Synopsis of the work of the Court of Justice of the European Communities in 1980

Luxembourg 1981

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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 Offices of the European Communities whose addresses are listed in Annex 6.

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I — Proceedings of the Court of Justice of the European Communities

1. Case-law of the Court

A — *Statistical information*

Judgments delivered

During 1980 the Court of Justice of the European Communities delivered 132 judgments and interlocutory orders (138 in 1979):

34 were in direct actions (excluding actions brought by officials of the Communities);

75 were in cases referred to the Court for preliminary rulings by the national courts of the Member States;

23 were in cases concerning Community staff law.

63 of the judgments were delivered by Chambers, of which:

36 were in cases referred to the Court for a preliminary ruling and assigned to the Chambers pursuant to Article 95 (1) of the Rules of Procedure;

4 were in direct actions assigned to the Chambers pursuant to Article 95 (1) and (2) of the Rules of Procedure; and

23 were in Community staff cases.

The Court or its President made 12 orders relating to the adoption of interim measures.

Sittings

In 1980 the Court held 139 public sittings. The Chambers held 147 public sittings.

Cases pending

Whilst the number of judgments delivered by the Court in 1980 is substantially the same as the 1979 figure, the number of cases pending on which the Court has not yet given a decision is constantly increasing. Cases pending are divided up as follows:

	31 December 1979	31 December 1980
Full Court	164	170
Chambers		
Actions by officials of the Communities	1 160[1]	1 222[1]
Other actions	23	29
Total number before the Chambers	1 183[1]	1 251[1]
Total number of current cases	1 347[1]	1 421[1]

[1] Including 1 112 cases belonging to ten large groups of related cases.

Length of proceedings

The average length of proceedings has become longer in the last few years as a result of the increasing number of actions which have been brought.

Proceedings lasted in 1980 for the following periods:

In cases brought directly before the Court the average length was approximately 18 months (the shortest being 7 months). In cases arising from questions referred to the Court by national courts for preliminary rulings, the average length was some 9 months (including judicial vacations).

Cases brought in 1980

In 1980, 279 cases were brought before the Court of Justice. They concerned:

1. Actions by the Commission for a failure to fulfil an obligation brought against:

Belgium	8
Denmark	1
France	4
Federal Republic of Germany	1
Ireland	1
Italy	11
Luxembourg	2
Carried forward:	28

	Brought forward:		28
2.	Actions brought by the Member States against the Commission:		
	France	1	
	Italy	1	
	United Kingdom	2	
		4	
			32
3.	Actions brought by natural or legal persons against:		
	Commission	15	
	Council	3	
	Commission and Council	12	
	and two actions struck off the Register before service . . .	2	
			32
4.	Actions brought by officials of the Communities	116	
			116
5.	Reference made to the Court of Justice by national courts for preliminary rulings on the interpretation or validity of provisions of Community law. Such references originated as follows:		
	Belgium	14	
	1 from the Cour de Cassation		
	13 from courts of first instance or of appeal		
	Denmark	2	
	1 from the Højesteret		
	1 from a court of first instance or of appeal		
	France	14	
	3 from the Cour de Cassation		
	11 from courts of first instance or of appeal		
	Federal Republic of Germany	24	
	4 from the Bundesgerichtshof		
	2 from the Bundesfinanzhof		
	1 from the Bundessozialgericht		
	17 from courts of first instance or of appeal		
	Ireland	3	
	3 from the High Court		
	Carried forward:	57	180

	Brought forward:	57	180
	Italy	19	
	6 from the Corte Suprema di Cassazione		
	13 from courts of first instance or of appeal		
	Netherlands	17	
	4 from the Hoge Raad		
	3 from the College van Beroep voor het Bedrijfsleven		
	1 from the Tariefcommissie		
	9 from courts of first instance or of appeal		
	United Kingdom	6	
	3 from the Court of Appeal		
	3 from lower courts	—	
			99
			279
6.	Applications for the adoption of interim measures	12	
7.	Taxation of costs	1	
8.	Legal aid	3	
	Total		**295**

TABLE 1

Cases brought since 1953 analysed by subject-matter[1]

Situation at 31 December 1980

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

Type of case	Direct actions											
	ECSC				EEC							EAEC
	Scrap equalization	Transport	Competition	Other[2]	Free movement of goods and customs union	Right of establishment, freedom to supply services	Tax cases	Competition	Social security and free movement of workers	Agricultural policy	Other	
Cases brought	167	35	27	73 (4)	46 (6)	2 —	22 (6)	129 (11)	5 (2)	155 (11)	156 (10)	4 —
Cases not resulting in a judgment	25	6	10	18 (2)	11 (2)	1 —	3 (1)	9 (2)	2 (2)	21 (1)	23 (10)	1 —
Cases decided	142	29	17	52 (15)	29 (5)	1 —	18 (6)	113 (10)	2 (1)	123 (9)	72 (5)	3 —
Cases pending	—	—	—	3	6	—	1	7	1	11	61	—

The figures in brackets represent the cases dealt with by the Court in 1980.

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

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

[3] Convention of 27 September 1968 on Juridiction and the Enforcement of Judgments in Civil and Commercial Matters (the 'Brussels Convention').

Cases concerning Community staff law	References for preliminary rulings										
	Free movement of goods and customs union	Right of establishment, freedom to supply services	Tax cases	Competition	Social security and freedom of movement of workers	Agricultural policy	Transport	Convention Article 220[3]	Privileges and immunities	Other	Total
1 800 (35)	200 (34)	21 (3)	39 (4)	47 (8)	182 (25)	237 (28)	16 —	28 (6)	7 —	63 (7)	3 461 (200)
111 (10)	9 (2)	2 (1)	1 —	4 —	7 (1)	8 —	3 (1)	2 —	1 —	2 —	280 (35)
448 (27)	161 (27)	17 (3)	32 (2)	41 (8)	160 (18)	207 (21)	13 —	22 (5)	5 —	54 (6)	1 761 (168)
1 241	30	2	6	2	15	22	—	4	1	7	1 420

TABLE 2

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

Situation at 31 December 1980

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

Type of case	Proceedings brought under											Protocols Conventions Art. 220	Grand total[2]
	Arts 169 and 93	Art. 170	Art. 173				Art. 175	Art. 177			Art. 215		
			By governments	By Community institutions	By individuals	Total		Validity	Interpretation	Total			
Cases brought	115	2	33	3	204	240	20	118	691	809	150	28	1 364
Cases not resulting in a judgment	26	1	5	—	21	26	3	2	38	40	13	2	111
Cases decided	62	1	22	3	169	194	17	103	582	685	98	22	1 079
In favour of applicant[3]	55	1	5	1	46	52	—				—		108
Dismissed on the substance[4]	7	—	16	2	87	105	2				85		199
Dismissed as inadmissible	—	—	1	—	36	37	15				13		65
Cases pending	27	—	6	—	14	20	—	13	71	84	39	4	174

[1] Excluding proceedings by staff and cases concerning the interpretation of the Protocol on Privileges and Immunities and of the Staff Regulations (see Table 1).

[2] Totals may be smaller than sum of individual items because some cases are based on more than one Treaty article.

[3] In respect of at least one of the applicant's main claims.

[4] This also covers proceedings rejected partly as inadmissible and partly on the substance.

TABLE 3

Cases brought since 1953 under the ECSC[1] Treaty and since 1958 under the EAEC Treaty

Situation at 31 December 1980

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

Type of case	Number of proceedings instituted								Total	
	By governments		By Community institutions		By individuals (undertakings)		Art. 150 EAEC			
	ECSC	EAEC	ECSC	EAEC	ECSC	EAEC	Questions of validity	Questions of interpretation	ECSC	EAEC
Cases brought	20	—	—	2	281	2	—	3	301	7
Cases not resulting in a judgment	8	—	—	1	51	—	—	—	59	1
Cases decided	12	—	—	1	227	2	—	3	239	6
In favour of applicants[2]	5	—	—	1	41	1			46	2
Dismissed on the substance[3]	7	—	—	—	136	1			143	1
Dismissed as inadmissible	—	—	—	—	50	—			50	—
Cases pending	—	—	—	—	3	—	—	—	3	—

[1] Excluding proceedings by staff and cases concerning the interpretation of the Protocol on Privileges and Immunities and of the Staff Regulations (see Table 1).

[2] In respect of at least one of the applicant's main claims.

[3] This also covers proceedings rejected partly as inadmissible and partly on the substance.

TABLE 4(a)

Cases dealt with by the full Court and the Chambers analysed according to the type of proceedings

Nature of proceedings	Cases brought in 1980	Cases dealt with in 1980			Judgments and interlocutory judgments	Opinions	Orders	Cases pending	
		(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the register				31 Dec. 1979	31 Dec. 1980
Art. 177 EEC Treaty	95	89	84	5	70	—	2	80	86
Art. 169 EEC Treaty	28	25	17	8	19	—	—	24	27
Art. 170 EEC Treaty	—	—	—	—	—	—	—	—	—
Art. 173 EEC Treaty	16	21	18	3	10	—	—	25	20
Arts 173 & 175 EEC Treaty	—	1	—	1	—	—	—	1	—
Arts 173 & 215 EEC Treaty	—	1	1	—	1	—	—	1	—
Art. 175 EEC Treaty	—	—	—	—	—	—	—	—	—
Arts 175 & 215 EEC Treaty	—	1	—	1	—	—	—	1	—
Arts 178 & 215 EEC Treaty	16	6	5	1	1	—	1	29	39
Art. 228 EEC Treaty	—	—	—	—	—	—	—	—	—
Protocol and Convention on Jurisdiction	4	5	5	—	5	—	—	5	4
Art. 33 ECSC Treaty	4	1	—	1	—	—	—	—	3
Art. 36 ECSC Treaty	—	15	15	—	3	—	—	15	—
Art. 40 ECSC Treaty	—	1	—	1	—	—	—	1	—
Interim measures	12	13	12	1	—	—	12	2	1
Taxation of costs	1	1	—	1	—	—	—	—	—
Interpretations	—	—	—	—	—	—	—	—	—
Revisions	—	1	—	—	1	—	—	1	—
Legal aid	3	4	4	—	—	—	4	1	—
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	116	38	31	7	22	—	3	1 162	1 241
Total	295	223	193	30	132	—	22	1 348	1 421
Cases kept on the register or adjourned *sine die*	47	2	—	2	—	—	—	25	1 173

TABLE 4(b)

Cases dealt with by the full Court analysed according to the type of proceedings

Nature of proceedings	Cases brought before the full Court in 1980	Cases brought before a Chamber and referred to the full Court in 1980	Cases dealt with in 1980			Judgments and interlocutory judgments	Opinions	Orders	Cases assigned to a Chamber in 1980	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the register					31 Dec. 1979	31 Dec. 1980
Art. 177 EEC Treaty	95	1	50	46	4	36	—	2	50	63	59
Art. 169 EEC Treaty	28	—	25	17	8	19	—	—	—	24	27
Art. 170 EEC Treaty	—	—	—	—	—	—	—	—	—	—	—
Art. 173 EEC Treaty	15	1	19	16	3	8	—	—	1	23	19
Arts 173 & 175 EEC Treaty	1	1	1	1	1	—	—	—	—	1	—
Arts 173 & 215 EEC Treaty	—	—	—	—	—	—	—	—	—	—	—
Art. 175 EEC Treaty	—	—	—	—	—	—	—	—	—	—	—
Arts 175 & 215 EEC Treaty	—	—	1	—	1	—	—	—	—	1	—
Arts 178 & 215 EEC Treaty	16	—	5	5	—	1	—	1	—	28	39
Art. 228 EEC Treaty	—	—	—	—	—	—	—	—	—	—	—
Protocol and Convention on Jurisdiction	4	—	3	3	—	3	—	—	2	4	3
Art. 33 ECSC Treaty	4	—	1	—	1	—	—	—	—	—	3
Art. 36 ECSC Treaty	—	—	14	14	—	2	—	—	1	15	—
Art. 40 ECSC Treaty	—	—	1	—	1	—	—	—	—	1	—
Interim Measures	9	—	10	9	1	—	—	9	—	2	1
Interpretations	—	—	—	—	—	—	—	—	—	—	—
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	17	—	—	—	—	—	—	—	—	2	19
Total	188	2	130	110	20	69	—	12	54	164	170
Cases kept on the register or adjourned *sine die*	23	—	1	—	1	—	—	—	—	24	47

TABLE 4(c)

Cases dealt with the First Chamber analysed according to the type of proceedings

Nature of proceedings	Cases brought before the First Chamber in 1980	Cases brought before the full Court or Chamber and assigned to the First Chamber in 1980	Cases dealt with in 1980			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1980	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the register				31 Dec. 1979	31 Dec. 1980
Art. 177 EEC Treaty	—	18	12	12	—	12	—	1	8	13
Art. 173 EEC Treaty	—	—	—	—	—	—	—	—	—	—
Arts 173 & 215 EEC Treaty	—	—	—	—	—	—	—	—	—	—
Arts 178 & 215 EEC Treaty	—	—	—	—	—	—	—	—	—	—
Protocol and Convention on Jurisdiction	—	—	—	—	—	—	—	—	—	—
Interim measures	1	—	1	1	—	—	1	—	—	—
Taxation of costs	—	—	—	—	—	—	—	—	—	—
Revisions	—	—	—	—	—	—	—	—	—	—
Legal aid	2	—	3	3	—	—	3	—	1	—
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	48	—	14	13	1	9	1	—	1 136	1 170
Total	51	18	30	29	1	21	5	1	1 145	1 183
Cases kept on the register or adjourned *sine die*	22	—	—	—	—	—	—	—	—	1 124

TABLE 4(d)

Cases dealt with by the Second Chamber analysed according to the type of proceedings

Nature of proceedings	Cases brought before the Second Chamber in 1980	Cases brought before the full Court or Chamber and assigned to the Second Chamber in 1980	Cases dealt with in 1980			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1980	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the register				31 Dec. 1979	31 Dec. 1980
Art. 177 EEC Treaty	—	23	17	16	1	14	—	—	4	10
Art. 173 EEC Treaty	—	1	2	2	—	2	—	1	2	—
Arts 173 & 215 EEC Treaty	—	—	1	1	—	1	—	—	1	—
Arts 178 & 215 EEC Treaty	—	—	—	—	—	—	—	—	—	—
Protocol and Convention on Jurisdiction	—	—	—	—	—	—	—	—	—	—
Art. 36 ECSC Treaty	—	1	1	1	—	1	—	—	—	—
Interim measures	1	—	1	1	—	—	1	—	—	—
Taxation of costs	1	—	1	—	1	—	—	—	—	—
Revisions	—	—	1	1	—	1	—	—	1	—
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	21	—	13	11	2	9	—	1	16	23
Total	23	25	37	33	4	28	1	2	24	33
Cases kept on the register or adjourned *sine die*	3	—	—	—	—	—	—	—	—	2

TABLE 4(e)

Cases dealt with by the Third Chamber analysed according to the type of proceedings

Nature of proceedings	Cases brought before the Third Chamber in 1980	Cases brought before the full Court or Chamber and assigned to the Third Chamber in 1980	Cases dealt with in 1980			Judgments and interlocutory judgments	Orders	Cases referred to the Court or a Chamber in 1980	Cases pending	
			(a) Total	(b) By judgment, opinion or order	(c) By order to remove from the register				31 Dec. 1979	31 Dec. 1980
Art. 177 EEC Treaty	—	9	10	10	—	8	—	—	5	4
Art. 173 EEC Treaty	—	1	—	—	—	—	—	—	—	1
Arts 173 & 215 EEC Treaty	—	—	—	—	—	—	—	—	—	—
Arts 178 & 215 EEC Treaty	—	—	1	—	1	—	—	—	1	—
Protocol and Convention on Jurisdiction	—	2	2	2	—	2	—	—	1	1
Interim measures	1	—	1	1	—	—	1	—	—	—
Taxation of costs	—	—	—	—	—	—	—	—	—	—
Revisions	—	—	—	—	—	—	—	—	—	—
Legal aid	1	—	1	1	—	—	1	—	—	—
Art. 179 EEC Treaty Art. 42 ECSC Treaty Art. 152 EAEC Treaty	38	—	11	7	4	4	2	6	8	29
Total	40	12	26	21	5	14	4	6	15	35
Cases kept on the register or adjourned *sine die*	—	—	—	—	—	—	—	—	—	—

TABLE 5

Judgments delivered by the Court and Chambers analysed by language of the case

1974-1980

Judgments	Year	Danish	Dutch	English	French	German	Italian	Total
Full Court								
Direct actions	1974	—	—	2	1	3	2	8
	1975	—	2	—	8	3	1	14
	1976	—	—	—	4	3	4	11
	1977	—	2	—	4	4	1	11
	1978	—	3	2	5	5	5	20
	1979	—	4	7	7	10	9	37
	1980	1	1	7	8	2	11	30
References for a preliminary ruling	1974	—	10	1	11	17	2	41
	1975	—	6	—	14	17	8	45
	1976	1	6	2	9	19	13	50
	1977	—	17	3	17	17	10	64
	1978	2	7	6	10	20	6	51
	1979	2	11	4	12	21	8	58
	1980	1	7	5	11	10	6	40
Staff cases	1974	—	—	—	1	—	—	1
	1975	—	—	—	3	—	—	3
	1976	—	—	—	2	—	—	2
	1977	—	—	—	—	—	—	—
	1978	—	—	—	—	—	—	—
	1979	—	—	—	—	—	—	—
	1980	—	—	—	—	—	—	—
Chambers								
Direct actions	1980	—	—	—	1	1	2	4
References for a preliminary ruling	1974	—	—	—	—	—	—	—
	1975	—	—	—	—	—	—	—
	1976	—	—	—	1	2	—	3
	1977	—	1	—	—	10	—	11
	1978	—	1	1	1	8	—	11
	1979	—	8	—	6	10	1	25
	1980	—	3	3	9	14	6	35
Staff cases	1974	—	2	—	9	—	1	12
	1975	—	2	—	15	1	1	19
	1976	1	2	1	17	—	1	22
	1977	—	1	—	11	1	1	14
	1978	—	1	1	12	1	—	15
	1979	—	—	—	17	—	1	18
	1980	—	—	—	23	—	—	23

Lawyers

During the sittings held in 1980, apart from the representatives or Agents of the Council, the Commission and the Member States, the Court heard:

65 Belgian lawyers,
35 British lawyers,
2 Danish lawyers,
19 French lawyers,
42 lawyers from the Federal Republic of Germany,
9 Irish lawyers,
16 Italian lawyers,
12 Luxembourg lawyers,
16 Netherlands lawyers.

B — *Summary of cases decided by the Court*

It is not possible within the confines of this brief synopsis to present a full report on the case-law of the Court of Justice.

It is considered preferable to present only a selection of judgments of particular importance.

(a) Refunds of national charges incompatible with Community law—Community rules establishing the limits to the exercise of that right

Judgment of 27 March 1980, Case 61/79, Amministrazione delle Finanze dello Stato v *Denkavit Italiana Srl* ([1980] ECR 1205)

The Tribunale Civile e Penale [Civil and Criminal Court], Milan, submitted to the Court two questions on the interpretation of Articles 13 (2) and 92 of the EEC Treaty in relation to the right of taxpayers to obtain repayment of national charges which they had previously paid and which were incompatible with Community law.

Those questions are worded as follows:

'(A) Is the repayment of sums levied by way of customs charges (in the case in point, public health inspection charges) prior to their classification by the Community institutions as charges having an effect equivalent to customs duties, the burden of which has already been passed on in turn to the purchasers of the imported products, compatible with the Community rules, and in particular with the basic intention of Articles 13 (2) and 92 of the EEC Treaty?

(B) Are the Community rules and in particular Articles 13 (2) and 92 of the EEC Treaty opposed to the creation, by the prohibition and abolition of charges having an effect equivalent to customs duties, of a right in favour of individuals to request repayment of sums paid but not owed by them to the State, which for its part the State has illegally levied by way of a charge having equivalent effect, following the abolition of such charges by operation of Community law but prior to their classification by the Community institutions as charges having an effect equivalent to customs duties?'

The questions were put in the course of proceedings commenced in 1978 between the Italian company, Denkavit, and the Italian Finance Administration concerning

a sum of Lit 2 783 140 which that company had paid between 1971 and 1974 by way of public health inspection charges.

They are in substance concerned with the existence and the scope of the obligation on Member States which have collected national charges or levies which are subsequently held to be incompatible with Community law to refund them at the request of the person who paid them.

The questions put, which are closely connected, concern the scope of two provisions of the Treaty: Article 13 (2) and Article 92.

They are directed to establishing the effect of Articles 13 (2) and 92 of the Treaty on the right of the citizen to claim repayment of national charges and on the correlative duty on the Member State to make repayment where there are satisfied either or both of the two conditions set forth by the national court, namely: (a) where, after the expiry of the transitional period, it is established that those national charges are in the nature of charges having an effect equivalent to customs duties on imports, and consequently that they are incompatible with the prohibition in Article 13 (2), only subsequent to an interpretation given by the Court of Justice under Article 177 of the Treaty; (b) where the trader who paid the said charges has passed the burden on to the purchasers of the imported products.

Article 13 (2)

According to the well-settled case-law of the Court, Article 13 (2) imposes, from the end of the transitional period at the latest, as regards all charges having an effect equivalent to customs duties, a clear and unconditional prohibition on the levying of such charges, with the result that that provision, by its very nature, is aptly designed to produce direct effects on the legal relationship between the Member States and their citizens. That interpretation clarifies and defines the meaning and the scope of the rule in Article 13 (2) as it must be or ought to have been understood and applied from the time of its coming into force. The rule as thus interpreted must be applied by the courts even to legal relationships arising and established before the judgment ruling on the request for interpretation.

It is only exceptionally that the Court of Justice may, by applying the general principle of legal certainty inherent in the Community legal order, take account of the serious disturbance which its judgment may involve, as regards the past, for legal relationships established in good faith and be moved to restrict for any person concerned the opportunity of relying upon the provision as thus interpreted with a view to calling in question those legal relationships. The conditions necessary for such restrictions are not satisfied, however, where the dispute before the national court arises from the prohibition on the levying of national charges having an effect equivalent to customs duties on imports, since the general scope of that prohibition and its absolute nature were recognized by the Court of Justice as early as 1962, that is to say, before the end of the transitional period, in its judgment of 14 December 1962 (Joined Cases 2 and 3/62 *Commission* v *Grand Duchy of Luxembourg and Kingdom of Belgium*).

It is important to note, however, that where the result of a rule of Community law is to prohibit the levying of national charges and dues, the safeguarding of the rights which the direct effect of such prohibition confers on individuals does not necessarily demand a uniform rule, common to all the Member States, regarding the formal and substantive conditions to the observation of which the disputing or the recovery of those charges is subject. In the absence of a system of Community rules, it is for the internal legal order of each Member State to designate the courts having jurisdiction and to determine the procedural conditions governing judicial proceedings intended to ensure the protection of rights which individuals derive from the direct effect of Community law, it being understood that those conditions may not be less favourable than those relating to similar actions of a domestic nature and that in no case should they be so adapted as to make impossible in practice the exercise of the rights which the national courts are obliged to protect.

It should be stated in that regard that the protection of those rights guaranteed under the Community legal order does not require the making of a refund of charges wrongly levied in circumstances which would involve an unjustified enrichment of the interested party. From the point of view of Community law therefore, nothing prevents national courts from taking account, in accordance with their national law, of the fact that charges wrongly levied were able to be incorporated in the prices charged by the undertakings liable to the charge and passed on to purchasers.

Article 92

In referring in its questions to Article 92 of the Treaty, the national court asks, in essence, whether recovery by traders of wrongly-levied national charges may not require to be regarded as an aid within the meaning of Article 92 of the Treaty and therefore be incompatible with Community law.

Article 92 concerns measures taken by the Member States whereby the latter, with a view to pursuing their own economic and social objectives, by unilateral and independent decisions place resources at the disposal of undertakings or other legal entities or confer advantages on them which are designed to assist the attainment of the social and economic objectives sought. It does not apply to an obligation to pay or to make restitution of monies which is grounded in the fact that those monies were not due by the person who has paid them. It follows that a national fiscal system which allows a taxpayer to dispute or to claim reimbursement of a tax does not constitute an aid within the meaning of Article 92 of the Treaty.

The answers which the Court gave to the questions from the Tribunale Civile e Penale, Milan, are worded as follows:

'1. (a) The direct effect of Article 13 (2) of the EEC Treaty implies that, from the end of the transitional period, applications directed against national charges having an effect equivalent to customs duties or claims for repayment of such charges may, according to the circumstances, be brought before courts and authorities of the Member States, even in respect of the

period before that classification of those charges was clarified by an interpretation given by the Court of Justice within the context of Article 177 of the Treaty.

(b) It is for the legal order of each Member State to lay down the conditions under which taxpayers may contest those charges or claim reimbursement thereof, provided that those conditions are no less favourable than the conditions relating to similar applications of a domestic nature and that they do not make it impossible in practice to exercise the rights conferred by the Community legal order.

(c) There is nothing under Community law to prevent the national courts from taking into account, in accordance with their national law, the fact that charges wrongfully levied may have been incorporated into the prices of the undertaking from which the charge is due and passed on to purchasers.

2. The obligation on the authorities of a Member State to repay to taxpayers who claim such repayment, in accordance with national law, charges or dues which were not payable because they were incompatible with Community law does not constitute an aid within the meaning of Article 92 of the EEC Treaty.'

Mr Advocate General Reischl delivered his opinion at the sitting on 9 January 1980.

(b) Value for customs purposes

Judgment of 24 April 1980, Case 65/79, Procureur de la République v *René Chatain, Manager of Laboratoires Sandoz Sàrl, Rueil-Malmaison* ([1980] ECR 1345)

The facts

Sandoz-Suisse AG ells chemical products to its subsidiary Sandoz-France Sàrl. These sales are effected under the terms of an exclusive licence to manufacture granted by Sandoz-Suisse to Sandoz-France on 6 May 1935, which provides that the starting materials for the manufacture under licence of the products will be 'bought from Sandoz-Suisse in preference to others', after prior agreement on the prices and conditions of sale in respect of each individual transaction.

When the customs authorities were carrying out an inspection of the premises of Sandoz-France they found that Mr Chatain, the manager of the French subsidiary, had made a customs declaration in respect of goods purchased from the parent company Sandoz-Suisse giving a value above the normal price.

These purchases were spread over the period from 4 January 1971 to 9 November 1973 and amounted to FF 89 929 024 whereas the value taken by the customs authorities was only FF 53 142 943. Following this finding the customs inspectorate

drew up on 20 February 1974 an official report of the facts on the strength of which it filed a complaint with the Procureur de la République du Tribunal de Grande Instance, Nanterre, concerning:

> A false declaration of value for customs purposes on importation since Sandoz-France claimed to have bought the products at prices which had clearly been overvalued;
>
> The illegal transfer of capital abroad, since Sandoz-France by paying a higher price had repatriated its profits to Switzerland without paying tax on those profits in France.

The Juge d'Instruction of the Tribunal de Grande Instance, Nanterre, charged Mr Chatain with 'importing prohibited goods without any customs declarations', and 'illegally transferring capital abroad'.

Sandoz-France contested these two charges on the basis of the following arguments:

As far as the false customs declaration is concerned:

(1) Regulation (EEC) No 803/68 of the Council on the valuation of goods for customs purposes does not allow adjustments downwards, that is to say any reductions of the contract price;

(2) Regulation (EEC) No 375/69 of the Commission on the declaration of particulars relating to the value of goods for customs purposes limits the importer's obligations in relation to the custom's declaration to be made;

(3) In this case there is no incorrect invoice.

As far as concerns the infringement of exchange control rules:

> The French authorities are wrong to apply Community rules on the valuation of goods for customs purposes since the aim of the latter is entirely different from that of the exchange control rules.

The decision

The French court, taking account of the fact that the matter is governed by Regulations Nos 803/68 and 375/69 and also by the agreement between the EEC and the Swiss Confederation, considered that it was advisable to obtain an interpretation of these texts and referred 11 questions to the Court for a preliminary ruling.

The two questions which are relevant, Questions 1 and 11, and on the answer to which the reply to the other questions depend, raises the question whether a Member State may reduce the value for customs purposes declared by the importer. This problem must be resolved in the light of the objectives of the system and of the provisions of these regulations.

Regulation No 803/68, on the valuation of goods for customs purposes, seeks to attain a dual economic and fiscal objective. The sixth recital in the preamble thereto states '. . . the value for customs purposes must be determined in a uniform manner in Member States, so that the level of the protection given by the Common Customs Tariff is the same throughout the Community and any deflection of trade and activities and any distortion of competition which might arise from differences between national provisions is thereby prevented'. The seventh recital in the preamble states '... any deflection of customs receipts should be avoided and where appropriate eliminated'. Consequently the primary aim of the regulation is to prevent goods being undervalued for the purpose of applying the Common Customs Tariff.

This conclusion is apparent as far as concerns the protection of customs revenue.

As provided for in Article 1 of Regulation No 803/68 the value of goods for customs purposes is to be determined 'for the purpose of applying the Common Customs Tariff'.

The meaning of 'the value of goods for customs purposes' and the provisions which are used to define it must therefore be understood with this specific function in mind. The value of imported goods for customs purposes is the 'normal price', that is to say, the price which they would fetch on a sale in the open market between a buyer and a seller independent of each other. The regulation provides for a number of adjustments to the price thus defined. The aim of all the adjustments is to prevent prices being undervalued.

The purpose of Regulation (EEC) No 375/69 of the Commission is to define the obligations of importers and also the powers of the customs authorities. The effect of this regulation is that the importer is bound to declare to the customs authorities, in good faith, particulars which may be useful for the determination of the value of the goods for customs purposes, checks at a later date falling within the field of action of the authorities.

The form of questionnaire referred to in Article 1 of Regulation No 375/69 gives the particulars which the importer has to supply:

(a) The invoice price as the basis of calculation;

(b) Other items which go to make up the value for customs purposes which are the vendor's responsibility;

(c) Items which do not go to make up the value for customs purposes but are included in the invoice price and are the importer's responsibility;

(d) A rate of adjustment which applies only to the price and which is provided for only in the form of an increase.

Consequently it may be said that the value for customs purposes is made up primarily of the invoice price which may only be adjusted upwards and of extrinsic items capable of being increased or decreased which the customs may add to or subtract from the invoice price.

Consideration of the objectives as well as the machinery of the two regulations shows that they only fulfil a specific function in the context of the customs union. Adjustments to the value of goods for customs purposes contemplated by the regulations which have been quoted are adjustments upwards intended to prevent deflection of trade or business activity and distortion of competition which would result from imported goods being undervalued and also to ensure that customs receipts are collected for the Community in full.

If it were established that an undertaking forming part of a company or a group of companies whose central management is outside the Member State concerned, charges, in its dealings with that central management or with other undertakings belonging to the same group, prices, the application of which might involve an illegal transfer of capital or profits, it would be for the Member State concerned to take suitable steps, with a view to establishing the existence of and, if necessary, suppressing such dealings, under its own financial or fiscal legislation and not by applying Community rules relating to the valuation of goods for customs purposes.

The Court in answer to Questions 1 and 11 has ruled that:

> 'Regulation No 803/68 of the Council of 27 June 1968 on the valuation of goods for customs purposes, in particular Articles 1 to 10 of that regulation, and Regulation No 375/69 of 27 February 1969 must be interpreted as meaning that the reduction by the competent authorities of a Member State of the invoice price of goods imported from a non-member country does not accord with the aims of the rules on the valuation of goods for customs purposes. However, the determination of the value for customs purposes in accordance with these regulations cannot have the effect of requiring the fiscal and financial authorities of the Member States to accept that valuation for purposes other than the application of the Common Customs Tariff.'

It follows from the answer to Questions 1 and 11 that Questions 2 to 8 inclusive and 10, which were referred to the Court only in the event of the answer to the first and eleventh questions being in the affirmative, no longer have any purpose. An answer to Question 9 relating to the agreements between the EEC and the Swiss Confederation of 22 July 1972 was however still required.

The aim of the first part of Question 9 is to ascertain whether a reduction by the competent authority of a Member Sate of the value declared or of the value resulting from the particulars furnished by the importer is or is not a measure having an effect equivalent to a quantitative restriction, which is prohibited by the agreement between the EEC and the Swiss Confederation. (It must be noted that, according to Article 13 (2) of that agreement, measures having an effect equivalent to quantitative restrictions are to be abolished only as from 1 January 1975 at the latest. It will consequently be for the national court to decide whether the acts alleged against the accused are covered by the agreement in question.)

The question is in substance the same as that raised by Questions 1 and 11: consequently the Court in answer thereto ruled that 'The same answer applies as regards Article 13 of the Agreement between the EEC and the Swiss Confederation of 22 July 1972.'

The second part of Question 9 asks whether, by virtue of Article 13 of the Agreement between the EEC and the Swiss Confederation, a Member State may punish an importer who has duly fulfilled his obligations by furnishing accurately and in full the information required by Regulation No 375/69 with heavy fines and imprisonment.

In answer to this latter question the Court ruled that:

> 'Whether an importer has accurately and fully completed the questionnaire annexed to Regulation No 375/69 and it is not disputed that goods have actually been delivered to the purchaser in the quality and quantity stated in the invoice and the seller has received the whole of the invoice price and it is not alleged against him that he has not answered more detailed inquiries which the customs authorities may have put to him, he has not infringed any of the requirements imposed on him by the Community rules on the valuation of goods for customs purposes and by Article 13 of the Agreement between the EEC and the Swiss Confederation. On the other hand, the consequences in other respects—such as those relating to the financial or tax laws other than customs laws—which are not governed by the Community institutions are a matter for the legal order of the Member State concerned.'

Mr Advocate General Capotorti delivered his opinion at the sitting on 13 February 1980.

(c) Monetary compensatory amounts on derived products

Judgment of 15 October 1980, Case 145/79, Roquette Frères SA v *the French State (Customs Administration)* ([1980] ECR 2917)

The Tribunal d'Instance [District Court], Lille, referred seven questions to the Court of Justice concerning the interpretation of Article 40 of the Treaty and of Articles 1 and 2 of Regulation No 974/71 of the Council on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States.

The Tribunal was hearing an action brought by Roquette SA against the French State for the reimbursement of sums improperly charged by the customs authorities in the form of monetary compensatory amounts since 25 March 1976, the date of the entry into force of Commission Regulation No 652/76 changing the monetary compensatory amounts following changes in exchange rates for the French franc.

The plaintiff in the main action, Roquette, challenged the method of calculation used by the Commission to fix the monetary compensatory amounts applicable to products processed from maize starch, products processed from wheat starch, potato starch, sorbitol and isoglucose.

It maintained that those methods run counter to the rules laid down by the Council relating to the method of calculating the monetary compensatory amounts applic-

able to products derived from products in respect of which intervention measures have been provided for.

Moreover, the effect of such measures is to create distortion in competition between producers in the common market.

The defendant in the main action maintained that the French State merely applied the Community regulations, and was not competent to assess the legality of the method of calculating the monetary compensatory amounts. It collected such amounts and transferred them to the European Agricultural Guidance and Guarantee Fund.

In the six questions which were referred to it the Court was asked to give a ruling on the method of calculation used by the Commission in determining the amounts which it had fixed. Indirectly, a ruling was thus being sought as to the validity of the provisions of the regulations whereby the Commission determined the compensatory amounts applicable to the products in question.

General considerations

The reply to the questions submitted must be considered in the light of the objectives which prompted the introduction, by Regulation No 974/71, of monetary compensatory amounts within the framework of the common agricultural policy and of the provisions of the Treaty on that policy, in particular Articles 39, 40 and 43.

Monetary compensatory amounts were introduced in order to prevent, within the common organizations of the markets, disruption of the intervention system laid down by Community rules and abnormal movements of prices caused by fluctuations in the currencies of certain Member States.

The provisions of the regulation show that in relation both to basic products and to dependent products, the introduction of monetary compensatory amounts is intended to correct the effects of unstable variations in the rates of exchange which are capable of causing disturbances in trade and in particular of jeopardizing the system of intervention laid down in respect of such products.

The Court admits that the calculation of the incidence on the prices of dependent products of the monetary compensatory amount fixed for a basic product causes difficult technical and economic problems with regard to a large number of products which are for the Commission to resolve.

The discretion which the Commission must be recognized to have nevertheless has limits. If the result of the method of calculation employed is persistently to apply to processed products compensatory amounts the burden or, as the case may be, the benefit of which continually exceeds the amount necessary to take account of the incidence of the compensatory amount applicable to the basic prod-

uct, the objective of the provisions establishing these amounts may no longer be deemed to neutralize the effects of the currency fluctuations between the Member States. In that case the Commission no longer acts within its powers under Regulation No 974/71.

The first six questions submitted by the national court must now be examined in the light of those considerations.

The questions put by the national court

1. Maize starch

   The court asked whether the production refund, which is payable in 'green currency', must be taken into account in calculating the monetary compensatory amounts applicable to maize starch and to products derived therefrom.

   Those compensatory amounts were calculated on the basis of the intervention price for maize, but is not such a calculation false in that it fails to take into account the production refund accorded in respect of maize used within the Community for manufacturing starch?

   The Court did not accept the Commission's argument in justification of its method of calculation, and ruled in reply to the first question that the monetary compensatory amounts applicable to maize starch must, pursuant to Regulation No 974/71, be calculated on the basis of the intervention price for maize, less the production refund for maize starch.

2. Wheat starch

   The question asks whether, in calculating the monetary compensatory amount applicable for wheat starch, the price of the basic product, before deduction of the amount of the production refund, must be the same as that taken into account for calculating the compensatory amount for wheat.

   The Court held that the Commission appeared to have exceeded its powers by adopting as the basis for calculating the compensatory amounts applicable to wheat starch a price other than the reference price less the production refund. Consequently, the reply to the second question must be in the affirmative.

3. All the products derived from a single basic product

   The question asks whether the sum of the compensatory amounts applied to all the products and secondary products processed from the same basic product might exceed the compensatory amount applicable to the basic product.

   That question had already been considered in Cases 4/79 and 109/79 (see Proceedings No 22/80 a) and brought the following reply: The Commission has infringed Regulation No 974/71 and Article 43 (3) of the Treaty.

4. Potato starch

   The question was whether the compensatory amount applicable to potato starch should be identical to that applied to maize starch.

The reply, said the Court, is that the compensatory amount applicable to potato starch may not exceed that applicable to maize starch.

5. Sorbitol

The national court asked whether sorbitol containing more than 2% mannitol, processed from maize, the price of which is related to that product, 'must ... be subject to a monetary compensatory amount based on that for maize'.

The Court's reply was that that product does not necessarily have to be subject to a monetary compensatory amount based on that for maize.

6. Isoglucose

The question asks whether isoglucose processed from maize, the price of which is related to the price of that product, must be subject to a monetary compensatory amount based on that for maize.

The reply to that question was in the negative. Isoglucose is the subject of a group of Community measures establishing rules which apply specifically to that product, but which are similar to the rules applicable to liquid sugar, a product with which isoglucose is deemed to be in direct competition. In those circumstances the Commission was correct in calculating the compensatory amounts applicable to isoglucose on the basis of those applied to white sugar.

The validity of Regulation No 652/76 and of the regulations amending that regulation:

The result of the replies given to the first, second, third and fourth questions is that Regulation No 652/76 is invalid. As the finding of such invalidity was made in the course of a reference for a preliminary ruling, consideration must be given by the Court to its consequences. Reference should be made on that point, also, to the comments in the judgment in Case 4/79 (see Proceedings No 22/80 a).

In reply to the questions which were referred to it by the Tribunal d'Instance, Lille, the Court ruled that:

'1. Commission Regulation No 652/76 of 25 March 1976 is void:

In so far as the basis on which it fixes the compensatory amounts applicable to maize starch is not the intervention price for maize, less the production refund on starch;

In so far as the basis on which it fixes the compensatory amounts applicable to wheat starch is not the reference price for wheat, less the production refund for starch;

In so far as it fixes the compensatory amounts applicable to all the various products processed from a given quantity of the same basic product, such as maize or wheat, in a specific production process, at a figure which is considerably greater than the compensatory amount established for that given quantity of the basic product;

In so far as it fixes compensatory amounts applicable to potato starch which exceed those applicable to maize starch.

2. That invalidity renders void the provisions in subsequent regulations of the Commission the object of which is to alter the monetary compensatory amounts applicable to the products referred to in the preceding paragraph.

3. The invalidity of the provisions of regulations referred to above does not call in question the collection or payment of monetary compensatory amounts by the national authorities on the basis of such provisions for the period prior to the date of this judgment.

4. In fixing the monetary compensatory amounts applicable to sorbitol containing more than 2% mannitol, processed from maize, the Commission was not bound to apply to that product a monetary compensatory amount based on that applicable to maize.

5. Isoglucose processed from maize need not be subject to a monetary compensatory amount based on that for maize.'

Mr Advocate General Mayras delivered his opinion at the sitting on 17 June 1980.

(d) Competition—Provisional validity of agreements

Three judgments were delivered concerning the interpretation of the rules on competition in the common market and their application. The cases involved major French perfume manufacturers and their marketing methods.

Judgment of 10 July 1980, Joined Cases 253/78 and 1 to 3/79: Procureur de la République and Messrs Francis Pachot and Vincent Ramon v *Bruno Giry and Guerlain SA—Procureur de la République and Mrs Windenberger, née Ulm* v *Maurice Pierre Celicout and Parfums Rochas SA—Procureur de la République and Mrs Windenberger, née Ulm* v *Yves Pierre Lanvin and Lanvin Parfums SA —Procureur de la République and Mrs Windenberger, née Ulm* v *André Albert Favel and Nina Ricci Sàrl* ([1980] ECR 2327)

The questions referred to the Court for a preliminary ruling by the Tribunal de Grande Instance, Paris, arose in the course of criminal proceedings taken against the managers of Guerlain, Rochas, Lanvin and Ricci on the ground that they had infringed Article 37 (1) (a) of the French Order on prices which makes it an offence for any producer, trader, businessman or craftsman 'to refuse to fulfil, so far as his resources allow and subject to normal commercial practice, orders from purchasers of products or orders for services when such orders are not in any way irregular . . .'.

These criminal proceedings were instituted following complaints lodged by perfume retailers to whom the undertakings in question had refused to sell their goods. The defendants maintained that the disputed refusals to sell were justified

by the fact that the products concerned were covered by selective distribution systems. They also claimed that those selective distribution systems have been authorized by the Commission of the European Communities, as was shown by the letters which had been sent to them by the Directorate-General for Competition.

These letters informed the respective undertakings that in view of the small share of the market in perfumery held by each company and the fairly large number of competing undertakings of comparable size on the market 'the Commission considers that there is no longer any need, on the basis of the facts known to it, for it to take action in respect of the above-mentioned agreements under the provisions of Article 85 (1) of the Treaty of Rome. The file on this case may therefore be closed'.

The defendants allege that the letters should be considered as decisions applying Article 85 (3) and claim that by applying internal law national authorities may not prohibit measures restricting competition which have been acknowledged by the Commission to be lawful as far as Community law is concerned because the rule of Community law takes precedence.

That dispute led the national court to ask the Court of Justice to decide whether, as the defendants maintain, the opinion adopted and expressed in the letters which were sent to the relevant companies by the Directorate-General for Competition prevents the application of the French legislative provisions prohibiting a refusal to sell.

The legal character of the letters in question

The Council was empowered by Article 87 of the Treaty to adopt any appropriate regulations or directives to give effect to the principles set out in Articles 85 and 86. Regulation No 17 of 6 February 1962, in particular, was adopted as a result of this, empowering the Commission to adopt various categories of regulations, decisions and recommendations.

The measures placed at the Commission's disposal include decisions giving negative clearance, whereby the Commission may certify, upon application by the undertakings concerned, that on the basis of the facts in its possession, there are no grounds for action on its part in respect of an agreement, decision or practice under the Community rules on competition, and decisions applying Article 85 (3), whereby the Commission may adopt decisions declaring that the provisions of Article 85 (1) do not apply to a particular agreement in so far as it has been notified of the latter.

In both instances the Commission is obliged to publish a summary of the relevant application or notification and invite interested third parties to submit their observations within a time-limit which it shall fix.

It is clear that letters such as those which were sent to the companies in question by the Directorate-General for Competition and which were forwarded without

the measures of publication provided for having been carried out constitute neither negative clearances nor decisions applying Article 85 (3).

As the Commission itself emphasizes, the letters were purely administrative communications informing the undertaking concerned of the Commission's opinion that there were no grounds for it to take any action in respect of the agreements in question under the provisions contained in Article 85 (1) of the Treaty, and that the file on the case could therefore be closed.

Letters such as these, which are based solely on the information known to the Commission and reflect an opinion of the Commission and terminate an investigation by the competent departments, do not have the effect of preventing national courts, before which the agreements in question are alleged to be incompatible with Article 85, from reaching a different finding as to the agreements in question on the basis of the information available to them.

Whilst it does not bind the national courts, the opinion transmitted in such letters nevertheless constitutes an element of fact which the national courts may take into account in their investigation as to whether the agreements or conduct in question are in conformity with the provisions laid down in Article 85.

The application of internal law on competition

The main question is what effect such letters may have in cases in which the national authorities are concerned with the application, not of Articles 85 and 86 of the Treaty, but solely of their internal law.

As the Court has already decided, Community law and national law on competition consider restrictive practices from different points of view, the former as obstacles to trade between Member States and the latter as restrictive practices purely in the national context. The national authorities may equally, however, take action relating to situations such as may be the subject-matter of a decision by the Commission.

Nevertheless the Court emphasized that the parallel application of national competition law can only be allowed in so far as it does not prejudice the uniform application throughout the common market of the Community rules on cartels and of the full effect of the measures adopted in implementation of those rules. The agreements concerned have merely been classified by the Commission, which expressed the view that there were no grounds for it to take action with respect to the agreements in question under Article 85 (1). That alone cannot have the effect of preventing the national authorities from applying to those agreements any provisions of internal competition law which may be stricter than Community law on the subject.

In reply to the question, the Court ruled that 'Community law does not prevent the application of national provisions prohibiting a refusal to sell even when the agreements put forward to justify the refusal have been classified by the Commission'.

Mr Advocate General Reischl delivered his opinion on 22 November 1979 and 24 June 1980.

Judgment of 10 July 1980, Case 37/79: Anne Marty SA (Paris) v *Estée Lauder SA (Paris)* ([1980] ECR 2481)

Anne Marty, which retails perfumery products, is not part of the selective distribution network set up by Estée Lauder. Having been refused delivery on an order, the retailer brought proceedings against Estée Lauder seeking an order that the consignment ordered should be delivered, and damages.

In its defence Estée Lauder pleaded that the agreements organizing its distribution network, which is based on both quantitative and qualitative selection criteria, had been acknowledged by the Commission as complying with Community competition rules and referred to the letter which had been sent to it by the Directorate-General for Competition.

In the first and second questions the Court is asked to specify the legal nature of the letters sent to the defendant in the main action by the Commission's Directorate-General for Competition and what effects such letters may have as far as the national courts are concerned.

For those questions reference should be made to the *Guerlain and Others* cases, the course of which is described above.

The third question seeks a definition of the powers of national courts in applying Article 85 (1), in view of the provisions laid down in Article 9 (3) of Regulation No 17, which is worded as follows:

> 'As long as the Commission has not initiated any procedure under Article 2, 3 or 6, the authorities of the Member States shall remain competent to apply Article 85 (1) and Article 86 in accordance with Article 88 of the Treaty'.

As stated in the judgment in the *BRT/SABAM* case (Case 127/73, 30 January 1974), the Court reiterated that as the prohibitions of Article 85 (1) and Article 86 tend by their very nature to produce direct effects in relations between individuals, these articles create direct rights in respect of individuals which the national courts must safeguard. To deny, by virtue of the aforementioned Article 9 of Regulation No 17, the national courts' jurisdiction to afford this safeguard would mean depriving individuals of rights which they hold under the Treaty itself. It follows that the initiation by the Commission of a procedure under Articles 2, 3 and 6 of that regulation cannot exempt a national court before which the direct effect of Article 85 (1) is relied upon from giving a ruling.

An administrative letter such as that which was sent to the defendant in the main action indicates that the file has been closed and that it is not intended to adopt any decision.

In the present case concerning Estée Lauder, the Court ruled in reply that:

'1. An administrative letter informing the undertaking concerned of the Commission's opinion that there are no grounds for it to take any action in respect of certain agreements under the provisions in Article 85 (1) of the Treaty does not have the effect of preventing national courts, before which the agreements in question are alleged to be incompatible with Article 85, from reaching a different conclusion as to the character of the agreements in question on the basis of the information available to them. Whilst it does not bind the national courts, the opinion transmitted in such letters nevertheless constitutes an element of fact which the national courts may take into account in their investigation as to whether the agreements or conduct in question are in conformity with the provisions in Article 85.

2. The jurisdiction of national courts before which the direct effect of Article 85 (1) is relied upon is not restricted by Article 9 (3) of Regulation No 17. In any case an administrative letter informing the undertaking concerned that the file on its case has been closed does not amount to the initiation of a procedure in application of Article 2, 3 or 6 of Regulation No 17.'

Mr Advocate General Reischl delivered his opinions on 22 November 1979 and 24 June 1980.

Judgment of 10 July 1980, Case 99/79: SA Lancôme, Paris and Cosparfrance Nederland BV v *Etos BV and Albert Heyn Supermart BV, Zaandam (Netherlands)* ([1980] ECR 2511)

The third decision on this subject involves Lancôme and its subsiadiary in the Netherlands and two Netherlands companies, Etos and Albert Heyn, which run a chain of retail shops in the Netherlands. Proceedings were brought against the latter by the plaintiffs before the Arrondissementsrechtbank, Haarlem, in order that the Court should prohibit them from selling Lancôme products in their shops, which are not authorized to sell these products.

The selective distribution network set up by Lancôme is based in particular on exclusive distributorship agreements concluded between it and the general agents which it has appointed in the various Member States of the Community and on sales agreements concluded with retailers in France. The Commission was notified of the agreements concluded.

When the Netherlands retailers claimed in their defence that the sales organization of the plaintiffs was partially void since it infringed Article 85 (1), the latter referred to a letter of 1974 from the Directorate-General for Competition of the Commission of the European Communities. That letter, addressed to Lancôme, relates that the latter has amended the agreements which are the outcome of its sales agreement in the EEC in such a way that authorized retailers are henceforth free to resell Lancôme products to, or to buy them from, any general agent or authorized retailer established in the EEC and to fix their selling prices where the products are re-imported from or re-exported to other countries of the common market. The letter concludes that the file on the case may be 'closed'.

The Netherlands court referred a series of questions to the Court.

The *first question* asks the Court, *first,* to specify the legal nature of the letter addressed to Lancôme by the Director-General for Competition and to determine the effect of such letters in relation to third parties.

In the first part of the question reference is made to the *Guerlain, Lanvin, Rochas* and *Ricci* judgments (above, p. 34). *In the second part,* it asks whether such a letter terminates the 'provisional validity' of old agreements duly notified. As to the first point, reference should be made to the commentary on the *Guerlain and Others* cases, above.

Provisional validity (second point)

In the judgment of 14 February 1977 in *De Bloos* v *Bouyer* (Case 59/77) the Court held that 'during the period between notification and the date on which the Commission takes a decision, courts before which proceedings are brought relating to an old agreement duly notified or exempted from notification must give such an agreement the legal effects attributed thereto under the law applicable to the contract, and those effects cannot be called in question by any objections which may be raised concerning its compatibility with Article 85 (1)'.

The Netherlands court asks whether a letter such as that sent to Lancôme in 1974 by the Commission has the effect of terminating the provisional protection accorded from the date of their notification to old agreements notified in due time under Article 5 of Regulation No 17 or exempted from notification.

Reference should be made to the considerations underlying the case-law of the Court concerning 'provisional validity'.

Article 85 of the Treaty is arranged in the form of a rule imposing a prohibition (paragraph (1)) with a statement of its effect (paragraph (2)), mitigated by the exercise of a power to grant exemptions to that rule (paragraph (3)). To treat a given agreement, or certain of its clauses, as automatically void pre-supposes that that agreement falls within the prohibition in paragraph (1) of the said article and that it may not benefit from the provisions of paragraph (3). Since the Commission alone is competent to apply the provisions of Article 85 (3) the Court was led to conclude that as far as the agreements in question are concerned the requirement of legal certainty in contractual matters means that when an agreement has been notified in accordance with the provisions of Regulation No 17 the national court may not declare it automatically null and void unless the Commission has adopted a decision pursuant to that regulation. In the light of those considerations it is clear that once the Commission notifies the parties concerned that it has proceeded to close the file on their case, there is no longer any reason to maintain the provisional protection accorded to old agreements which have been notified.

There is therefore no longer anything to exempt the national courts before whom the direct effect of the prohibition in Article 85 (1) is relied upon from giving judgment.

Second question

This question asks whether agreements which form the basis of a selective distribution network may escape the prohibition in Article 85 (1) of the Treaty by reason of the fact that the market share held by the undertaking in question is relatively small.

The court making the reference draws attention to the fact that the competitors of the undertaking in question also practise selective distribution and expresses the view that, until now, it considered selective distribution possible only on the basis of an exemption under Article 85 (3).

The Court has already observed that selective distribution systems constitute an aspect of competition which accords with Article 85 (1), provided that resellers are chosen on the basis of objective criteria of a qualitative nature relating to the technical qualifications of the reseller, and that such conditions are laid down uniformly for all potential resellers and are not applied in a discriminatory fashion.

It follows that a selective distribution network, access to which is subject to conditions which go further than mere objective selection on the basis of quality, comes, in principle, within the prohibition in Article 85 (1) especially when it is based on qualitative selection criteria.

To be prohibited, however, an agreement between undertakings must fulfil various conditions relating not so much to its legal nature as to its relationship on the one hand to 'trade between Member States', and on the other hand to 'competition'.

It is for the national court to decide, on the basis of all the relevant factors, whether an agreement does in fact fulfil the conditions which would bring it within the prohibition in Article 85 (1).

The Court ruled in answer to the questions referred to it by the Netherlands court that:

'1. An administrative letter informing the persons concerned that the Commission is of the opinion that there are no grounds for it to take action with regard to the agreements which have been notified pursuant to the provisions of Article 85 (1) has the effect of terminating the period of provisional validity accorded from the date of notification to agreements made prior to 13 March 1962 which were notified within the period laid down in Article 5 (1) of Regulation No 17 or which were exempted from notification. The assessment set out in such a letter is not binding on the national courts but constitutes an element of fact which the latter may take into account in determining whether the agreements are in conformity with the provisions of Article 85.

2. Agreements on which a selective distribution system is based which relies on tests for admission to the system which go beyond simple objective selection based on quality have all the elements constituting incompatibility with Article 85 (1) when those agreements, either in isolation or taken together with others, in the economic and legal circumstances under which they are involved, are capable of influencing trade between Member States and have as their object or effect the prevention, restriction or distortion of competition.'

Mr Advocate General Reischl delivered his opinions on 22 November 1979 and 24 June 1980.

(e) Institutions of the European Communities

Judgments of 29 October 1980, Case 139/79, Maizena Gesellschaft mbH v *Council of the European Communities and Case 138/79, Roquette Frères* v *Council of the European Communities* ([1980] ECR 3393 and 3333)

The German company Maizena which manufactures *inter alia* isoglucose (a new sweetener extracted from maize) asked the Court for a declaration that Council Regulation No 1111/77 of 17 May 1977 is void in so far as it imposes a *production quota* on it.

In support of its action the applicant alleges *inter alia* that the production quota fixed by the said regulation should be declared void on the ground that the Council adopted the regulation without having received the opinion of the European Parliament asr qeuired by Article 43 (2) of the Treaty and that constituted a substantial formal defect.

The Council contended that the action and the intervention of the Parliament in favour of the applicant were both inadmissible. On that ground it contended that the action should be dismissed as unfounded.

Brief background to the adoption of the contested regulation and the substance thereof

By judgment dated 25 October 1978 (Joined Cases 103 and 145/77) the Court ruled that Regulation No 1111/77 laying down common provisions for isoglucose was invalid to the extent to which Articles 8 and 9 thereof imposed a production levy on isoglucose of 5 units of account per 100 kg of dry matter for the period corresponding to the sugar marketing year 1977/78. The Court found the system established by the above-mentioned articles offended the general principles of equality (in that case between sugar and isoglucose manufacturers). The Court left it to the Council to take all necessary measures to ensure the proper functioning of the market in sweeteners.

On 7 March 1979 the Commission submitted a proposal for the amendment of Regulation No 1111/77 to the Council and on 19 March 1979 the Council sought the opinion of the European Parliament thereon. The Parliament opinion was urgent for it was a question of fixing a production quota system for isoglucuse applying from 1 July 1979, the date of the beginning of the new sugar marketing year.

The parliamentary session of 7 to 11 May 1979 was to be the last before the meeting of the Parliament elected directly by universal vote which was to take place on 17 July 1979.

At its meeting on 14 May 1979 the Parliament rejected the proposal for a resolution and referred it back for reconsideration to the Agricultural Committee; the enlarged Bureau had taken account of the fact that the Council or Commission could ak for Parliament to be summoned in the event of emergency.

On 25 June 1979 without having obtained the opinion it had sought, the Council adopted the proposal for a regulation made by the Commission which thus became Regulation No 1293/79 amending Regulation No 1111/77. The Council nevertheless observed in that regulation that 'the European Parliament which was consulted on 16 March 1979 on the Commission proposal did not deliver its opinion at its May part-session; whereas it had referred the matter to the Assembly for its opinion'.

Admissibility of the action

In the view of the Council the action is inadmissible as brought by an individual against a regulation. The contested measure is not a decision taken in the form of a regulation and is not of direct and individual concern to the applicant. The Court however held the action to be admissible.

The admissibility of the intervention by the Parliament

The Council challenges the power of the Parliament to intervene voluntarily in the proceedings pending before the Court. It likens such intervention to a right of action which the Parliament does not have under the Treaty.

The submission must be rejected as incompatible with Article 37 of the Statute of the Court which gives the institutions and thus Parliament, the right to intervene in cases before the Court.

Disregard of the principles of the law on competition

In the view of the applicant Article 42 of the Treaty, according to which it is for the Council to determine how far the rules on competition are applicable to agriculture, does not authorize the Council to restrict competition more than necessary. The Council's measures in relation to isoglucose go beyond what is necessary.

The fact must not be lost sight of that the establishment of a common agricultural policy is also an objective of the Treaty.

It is apparent from a consideration of the contested measures that the effect they are likely to have on competition is inevitably caused by the legitimate intention of the Council to subject isoglucose production to restrictive measures. Those measures moreover allow a not insignificant opportunity for competition as regards prices, terms of sale and the quality of the isoglucose.

Disregard of the principle of proportionality

The applicant argues that in establishing a quota system for isoglucose the Council has chosen the most restricted means which would mean preventing all rational use of the applicant's production capacity. On the other hand no measure has been taken in respect of the sugar industry.

The Court does not accept that argument: among other things the Council certainly does not exceed the discretion which it has.

The alleged discrimination between sugar and isoglucose manufacturers

Although in a similar situation to that of sugar manufacturers isoglucose manufacturers are subject to a different system of quotas. The answer to that argument is to be found in the answer given to the alleged disregard of the principles of the law on competition. That submission must therefore be rejected as unfounded.

The discrimination between isoglucose manufacturers

Certain undertakings have voluntarily reduced their investments in anticipation of the regulation which was to amend the isoglucose system. The Council cannot be blamed for not taking account of commercial options and the internal policy of each individual undertaking when the Council adopts measures of general interest to prevent the uncontrolled production of isoglucose from endangering the sugar policy of the Community.

Disregard of essential formalities

The applicant and the Parliament maintain that since Regulation No 1111/77, as amended, was adopted by the Council without the procedure of consultation provided for in Article 43 of the Treaty being observed it must be regarded as void for disregard of essential formalities.

Consultation is a means enabling the Parliament to participate effectively in the legislative process of the Community. That power is an essential factor in the equilibrium between institutions intended by the Treaty. Due consultation of the

Parliament in the cases provided for by the Treaty constitutes therefore an essential formality, disregard of which means that the measure concerned is void.

Observation of that requirement implies that the Parliament gives its opinion and a simple request by the Council for an opinion cannot be regarded as sufficient.

The Council maintains that the Parliament by its own conduct made fulfilment of that formality impossible and therefore it is not reasonable to allege disregard thereof, but the Council had not exhausted all the possibilities of obtaining the prior opinion of the Parliament. It asked neither for the application of the emergency procedure nor for an extraordinary session of the Assembly, although the Bureau of the Parliament had drawn its attention to that possibility.

The Court therefore:

(1) Declared that Regulation No 1293/79 amending Regulation No 1111/77 was void;

(2) Ordered the Council to pay the costs of the applicant;

(3) Ordered the Parliament to bear its own costs.

Mr Advocate General Reischl delivered his opinion at the sitting on 18 September 1980.

(f) Sea fishing - Conservation measures

Judgment of 10 July 1980, Case 32/79, Commission of the European Communities, supported by the Kingdom of Denmark, the French Republic, Ireland and the Kingdom of the Netherlands v *United Kingdom of Great Britain and Northern Ireland* ([1980] ECR 2403)

By application of 27 February 1979 the Commission brought an action under Article 169 of the Treaty for a declaration that the United Kingdom has failed to fulfil its obligation under the EEC Treaty *by applying unilateral sea fisheries measures* regarding:

Herring fishing in the Mourne Fishery (east coast of Ireland and Northern Ireland);

Herring fishing in the Isle of Man and Northern Irish Sea Fishery;

Fishing for Norway pout in the zone known as 'the Norway Pout Box' (north-east coast of Scotland).

The background to the disputes

In 1977 the three fishing zones were governed by regulations adopted by the Council. In 1978, the Commission had submitted to the Council proposals to extend

the period of validity of those measures, with certain amendments, to 1978. There were differences of opinion and in view of the failure of negotiations, the Council issued the following statement on 31 January 1978:

'The Council failed to reach agreement at this meeting on the definition of a new common fisheries policy but agreed to resume examination of these matters at a later date. Pending the introduction of a common system for the conservation and management of fishery resources, all the delegations undertook to apply national measures only where they were strictly necessary, to seek the approval of the Commission for them and to ensure that they were non-discriminatory and in conformity with the Treaty'.

On 27 October 1978, the Commission informed the Government of the United Kingdom that it considered that the measures adopted in respect of the three areas were in breach of Community law in various respects. The complaints put forward by the Commission may be summarized as follows:

(a) With regard to the *Mourne Fishery,* the Commission complains that the United Kingdom left unprotected for most of 1978 a herring stock in danger of extinction, failed in its duties of consultation laid down by Community law in respect of the protective measures adopted, belatedly, in September 1978, and coupled those measures with an exception for coastal fishing in a zone of Northern Ireland which was directly contrary to conservation needs and was, moreover, granted in conditions discriminating against the fishermen of the Member States;

(b) With regard to the *Isle of Man and Northern Irish Sea Fishery,* the Commission complains that the United Kingdom applied unilaterally, both in 1977 and 1978, a system of fishing licences with regard to which there was no appropriate consultation and the detailed rules for the application of which were such as to exclude from the fishing zone in question fishermen from the other Member States and, more particularly, Irish fishermen who traditionally fished in those waters;

(c) With regard to the *Norway Pout Box,* the Commission complains that the United Kingdom unilaterally extended the eastern limits of that box by 2° longitude without having shown the justification for that measure as a necessary and urgent conservation measure, thus causing considerable damage to the industrial fishery traditionally carried on in that zone by the Danish fishing fleet.

The applicable law and the distribution of powers

The common fisheries policy is based on Articles 3 (d) and 38 of the EEC Treaty. Article 102 of the Act of Accession recognized that protection of the fishing grounds and conservation of the biological resources of the sea formed part of that policy by instructing the Council to adopt appropriate measures. The essential guidelines were established by Council Regulation (EEC) No 101/76 of 19 January

1976 laying down a common structural policy for the fishing industry. In the judgments in the *Kramer* case, Joined Cases 3, 4 and 6/76 and Case 61/77, *Commission of the European Communities* v *Ireland,* the Court emphasized that the Community has the power to take conservation measures and that in so far as this power has been exercised by the Community the provisions adopted by it preclude any conflicting provisions by the Member States.

In view of the difficulties in implementing a common policy for the conservation of fishery resources, the Council adopted on 3 November 1976 a resolution known as 'Annex VI to The Hague Resolutions' according to which 'the Member States could then adopt, as an interim measure and in a form which avoids discrimination, appropriate measures to ensure the protection of resources situated in the fishing zones off their coasts'. The resolution adds that 'before adopting such measures the Member States concerned will seek the approval of the Commission, which must be consulted at all stages of the procedures'.

Although the right of Member States to take conservation measures is not contested with regard to the period in question, a fundamental difference of opinion between the parties as to the nature and the extent of that power has emerged.

According to the United Kingdom, the Member States have an inherent power of regulating fishing within their fishing jurisdiction, the extent of which at any given time depends on the rules of international law. The Council has power to take conservation measures but this power of the Council restricts the powers of the Member States only if the Council has exercised its power by adopting conservation measures.

In contrast to this viewpoint, the Commission claims that the Council had exercised its powers with regard to the three fishing zones in question by bringing into force Community regulations and that it had itself taken the initiative of submitting to the Council proposals for defining the fisheries arrangements applicable in 1978.

The French Government develops this point of view by stating that the unilateral British measures which form the subject-matter of the dispute were taken in sectors in which Community regulations had been adopted and in which the Council was considering proposals put forward by the Commission for the adoption of further measures.

It is necessary to emphasize that as early as 1977 the Council had exercised its powers with regard to all the maritime zones affected by the application. The effect of the Council's inability to reach a decision in 1978 has not been to deprive the Community of its powers in this respect and thus to restore to the Member States freedom to act at will in the field in question.

The Mourne Fishery

The Mourne Fishery is situated in a zone 12 miles off the east coast of Ireland and Northern Ireland. It is a joint fishery for the United Kingdom and Ireland.

It is not in dispute that the herring stocks in that zone are in direct danger of extinction. Consequently, the Council had prohibited direct fishing for herring in that zone (Regulation No 1672/77 of 25 July 1977). This prohibition had been extended until 31 January 1978 (Regulation No 2899/77 of 21 December 1977). The Commission had proposed to extend that prohibition throughout 1978. It is an established fact that Ireland adopted provisions *prohibiting all fishing for herring in the part of the Mourne Fishery coming within its jurisdiction.* This prohibition was effective as from 6 February 1978.

For its part, the United Kingdom did not adopt measures concerning the part of the Mourne Fishery coming within its jurisdiction until September 1978.

On 18 September 1978 the British Government notified the Commission in order to obtain the Commission's approval for the immediate closure of the part of the Mourne Fishery off the coast of Northern Ireland for the remainder of 1978. In terms of this draft the measure was to take effect at midnight on 19 September but the fishing ban included an exemption for boats of under 35 ft registered length for a catch of 400 tonnes of herring.

The Commission did not give its approval to the measure notified by the United Kingdom. That measure was brought into force by the Herring (Restriction of Fishing) Regulations (Northern Ireland) 1978 S.R. 1978 No 277.

The Commission's complaints essentially concern the procedure followed by the United Kingdom for the purpose of introducing the measure described above and the provisions of that measure.

The Commission considers that by notifying on 18 September a measure intended to come into operation the following day the Government of the United Kingdom cannot be considered seriously to have sought the Commission's approval in accordance with The Hague Resolutions.

The Commission moreover considers that a herring catch, even if limited to 400 tonnes, was directly contrary to conservation needs and that, moreover, the reference to the maximum length of the fishing boats was manifestly discriminatory and that that exemption was deliberately defined so as to benefit exclusively the small boats characteristic of coastal fishing.

The Commission considers that the United Kingdom had a legal duty under Community law to prohibit all direct fishing for herring in the Mourne Fishery on 6 February 1978 at the latest.

The Government of the United Kingdom does not contest the actual existence of the catches in the Mourne Fishery during 1978 but claims that the figures given by the Commission relate to the whole fishery so that only part of the tonnage given was caught in the Mourne Fishery.

As regards the measure introduced in September 1978, the United Kingdom explains that urgent action was necessary because at that time the British author-

ities had established that trawlers had entered the fishing zone in question. With regard to the exemption for a quota of 400 tonnes for fishing boats under 35 ft registered length, the British Government claims that this was merely an interim measure intended to protect the interests of small coastal fishermen.

The Court considers that there are several factors which, when taken together, lead to the conclusion that the United Kingdom was under a duty to take conservation measures in the zone in question. A total ban on fishing was required for the conservation of the Mourne stock.

The Hague Resolutions and the Council Declaration of 31 January 1978 are based on the twofold assumption that measures must be adopted in the maritime waters for which the Community is responsible so as to meet established conservation needs and if those measures cannot be introduced in good time on a Community basis the Member States not only have the right but are also under a duty to act in the interests of the Community. The fact that a 400-tonne catch was permitted and that this concession was reserved to fishing boats of under 35 ft registered length cannot be justified as an 'interim measure'. In fact, it would have been possible to adopt interim measures in favour of the fishermen in question, as for other fishermen in the Community, if the United Kingdom had raised this question in due time within a Community procedure. Finally, it is necessary to observe that the procedure used in this instance by the United Kingdom was not in accordance with the requirements laid down in Annex VI to The Hague Resolutions.

The fact that the draft measure, the details of which clearly raised problems from the point of view of Community law, was submitted to the Commission at a day's notice after a long period during which the United Kingdom had failed to act is not in accordance with The Hague Resolutions which require that the Commission should be consulted at all stages of the drawing-up of proposed measures, allowing for the necessary time to study those measures and to give its opinion in good time. It is therefore necessary to declare that the United Kingdom has failed to fulfil its obligations under the Treaty both because of the procedure used and because of the exemption attached to the prohibition introduced on 20 September 1978.

The Isle of Man and Northern Irish Sea Fishery

The Isle of Man Fishery, which is subject to special rules, is formed by a 12-mile belt around the island in the Irish Sea. The Council had laid down for 1977 certain conservation and management measures for the herring stocks in the zone in question.

These measures included a seasonal prohibition on fishing from 1 October to 19 November 1977, the fixing of a quota of 13 200 tonnes for the whole of the Irish Sea, divided between France, Ireland, the Netherlands and the United Kingdom, and a provision relating to by-catches of herring.

The Member States were to take 'as far as possible, all necessary steps to ensure compliance with the provisions of this regulation'.

On 8 August 1977 the United Kingdom introduced two orders, the Herring (Irish Sea) Licensing Order 1977 and the Herring (Isle of Man) Licensing Order 1977 which may be considered as implementing the Council regulation in the United Kingdom. The purpose of the two orders is to prohibit fishing for herring in the maritime zones in question except for fishermen with a licence issued, as regards the Irish Sea, by the Government of the United Kingdom, and, as regards Isle of Man waters, by the Board of Agriculture and Fisheries of that island. The two orders do not contain any conditions in which those licences are issued, or the rights which they confer or the duties linked to their issue. They leave total discretion to the competent authorities. Those licences contained restrictions as to the period of the fishing seasons and indicated a certain number of ports in which the catches were to be landed.

The application of this licensing system was the subject-matter of negotiations between the Irish authorities and those of the United Kingdom and Isle of Man but they were unsuccessful and it has been ascertained that no licence was issued to Irish fishermen in 1977 or 1978.

In its proposals for 1978 the Commission had provided with regard to this zone for a total catch somewhat reduced by comparison with that allowed in 1977 whilst proposing a slight increase in the French, Irish and Netherlands quotas compensated for by an equivalent reduction in the United Kingdom quota.

On 17 August 1978, the Government of the United Kingdom submitted to the Commission a draft measure intended to come into operation on 21 August 1978, reducing the catches to 9 000 tonnes, 8 100 tonnes of which would be reserved to United Kingdom and Isle of Man fishermen.

The application of this restriction was to be controlled by licences, 120 of which would be granted to the United Kingdom. The notification did not contain any information as to the rights of fishermen of other Member States so that the Commission informed the United Kingdom that it was impossible for it to adopt a viewpoint in such a short time and requested that the fishery should not be closed before 1 October. On 20 September 1978, the United Kingdom prohibited fishing for herring from 24 September 1978 throughout the Irish Sea.

The Commission's complaints may be summarized as follows: the result of the licensing system was to oust Irish fishermen from a fishing zone which was traditional for them and the fact that the closure of the fishing season was brought forward caused damage to the fishermen of other Member States, in particular French and Netherlands fishermen.

The Commission's arguments were supported by the French, Irish and Netherlands Government. The French Government emphasizes the discriminatory nature of the measures adopted by the United Kingdom in that it gave its own fishermen

an excessive proportion of the total catches. The Irish Government agrees with the analysis made by the Commission. The Government of the Netherlands claims that the interests of Netherlands fishermen were adversely affected by the British measures in two ways—the fishing quotas applied unilateraly by the United Kingdom reduced the proportion reserved to the other Member States and the bringing forward of the date of closure of the fishing season adversely affected primarily Netherlands fishermen whose fishing is concentrated precisely in that season.

In its defence, the United Kingdom claims that the licensing system constitutes a particularly effective means of ensuring that the fishing restrictions existing in the region in question are being observed. With regard to the bringing forward of the date of closure of the fishing season to 24 September 1978, the British Government claims that it was an appropriate conservation measure which was applied without discrimination and that it had been duly notified to the Commission whose approval had been sought.

The arrangements applying in 1977

During 1977, the maritime zone in question was governed by Regulation No 1779/77 which involved the fixing of catch quotas and a seasonal fishing ban from 1 October to 19 November 1977 in a limited zone covering the Isle of Man waters. Under that regulation, Member States were under a duty to take the measures necessary to ensure that those provisions were complied with. The United Kingdom raised the question whether the duty to consult the Commission and to seek its judgment in Case 141/78, *French Republic* v *United Kingdom of Great Britain and Northern Ireland*. This duty is general and applies to any measures of conservation emanating from the Member States and not from the Community authorities.

The United Kingdom has not, by bringing into force that licensing system, entirely fulfilled its obligations under the Community rules. In fact, the obligation to introduce implementing measures which are effective in law and with which those concerned may readily acquaint themselves is necessary where sea fisheries are concerned which must be planned and organized in advance.

The requirement of legal clarity is indeed imperative in a sector in which any uncertainty may well lead to incidents and the application of particularly serious sanctions.

The United Kingdom was in breach of the rules of Community law as long ago as the 1977 season by not securing the implementation of Regulation No 1779/77 by means of measures legally determined and published and by failing to communicate information both to the Commission and to the other Member States directly concerned.

The arrangements applicable in 1978

It is necessary to point out first of all that the United Kingdom has allowed complete uncertainty to continue to exist as to the system of conservation measures

applied in the zone in question. Nor has the United Kingdom fulfilled the requirements laid down in The Hague Resolutions. In fact, in view of the long period of inactivity before that notification, the fact that the Commission was suddenly consulted on 17 August about measures intended to be brought into force four days later cannot be considered to be a procedure complying with that resolution. It is therefore also necessary to declare that the United Kingdom has failed to fulfil its obligations under the Treaty as regards the arrangements applied in 1978.

The Norway Pout Box

During 1977, the Council had thrice adopted measures prohibiting fishing for Norway pout. The fishing zone adjoins the east and north coasts of Scotland. The common feature of the measures adopted was that they did not extend further east than a line represented by 00° 00′ longitude (or the Greenwich meridian). On 31 October 1977, the British Government adopted a provision prohibiting fishing for Norway pout from 1 November 1977 in the same zone bounded to the east by the Greenwich meridian. For its part, the Commission submitted to the Council at the same time a proposal which aimed at maintaining the Norway Pout Box according to its former definition, in other words bounded to the east by 00° 00′ longitude.

On 3 and 20 July 1978, the Government of the United Kingdom submitted to the Commission, referring to the procedure laid down in The Hague Resolutions, several draft conservation measures, including a proposal for the seasonal extension during the period every year from 1 October to 31 March of the following year, of the Norway Pout Box, extending the eastern limits of that zone to the dividing line between the United Kingdom fishing zone and the Norwegian fishing zone and, from the points of intersection of that dividing line with 2° longitude East, along that meridian.

The Commission did not give its approval, taking the view that that measure is incompatible with Community law because it is not a true conservation measure but in reality a mesure of economic policy whose object is to improve the catches of United Kingdom fishermen, who fish for haddock and whiting in that region, when the existence of those species is not in fact endangered, to the detriment of Danish fishermen who traditionally fish for Norway pout for industrial purposes.

The Danish Government draws attention to the serious damage caused to a considerable proportion of its fishing fleet whose existence is endangered by the measure adopted unilaterally by the United Kingdom. The United Kingdom contends that the measure adopted is a genuine conservation measure.

It follows from the Community provisions that unilateral conservation measures may only be adopted by Member States where there is an *established need.*

Having introduced the measure complained of unilaterally, without supplying any explanation, the United Kingdom has not been able to show the justification for the measure adopted as a *strictly necessary* conservation measure.

The Court held as follows:

'1. The United Kingdom has failed to fulfil its obligations under the EEC Treaty:

(a) *As regards the Mourne Fishery,* by failing to fulfil the duties of consultation laid down by Community law in respect of the conservation measures adopted in September 1978 by the Herring (Restriction of Fishing) Regulations (Northern Ireland) 1978, S.R. 1978 No 277, by coupling those measures with an exception contrary to a recognized conservation need and, moreover, granting that exception in conditions solely favourable to certain United Kingdom fishermen;

(b) *As regards the Isle of Man and Northern Irish Fishery,* by applying in 1977, for the purpose of implementing Council Regulation No 1779/77 of 2 August 1977 and pursuant to the Herring (Irish Sea) Licensing Order 1977, S.I. 1977 No 1388, and the Herring (Isle of Man) Licensing Order 1977, S.I. 1977 No 1389, a system of fishing licences which had not formed the subject-matter of an appropriate consultation and the detailed rules for the implementation of which were reserved wholly to the discretion of the United Kingdom authorities, without its being possible for the Community authorities, the other Member States and those concerned to be certain how the system would actually be applied in law; by maintaining in 1978 that state of uncertainly in relation to fishermen of other Member States and by, during the same year, unilaterally amending the existing protective measures to the detriment of fishermen of other Member States by the Irish Sea Herring (Prohibition of Fishing) Order 1978, S.I. 1978 No 1374, without consulting the Commission in accordance with the rules of Community law and without showing that the detailed rules for the implementation of the measure adopted meet a genuine and urgent conservation need in that form;

(c) *As regards the Norway Pout Box,* by extending eastwards to 2° longitude East, or to the boundaries of the United Kingdom fishing zone, the scope of a seasonal prohibition on fishing for Norway pout by the Norway Pout (Prohibition of Fishing) (No 3) (Variation) Order 1978, S.I. 1978 No 1379, thus causing considerable damage to the fishing of another Member State, without seeking the Commission's approval for this in satisfactory circumstances and without showing the justification for the measure adopted as a strictly necessary conservation measure;

2. The United Kingdom is ordered to pay the costs of the action including those of the interveners.'

Mr Advocate General Reischl delivered his opinion at the sitting on 21 May 1980.

2. Meetings and visits

The Court of Justice continued its tradition of some 20 years of maintaining contact with judges in Member States.

As in previous years, in 1980 the Court organized two study days in March for judges from the nine Member States and a one-week course in October 1980.

Besides those visits arranged at the European level the various Chambers of the Court took the initiative of arranging visits by small groups of judges of national courts to brief them about the Court. This kind of visit enabled many judges from the nine Member States to gain more personal contact with the Members of the Court and their legal secretaries and gave them the opportunity to see the Court at work in an informal capacity.

The Court of Justice also made official visits to various superior courts: on 22 and 23 October the Bundesverfassungsgericht and the Bundesgerichtshof were host to the Court; on 13 and 14 November 1980 the Court accepted an invitation from the Federal Swiss Court and was represented by a delegation consisting of the President, J. Mertens de Wilmars, and Judges Pescatore and Koopmans.

On 25 and 27 April 1980 Judge Touffait and Mr Advocate General Warner, First Advocate General, attended a meeting of the Association Nationale Française des Docteurs en Droit in Paris and represented the Court of Justice at the meeting.

On 9 May 1980 Judge Touffait represented the Court of Justice at Paris during the formal celebrations organized by the European Movement to mark the 30th anniversary of the declaration by Robert Schuman.

The Court was host to numerous visitors, too: on 30 May 1980 Herr Vogel, the Minister of Justice of the Federal Republic of Germany came to unveil the works of art of Hans Uhlmann and Ewald Matare which were lent to the Court by the Nationalgalerie Stiftung Preussischer Kulturbesitz, Berlin.

On 17 June 1980 the Court received an official Greek delegation led by Mr Contogeorgis, Minister of Coordination. The Minister was accompanied by Ambassador Ehonides, Director-General Adreopoulos, Professor Chloros and Embassy Counsellor Mr Kyriakides.

On 12 November 1980 the Court received a delegation of a group of advocates from the Italian Avvocatura Generale dello Stato led by Mr E. Manzori, Advo-

cate-General, and lastly, on 3 December, Mr T. Roseingrave, the President of the Economic and Social Committee of the European Communities paid an official visit to the Court of Justice.

The Court played an active part in the Ninth Congress of the International Federation for European Law which was held in London on 25, 26 and 27 September 1980. President Mertens de Wilmars gave a general talk on the topic: 'The various national approaches to legal protection against breaches of Community law by national authorities and individuals'.

Finally, in order to improve contacts with the managers and editors of legal journals, on 10 and 11 November 1980 the Court organized briefing days which enabled some fifty persons engaged in the publication of legal journals to get to know the Court better and to have more personal contact with the members of the Court and officials responsible for documentation and information about the Court.

Visits to the Court of Justice during 1980[1]

Description	Belgium	Denmark	FR of Germany	France	Ireland	Italy	Luxembourg	Netherlands	United Kingdom	Non-member States	Mixed groups	Total
Judges of national courts[2]	—	7	67	—	3	—	45	33	30	—	189	374
Lawyers, trainees, legal advisers	7	1	107	106	1	—	—	1	205	22	136	586
Professors, lecturers in Community law	—	—	2	2	—	9	2	—	1	—	—	16
Members of parliaments, national civil servants, political groups	100	35	778	111	182	18	—	18	280	16	51	1 589
Journalists	3	8	51	7	3	9	—	5	15	8	—	109
Students, schoolchildren	328	169	607	333	111	193	108	406	1 164	327	50	3 796
Professional associations	35	—	73	60	—	—	—	—	36	—	32	236
Others	35	35	198	—	34	1	35	—	69	62	58	527
Total	508	255	1 883	619	334	230	190	463	1 800	435	516	**7 233**

[1] In all 298 individual group visits.

[2] This column shows, for each Member State, the number of national judges who visited the Court in national groups. The column headed 'mixed groups' shows the total number of judges from all Member States who attended the study days or courses for judges. These study days and courses have been arranged each year by the Court of Justice since 1967. In 1980 the following numbers took part:

Belgium	: 12 judges	**Ireland**	: 10 judges
Denmark	: 11 judges	Italy	: 29 judges
Federal Republic of Germany	: 29 judges	Luxembourg	: 4 judges
France	: 31 judges	Netherlands	: 12 judges
Greece	: 20 judges	United Kingdom	: 31 judges

3. Composition of the Court

The composition of the Court changed during 1980.

On 30 October 1980 President Kutscher relinquished office and on 30 October 1980 Judge Everling took up office. The Court said farewell to Hans Kutscher and welcomed Ulrich Everling at a formal sitting held on 30 October 1980.

Also on 30 October 1980 Josse Mertens de Wilmars was elected President of the Court of Justice for the period from 30 October 1980 to 6 October 1982.

By a decision of the Court of 1 October 1980 Mr Advocate General Reischl on the one hand and Judges Pescatore and Koopmans on the other were designated respectively First Advocate General and Presidents of Chambers for the judicial year 1980/81.

Composition of the Court of Justice of the European Communities for the judicial year 1979/80

from 1.1.1980 to 7.10.1980

Hans KUTSCHER, President of the Court and of the Third Chamber
Jean-Pierre WARNER, First Advocate General
Aindrias O'KEEFFE, President of the First Chamber
Adolphe TOUFFAIT, President of the Second Chamber
Josse MERTENS DE WILMARS, Judge
Pierre PESCATORE, Judge
Henri MAYRAS, Advocate General
Lord Alexander J. MACKENZIE STUART, Judge
Gerhard REISCHL, Advocate General
Francesco CAPOTORTI, Advocate General
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge
Ole DUE, Judge
Albert VAN HOUTTE, Registrar

First Chamber

Aindrias O'KEEFFE, President
Giacinto BOSCO, Judge
Thymen KOOPMANS, Judge

Second Chamber

Adolphe TOUFFAIT, President
Pierre PESCATORE, Judge
Ole DUE, Judge

Third Chamber[1]

Hans KUTSCHER, President
Josse MERTENS DE WILMARS, Judge
Lord Alexander J. MACKENZIE STUART, Judge

from 7.10.1980 to 30.10.1980

Hans KUTSCHER, President
Pierre PESCATORE, President of the Second Chamber
Gerhard REISCHL, First Advocate General
Thymen KOOPMANS, President of the First Chamber
Josse MERTENS DE WILMARS, Judge
Henri MAYRAS, Advocate General
Jean-Pierre WARNER, Advocate General
Lord Alexander J. MACKENZIE STUART, Judge
Aindrias O'KEEFFE, Judge
Francesco CAPOTORTI, Advocate General
Giacinto BOSCO, Judge
Adolphe TOUFFAIT, Judge
Ole DUE, Judge
Albert VAN HOUTTE, Registrar

First Chamber

Thymen KOOPMANS, President
Aindrias O'KEEFFE, Judge
Giacinto BOSCO, Judge

Second Chamber

Pierre PESCATORE, President
Adolphe TOUFFAIT, Judge
Ole DUE, Judge

Third Chamber

Hans KUTSCHER, President of the Court
Josse MERTENS DE WILMARS, Judge
Lord Alexander J. MACKENZIE STUART, Judge

from 30.10.1980 to 31.12.1980

Josse MERTENS DE WILMARS, President
Pierre PESCATORE, President of the Second Chamber
Gerhard REISCHL, First Advocate General
Thymen KOOPMANS, President of the First Chamber
Henri MAYRAS, Advocate General
Jean-Pierre WARNER, Advocate General
Lord Alexander J. MACKENZIE STUART, Judge
Aindrias O'KEEFFE, Judge
Francesco CAPOTORTI, Advocate General
Giacinto BOSCO, Judge

[1] Following an amendment to the Rules of Procedure which became effective on 8 October 1979 a Third Chamber was created of which President Kutscher was the President.

Adolphe TOUFFAIT, Judge
Ole DUE, Judge
Ulrich EVERLING, Judge
Albert VAN HOUTTE, Registrar

First Chamber

Thymen KOOPMANS, President
Aindrias O'KEEFFE, Judge
Giacinto BOSCO, Judge

Second Chamber

Pierre PESCATORE, President
Adolphe TOUFFAIT, Judge
Ole DUE, Judge

Third Chamber

Josse MERTENS DE WILMARS, President
Lord Alexander J. MACKENZIE STUART, Judge
Ulrich EVERLING, Judge

Former Presidents and members of the Court of Justice

Former Presidents

PILOTTI, Massimo (died on 29 April 1962)	President of the Court of Justice of the European Coal and Steel Community from 10 December 1952 to 6 October 1958
DONNER, Andreas Matthias	President of the Court of Justice of the European Communities from 7 October 1958 to 7 October 1964
HAMMES, Charles Léon (died on 9 December 1967)	President of the Court of Justice of the European Communities from 8 October 1964 to 7 October 1967
LECOURT, Robert	President of the Court of Justice of the European Communities from 8 October 1967 to 6 October 1976
KUTSCHER, Hans	President of the Court of Justice of the European Communities from 7 October 1976 to 30 October 1980

Former members

PILOTTI, Massimo (died on 29 April 1962)	President and Judge at the Court of Justice from 10 December 1952 to 6 October 1958
SERRARENS, Petrus J. S. (died on 26 August 1963)	Judge at the Court of Justice from 10 December 1952 to 6 October 1958
VAN KLEFFENS, Adrianus (died on 2 August 1973)	Judge at the Court of Justice from 10 December 1952 to 6 October 1958

CATALANO, Nicola	Judge at the Court of Justice from 7 October 1958 to 7 March 1962
RUEFF, Jacques (died on 24 April 1978)	Judge at the Court of Justice from 10 December 1952 to 17 May 1962
RIESE, Otto (died on 4 June 1977)	Judge at the Court of Justice from 10 December 1952 to 5 February 1963
ROSSI, Rino (died on 6 February 1974)	Judge at the Court of Justice from 7 October 1958 to 7 October 1964
LAGRANGE, Maurice	Advocate General at the Court of Justice from 10 December 1952 to 7 October 1964
DELVAUX, Louis (died on 24 August 1976)	Judge at the Court of Justice from 10 December 1952 to 9 October 1967
HAMMES, Charles-Léon (died on 9 December 1967)	Judge at the Court of Justice from 10 December 1952 to 9 October 1967, President of the Court from 8 October 1964 to 7 October 1967
GAND, Joseph (died on 4 October 1974)	Advocate General at the Court of Justice from 8 October 1964 to 6 October 1970
STRAUSS, Walter (died on 1 January 1976)	Judge at the Court of Justice from 6 February 1963 to 27 October 1970
DUTHEILLET DE LAMOTHE, Alain (died on 2 January 1972)	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 2 February 1953 to 8 October 1973
Ó DÁLAIGH, Cearbhall (died on 21 March 1978)	Judge at the Court of Justice from 9 January 1973 to 11 December 1974
MONACO, Riccardo	Judge at the Court of Justice from 8 October 1964 to 2 February 1976
LECOURT, Robert	Judge at the Court of Justice from 18 May 1962 to 25 October 1976, President of the Court from 8 October 1967 to 6 October 1976
TRABUCCHI, Alberto	Judge at the Court of Justice from 8 March 1962 to 8 January 1973, Advocate General at the Court from 9 January 1973 to 6 October 1976
DONNER, Andreas Matthias	Judge at the Court of Justice from 7 October 1958 to 29 March 1979, President of the Court from 7 October 1958 to 7 October 1964
SØRENSEN, Max	Judge at the Court of Justice from 9 January 1973 to 6 October 1979
KUTSCHER, Hans	Judge at the Court of Justice from 28 October 1970 to 30 October 1980, President of the Court from 7 October 1976 to 30 October 1980

4. Library and Documentation Directorate

This directorate includes the Library and the Documentation Branch.

The Library of the Court of Justice

The Library of the Court is primarily a working instrument for the members and the officials of the Court.

At present it contains approximately 36 500 bound volumes (books, series and bound journals), 6 800 unbound booklets and brochures and 373 current legal journals and law reports supplied on subscription.

It may be mentioned purely as a guide that in the course of 1980 new acquisitions amounted to 1 000 books (1 400 volumes), 500 booklets and 24 new subscriptions.

All these works may be consulted in the reading-room of the Library. They are lent only to the members and the officials of the Court. No loan to persons outside the institutions of the Community is permitted. Loan of works to officials of other Community institutions may be permitted through the library of the institution to which the official seeking to borrow a book belongs.

The Library periodically publishes the Bibliographical Bulletin of Community Case-Law, Bulletin 1979/80 covering the second half of 1979 and the first halft of 1980 was in preparation at the end of the year. The Bulletin may be obtained from the Office for Official Publications of the European Communities, L-2985 Luxembourg.

The Documentation Branch of the Court of Justice

The primary task of this branch is to prepare summaries of judgments, to draw up the tables (indexes) for the Reports of Cases before the Court and, at the request of members of the Court, to prepare documentation concerning Community law and comparative law for the purposes of preparatory inquiries.

The annual alphabetical index of subject-matter in the Reports of Cases before the Court appears in the six Community languages approximately seven months after the last issue of the Reports of Cases before the Court for the preceding year.

The Branch has started work on the drawing-up of a digest of Community case-law which will be published under the supervision of the Registrar. The work will cover the case-law of the Court as well as a selection of the case-law of the courts of Member States on Community law. The first issue of the D series, at present in course of preparation, will be published in the first few months of 1981. It comprises the case-law of the Court in 1976 to 1979 on the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as well as a selection of national case-law on this subject covering the years 1973 to 1978. The first issue of the A series (case-law of the Court of Justice from 1977 to 1979 save for cases concerning the Convention mentioned above and Community staff law) is in the course of completion; in all probability it will be published during the second half of 1981.

The legal information section of the Branch runs a computerized research system for the case-law of the Court of Justice. This system, which at present allows inquiries to be made on judgments delivered since 1954, is primarily available to members and officials of the Court.

However, in exceptional cases it may provide information to outside users. The data-base of the system forms part of the CELEX interinstitutional system of computerized documentation for Community law. From 1981 it will be possible to obtain access to it by means of inquiry terminals installed in Member States and linked to the Court through the Euronet/DIANE data transmission network

In the performance of its duties, the Documentation Branch uses not only the books available in the Library but also its own card-indexes of Community case-law, which contain in particular a large collection of decisions by national courts on Community law and notes on theoretical writing concerning the case-law of the Court of Justice.

5. Translation Directorate

The Translation Directorate is at present composed of 78 lawyer-linguists who are divided up as follows into the seven translation divisions and the Terminology Branch:

Danish Language Division	13	German Language Division	10
Dutch Language Division	12	Greek Language Division	11
English Language Division	12	Italian Language Division	6
French Language Division	13	Terminology Branch	1

The total number of staff is 123. Since 1979 it has therefore increased by 32 of which 15 are Greek-speaking lawyer-linguists and secretaries.

The principal task of the Translation Directorate is to translate into all the official languages of the Communities for publication in the Reports of Cases before the Court the judgments of the Court and the opinions of the Advocates General. In addition it translates any documents in the case into the language or languages required by members of the Court.

In 1980 the Translation Directorate translated some 58 100 pages as against 48 100 pages translated during the previous year.

The relative importance of the various official languages of the Community and of Greek as languages into which texts are translated on the one hand and as source languages on the other may be seen from the following table. The first column of the table at the same time shows the amount of work done in 1980 by each of the seven translation divisions. It should be added that the Greek language translation division was not formed until the autumn of 1980.

Translations:

into Danish:	10 450 pages;	from that language:	450 pages
into Dutch:	10 200 pages;	from that language:	2 850 pages
into English:	9 350 pages;	from that language:	6 450 pages
into French:	10 350 pages;	from that language:	32 650 pages
into German:	8 900 pages;	from that language:	9 950 pages
into Greek:	100 pages;	from that language:	50 pages
into Italian:	8 750 pages;	from that language:	5 700 pages
	58 100 pages		58 100 pages

6. Interpretation Division

Since 1978 the Court has procured the services of a group of conference interpreters whom it has asked to specialize in legal interpretation.

At first these interpreters interpreted from five languages into three languages (French, German and English).

A service providing interpretation from six languages into six languages has been in the course of being established since the 1980 budget was passed. Recruitment procedures are under way. The Interpretation Division provides interpretation for all sittings and other meetings organized by the institution. Except for French it translates the opinions of the Advocates General for the purposes of public sittings. A good deal of an interpreter's work is devoted to the preparation of the interpretation. This requires reading, understanding and assimilation of the written procedure as well as terminological and document research.

II — Decisions of national courts on Community law

A — *Statistical information*

The Court of Justice endeavours to obtain as full information as possible on decisions of national courts on Community law.[1]

The tables below show the number of national decisions, with a breakdown by Member States, delivered between 1 July 1979 and 30 June 1980 entered in the card-indexes maintained by the Library and Documentation Directorate of the Court. The decisions are included whether or not they were taken on the basis of a preliminary ruling by the Court.

A separate column headed 'Brussels Convention' contains the decisions on the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, known as the Brussels Convention, which has led to a considerable increase in the number of cases coming before the national courts.

It should be emphasized that the tables are only a guide as the card-indexes on which they are based are necessarily incomplete.[2]

[1] The Library and Documentation Directorate of the Court of Justice of the European Communities, L - 2920 Luxembourg, welcomes copies of any such decisions.

[2] In particular they do not contain decisions which, without any legal discussion, are restricted to authorizing the enforcement of a decision delivered in another Contracting State under the Brussels Convention.

General table, by Member State, of decisions on Community law
(from 1 July 1979 to 30 June 1980)

Member States	Supreme courts	Case in previous column on Brussels Convention	Courts of appeal or of first instance	Case in previous column on Brussels Convention	Total	Case in previous column on Brussels Convention
Belgium	13	1	85	58	98	59
Denmark	3	—	2	—	5	—
France	26	7	34	6	60	13
Federal Republic of Germany	57	5	86	12	143	17
Ireland	4	—	1	—	5	—
Italy	24	6	24	5	48	11
Luxembourg	—	—	1	—	1	—
Netherlands	9	1	49	8	58	9
United Kingdom	1	—	35	—	36	—
Total	137	20	317	89	454	109

Detailed table, broken down by Member State and by court, of decisions on Community law

Member State	Number	Court giving judgment	
		Supreme courts	
Federal Republic of Germany	143	Bundesverfassungsgericht	2
		Bundesgerichtshof	11
		Bundesverwaltungsgericht	6
		Bundesfinanzhof	31
		Bundessozialgericht	6
		Bundesarbeitsgericht	1
			—
			57

Member State	Number	Court giving judgment	
		Courts of appeal or first instance	
Federal Republic of Germany (*cont'd*)	143	Oberlandesgericht Düsseldorf	1
		Oberlandesgericht Frankfurt	5
		Oberlandesgericht Hamburg	2
		Oberlandesgericht Hamm	2
		Oberlandesgericht Koblenz	1
		Oberlandesgericht Köln	2
		Oberlandesgericht München	1
		Oberlandesgericht Stuttgart	3
		Schleswig-Holsteinisches Oberlandesgericht	1
		Hessischer Verwaltungsgerichtshof	7
		Oberverwaltungsgericht der freien Hansestadt Bremen	1
		Oberverwaltungsgericht Nordrhein-Westfalen	1
		Verwaltungsgerichtshof Baden-Württemberg	1
		Finanzgericht Berlin	1
		Finanzgericht Bremen	2
		Finanzgericht Düsseldorf	2
		Finanzgericht Hamburg	18
		Finanzgericht München	6
		Finanzgericht Münster	3
		Finanzgericht Rheinland-Pfalz	2
		Hessisches Finanzgericht	6
		Hessisches Landessozialgericht	1
		Landgericht Düsseldorf	2
		Landgericht Hamburg	1
		Landgericht Hamm	1
		Landgericht Krefeld	1
		Verwaltungsgericht Frankfurt	5
		Verwaltungsgericht Münster	1
		Verwaltungsgericht Neustadt a.d. Weinstraße	1
		Sozialgericht Augsburg	1
		Sozialgericht Schleswig	1
		Sozialgericht Speyer	1
		Amtsgericht Schöneberg	1
		Amtsgericht Wiesbaden	1
			—
			86

Member State	Number	Court giving judgment	
		Supreme courts	
Belgium	98	Cour de cassation	10
		Conseil d'État	3
			13
		Courts of appeal or first instance	
		Cour d'appel de Bruxelles	11
		Cour d'appel de Mons	2
		Hof van beroep Antwerpen	12
		Hof van beroep Gent	3
		Cour du travail de Liège	1
		Cour du travail de Mons	2
		Arbeidshof Antwerpen	7
		Tribunal d'arrondissement de Tournai	1
		Tribunal de première instance d'Arlon	1
		Tribunal de première instance de Bruxelles	3
		Tribunal de première instance de Liège	2
		Rechtbank van eerste aanleg Brugge	3
		Rechtbank van eerste aanleg Hasselt	1
		Rechtbank van eerste aanleg Kortrijk	1
		Rechtbank van eerste aanleg Leuven	1
		Tribunal du travail de Bruxelles	6
		Tribunal du travail de Charleroi	2
		Tribunal du travail de Mons	1
		Tribunal du travail de Verviers	1
		Tribunal de commerce de Bruxelles	1
		Rechtbank van koophandel Antwerpen	4
		Rechtbank van koophandel Brugge	2
		Rechtbank van koophandel Gent	5
		Rechtbank van koophandel Kortrijk	2
		Rechtbank van koophandel Oudenaarde	7
		Justice de Paix de Messancy	1
		Politierechtbank Lier	2
			85
		Supreme courts	
Denmark	5	Højesteret	3
			3
		Courts of appeal or first instance	
		Østre Landsret	2
			2

Member State	Number	Court giving judgment	
France	60	*Supreme courts*	
		Cour de cassation	17
		Conseil d'État	9
			26
		Courts of appeal or first instance	
		Cour d'appel d'Aix-en-Provence	1
		Cour d'appel de Colmar	2
		Cour d'appel de Douai	2
		Cour d'appel de Grenoble	1
		Cour d'appel de Nancy	1
		Cour d'appel de Paris	4
		Cour d'appel de Pau	1
		Cour d'appel de Rennes	1
		Cour d'appel de Rouen	2
		Tribunal administratif de Lyon	1
		Tribunal administratif de Paris	3
		Tribunal de grande instance de Besançon	1
		Tribunal de grande instance de Grenoble	1
		Tribunal de grande instance de Montbrizon	1
		Tribunal de grande instance de Montpellier	1
		Tribunal de grande instance de Paris	5
		Tribunal d'instance d'Hayange	2
		Tribunal d'instance du 1er arrondissement de Paris	2
		Tribunal d'instance du 6e arrondissement de Paris	1
		Tribunal d'instance de Lille	1
			34
Ireland	5	*Supreme courts*	
		High Court	4
			4
		Courts of appeal or first instance	
		Circuit Court, County of Cork	1
			1

Member State	Number	Court giving judgment	
Italy	48	*Supreme courts*	
		Corte costituzionale	3
		Corte di Cassazione	20
		Consiglio di Stato	1
			24
		Courts of appeal or first instance	
		Corte d'appello di Milano	5
		Corte d'appello di Torino	1
		Corte d'appello di Trieste	1
		Tribunale amministrativo regionale per l'Abruzzo, Sede dell'Aquila	1
		Tribunale di Bolzano	1
		Tribunale di Lucca	1
		Tribunale di Milano	1
		Tribunale di Modena	1
		Tribunale di Monza	1
		Tribunale di Napoli	1
		Tribunale di Ragusa	1
		Tribunale di Ravenna	1
		Tribunale di Roma	1
		Pretura di Bolzano	1
		Pretura di Brescia	1
		Pretura di Casteggio	1
		Pretura di Castell'Arquato	1
		Pretura di Como	1
		Pretura di Milano	1
		Pretura di Padova	1
			24
Luxembourg	1	*Supreme courts*	**0**
		Courts of appeal or first instance	
		Tribunal arbitral pour les contestations entre patrons et employés privés de Luxembourg	1
			1

Member State	Number	Court giving judgment	
		Supreme courts	
Netherlands	58	Hoge Raad	7
		Raad van State	2
			9
		Courts of appeal or first instance	
		Centrale Raad van Beroep	5
		College van Beroep voor het Bedrijfsleven	12
		Gerechtshof Amsterdam	2
		Gerechtshof Arnhem	2
		Gerechtshof 's-Gravenhage	2
		Tariefcommissie	8
		Arrondissementsrechtbank Amsterdam	2
		Arrondissementsrechtbank Arnhem	1
		Arrondissementsrechtbank Assen	1
		Arrondissementsrechtbank Dordrecht	1
		Arrondissementsrechtbank Haarlem	2
		Arrondissementsrechtbank Maastricht	2
		Arrondissementsrechtbank Roermond	2
		Arrondissementsrechtbank Rotterdam	2
		Arrondissementsrechtbank 's-Gravenhage	1
		Arrondissementsrechtbank 's-Hertogenbosch	1
		Raad van beroep Zwolle	1
		Ambtenarengerecht Rotterdam	2
			49
		Supreme courts	
United Kingdom	36	House of Lords	1
			1
		Courts of appeal or first instance	
		Court of Appeal	11
		High Court of Justice	10
		Court of Session, Outer House	1
		Employment Appeal Tribunal	3
		Crown Court Cardiff	1
		Crown Court Kingston-upon-Thames	1
		National Insurance Commissioner	5
		Commissioners for Special Purposes of the Income Tax Acts	2
		Pontypridd Magistrate's Court	1
			35

B — *Remarks on some specific decisions*

Of the large number of decisions on Community law made by national courts during the reference period attention should be drawn to two in particular. Needless to say, many other decisions are worth mentioning but the limited space available prevents them from being published here.

The judgment of the House of Lords of 27 March 1980 in the case of *Regina* v *Henn and Darby*[1] stands out since by its order of 22 February 1979[2] the highest court of the United Kingdom for the first time submitted to the Court of Justice under the procedure for a preliminary ruling laid down by Article 177 of the EEC Treaty a question on the interpretation of Community law and by its judgment of 27 March 1980 it applied the answer which the Court of Justice gave to it in its judgment of 14 December 1979.[3] The House of Lords took the opportunity to make some extremely interesting remarks as to the exercise of the power to make a reference made available to lower courts by Article 177.

The judgment of the Italian Constitutional Court of 26 July 1979[4] concerns the problem of the division of powers internal to a Member State faced with obligations incumbent on a State under Community law. Upholding case-law dating from 1976 the Constitutional Court held that the central organs of the State have a power of substitution which in some cases enables them to take measures to implement Community law which should have been adopted by the regions under Italian constitutional rules.

(a) Judgment of the House of Lords of 27 March 1980 in the case Regina v Henn and Darby

By this judgment the House of Lords applied the ruling which it had requested of the Court of Justice in this case. The appellants before the House of Lords had carried on in England a substantial though unlawful trade in pornographic magazines and films. Such trade is prohibited by United Kingdom legislation, although the various laws of the different constituent parts of the United Kingdom apply slightly different criteria in this field. That legislation imposes moreover an abso-

[1] [1980] 2 WLR 597.

[2] [1979] 2 CMLR 495.

[3] Case 34/79 [1979] ECR 3795.

[4] No 81, Giurisprudenza Costituzionale 1979, I, 622.

lute prohibition on the importation into the United Kingdom of 'indecent or obscene . . . photographs, books, . . . or any other indecent or obscene articles'. In October 1975 the appellants were involved in importing a large consignment of pornographic films and magazines into England from the Netherlands, the films and magazines in question here being of Danish origin. As a result they were convicted at Ipswich Crown Court of a number of offences against English law, in particular that of being knowingly concerned in the fraudulent evasion of the above-mentioned prohibition on the importation of indecent or obscene articles. The appellants invoked Article 30 of the EEC Treaty, which provides: 'Quantitative restrictions on imports and all measures having equivalent effect shall, without prejudice to the following provisions, be prohibited between Member States'. They contended that the offence in question no longer existed in English law because the import prohibition on which it was based was incompatible with Community law on the free movement of goods. Both the trial court and the Court of Appeal rejected this contention and declined to refer any questions to the Court of Justice for a preliminary ruling. The Court of Appeal considered that Article 30 could not apply to an *absolute* prohibition on the importation of a certain kind of goods as that article concerned 'quantitative' restrictions, which it took to mean only such restrictions as were concerned with quantity.

The Court of Justice ruling made it clear, on the other hand, that an absolute prohibition on imports does constitute a quantitative restriction on imports within the meaning of Article 30, and is therefore *prima facie* prohibited. However, Article 36 of the EEC Treaty provides: 'The provisions of Articles 30 to 34 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, . . .'; and the Court of Justice ruled that this means that a Member State may, in principle, lawfully impose prohibitions on the importation from any other Member State of articles which are of an indecent or obscene character as understood by its domestic laws. Applying this ruling, the House of Lords found that the English prohibition on importing pornographic articles constituted a quantitative restriction on imports within the meaning of Article 30 of the EEC Treaty, but was justified on grounds of public morality for the purposes of Article 36 of the EEC Treaty. Accordingly the House of Lords dismissed the appeals by Henn and Darby against their conviction.

The House of Lords' judgment is of particular interest for the views expressed by Lord Diplock (all other Lords concurring) concerning the interpretation of Community law and references under Article 177 of the EEC Treaty.

Lord Diplock approved the Crown Court judge's decision not to refer any question on the interpretation of the Treaty to the Court of Justice. He said, 'in a criminal trial upon indictment it can seldom be a proper exercise of the presiding judge's discretion to seek a preliminary ruling before the facts of the alleged offence have been ascertained, with the result that the proceedings will be held up for nine months or more in order that at the end of the trial he may give to the jury an accurate instruction as to the relevant law, if the evidence turns out to be as was anticipated at the time the reference was made—which may not always be the case'. According to him, it is generally better that the question be decided

by the judge in the first instance and reviewed thereafter if necessary through the hierarchy of the national courts.

Lord Diplock criticized the Court of Appeal for its doubts as to whether an absolute prohibition on imports could constitute a quantitative restriction so as to fall within the ambit of Article 30 at all. He said: 'That such doubt should be expressed shows the danger of an English court applying English canons of statutory construction to the interpretation of the Treaty or, for that matter, of regulations or directives. What is meant by quantitative restrictions and measures having equivalent effect in Article 30 of the Treaty has been the subject of a whole series of the European Court to which the attention of the Court of Appeal ought to have been drawn.' According to him, under Section 3(1) of the European Communities Act 1972, the meaning and effect of Community instruments is to be determined in accordance with the principles laid down by, and any relevant decisions of, the Court of Justice. As to the principles, the Court of Justice in contrast to English courts applies teleological rather than historical methods of interpretation. It seeks to give effect to what it conceives to be the spirit rather than the letter of the Treaties. As regards its decisions, the Court of Justice seeks to maintain consistency in the interests of legal certainty, although not applying a rigid doctrine of precedent. Thus when there is a series of Court of Justice decisions to the same effect, 'an English court, if the case before it is one to which an established body of case-law plainly applies, may properly take the view that no real question of interpretation is involved that makes a reference under Article 177 necessary in order to give judgment'. However, he added, English judges should not be too ready to hold that because the meaning of the English text (which is one of six of equal authority) seems plain to them, no question of interpretation can be involved.

(b) Judgment of the Corte Costituzionale of 26 July 1979 No 81

By a law of 10 May 1976, No 352, Italy put into effect EEC Council Directive 75/268 of 28 July 1975 on mountain and hill farming and farming in certain less-favoured area. As agricultural and forestry matters come under the legislative powers of the regions (Article 117 of the Italian Constitution) Article 1 of Law No 352 leaves it to the regions to adopt the rules envisaged by the directive in question. However, Article 2 stipulates that in the event of inaction on the part of the regions, the Council of Ministers (Central Government) shall be entitled to grant the region concerned a reasonable period and when that period has expired to adopt the measures required to implement the directive by stepping into the place of the regional administration. That provision became the subject of an action for the review of its constitutionality brought by certain autonomous regions and provinces which contested whether the power of substitution reserved to the Central Government was compatible with the Constitution (Articles 116, 117, 118 and 126). They said that such a power was an encroachment on the exclusive powers of the regions because it authorized the Government to legislate in a sphere which is reserved to them.

The Constitutional Court upheld Judgment No 182 of 22 July 1976[1] which it had delivered in a similar case and in which it had already held that when a Community directive deals with a matter which comes under the exclusive powers of the regions, thereby necessitating the adoption of regional measures, the State is entitled to retain a power of substitution to be exercised in the event of default by the regions: that is the only means of ensuring that the State's international commitments are honoured and in particular that Community directives are implemented in the period required.

As far as Law No 352 is concerned the Court was of the opinion that the exercise of the power of substitution is subject to sufficient guarantees for safeguarding the legislative autonomy of the regions. It said that the Government must hold prior consultation with the region concerned and grant it a reasonable period to comply. In addition it must obtain the opinion of the Parliamentary Commission for Regional Matters and it may use its power only in the event of proven and prolonged inaction amounting to non-compliance with Community obligations. There is therefore no incompatibility between Article 2 of the said Law No 352 and the Constitution.

The actions were accordingly dismissed.

[1] Giurisprudenza Costituzionale 1976, 1138.

III — Annexes

ANNEX 1

Organization of public sittings of the Court

As a general rule, sittings of the Court are held on Tuesdays, Wednesdays and Thursdays every week, except during the Court's vacations (from 22 December to 8 January, the week preceding and two weeks following Easter, and 15 July to 15 September) and three weeks each year when the Court also does not sit (the week following Carnival Monday, the week following Whit Monday and the week of All Saints).

See also 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 visitors who have indicated that they will be attending the hearing are supplied with relevant documents.

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
Easter Monday	variable
Ascension Day	variable
Whit Monday	variable
May Day	1 May
Luxembourg national holiday	23 June
Assumption	15 August
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

ANNEX 2

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, accompanied in appropriate cases by a file intended to inform the Court of Justice of the background and scope of the questions referred to it.[1]

During a period of two months the Council, 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 Council, the Commission and the Member States, through lawyers who are members of the 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 (L - 2920 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.

[1] Court of Justice of the European Communities, Kirchberg, L - 2920 Luxembourg; tel. 43031; telegrams: CURIA Luxembourg; 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 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.

ANNEX 3

Notes for the guidance of Counsel at oral hearings[1]

These notes are issued by the Court with the object of making it possible, with the assistance of Counsel for the parties, to ensure that the Court may dispose of its business in the most effective and expeditious manner possible.

1. *Estimates of time*

The Registrar of the Court always requests from Counsel an estimate in writing of the length of time for which they wish to address the Court. It is most important that this request be promptly complied with so that the Court may arrange its time-table. Moreover, the Court finds that Counsel frequently underestimate the time likely to be taken by their address — sometimes by as much as 100%. Mistaken estimates of this kind make it difficult for the Court to draw up a precise schedule of work and to fulfil all its commitments in an orderly manner. Counsel are accordingly asked to be as accurate as possible in their estimates, bearing in mind that they may have to speak more slowly before this Court than before a national court for the reasons set out in point 4 below.

2. *Length of address to the Court*

This inevitably must vary according to the complexity of the case but Counsel are requested to remember that:

(i) the Members of the Court will have read the papers;
(ii) the essentials of the arguments presented to the Court will have been summarized in the Report for the Hearing; and
(iii) the object of the oral hearing is, for the most part, to enable Counsel to comment on matters which they were unable to treat in their written pleadings or observations.

Accordingly, the Court would be grateful if Counsel would keep the above considerations in mind. This should enable Counsel to limit their address to the essential minimum. Counsel are also requested to endeavour not to take up with their address the whole of the time fixed for the hearing, so that the Court may have the opportunity to ask questions.

3. *The Report for the Hearing*

As this document will normally form the first part of the Court's judgment, Counsel are asked to read it with care and, if they find any inaccuracies, to inform the Registrar before the hearing. At the hearing they will be able to put forward any amendment which they propose for the drafting of the part of the judgment headed 'Facts and Issues'.

4. *Simultaneous translation*

Depending on the language of the case not all the Members of the Court will be able to listen directly to the Counsel. Some will be listening to an interpreter. The interpreters are highly skilled but their task is a difficult one and Counsel are particularly asked, in the interests of justice, to speak *slowly* and into the microphone. Counsel are also asked so far as is possible to simplify their presentation. A series of short sentences in place of one long and complicated sentence is always to be preferred. It is also helpful to the Court and would avoid misunderstanding if, in approaching any topic, Counsel would

[1] These notes are issued to Counsel before the hearing.

first state very briefly the tenor of their arguments, and, in an appropriate case, the number and nature of their supporting points, before developing the argument more fully.

5. *Written texts*

For simultaneous translation it is always better to speak *freely* from notes rather than to read a prepared text. However, if Counsel has prepared a written text of his address which he wishes to *read* at the hearing it assists the simultaneous translation if the interpreters can be given a copy of it some days before the hearing. It goes without saying that this recommendation does not in any way affect Counsel's freedom to amend, abridge, or supplement his prepared text (if any) or to put his points to the Courts as he sees fit. Finally it should be emphasized that any reading should not be too rapid and that figures and names should be pronounced clearly and slowly.

6. *Citations*

Counsel are requested, when citing in argument a previous judgment of the Court, to indicate not merely the number of the case in point but also the names of the parties and the reference to it in the Reports of Cases before the Court (the ECR). In addition, when citing a passage from the Court's judgment or from the opinion of its Advocate General, Counsel should specify the number of the page on which the passage in question appears.

7. *Documents*

The Court wishes to point out that under Article 37 of the Rules of Procedure all documents relied on by the parties must be annexed to a pleading. Save in exceptional circumstances and with the agreement of the parties, the Court will not admit any documents produced after the close of pleadings, except those produced at its own request; this also applies to any documents submitted at the hearing.

Since all the oral arguments are recorded, the Court also does not allow notes of oral arguments to be lodged.

ANNEX 4

Information and documentation on the Court of Justice and its work

COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

L - 2920 Luxembourg
Telephone: 43031
Telex (Registry): 2510 CURIA LU
Telex (Information Office of the Court): 2771 CJ INFO LU
Telegrams: CURIA Luxembourg

Complete list of publications:

A — Texts of judgments and opinions and information on current cases

1. *Judgments or orders of the Court and opinions of Advocates General*

   Orders for offset copies, provided some are still available, may be made to the Internal Services Branch of the Court of Justice of the European Communities, L - 2920 Luxembourg, on payment of a fixed charge of Bfr 100 for each document. Copies may no longer be available once the issue of the European Court Reports containing the required judgment or opinion of an Advocate General has been published.

   Anyone showing he is already a subscriber to the Reports of Cases before the Court may pay a subscription to receive offset copies in one or more of the Community languages.

   The annual subscription will be the same as that for European Court Reports, namely Bfr 2 250 for each language.

   Anyone who wishes to have a complete set of the Court's cases is invited to become a regular subscriber to the Reports of Cases before the Court (see below).

2. *Calendar of the sittings of the Court*

   The calendar of public sittings is drawn up each week. It may be altered and is therefore for information only.

   This calendar may be obtained free of charge on request from the Court Registry.

B — Official publications

1. *Reports of Cases before the Court*

   The Reports of Cases before the Court are the only authentic source for citations of judgments of the Court of Justice.

   The volumes for 1954 to 1980 are published in Dutch, English, French, German and Italian.

   The Danish edition of the volumes for 1954 to 1972 comprises a selection of judgments, opinions and summaries from the most important cases.

Since 1973, all judgments, opinions and summaries are published in their entirety in Danish.

The Reports of Cases before the Court are on sale at the following addresses:

BELGIUM:	Éts. Émile Bruylant, Rue de la Régence 67, 1000 Bruxelles.
DENMARK:	J. H. Schutlz Boghandel, Møntergade 19, 1116 København K.
FRANCE:	Éditions A. Pedone, 13 Rue Soufflot, 75005 Paris.
FEDERAL REPUBLIC OF GERMANY:	Carl Heymann's Verlag, Gereonstraße 18-32, 5000 Köln 1.
IRELAND:	Stationery Office, Dublin 4, or Government Publications Sales Office, GPO Arcade, Dublin 1.
ITALY:	CEDAM - Casa Editrice Dott. A. Milani, Via Jappelli 5, 35100 Padova (M-64194).
LUXEMBOURG:	Office for Official Publications of the European Communities, 2985 Luxembourg.
NETHERLANDS:	NV Martinus Nijhoff, Lange Voorhout 9, 's-Gravenhage.
UNITED KINGDOM:	Hammick, Sweet & Maxwell, 16 Newman Lane, Alton, Hants GU34 2PJ.
OTHER COUNTRIES:	Office for Official Publications of the European Communities, 2985 Luxembourg.

2. *Selected Instruments Relating to the Organization, Juridiction and Procedure of the Court (1975 edition)*

   Orders, indicating the language required, should be addressed to the Office for Official Publications of the European Communities, L - 2985 Luxembourg.

C — General legal information and documentation

1— Publications by the Information Office of the Court of Justice of the European Communities

Applications to subscribe to the following three publications may be sent to the Information Office (L - 2920 Luxembourg) specifying the language required. They are supplied free of charge.

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

   Weekly information sheet on the legal proceedings of the Court containing a short summary of judgments delivered and a brief description of the opinions, the oral procedure and the cases brought during the previous week.

2. *Information on the Court of Justice of the European Communities*

   Quarterly bulletin containing the summaries and a brief résumé of the judgments delivered by the Court of Justice of the European Communities.

3. *Annual synopsis of the work of the Court*

   Annual publication giving a synopsis of the work of the Court of Justice of the European Communities in the area of case-law as well as of other activities (study courses for judges, visits, study groups, etc.). This publication contains much statistical information.

4. *General information brochure on the Court of Justice of the European Communities*

   This brochure provides information on the organization, jurisdiction and composition of the Court of Justice of the European Communities.

The above four publications are published in each official language of the Communities. The general information brochure is also available in Irish and Spanish.

II — Publications by the Documentation Branch of the Court of Justice

1. *Synopsis of case-law on the EEC Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (the 'Brussels Convention')*

   This publication, three parts of which have now appeared, is published by the Documentation Branch of the Court. It contains summaries of decisions by national courts on the Brussels Convention and summaries of judgments delivered by the Court of Justice in interpretation of the Convention. In future the Synopsis will appear in a new form. In fact it will form the D series of the future Digest of Community Case-Law to be published by the Court. However, orders for the first three issues of the Synopsis may be addressed to the Documentation Branch of the Court of Justice, L - 2920 Luxembourg.

2. *Répertoire de la Jurisprudence Européenne - Europäische Rechtsprechung* (published by H. J. Eversen and H. Sperl) - has ceased

   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 on sale at:

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

   Compendium of case-law relating to the European Communities (published by H. J. Eversen, H. Sperl and J. Usher) - has ceased

   In addition to the complete collection in French and German (1954 to 1976) an English version is now available for 1973 to 1976.

   The volumes of the English series are on sale at:

   Elsevier - North Holland - Excerpta Medica
   PO Box 211
   Amsterdam (Netherlands)

3. *Bibliographical Bulletin of Community Case-Law*

   This Bulletin is the continuation of the Bibliography of European Case-Law of which Supplement No 6 appeared in 1976. The layout of the Bulletin is the same as that of the Bibliography. Footnotes therefore refer to the Bibliography.

   Since 1977 it is on sale at the address shown at B1 above.

Information on Community law

Community case-law[1] is published in the following journals amongst others:

Belgium:	Cahiers de droit européen
	Info-Jura
	Journal des tribunaux
	Journal des tribunaux du travail
	Jurisprudence commerciale de Belgique
	Pasicrisie belge
	Rechtskundig weekblad
	Recueil des arrêts et avis du Conseil d'État
	Revue belge de droit international
	Revue belge de sécurité sociale
	Revue de droit fiscal
	Revue de droit international et de droit comparé
	Sociaal-economische wetgeving
	Tijdschrift rechtsdocumentatie
	Tijdschrift voor privaatrecht
	Revue de droit intellectuel - 'l'Ingénieur-conseil'
Denmark:	Juristen & Økonomen
	Nordisk Tidskrift for International Ret
	Ugeskrift for Retsvæsen
France:	Actualité juridique
	Annales de la propriété industrielle, artistique et littéraire
	Annuaire français de droit international
	Le Droit et les affaires
	Droit rural
	Droit social
	Gazette du palais
	Journal du droit international
	Propriété industrielle, bulletin documentaire
	Le Quotidien juridique
	Recueil Dalloz-Sirey
	Revue critique de droit international privé
	Revue du droit public et de la science politique en France et à l'étranger
	Revue internationale de la concurrence
	Revue trimestrielle de droit européen
	La Semaine juridique - Juris-Classeur périodique, Édition générale
	La Semaine juridique - Juris-Classeur périodique, Édition commerce et industrie
	La Vie judiciaire
Federal Republic of Germany:	Deutsches Verwaltungsblatt
	Entscheidungen der Finanzgerichte
	Europarecht
	Europäische Grundrechte-Zeitschrift (EuGRZ)
	Gewerblicher Rechtsschutz und Urheberrecht, Internationaler Teil
	Gewerblicher Rechtsschutz und Urheberrecht
	Juristenzeitung
	Jus-Juristische Schulung
	Monatsschrift für deutsches Recht

[1] Community case-law means the decisions of the Court as well as those of national courts concerning a point of Community law.

Federal Republic of Germany (cont'd)	Neue Juristische Wochenschrift Die öffentliche Verwaltung Recht der internationalen Wirtschaft (Aussenwirtschaftsdienst des Betriebs-Beraters) Wirtschaft und Wettbewerb Zeitschrift für das gesamte Handels- und Wirtschaftsrecht Zeitschrift für Zölle und Verbrauchsteuern
Ireland:	The Gazette of the Incorporated Law Society of Ireland The Irish Jurist The Irish Law Times
Italy:	Affari sociali internazionali Diritto comunitario e degli scambi internazionali Il Foro italiano Il Foro padano Giustizia civile Giurisprudenza italiana Nuove leggi civili commentate Rassegna dell'avvocatura dello Stato Rivista di diritto agrario Rivista di diritto europeo Rivista di diritto industriale Rivista di diritto internazionale Rivista di diritto internazionale privato e processuale Rivista di diritto processuale
Luxembourg:	Pasicrisie luxembourgeoise
Netherlands:	Ars aequi Bijblad bij de Industriele Eigendom BNB - Beslissingen in Nederlandse Belastingzaken Common Market Law Review Netherlandse Jurisprudentie - Administratieve en Rechterlijke Beslissinge Nederlandse Jurisprudentie - Uitspraken in Burgerlijke en Strafzaken Rechtspraak Sociale Verzekering Rechtspraak van de Week Sociaal-economische Wetgeving UTC - Uitspraken van de Tariefcommissie WPNR - Weekblad voor Privaatrecht, Notariaat en Registratie
United Kingdom:	All England Law Reports Cambridge Law Journal Common Market Law Reports Current Law European Law Digest European Law Letter European Law Review Fleet Street Patent Law Reports Industrial Cases Reports Industrial Relations Law Reports The Journal of the Law Society of Scotland The Law Reports The Law Society's Gazette Modern Law Review New Law Journal Scottish Current Law Scots Law Times Weekly Law Reports

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7 Alva Street
Edinburgh EH2 4PH
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Calle de Serrano 41
5A Planta-Madrid 1
Tel. : 474 11 87

PORTUGAL

35, rua do Sacramento à Lapa
1200 Lisboa
Tel. : 66 75 96

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13, Bogaz Sokak
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37-39, rue de Vermont
1211 Genève 20
Tél. : 34 97 50

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Washington, DC 20037
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245 East 47th Street
New York, NY 10017
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Ottawa, Ont. KIR 7S8
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Tel. : 25 05 55

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Calle Colibri
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Tel. : 91 47 07

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Kowa 25 Building
8-7 Sanbancho
Chiyoda-Ku
Tokyo 102
Tel. : 239 04 41

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34 Phya Thai Road
Bangkok
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