

**Review of cases heard
by the Court of Justice
of the European Communities
in 1970**

LUXEMBOURG 1971

I—COMMUNITY CASE LAW IN 1970

Judgments delivered

During 1970 the Court of Justice of the European Communities handed down 63 judgments : 36 in contentious proceedings and 27 in cases of interlocutory questions referred to it by the national courts of Member States.

Documentation

The record of proceedings in these cases produced some 16,000 pages, of which 12,000 have been translated by the linguistic service into the four Community languages.

Hearings

These cases involved about a hundred hearings.

Barristers

At these hearings, besides representatives or officials of the Commission and the Member States, the Court heard :

- 26 barristers from Germany
- 11 barristers from Belgium
- 6 barristers from France
- 9 barristers from Italy
- 8 barristers from Luxembourg
- 9 barristers from the Netherlands.

Duration of cases

The time taken for proceedings was kept within the following limits :

In direct proceedings the average duration was of the order of 8 to 9 months, the shortest case taking 4 months and the longest being exceptionally protracted, notably by the need for an expert's opinion, for 15 months.

In cases arising out of interlocutory proceedings on points raised by national courts the average duration was 5 to 6 months (inclusive of times when the Court went into recess), the shortest case taking 5 months, and the longest, exceptionally, 10 (due to the rotation of judges, and the bearing this case had on those to follow).

Trends in case law

The growing diversification in the Court's case law observed in 1969 continued in 1970, as the following summary of cases brought will testify :

Contentious cases

In passing judgment in actions brought *by the Commission*, the Court of Justice had occasion to find four instances of failure by a Member State to honour its Treaty obligations ; in three suits of this type its verdict went against the Commission.

In connection with decisions given on suits brought *by private individuals*, the Court was called upon to decide nine cases concerning cartel agreements and concentrations, alignment of legislation, agricultural markets and the status of officials.

Interlocutory decisions

As in the previous year, the Court was called upon in 1970 to rule, on points raised by national Courts, upon the interpretation of the most varied provisions of Community law concerning agricultural markets, agreements and concentrations, social security of migrant workers and transport.

The points settled by the Court in these rulings may be classified as follows :

Breach of obligations by Member States

The three suits in which the Court found in favour of the defendant Member States concerned Italy and France.

The point referred to the Court was whether in applying to wools imported from the other Member States a higher rate of tax than on similar national products the Italian Republic was in breach of the Rome Treaty. An Italian decree-law having been issued during the proceedings, the parties disagreed as to Italy's fulfilment or non-fulfilment of the terms of the Treaty.

Taking the view that the action did not differentiate between suing Italy for a former breach or for one arising from the new situation, the Court decided it could not pass judgment without prejudice to Italy's rights to prepare its defence in the light of the new situation that had arisen (7-69).

Being petitioned by the Commission to decide that in excluding Tunisian olive oil from application of the Community levy, the French Republic had committed a breach of its obligations, the Court gave a bipartite ruling. First, it declared that extension of

the common agricultural policy of the Six to the fats sector did not allow a pure and simple application of the protocol providing for duty-free importation based on customs duty paid prior to the organization of agricultural markets. However, it considered that the Commission should have proposed, and the Council decided on, explicit provisions to settle the problem caused by the impact on the Franco-Tunisian Treaty of the situation created by the organization of the market in fats. Thus the Court upheld the Treaty principle without finding for a breach of obligation thereunder (26-69).

The Commission having charged the Italian Government with only applying to extremely small quantities of exports of agricultural products the refunds to exporters prescribed by the Common Market regulations in the sector of fodder crops and oil seeds, the Court rejected the Commission's suit on the ground that the figures it supplied did not constitute evidence of a breach of Community rules (31-69).

On the other hand, in four cases the accusation of a breach of obligation by Member States was upheld.

For instance, the Court held that the Italian Republic had, by failing to establish the survey of wine-growing ordered by a regulation of the Council with a view to establishing a common organization of markets in the wine-growing sector, committed a breach of its obligations (33-69).

It again found the same State in breach of its Treaty obligations in having applied to imports of lead and zinc higher rates of customs duty than those set under Community regulations (38-69).

The Court of Justice decided that by levying a fixed-rate tax affecting unequally home-grown timber and timber imported from the other Member States, the Kingdom of Belgium had failed to fulfil its obligations. The Belgian Government having agreed during the hearing that legislative machinery had been set in motion for terminating this breach of obligation, but that the Bill was being held up in a parliamentary committee, the Court ruled that the Common Market Treaty committed the Member States as such, and that the State's responsibility was involved irrespective of whichever of its organs had by its action or inaction caused the breach, even in the case of a constitutionally independent institution (77-69).

The Commission of the European Communities having accused the Italian Republic of failing to fulfil its obligations under the Common Market Treaty by levying on imports from the other Member States a charge of 0.5 % for administrative services in connection with agricultural products, the Court found for the plaintiff (8-70).

Competition

In suits brought against the Commission by three manufacturers of pharmaceuticals, the Court of Justice pronounced upon the legality of fines totalling 435,000UA⁽¹⁾

(¹) Or about 21,750,000 BF ; 1,740,000 DM ; 2,147,618 FF ; 271,875,000 It. Lire ; 1,574,718 Fl (EMA—European Monetary Agreement).

imposed by the Commission on these three undertakings for breach of the Treaty provisions on competition in respect of a price-fixing agreement concerning quinine (41, 44 and 45-69).

On an interlocutory question raised by the Karlsruhe Court of Appeal in a brewery contract case, the Court ruled on a point of law that a contract between producer and retailer did not have to be notified to the Commission provided, on the one hand, the two parties were established in the same Member State and, on the other, the goods in question did not cross any national frontiers (43-69).

On a direct suit brought by a private individual against the Commission (as successor to the High Authority of the ECSC) the Court of Justice was called upon to give a ruling on an agreement concerning iron scrap alleged by the petitioner to be illegal under the ECSC Treaty (75-69).

On a reference by the Karlsruhe Court of Appeal (FRG) concerning a point of competition (contracts of deposit) the Court of Justice ruled on a point of law that agreements which were an exact copy of a standard contract concluded previously and duly notified, had the same provisional status as the standard contract. Furthermore, contracts notified as standard contracts are to be regarded merely as contracts between two undertakings, even if they form part of a network of parallel contracts (1-70).

Taxation

On a direct action by the French Republic against the Commission, the Court of Justice was asked to settle the question of whether the application by France of a parafiscal tax on imported textiles sold in France, the proceeds being allocated to development of the textile industry, contravened the Treaty. The Court decided that while an aid properly so-called might, albeit irregular under the Community rules, be incapable of substantially affecting trade between States and be accordingly deemed acceptable, its disturbing effect on such trade might be aggravated by a funding procedure rendering the whole incompatible with a single market and the common interest (47-69).

On an interlocutory question referred by three German fiscal tribunals, the Court of Justice ruled on a point of law that the ban on cumulating the system of VAT with specific transport tax regimes would only take effect from 1 January 1972, and that a special tax levied hitherto by a Member State was not illegal even if that State had already introduced VAT (9-70, 20-70, 23-70).

Tariff quotas

On a direct suit by three firms against the Commission, the Court of Justice was required to pronounce upon a question of tariff quotas fixed by the Commission. The Court declared that the only effect of fixing tariff quotas was to create a favourable option for the Member States concerned, without conferring any rights on the possible beneficiaries of action taken by such States (69-69).

Social security

On an interlocutory question referred to it by the Mons (Belgium) Industrial Court of Appeal (Conseil de prud'hommes d'appel), the Court of Justice stated on a point of law that in the case of an orphaned child of a migrant worker residing in the territory of a Member State in which the deceased had not put in sufficient time to qualify for the benefits provided under the legislation of the country of residence, the appropriate pension fund of the country in which the pension is payable shall be likewise required to pay family allowances to the deceased's heirs and assigns (3-70).

Agricultural levies

On an interlocutory question referred to it by the Bundesfinanzhof (German Federal Finance Court), the Court of Justice not only interpreted a tariff item—the point at issue was whether certain cuts of poultry meat are to be classified as poultry meat or as offal—but defined the respective prerogatives of the Community and the Member States concerning the classification of goods imported from third countries. The Court ruled on a point of law that while the Member States were indeed under obligation to eliminate any obstacles placed by their legislation in the way of application of Community regulations, they were not thereby authorized to interpret these unilaterally (40-69).

On an interlocutory question referred to it by the German Federal Finance Court, the Court of Justice gave a ruling on the interpretation of a Community tariff regulation as including under the heading of tapioca a product with a starch content of over 40% (72 and 74-69).

On an interlocutory question referred to it by the same Court, the Court of Justice stated on a point of law that the levy to be charged on agricultural imports shall be that prevailing at the time they are actually imported (73-69).

Admissibility of suits by private individuals

On a direct action brought by several French undertakings against measures taken by the Commission fixing compensatory payments on exports of flour following the devaluation of the French franc, the Court issued a reminder that the Commission's regulations must directly affect an individual firm for the latter to be able to sue the Commission directly before the Court on account of them (63, 64 and 65-69).

On a direct suit against the Commission by Italian landowners, the Court of Justice gave two rulings on the conditions under which private individuals may bring actions before it. Two Italian petitioners had filed suits against the Commission alleging that it had infringed the Rome Treaty by failing to take the decision they asked for concerning the procedure to be followed in drawing up leases in respect of farmland owned by them.

By virtue of a Bill passed by the Italian Senate, farm rents are payable on the basis of rateable value multiplied by a coefficient to be determined by a Commission.

The plaintiffs, owners of farmland leased to tenants, held that this Bill was liable to distort competition in the Common Market. They asked the Commission to call upon the Italian Government to apply the provisions of the Rome Treaty and regulate on a uniform basis leases of farmland in the Member States of the Community. The Court ruled that the Treaty only authorized private individuals to bring suits under strictly defined conditions ; in particular they might not impugn the Commission for not making them a recommendation or giving them an opinion. Consequently it rejected the actions as inadmissible (6 and 15-70).

On claims by civil servants

17 decisions were given in 1970.

National Community case-law

This summary of trends in Community case-law would be incomplete if it did not mention the major decisions handed down by national courts in application of Community law. To be sure, no complete knowledge of such jurisprudence can be obtained in the absence of a central registration of all judgments and decrees rendered by the courts and tribunals of the Member States. At any rate the promising start of centralized registration organized with the co-operation of a great many national courts⁽¹⁾ by the Documentation and Library Service of the Court of Justice affords a sufficiently approximate survey of national case-law to enable the following numerical table to be produced showing the comparative numbers of Community cases directly tried by national courts, upper or lower :

Country	Supreme courts	Other courts
Germany	27	26
Belgium	4	4
France	3 ⁽¹⁾	1
Italy	1	3
Luxembourg	1	1
Netherlands	5	7

⁽¹⁾ To which may be added a judgment of the Constitutional Court.

Many of these decisions on a wide variety of topics—agricultural levies, road transport, social security of migrant workers, special taxes, licenses, import certificates and deposits, competition, third party liability, the reclaiming of amounts paid incorrectly—are of considerable interest. To take only a few examples :

From November 1958 to November 1964 a Belgian firm paid duty amounting to 59,638,636 Belgian francs on dairy products imported under license. The limited

⁽¹⁾ The offices of the Court of Justice welcome any copy of judgments or decisions by national courts in the matter of Community law, to be sent to the following address : Cour de justice des Communautés européennes, 12, rue de la Côte-d'Eich, Luxembourg (G.-D.).

company "Fromagerie Franco-Suisse Le Ski", having bought up the above-mentioned concern, claimed in the courts that the duty paid could not be demanded from the original petitioner because this infringed the Treaty of Rome establishing the European Economic Community. Consequently S.A. Fromagerie Franco-Suisse claimed repayment of monies paid incorrectly.

The Belgian Government opposed this on the ground that the Rome Treaty provided for no other sanction for non-observance of its provisions than the procedure of verification, which gave no authority to repeal or declare void ab initio the enactment impugned.

The Brussels Court of Appeal, seized of the matter, after stating that Article 12 of the EEC Treaty is to be interpreted as producing immediate effects and engendering on the count of those subject to its jurisdiction individual rights which the domestic courts ought to safeguard, and that "the superiority of international law compels recognition both on grounds of social morality and because to grant superiority to the national law would spell the doom of international law", ruled on a point of law that the appellant was in principle entitled to claim the refund of the special duties paid by it, pursuant to the Royal Decree of 3 November 1958 and subsequent decrees in connexion with imports of dairy produce from Member States of the European Economic Community (Brussels Court of Appeal, 2nd Chamber, 4 March 1970).

The German Federal Constitutional Court was seized, by an importer of agricultural produce, of an appeal against a decision by the Federal Court of Finance. The petitioner complained inter alia that the latter had not referred to the Court of Justice of the European Communities a question bearing on the interpretation of regulations Nos. 19 and 55 of the Council of the EEC.

The Constitutional Court rejected the appeal on the ground that the Federal Finance Court had not cast any doubt on the validity of Community regulations and that its decision did not depart from the case-law of the Court of Justice of the European Communities on this score.

In any case, reference to the Court of Justice was not arbitrarily omitted. Hence the appellant had not been denied a proper hearing. The authority of the appropriate federal minister to fix the threshold prices was valid. In this respect the Federal Constitutional Court stressed the encroachment of Community law on national law (Bundesverfassungsgericht, 2nd Chamber, 13 October 1970).

The French Court of Appeal passed judgment in a case involving the relationship between national and community law.

A French importer having imported from Italy natural sweet wines conforming in quality to Community regulations, but not French statutory requirements, was prosecuted for fraudulent misrepresentation. He was discharged in the criminal courts, whose decision was confirmed in the upper courts, whereupon an appeal was brought by the administrator of customs and excise and the trade association concerned. The Court of Cassation rejected the appeals on the ground that Community rules had precedence over French national law (French Court of Cassation, Criminal Division, 22 October 1970).

II—PROGRESS OF COMMUNITY CONTENTIOUS PROCEEDINGS IN 1970

The Court of Justice registered 80 fresh cases in 1970.

The business of the Court over the years is summarized in the following table :

Number of proceedings instituted per annum

1953 — 4	1962 — 35
1954 — 10	1963 — 105
1955 — 9	1964 — 55
1956 — 11	1965 — 62
1957 — 19	1966 — 31
1958 — 43	1967 — 37
1959 — 47	1968 — 32
1960 — 23	1969 — 77
1961 — 26	1970 — 80

Thus the number of cases recorded in 1970 falls not far short of the record figure for 1963.

The 80 fresh cases in 1970 break down as follows :

Direct cases : 48, made up of	
Direct actions by the Commission against Member States	2
Actions by the Commission against the Council	1
Actions by Member States	1
Actions by private individuals	9
Actions by private servants	35
	48
Interlocutory proceedings	32
	80

ANALYSIS OF THE COURT'S BUSINESS

Actions brought by the Commission against Member States for breach of their obligations

Two actions were brought by the Commission in 1970 against Member States for a breach of obligations in respect of levies and taxes equivalent in effect to customs duties.

Thus the growth of breach of obligations proceedings against States is irregular : none were brought in 1966 and 1967, three in 1968, 11 in 1969 and 2 only in 1970.

Actions by the Commission against the Council of Ministers of the Communities

This was the first recorded case of one institution suing another. The Commission brought an action against the Council alleging that the latter had infringed the Treaty in negotiating an international convention with third countries.

Actions by Member States

Member States continue to leave unused the procedure for suing other Member States before the Court of Justice for breach of their obligations. Thus Article 170 of the EEC Treaty has never been invoked yet. Doubtless Member States prefer to leave it to the Commission to bring an action.

They are also apparently reluctant to sue the Commission or Council, for only a single case of this type was recorded in 1970 (involving aids and subsidies granted by Member States), compared with 3 in 1965, 2 in 1966, 1 in 1967, 1 in 1968 and 4 in 1969.

Actions by private individuals

Actions by private individuals against Community institutions fell steeply in 1970 compared with the year before. There were 9 cases, as against 20 in 1969, 3 in 1968 and 4 in 1967.

Actions by civil servants

35 cases were brought.

Interlocutory proceedings

There was a substantial increase in cases, from 17 to 32 from one year to the next.

Such cases are the best pointer to the co-operation between judiciaries that is growing up between the Court of Justice and national courts, as the following table shows :

- 1 interlocutory proceeding in 1961
- 5 interlocutory proceedings in 1962
- 6 interlocutory proceedings in 1963
- 6 interlocutory proceedings in 1964
- 7 interlocutory proceedings in 1965
- 1 interlocutory proceeding in 1966
- 23 interlocutory proceedings in 1967
- 9 interlocutory proceedings in 1968
- 17 interlocutory proceedings in 1969
- 32 interlocutory proceedings in 1970

It is an interesting fact that the 32 interlocutory proceedings instituted in 1970 came from 5 high courts (Bundesverwaltungsgericht — 1, Bundesfinanzhof — 3, Belgian Court of Cassation and Council of State, French Council of State) and 24 courts of first instance or appeal.

Geographically, the cases were distributed as follows :

Country	Number	Court
Germany	21	Federal Administrative Court(1), Federal Finance Court(3), courts of first instance and appeal (notably fiscal tribunals)
Belgium	4	Court of Cassation, Council of State, 2 social security tribunals
France	2	Council of State, one court of first instance
Italy	2	2 courts of first instance
Luxembourg	0	0
Netherlands	3	Appeals tribunal (administrative)

The matters at issue in interlocutory proceedings in 1970 are no more varied than in 1969. At most there was a notable increase in the difficulties of interpreting the common external tariff in respect of the classification of imports.

The cases brought in 1970 concerned :

Customs duty	4
State monopolies	1
Agricultural market	16
Social security of migrant workers	3
Cartel agreements, dominant market positions	3
Transport	4
Social welfare policy	1
	32
Total	32

The growth in interlocutory proceedings attested by these figures is a big factor in the progress of Community law. To begin with it shows what inroads it is making in each of the Member States, thus playing a leading part in the unification of legal systems within the Community. It also shows the growing interest being taken by the national courts in co-operation with the Court of Justice, in which a lead has been given by the Supreme Courts of Germany, Belgium, France, Luxembourg and the Netherlands.

Lastly it is worth noting that such co-operation is also sought after by firms for the constitution of arbitration boards. In 1970 for the first time major undertakings in the Member States agreed to refer to the Court of Justice for the nomination of arbitrators to settle disputes among themselves.

III—GROWTH OF INFORMATION ON COMMUNITY LAW

Lastly, the activities of the Court of Justice have not failed to attract notice in sundry legal and economic circles that are desirous of obtaining information about its functioning and case-law.

For the Court itself it is a matter of primary concern to ensure the quality of the relations it is able to maintain with national judiciaries for the development of Community law.

Thus in 1970 it responded to an invitation by the German Federal Constitutional Court and Federal Administrative Court, the French Council of State and Court of Cassation, the Netherlands Hoge Raad and Centrale Raad van Beroep, to participate in study meetings with these upper courts. It was received on this occasion by the President of France and the Queen of the Netherlands, and by the German, French and Netherlands Ministers of Justice.

With the agreement of the Ministers of Justice of the Six and at the request of some of these, it has organized at its headquarters training courses of one week, which have been attended by :

- 11 German judges
- 6 Belgian judges
- 11 French judges
- 14 Italian judges
- 3 Luxembourg judges
- 6 Dutch judges

Two-day working meetings have twice (March and October 1970) been held at Luxembourg with the highest judicial and administrative law officers of the Member States.

These meetings with the Court of Justice were attended by :

- 24 senior law officers from Germany
- 12 senior law officers from Belgium
- 26 senior law officers from France
- 23 senior law officers from Italy
- 2 senior law officers from Luxembourg
- 11 senior law officers from the Netherlands

In addition the Belgian section of the International Union of Judges, the Deutsche Richterakademie, as well as the law officers attending conferences organized by the Marienberg Europe House (FRG), visited the Court of Justice in 1970.

Thus a total of 284 generally high-ranking magistrates from the six Member States were able in 1970 to come and examine with the Court of Justice the questions with which they have to contend in applying and interpreting community law.

In this connection it is of some interest to quote an extract from the annual report of the German Federal Supreme Court for 1968-1969 :

“The Bundesgerichtshof for its part attaches great importance to such mutual exchanges... From the standpoint of integration within the framework of the European Economic Community, a uniform case-law assumes particular significance, since only in this way will it be possible to develop uniformity of legal process in the direct application of statutory rules. Mutual information and understanding together with a continuing exchange of experience play a predominant role in this respect.”

But this does not exhaust the list of endeavours made to extend the knowledge of community law. Several study groups and numerous individual trainees have been welcomed by the offices of the Court of Justice, as the table on the following page shows.

In all, 1,108 visitors, professors, students and research workers paid 71 visits totalling 114 working days to the Court of Justice in 1970 in order to study on the spot the administration of community justice. Taken in conjunction with the judges entertained at Luxembourg, this makes a total of 1,392 visitors, mostly lawyers, who have been able in this year alone to deepen their knowledge of Community law.

	Germany	Belgium	France	Italy	Luxembourg	Netherlands	Member States	Third States	Total
Visits and individual training courses	3	—	11	1	—	—	—	18	33
Barristers	—	—	—	—	—	40	—	—	40
Students	154	8	65	—	—	58	—	123	408
Educationalists	40	60	—	—	—	—	—	—	100
Journalists	—	—	30	—	15	—	—	—	45
Trade Unionists	—	—	—	—	—	—	—	—	—
Missions and Visitors from Third Countries	—	—	—	—	—	—	—	307	307
Diplomats	—	—	—	20	—	—	—	—	20
Groups of trainees ⁽¹⁾	—	—	—	—	—	—	155	—	155
Total	197	68	106	21	15	98	155	448	1,108

⁽¹⁾ From the Commission, and other mixed groups of unspecified nationalities.

The Community law reports are distributed by the following bodies :

<i>Germany</i>	Außenwirtschaftsdienst des Betriebsberaters Deutsches Verwaltungsblatt Europarecht Neue Juristische Wochenschrift Die Öffentliche Verwaltung Vereinigte Wirtschaftsdienst (VWD) Wirtschaft und Wettbewerb Zeitschrift für das gesamte Handels- und Wirtschaftsrecht
<i>Belgium</i>	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
<i>France</i>	Annuaire français de droit international Droit social Le droit et les affaires Gazette du Palais (3 special issues) Jurisclasseur périodique (La semaine juridique) 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
<i>Italy</i>	Diritto dell'economia Foro italiano Foro Padano Giurisprudenza italiana Rivista di diritto europeo Rivista di diritto internazionale Rivista di diritto internazionale privato e processuale
<i>Luxembourg</i>	Bulletin du cercle François-Laurent Bulletin de la Conférence Saint-Yves Pasicrisie luxembourgeoise
<i>Netherlands</i>	Administratieve en Rechterlijke Beslissingen Ars aequi Common Market Law Review Nederlandse Jurisprudentie Rechtspraak van de Week Sociaal-economische Wetgeving

IV—OTHER ACTIVITIES OF THE COURT OF JUSTICE

In May 1970, the members of the Court of Justice of the European Communities took part in the ceremonies at Brussels commemorating the 20th anniversary of the declaration by President Robert Schuman.

On 8 July 1970, the Court conducted in public audience at Luxembourg the solemn swearing-in of the newly constituted president and members of the Commission of the European Communities.

At its opening session on 6 October 1970, the Court was honoured by the presence of the Ministers of Justice of the Community Member States. On this occasion the president and members of the Court conferred with the ministers on the Court's activities.

At the opening session of 6 October the Court installed two new members : Professor Hans Kutscher, judge, and State Councillor Alain Dutheillet de Lamothe, Advocate General.

V—CONCLUSION

The only conclusion that can be drawn from this rapid survey of the activities of the Court of Justice in 1970 is that mutual co-operation between national courts and itself is developing satisfactorily. Several upper courts have now been added to the number of those availing themselves of the interlocutory question procedure. Not many upper courts have so far failed to find an opportunity of doing so.

Nonetheless the harmonious growth of community law, which continues to depend upon a balanced co-operation between itself and the judiciaries of all the Member States, demands that no national legal body should deprive itself of the influence it may legitimately exert upon the elaboration of this new corpus juris. A Community case-law ought to be the work of the juridical authorities of every Member State.

**Members of the Court of Justice
for the Court Year 1970-1971**

<i>President</i>	LECOURT (Robert)
<i>Presidents of First and Second Chambers</i>	DONNER (André) - 1st Chamber TRABUCCHI (Alberto) - 2nd Chamber
<i>Judges</i>	MONACO (Riccardo) MERTENS de WILMARS (Josse) PESCATORE (Pierre) KUTSCHER (Hans)
<i>Advocates-General</i>	ROEMER (Karl) DUTHEILLET de LAMOTHE (Alain)
<i>Registrar</i>	VAN HOUTTE (Albert)

ANNEX II

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

Short review of types of proceedings in the Court of Justice

It will be remembered that under the terms of the Treaties the Court of Justice may be called upon either by a national court to pronounce upon the validity or the interpretation of a provision of community law, or directly by the institutions of the Community, the Member States or private individuals under the conditions laid down by the Treaties.

A—Interlocutory proceedings

The national court submits to the Court of Justice interlocutory questions concerning the validity or interpretation of a Community enactment, by means of a jurisdictional decision (decree, judgment or order) setting out the question or questions to be referred to the Court of Justice. This decision is sent by Registrar to Registrar from the national court to the Court of Justice⁽¹⁾, accompanied where appropriate by a brief informing the Court of Justice of the context and limitations of the questions asked.

After a period of two months during which the Commission, the Member States and parties to the national procedure may address written statements to the Court of Justice, they are summoned to a hearing at which they may present oral observations either through their officials in the case of the Commission and Member States, or by counsel from one of the member countries.

After a statement by the Attorney-General, the judgment given by the Court is transmitted to the national court through the intermediary of the Registrars.

B—Direct suits

The Court of Justice is seized of a petition sent by a qualified legal representative to the Registrar's office (12, rue de la Côte-d'Eich, Luxembourg) by registered post.

The following are qualified to appear before the Court of Justice : any member of the Bar of one of the Member States or any professor occupying a chair of Law in a university of a Member State whenever the laws of that State allow him to plead in his own domestic courts.

⁽¹⁾ Cour de justice des Communautés européennes, 12, rue de la Côte-d'Eich, Luxembourg. Telephone : 215 21 ; telegrams : CURIA LUXEMBOURG ; telex : CURIALUX 510, Luxembourg.

The petition shall state :

- (i) name and domicile of petitioner ;
- (ii) style of the party against whom the petition is brought ;
- (iii) matter at issue and grounds alleged ;
- (iv) pleadings of the petitioner ;
- (v) any evidence to be shown ;
- (vi) elected domicile at the place at which the Court is sitting, and indication of the name of the person authorized and having agreed to accept service of any writ.

The petition shall further be accompanied by the following documents :

- (i) the decision whose annulment is sought, or in the case of an appeal against an implied decision, evidence of the date on which formal notice was given ;
- (ii) proof of identity certifying that the legal representative is a member of the Bar of one of the Member States ;
- (iii) articles of association of any private juridical persons who are plaintiffs, together with evidence that the lawyer's brief has been properly constituted by a representative qualified for that purpose.

The parties are required to elect domicile in Luxembourg. In the case of Member States' Governments, the agent domiciled is normally their diplomatic representative to the Government of the Grand Duchy. In the case of private individuals (natural or juridical persons) the domiciled agent—who in point of fact merely liaises and acts as a letter-box—may be a Luxembourg barrister or any person who may be their confidential agent.

The petition is conveyed to the defendants by the Registrar of the Court of Justice. It is answered by a statement in their defence, followed by a reply by the plaintiff and finally a rejoinder by the defendants.

The written proceedings thus completed are followed by oral pleadings at a hearing at which both parties are represented by legal representatives and agents (in the case of Community institutions or Member States).

After a statement by the Advocate-General, the judgment is given. It is conveyed to both parties by the Registrar.

