits. In such a case it would have to be acknowledged that the Italian court has not only the option of choosing between several applicable provisions but also that of defining the only validly applicable provision, which would be equivalent to accepting that it has the power to establish and declare that the national legislature is completely devoid of authority albeit in certain fields only; such a power is certainly not conferred on it within the legal order at present in force.

It follows that, faced with the situation which has arisen following the publication in Italy of legislative provisions which have received and converted into domestic law directly applicable Community regulations, the court is bound to raise the question of their constitutionality.'

.....

'In the light of these considerations, which dispel any doubts as to the importance of the question of constitutionality which has been raised, it perhaps appears superfluous to point out the grounds on which it should be accepted as being wholly well-founded. Indeed, the subsequent publication of domestic legislative provisions, even if they have the same substantive content as the Community regulations, implies not only the possibility of postponing, either totally or partially, their application in clear violation of the second paragraph of Article 189 of the Treaty of Rome, but also a much more important consequence, in that the conversion of Community law into domestic law definitively withdraws the power to interpret that law from the Court of Justice of the European Communities, in open violation of the system laid down by Article 177 of the same Treaty, which is the necessary and fundamental guarantee of uniformity of application in all the Member States.'

.....

And finally:

'The force of judgments of the Corte costituzionale is laid down by Article 136 (1) of the Constitution and there is therefore no need to discuss it. On the other hand, a request for a declaration of secondary constitutional illegality cannot be accepted, both because such a decision would not be derived from the declaration of the illegality of the provisions at issue today, but would be explained by the identical nature of the defects which vitiate their legality, and because it would require on the part of the Corte costituzionale an analysis and an integral comparative examination of the Community regulations and subsequent domestic measures which make up a complete and many-sided system of rules, the interpretation of which is often in doubt and is not based upon judgments of the Court of Justice of the Communities. A declaration within the meaning of Article 27 of Law No 87 of 1953 therefore does not appear permissible inasmuch as it should be justified by a reasoned analysis for each of the provisions annulled.

The Corte costituzionale wishes rather that the Italian Parliament and Government should, so far as is possible, take steps to eliminate domestic measures which restate provisions of directly applicable Community regulations or which are in contradiction of the latter, and should avoid in future the publication of measures which are not strictly necessary for the application of the said regulations.'

**Cour de cassation of France (Chambre Mixte) Judgment of 24 May 1975**  
(Administration des douanes v Soc. Café Jacques Vabre & Soc. J. Weigel et Cie)

In a case concerning charges prohibited by the Treaty of Rome as being equivalent



to customs duties,<sup>1</sup> the Cour de cassation of France has given the following ruling on the supremacy of Community law over *subsequent* domestic law and on the duties resulting for national courts:

'The Treaty of 25 March 1957 establishing the European Economic Community which, pursuant to Article 55 of the Constitution, has an authority higher than that of laws, institutes an independent legal order integrated with those of the Member States. By reason of its specific nature the legal order which it has created is directly applicable to nationals of those States and is binding upon their courts. Accordingly, a court of appeal was fully entitled to decide that Article 95 of the Treaty was to be applied in the case in point to the exclusion of Article 265 of the Code des douanes, even though the latter provision was adopted subsequently.

It has been unsuccessfully claimed that Article 55 of the Constitution subordinates the authority which it confers on treaties ratified by France to the condition that they be applied by the other party. In fact, in the Community legal order, a failure by a Member State to fulfil its obligations under the Treaty of 25 March 1957 is actionable under Article 170 of the said Treaty, which precludes reliance before the national courts upon an objection based on a lack of reciprocity.

The Court of Justice of the European Communities has judged that the second paragraph of Article 95 of the Treaty of 25 March 1957 prohibits the imposition of any internal taxation on imported goods in excess of that imposed on a national product which, although not similar within the meaning of the first paragraph of Article 95, is nevertheless in competition with it. Accordingly, the Cour d'appel, in applying the abovementioned provision of the Treaty to the case in point, was correct in considering that the internal excise duty levied by the customs administration pursuant to Articles 265 of the Code des douanes on soluble coffees imported from the Netherlands – which was higher than that applied to soluble coffees manufactured in France from raw coffee for consumption in that country – was discriminatory in nature, having ascertained that although the coffee extract imported from the Netherlands and the raw coffee used in France for the manufacture of such products are not covered by the same customs classification, those products are nevertheless in competition.'

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<sup>1</sup> A case judged at first instance by the Tribunal d'instance du premier arrondissement de Paris – 8 January 1971 – see 'Information on the Court of Justice of the European Communities', No VIII, p. 24; and by the Cour d'appel, Paris, First Chamber – 7 July 1973 – *ibid.* No XIV, p. 40.

### III — Information on Community law

On 7 and 8 October the Court of Justice was visited by the First Vice-President and a numerous delegation from the Tribunal de grande instance, Paris.

There was a seminar for judges from 20 to 24 October. This five day seminar, the eighth since 1968, was attended by 75 judges from the nine Member States.

At the same time, the Court was visited by a number of German and Austrian judges.

The total number of visits in 1975 was 163 (235 in 1974), amounting to 4 098 visitors (against 2 852 in 1974).<sup>1</sup>

It appears, in the light of the above facts, that the Court of Justice has thus intensified its attempts to maintain a dialogue with national courts – which are in effect the ordinary courts in matters of Community law – and with all those concerned in the Community legal order.

The decisions of the Court were published during 1975 in the following journals in particular:

- Belgium:* Cahiers de Droit européen  
Journal des Tribunaux  
Rechtskundig Weekblad  
Jurisprudence commerciale de Belgique  
Revue belge de droit international  
Revue de droit fiscal  
Tijdschrift voor Privaatrecht  
Info Jura  
Europolitique
- Denmark:* Ugeskrift for Retsvæsen  
Juristen  
Nordisk Tidsskrift for internasjonal Rett
- France:* Annuaire français de droit international  
Droit rural  
Le Droit et les Affaires  
Droit social  
Gazette du Palais<sup>2</sup>  
Jurisclasseur périodique (La semaine juridique)

<sup>1</sup> See Annex I for the details.

<sup>2</sup> In collaboration with the Außenwirtschaftsdienst des Betriebsberaters.

- Recueil Dalloz  
 Revue critique de droit international privé  
 Revue internationale de la concurrence  
 Revue trimestrielle de droit européen  
 Sommaire de sécurité sociale  
 La vie judiciaire
- Germany:* Außenwirtschaftsdienst des Betriebsberaters<sup>1</sup>  
 Deutsches Verwaltungsblatt  
 Europarecht  
 Neue Juristische Wochenschrift  
 Die öffentliche Verwaltung  
 Vereinigte Wirtschaftsdienste (VWD)  
 Wirtschaft und Wettbewerb  
 Zeitschrift für das gesamte Handels- und Wirtschaftsrecht  
 Grundrechte (Die Rechtsprechung in Europa)
- Italy:* Diritto dell'Economia  
 Foro Italiano  
 Foro Padano  
 Rivista di Diritto Europeo  
 Rivista di Diritto Internazionale  
 Rivista di Diritto privato e processuale  
 Il Diritto negli Scambi Internazionali
- Luxembourg:* Pasicrisie luxembourgeoise
- Netherlands:* Administratieve en Rechterlijke Beslissingen  
 Ars Aequi  
 Common Market Law Review  
 Nederlandse Jurisprudentie  
 Rechtspraak van de Week  
 Sociaal-economische Wetgeving
- United Kingdom:* Common Market Law Reports  
 The Times (European Law Reports)  
 'Europe' International Press Agency  
 European Report (Agra, Brussels)  
 F.T. European Law Newsletter
- Austria:* Oesterreichische Juristenzeitung

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<sup>1</sup> In collaboration with the Gazette du Palais.

Visits in 1975<sup>1</sup>

ANNEX I

Description	Belgium	Denmark	France	FR Germany	Ireland	Italy	Luxem- bourg	Nether- lands	UK	Third countries	Mixed	Total
Visits and individual seminars	42	—	3	20	—	—	—	30	26	13	29	163
Lawyers	—	—	—	177	—	—	—	—	54	3	—	234
Parliamentarians	—	—	—	—	—	—	—	—	23	1	—	24
Students	290	138	254	655	15	105	29	368	304	141	—	2 299
Journalists	26	—	—	42	—	—	—	—	28	—	10	106
Trainees from the Commission and European Parliament	—	—	—	—	—	—	—	—	—	8	389	397
Mixed	—	—	—	—	—	—	—	—	—	—	180	180
Teachers of Law	—	29	—	—	—	—	—	—	13	1	—	43
Trade Unionists	—	160	—	—	—	—	—	—	—	—	—	160
<b>Total</b>	<b>358</b>	<b>327</b>	<b>257</b>	<b>894</b>	<b>15</b>	<b>105</b>	<b>29</b>	<b>398</b>	<b>448</b>	<b>167</b>	<b>608</b>	<b>3 606</b>
Auditeurs E.N.A.				15								
Richterkademie Trier				40								
Meeting of judges				80								
German judges				2								
Bayerischer Richterverein				23								
Bar Associations of Nancy and Metz				60								
Meeting of judges				77								
Bundeskartellamt Berlin				5								
Judges from the Tribunal de grande instance, Paris				20								
Judges' seminar				75								
Austrian judges				42								
German judges (Arbeitgebervereinigung Ostwestfalen-Lippe)				40								479
				—								
											<b>Total</b>	<b>4 085</b>

<sup>1</sup> Total 163 visits.

## ANNEX II

### **Composition of the Court of Justice for the judicial year 1975/1976 (Order of seniority)**

R. LECOURT (President)  
H. KUTSCHER (President of the Second Chamber)  
H. MAYRAS (First Advocate-General)  
A. O'KEEFFE (President of the First Chamber)  
A. M. DONNER (Judge)  
A. TRABUCCHI (Advocate-General)  
J. MERTENS DE WILMARS (Judge)  
P. PESCATORE (Judge)  
M. SØRENSEN (Judge)  
J.-P. WARNER (Advocate-General)  
Lord MACKENZIE STUART (Judge)  
G. REISCHL (Advocate-General)  
F. CAPOTORTI (Judge)  
A. VAN HOUTTE (Registrar)

### **Composition of the Chambers**

#### *First Chamber*

President: A. O'KEEFFE  
Judge A. M. DONNER  
Judge J. MERTENS DE WILMARS  
Judge F. CAPOTORTI  
Advocate-General J.-P. WARNER  
Advocate-General G. REISCHL

#### *Second Chamber*

President: H. KUTSCHER  
Judge P. PESCATORE  
Judge M. SØRENSEN  
Judge Lord MACKENZIE STUART  
Advocate-General H. MAYRAS  
Advocate-General A. TRABUCCHI

**Former Presidents of the Court of Justice**

PILOTTI (Massimo)†	President of the Court of Justice of the European Coal and Steel Community from 4 December 1952 to 6 October 1958
DONNER (André)	President of the Court of Justice of the European Communities from 7 October 1958 to 7 October 1964
HAMMES (Charles-Léon)†	President of the Court of Justice of the European Communities from 8 October 1964 to 8 October 1967

**Former Members of the Court of Justice**

PILOTTI (Massimo)†	President and Judge at the Court of Justice from 4 December 1952 to 6 October 1958
SERRARENS (P. J. S.)†	Judge at the Court of Justice from 4 December 1952 to 6 October 1958
VAN KLEFFENS (A.)†	Judge at the Court of Justice from 4 December 1952 to 6 October 1958
CATALANO (Nicola)	Judge at the Court of Justice from 7 October 1958 to 8 March 1962
RUEFF (Jacques)	Judge at the Court of Justice from 4 December 1952 to 18 May 1962
RIESE (Otto)	Judge at the Court of Justice from 4 December 1952 to 31 January 1963
ROSSI (Rino)†	Judge at the Court of Justice from 7 October 1958 to 7 October 1964
DELVAUX (Louis)	Judge at the Court of Justice from 4 December 1952 to 8 October 1967
HAMMES (Charles-Léon)†	Judge at the Court of Justice from 4 December 1952 to 8 October 1967, President of the Court from 8 October 1964 to 8 October 1967
LAGRANGE (Maurice)	Advocate-General at the Court of Justice from 4 December 1952 to 7 October 1964
STRAUSS (Walter)†	Judge at the Court of Justice from 1 February 1963 to 6 October 1970

GAND (Joseph)†

Advocate-General at the Court of Justice from 7 October 1964 to 6 October 1970

DUTHEILLET DE LAMOTHE (Alain)†

Advocate-General at the Court of Justice from 7 October 1970 to 2 January 1972

ROEMER (Karl)

Advocate-General at the Court of Justice from 4 December 1952 to 9 October 1973

Ó DÁLAIGH (Cearbhall)

Judge at the Court of Justice from 9 January 1973 to 12 December 1974, President of Chamber from October to December 1974

## Summary of types of procedure before the Court of Justice

It will be remembered that under the Treaties a case may be brought before the Court of Justice either by a national court with a view to determining the validity or interpretation of a provision of Community law, or directly by the Community institutions, Member States or private parties under the conditions laid down by the Treaties.

### *A – References for preliminary rulings*

The national court submits to the Court of Justice questions relating to the validity or interpretation of a provision of Community law by means of a formal judicial document (decision, judgment or order) containing the wording of the question(s) which it wishes to refer to the Court of Justice. This document is sent by the registry of the national court to the Registry of the Court of Justice,<sup>1</sup> accompanied in appropriate cases by a file intended to inform the Court of Justice of the background and scope of the questions referred.

During a period of two months the Commission, the Member States and the parties to the national proceedings may submit observations or statements of case to the Court of Justice, after which they will be summoned to a hearing at which they may submit oral observations, through their Agents in the case of the Commission and the Member States, through lawyers who are members of a Bar of a Member State or through university teachers who have a right of audience before the Court pursuant to Article 36 of the Rules of Procedure.

After the Advocate-General has presented his opinion the judgment given by the Court of Justice is transmitted to the national court through the registries.

### *B – Direct actions*

Actions are brought before the Court by an application addressed by a lawyer to the Registrar (B.P. 1406, Luxembourg) by registered post.

Any lawyer who is a member of the Bar of one of the Member States or a professor holding a chair of law in a university of a Member State, where the law of such State authorizes him to plead before its own courts, is qualified to appear before the Court of Justice.

The application must contain:

- the name and permanent residence of the applicant;
- the name of the party against whom the application is made;
- the subject-matter of the dispute and the grounds on which the application is based;
- the form of order sought by the applicant;
- the nature of any evidence offered;
- an address for service in the place where the Court has its seat, with an indication of the name of a person who is authorized and has expressed willingness to accept service.

<sup>1</sup> Court of Justice of the European Communities, Kirchberg, B.P. 1406, Luxembourg; Tel. 4 76 21; Telegrams: CURIALUX; Telex: 2510 CURIA LU.



The application should also be accompanied by the following documents:

- the decision the annulment of which is sought, or, in the case of proceedings against an implied decision, documentary evidence of the date on which the request to the institution in question was lodged;
- a certificate that the lawyer is entitled to practise before a court of a Member State;
- where an applicant is a legal person governed by private law, the instrument or instruments constituting and regulating it, and proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorized for the purpose.

The parties must choose an address for service in Luxembourg. In the case of the Governments of Member States, the address for service is normally that of their diplomatic representative accredited to the Government of the Grand Duchy. In the case of private parties (natural or legal persons) the address for service – which in fact is merely a 'letter box' – may be that of a Luxembourg lawyer or any person enjoying their confidence.

The application is notified to defendants by the Registry of the Court of Justice. It calls for a statement of defence to be put in by them; these documents may be supplemented by a reply on the part of the applicant and finally a rejoinder on the part of the defence.

The written procedure thus completed is followed by an oral hearing, at which the parties are represented by lawyers or agents (in the case of Community institutions or Member States).

After the opinion of the Advocate-General has been heard, the judgment is given. It is served on the parties by the Registry.

**Information and documentation on the Court of Justice and its work****COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES**

Post Box 1406, Luxembourg. Telephone 4 76 21.  
 Telex (Registry): 2510 CURIA LU.  
 Telex (Court Information Service): 2771 CJ INFO LU.  
 Telegrams: CURIA Luxembourg.

Complete list of publications giving information on the Court:

**I – Information on current cases (for general use)****1. *Hearings of the Court***

The calendar of public hearings is drawn up each week. It is sometimes necessary to alter it subsequently; it is therefore for information only. This calendar may be obtained free of charge on request from the Court Registry. In French.

**2. *Proceedings of the Court of Justice of the European Communities***

Weekly summary of the proceedings of the Court published in the six official languages of the Community. Free of charge. Available from the information office; please indicate language required. (Orders for the United States may be addressed to the Communities' information office in Washington or in New York.)

**3. *Judgments or orders of the Court, reports for hearing, opinions of Advocates-General***

Photocopies of these documents are sent to the parties and may be obtained on request by other interested persons, after they have been read and distributed at the public hearing. Free of charge. Requests for judgments, orders and reports for hearings should be made to the Registry. Opinions of the Advocates-General may be obtained from the information office. As from May 1972 the *London Times* carries articles under the heading 'European Law Reports' covering the more important cases in which the Court has given judgment.

However, this service is provided only on express request in each case as it arises; readers wishing to obtain the full collection of the case-law are advised to subscribe to the Reports of Cases before the Court (cf. III, Official publications).

**II – Technical information and documentation****1. *Information on the Court of Justice of the European Communities***

Quarterly bulletin published by the information office of the Court of Justice. It contains the title and a short summary of the more important cases brought before the Court of Justice and before national courts. Free of charge. May be obtained from the Communities' information offices (cf. addresses set out in the Foreword).

**2. *Annual synopsis of the activities of the Court***

In the six official languages. Free of charge. May be ordered from the Communities' information offices.

**3. *Collection of texts on the organization, powers and procedures of the Court***

A new edition appeared in December 1975. Orders should be addressed, indicating the language required, to the Publications Office of the European Communities, or to the booksellers whose addresses are listed below.

4. *Legal publications on European integration (Bibliography)*

On sale at the addresses set out below.

5. *Bibliography of European case-law (1965)*

On sale at the following addresses:

BELGIUM:	Éts Emile Bruylant, Rue de la Régence 67, 1000 Bruxelles.
DENMARK:	J. H. Schultz – Boghandel – Møntergade 19, 1116 København K
FRANCE:	Éditions A. Pedone, 13, rue Soufflot, 75005 Paris
GERMANY:	Carl Heymann's Verlag, Gereonstraße 18–32, 5 Köln 1
IRELAND:	Messrs Greene & Co. Booksellers, 16 Clare Street, Dublin 2
ITALY:	CEDAM–Casa Editrice Dott. A. Milani, Via Jappelli 5, 35100 Padova (M–64194)
LUXEMBOURG:	Office des publications officielles des Communautés européennes, Boîte postale 1003, Luxembourg
NETHERLANDS:	NV Martinus Nijhoff, Lange Voorhout 9, 's-Gravenhage
UNITED KINGDOM:	Sweet & Maxwell, Spon (Booksellers) Limited, North Way, Andover, Hants SP10 5BE
OTHER COUNTRIES:	Office des publications officielles des Communautés européennes, Boîte postale 1003, Luxembourg

6. *Compendium of case-law relating to the European Communities (Europäische Rechtsprechung – Répertoire de la jurisprudence)*

Extracts from cases relating to the Treaties establishing the European Communities published in German and French. Extracts from national judgments are also published in the original language.

The German and French versions are available from:

Carl Heymann's Verlag,  
Gereonstraße 18–32,  
D 5000 Köln 1 (Federal Republic of Germany)

In addition to the complete collection in French and German an English version is available as from 1973. The first volume of the English series is on sale at:

Elsevier – North Holland – Excerpta Medica,  
P.O. Box 211,  
Amsterdam (Netherlands).

### III – Official publications

The *Recueil de la Jurisprudence de la Cour* is the only authentic source for citations of judgments of the Court of Justice. The volumes for 1954 to 1972 are published in Dutch, French, German and Italian. As from 1973 they have also been published in Danish and English.

These reports, covering 22 years of case-law (1953 to 1975) are on sale at the same addresses as the publications mentioned under II, above. An English edition of the volumes for 1954 to 1972 will be completed by the end of 1977.

As from 1973, the reports are also published in English under the title 'Reports of Cases before the Court'.

#### IV – Visits

Sessions of the Court are held on Tuesdays, Wednesdays and Thursdays every week, except during the Court's vacations (from 20 December to 6 January, the week preceding and the week following Easter, 15 July to 15 September. Please consult the full list of public holidays in Luxembourg set out below).

Visitors may attend public hearings of the Court or of the Chambers to the extent permitted by the seating capacity. No visitor may be present at cases heard *in camera* or during interlocutory proceedings.

Half an hour before the beginning of public hearings a briefing is given to visitors who have indicated their intention of attending the hearing.

#### Public holidays in Luxembourg

In addition to the Court's vacations mentioned above the Court of Justice is closed on the following days:

New Year's Day	1 January
Carnival Monday	
Easter Monday	
Ascension Day	
Whit Monday	
Labour Day	1 May
Luxembourg national holiday	23 June
Assumption	15 August
'Schöbermesse' Monday	First Monday of September
All Saints' Day	1 November
All Souls' Day	2 November
Christmas Eve	24 December
Christmas Day	25 December
Boxing Day	26 December
New Year's Eve	31 December