JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)

14 October 1999 *

In Case T-309/97,

The Bavarian Lager Company Ltd, a company incorporated under English law, whose registered office is in Lancashire, United Kingdom, represented by Stephen Hornsby, Solicitor, with an address for service in Luxembourg at the Chambers of André Marc, 36-58 Rue Charles Martel,

applicant,

v

Commission of the European Communities, represented by Carmel O'Reilly, Ulrich Wölker and, at the hearing, Xavier Lewis, of its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

defendant,

* Language of the case: English.

supported by

United Kingdom of Great Britain and Northern Ireland, represented by John Collins and, at the hearing, Jessica Simor, of the Treasury Solicitor's Department, acting as Agents, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

APPLICATION for the annulment of a Commission decision of 18 September 1997 refusing the applicant access to a draft reasoned opinion drawn up by the Commission under Article 169 of the EC Treaty (now Article 226 EC),

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Fourth Chamber),

composed of: R.M. Moura Ramos, President, V. Tiili and P. Mengozzi, Judges,

Registrar: B. Pastor, Principal Administrator,

having regard to the written procedure and further to the hearing on 25 February 1999,

gives the following

Judgment

1 In the Final Act of the Treaty on European Union signed in Maastricht on 7 February 1992, the Member States incorporated a Declaration (No 17) on the right of access to information, worded as follows:

'The Conference considers that transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration. The Conference accordingly recommends that the Commission submit to the Council no later than 1993 a report on measures designed to improve public access to the information available to the institutions.'

2 On 2 June 1993 the Commission submitted Communication 93/C 166/04 on openness in the Community (OJ 1993 C 166, p. 4), in which the principles governing access to documents are set out.

3 On 6 December 1993 the Council and the Commission approved a joint code of conduct concerning public access to Council and Commission documents (OJ 1993 L 340, p. 41; hereinafter 'the Code of Conduct') and each undertook to take steps to implement the principles laid down by the Code of Conduct before 1 January 1994.

4 For the purpose of complying with that undertaking, the Commission adopted on 8 February 1994, on the basis of Article 162 of the EC Treaty (now Article 218 EC), Decision 94/90/ECSC, EC, Euratom on public access to Commission

documents (OJ 1994 L 46, p. 58). Article 1 of Decision 94/90 adopts the Code of Conduct, the text of which is annexed to the decision.

5 The Code of Conduct lays down the following general principle:

'The public will have the widest possible access to documents held by the Commission and the Council. "Document" means any written text, whatever its medium, which contains existing data and is held by the Commission or the Council.'

6 After briefly setting out the rules governing the submission and processing of applications for access to documents, the Code of Conduct describes the procedure to be followed where it is proposed to reject such a request:

'Where the relevant departments of the institution concerned intend to advise the institution to reject an application, they will inform the applicant thereof and tell him that he has one month to make a confirmatory application to the institution for that position to be reconsidered, failing which he will be deemed to have withdrawn his original application.

If a confirmatory application is submitted, and if the institution concerned decides to refuse to release the document, that decision, which must be made within a month of submission of the confirmatory application, will be notified in writing to the applicant as soon as possible. The grounds for the decision must be given, and the decision must indicate the means of redress that are available, i.e. judicial proceedings and complaints to the ombudsman under the conditions

specified in, respectively, [Article 173 of the EC Treaty (now, after amendment, Article 230 EC) and Article 138e of the EC Treaty (now Article 195 EC)].'

7 The grounds which may be relied upon by an institution to reject an application for access to documents are listed in the Code of Conduct in the following terms:

'The institutions will refuse access to any document where disclosure could undermine:

— the protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations),

— the protection of the individual and of privacy,

— the protection of commercial and industrial secrecy,

— the protection of the Community's financial interests,

— the protection of confidentiality as requested by the natural or legal persons that supplied the information or as required by the legislation of the Member State that supplied the information.

They may also refuse access in order to protect the institution's interest in the confidentiality of its proceedings.'

8 On 4 March 1994, Commission Communication 94/C 67/03 on improved access to documents (OJ 1994 C 67, p. 5), which explains the conditions for implementation of Decision 94/90, was published. It is apparent from that communication that 'anyone may... ask for access to any unpublished Commission document, including preparatory documents and other explanatory material'. As to the exceptions provided for in the Code of Conduct, the communication states that 'the Commission may take the view that access to a document should be refused because its disclosure could undermine public and private interests and the good functioning of the institution...'. It is also stated that 'there is nothing automatic about the exemptions, and each request for access to a document will be considered on its own merits'.

Facts

9 The applicant company was formed on 28 May 1992 to import German beer for sale in public houses in the United Kingdom, principally in the north of England.

10 It was, however, unable to sell its product, because a large number of public houses in the United Kingdom are bound by exclusive purchasing agreements which require them to obtain their supplies of beer from particular breweries.

11 Under United Kingdom regulations relating to the supply of beer, namely the Supply of Beer (Tied Estate) Order 1989 (S.I. 1989 No 2390), United Kingdom breweries with an interest in more than 2 000 public houses are required to allow

the tenants of those public houses to purchase a beer from another brewery. Under Article 7(2)(a) of the Order, such beer must be cask-conditioned beer with an alcoholic strength exceeding 1.2% by volume. This provision is commonly known as the guest beer provision (hereinafter 'the GBP').

12 Article 7(3) of the Order defines 'cask-conditioned beer' as 'beer which undergoes fermentation in the container from which it is served for consumption'. Most beers produced outside the United Kingdom undergo filtration before the end of the brewing process and therefore do not continue to ferment once they have been put in a keg. Consequently, they cannot be regarded as 'cask-conditioned beer' within the meaning of the GBP and are thus not covered by that provision.

13 Since the applicant took the view that the GBP constituted a measure having an equivalent effect to a quantitative restriction on imports and was accordingly incompatible with Article 30 of the EC Treaty (now, after amendment, Article 28 EC), it lodged a complaint with the Commission by letter of 3 April 1993.

14 Following its investigation, the Commission decided on 12 April 1995 to initiate a procedure against the United Kingdom under Article 169 of the EC Treaty (now Article 226 EC). On 28 September 1995 it notified the applicant of that investigation and informed it that it had sent a letter of formal notice to the United Kingdom on 15 September 1995. On 26 June 1996 the Commission decided to issue a reasoned opinion to the United Kingdom and, on 5 August 1996, it released a press statement announcing that decision.

15 On 15 March 1997 the United Kingdom Department of Trade and Industry announced a proposal to amend the GBP which would permit bottle-conditioned beer to be sold as a guest beer in the same way as cask-conditioned beer. The Commission twice suspended — on 19 March 1997 and 26 June 1997 — its decision to issue a reasoned opinion to the United Kingdom and in a letter of 21 April 1997 the Head of Unit 2 'Application of Articles 30 to 36 of the EC

Treaty (notifications, complaints, infringements, etc.) and removal of trade barriers' of Directorate B 'Free movement of goods and public procurement' of the Directorate-General for the Internal Market and Financial Services (DG XV) informed the applicant that, in view of the proposed amendment of the GBP, the procedure under Article 169 of the Treaty had been suspended and that the reasoned opinion had not been served on the United Kingdom. He stated that that procedure would be brought to a close as soon as the amended GBP entered into force. The new version of the GBP became applicable on 22 August 1997. The reasoned opinion was therefore never sent to the United Kingdom and the Commission finally decided on 10 December 1997 to take no further action in the infringement procedure.

16 By a fax sent on 21 March 1997 the applicant's lawyers asked the Director-General of DG XV for a copy of the 'reasoned opinion', in accordance with the Code of Conduct. By letter of 16 May 1997, Mr Mogg, the Director-General of DG XV, refused that request on the ground that, 'as an internal rule of the Commission, an EC Commission's reasoned opinion is confidential except in the case of a specific decision to release it to the public'.

17 By letter of 27 May 1997 the applicant's lawyers reiterated their request, relying on the judgment of the Court of First Instance in Case T-194/94 *Carvel and Guardian Newspapers* v *Council* [1995] ECR II-2765 and on the principle of good administration. By letter of 9 July 1997 Mr Mogg again refused the request, relying this time on the Code of Conduct and the exception relating to protection of the public interest. Specifically, he maintained that disclosure of the document in question could:

— harm the proper administration of justice, in particular the implementation of Community law;

— compromise the treatment of infringements of that law; and

— undermine the climate of mutual confidence required for a full and frank discussion between the Commission and a Member State with a view to ensuring compliance by that State with its Treaty obligations.

18 The applicant did not accept the Commission's views set out above and, by letter of 7 August 1997 from its lawyers, lodged a confirmatory application with the Secretary-General of the Commission, in accordance with the procedure laid down by the Code of Conduct.

19 By letter of 18 September 1997 (hereinafter 'the contested decision'), the Secretary-General of the Commission confirmed the refusal of the application sent to DG XV and the reasons given therefor, in the following terms:

'Having examined your request, I have to confirm Mr Mogg's refusal to give you access to this document where disclosure could undermine the protection of the public interest, in particular Commission inspections and investigation tasks. This exception is expressly foreseen in the Code of Conduct concerning public access to Commission and Council documents, adopted by the Commission on 8 February 1994.

As Mr Mogg already explained to you in his letter of 9 July 1997, it is indeed essential for the Commission to be able to investigate matters with which it is concerned as guardian of the Treaty, whilst respecting the confidential nature of such proceedings. In the matter of investigation of infringements, sincere cooperation and a climate of mutual confidence between the Commission and the Member State concerned are required, which allow for both parties to engage in a process of negotiation and compromise with the search for a settlement to a dispute at a preliminary stage.

The Court of First Instance itself considered in Case T-105/95 (*WWF* v *Commission*) that "the confidentiality which the Member States are entitled to expect of the Commission in such circumstances warrants, under the heading of protection of the public interest, a refusal of access to documents relating to investigations which may lead to an infringement procedure, even where a period of time has elapsed since the closure of the investigation" (par. 63).

It must also be emphasised that investigation into a possible infringement is still continuing, since the Commission decided to defer sending a reasoned opinion to the British authorities.

I remind you that by way of contrast with the optional exception of the protection of the Commission's interest in the confidentiality of its proceedings, this mandatory exception of protection of public interest does not require a balance of interests. As stated by the Court in the abovementioned case in its paragraph 58, "the Commission is obliged to refuse access to documents falling under any one of the exceptions contained in this category once the relevant circumstances are shown to exist".'

Procedure and forms of order sought

20 It was in those circumstances that, by application lodged at the Registry of the Court of First Instance on 9 December 1997, the applicant brought this action.

21 By a document lodged at the Court Registry on 25 May 1998, the United Kingdom of Great Britain and Northern Ireland applied for leave to intervene in support of the form of order sought by the defendant. By order of 7 July 1998 the President of the Third Chamber of the Court of First Instance granted such leave.

22 Since the applicant did not lodge a reply and the intervener waived its right to lodge a statement in intervention, the written procedure came to an end on 9 September 1998.

23 The applicant claims that the Court should:

— annul the decision of the Commission contained in the letters of 16 May 1997, 9 July 1997 and 18 September 1997 in so far as it refuses access to the 'reasoned opinion' of the Commission formulated following an investigation into the application of Article 7(3) of the Supply of Beer (Tied Estate) Order 1989 (S.I. 1989 No 2390);

— order the Commission to pay the costs.

24 The defendant contends that the Court should:

— declare the action inadmissible in so far as it refers to a decision of 16 May 1997 and 9 July 1997;

— dismiss the action;

— order the applicant to pay the costs.

25 The Government of the United Kingdom of Great Britain and Northern Ireland, the intervener, contends that the Court should grant the forms of order sought by the Commission.

26 At the hearing the applicant withdrew its claim for annulment of a Commission decision contained in the letters dated 16 May 1997 and 9 July 1997.

Substance

The sole plea, alleging breach of Decision 94/90

Arguments of the parties

27 The applicant bases its submissions on the judgment in Case T-105/95 *WWF UK* v *Commission* [1997] ECR II-313 ('the *WWF* judgment'), in which the Court of First Instance stated that Decision 94/90 constituted the Commission's response to the calls made by the European Council to reflect at Community level the right of citizens, recognised in the domestic legislation of most of the Member States, to have access to documents held by public authorities. The applicant also refers to paragraphs 34 to 37 of the judgment of the Court of Justice in Case C-58/94 *Netherlands* v *Council* [1996] ECR I-2169 and to the Opinion of Advocate

General Tesauro in that case (points 14, 15 and 16). According to the applicant, the Code of Conduct and the *WWF* judgment, interpreted correctly, must mean the following:

— access to documents is a right; a person applying for a document is not required to invoke a legitimate interest in support of his request;

— the aim of transparency is an end in itself; the Commission can deny access to a document by relying on the mandatory public interest exception only if it proves that that access may actually 'undermine' the public interest;

— the public interest is 'undermined' only if it is established that disclosure of the document requested could result in significant harm to a third party or the general public, the public interest exception not being designed to protect the Commission's interests;

— the Code of Conduct does not allow the Commission to refuse disclosure of entire categories of documents or to create internal rules under which certain categories of documents are confidential *per se*. Each application must be considered in the light of the applicable provisions of that code.

28 The applicant states that the Commission's analysis of the concept of public interest in its letter of 9 July 1997 is misguided on two counts. First, the overriding public interest is that of proper administration. The Commission, in its role as guardian of the Treaty, is required to carry out its functions effectively and in the interests of the Community, and it must be seen to be doing so by the peoples of Europe. In the case of the GBP, there is at least the appearance that the Commission has failed to ensure compliance by the United Kingdom with its

obligations under the EC Treaty. The public interest demands that the reasoned opinion, which reflects the formal view of the Commission as to whether the GBP in its original form was consistent with Community law, be disclosed, a step which would ensure full transparency of the decision-making process and generate confidence in the working of the institution.

29 Second, the reference by the Commission to the confidentiality which the United Kingdom must enjoy as a Member State subject to possible infringement proceedings is irrelevant in the present case. The Commission specifically stated in its letter of 16 May 1997 that the infringement procedure would be brought to a close as soon as the proposed amendment to the GBP entered into force, a change which occurred on 22 August 1997. The Court of First Instance held at paragraph 63 of the *WWF* judgment that Member States subject to investigations which could lead to the opening of infringement procedures were entitled to expect that the Commission would respect confidentiality. Accordingly, the confidentiality argument can be relied on only in circumstances where the infringement proceedings are still only in prospect and not where they have already been brought to a close.

30 The Commission disputes the applicant's assertion that the public interest exception is not made out in the present case. Referring to the Community case-law, in particular to the *WWF* judgment, the Commission acknowledges that, in order to be able to refuse access to documents by invoking that exception, it is obliged to establish, first, the existence of relevant circumstances for the exception (*Carvel and Guardian Newspapers*, paragraph 64, and *WWF*, paragraph 58) and, second, the link between the documents at issue and those circumstances (*WWF*, paragraph 64). It points out that the Code of Conduct lists various aspects of the public interest, namely public security, international relations, monetary stability, court proceedings and inspections and investigations. The disclosure of documents related to those notions is presumed to undermine the public interest. Moreover, the Court expressly stated in the *WWF* judgment that documents relating to investigations which could lead to an infringement procedure came under the protection of the public interest and in particular under the notion of inspections and investigations (paragraph 63).

31 As regards the document at issue, the Commission states that an investigation into a possible infringement of Community law was in progress when the applicant requested a copy of the reasoned opinion, which is, by definition, a document 'involving' an infringement procedure, and thus falls within the public interest exception. It therefore did not refuse to disclose entire categories of documents, but refused access to the document at issue because of its nature.

32 The abovementioned exception is applicable by reason of the confidentiality which the Member States are entitled to expect from the Commission when it investigates a possible infringement of Community law; the *WWF* judgment recognised that confidentiality as a legitimate expectation. The Commission takes the view that the objective of the procedure under Article 169 of the Treaty is to ensure that the Member States comply with Community law by means, initially, of a process of negotiation centred around sincere dialogue with the State concerned. The interest of the Member States and that of the investigation itself require that dialogue to take place without any publicity at all and those States to be assured that compromises may be reached in confidence.

33 Furthermore, the Commission contests the applicant's interpretation of the *WWF* judgment and of the Code of Conduct. It maintains that there is nothing in the grounds of that judgment to support the conclusion that confidentiality may be invoked only where infringement proceedings are merely in prospect. As regards the Code of Conduct, that code provides for two categories of exceptions to the general principle that citizens are to have access to Commission documents. The Commission is obliged to refuse access to documents falling within one of the mandatory exceptions, which include the public interest exception, whereas it has a degree of latitude in the case of the discretionary exceptions. The exercise of that discretion entails the striking of a balance between the interest of the citizen in obtaining access to the documents and the interest which the Commission may have in maintaining the confidentiality of its proceedings. Thus the Commission, while conceding that the applicant does not have to prove an interest in obtaining the documents requested, maintains that it is wrong in stating that 'the overriding public interest is that of proper administration' or in invoking its specific commercial interest inasmuch as no balancing of interests is required in the

present case. It is precisely by relying on the public interest exception when the circumstances justifying it are established that proper administration is safeguarded.

34 At the hearing, the Commission clarified its position by explaining that the public interest to be protected in the present case is the proper functioning of the Community. The objective of the procedure under Article 169 of the Treaty can be achieved only if all the Member States are assured that letters of formal notice and reasoned opinions are disclosed solely to the Court of Justice. In the absence of confidentiality, the opportunities for constructive discussion and friendly settlement of disputes would be restricted, giving rise to an increased number of proceedings before the Court of Justice. The Commission points out that fewer than 10% of the cases in which it initiates a procedure under Article 169 of the Treaty are brought before the Court of Justice. It maintains, finally, that the interest of all Community citizens, which lies in the Community institutions functioning effectively and there being a coherent legal system throughout the Union, would not be safeguarded if a reasoned opinion were made public, even in the case of an infringement procedure which had already been brought to a close.

35 The Government of the United Kingdom of Great Britain and Northern Ireland agrees with the Commission's position.

Findings of the Court

36 Decision 94/90 is a measure which grants citizens a right of access to documents held by the Commission (*WWF*, paragraph 55, Case T-83/96 *van der Wal* v *Commission* [1998] ECR II-545, paragraph 41, and Case T-124/96 *Interporc* v *Commission* [1998] ECR II-231, paragraph 46). It is intended to give effect to the principle of the widest possible access for citizens to information with a view to strengthening the democratic character of the institutions and the trust of the

public in the administration (see, with regard to the corresponding provisions of Council Decision 93/731/EC of 20 December 1993 on public access to Council documents (OJ 1993 L 340, p. 43), Case T-174/95 *Svenska Journalistförbundet* v *Council* [1998] ECR II-2289, paragraph 66).

37 Furthermore, the Court has previously held that it is clear from the scheme of Decision 94/90 that that decision applies generally to requests for access to documents and that any person may ask for access to any unpublished Commission document without being required to give a reason for the request (*Interporc*, cited above, paragraph 48, and see, with regard to the corresponding provisions of Decision 93/731, *Svenska Journalistförbundet*, paragraph 109).

38 However, two categories of exceptions to the general principle that citizens are to have access to Commission documents are set out in the Code of Conduct adopted by the Commission in Decision 94/90. The first category, which includes the exception relied on by the Commission in the present case, is worded in mandatory terms, providing that 'the institutions will refuse access to any document where disclosure could undermine [*inter alia*] the protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations)'.

39 It is to be remembered that the exceptions to access to documents fall to be interpreted and applied restrictively so as not to frustrate application of the general principle of giving the public 'the widest possible access to documents held by the Commission' (*WWF*, paragraph 56, *van der Wal*, paragraph 41, and *Interporc*, paragraph 49).

40 In the contested decision, the Commission states that disclosure of the reasoned opinion 'could undermine the protection of the public interest, in particular Commission inspections and investigation tasks'. It expressly mentions that 'in the matter of investigation of infringements, sincere cooperation and a climate of mutual confidence between the Commission and the Member State concerned are required, which allow for both parties to engage in a process of negotiation and compromise with the search for a settlement to a dispute at a preliminary stage'. In so doing, the Commission refers principally to the *WWF* judgment.

41 However, contrary to the Commission's assertions, it does not follow from the case-law, in particular the *WWF* judgment, that all documents linked to infringement procedures are covered by the exception relating to protection of the public interest. According to that judgment, the confidentiality which the Member States are entitled to expect of the Commission warrants, under the heading of protection of the public interest, a refusal of access to documents relating to investigations which may lead to an infringement procedure, even where a period of time has elapsed since the closure of the investigation (*WWF*, paragraph 63).

42 In that regard, it is wrong in fact and in law to classify the document to which the applicant seeks access as a 'reasoned opinion'. The Commission has stated, in reply to a written question put by the Court, that the members of the Commission did not have before them a draft of the reasoned opinion when, on 26 June 1996, they adopted the decision to deliver that reasoned opinion. The draft was in fact drawn up by the administration, under the Commissioner responsible for the area in question, after the Commission had adopted the decision to deliver a reasoned opinion. Thus, it was the Commission staff who drew up the document to be sent to the United Kingdom as a reasoned opinion. Subsequently, on 19 March 1997, the Commission suspended its decision to send a reasoned opinion to the United Kingdom and that document was, in the end, never signed by the Commissioner responsible or communicated to that Member State. The procedure initiated under Article 169 of the Treaty thus never reached the stage where the Commission 'deliver[s] a reasoned opinion'; the opinion therefore remained a purely preparatory document.

43 Although the Commission has not disputed the classification of the document at issue in the present case as a 'reasoned opinion', it appears necessary to correct that misclassification. The action cannot be determined on the basis of a misrepresentation of the document at issue. A misrepresentation of that kind would amount to an error of law and consequently vitiate the Court's judgment (see the judgments in Case C-53/92 P *Hilti* v *Commission* [1994] ECR I-667, paragraph 42, and in Case C-362/95 P *Blackspur DIY and Others* v *Council and Commission* [1997] ECR I-4775, paragraph 29, and the orders in Case C-55/97 P *AIUFFASS and AKT* v *Commission* [1997] ECR I-5383, paragraph 25, and in Case C-140/96 P *Dimitriadis* v *Court of Auditors* [1997] ECR I-5635, paragraph 35).

44 It follows that the question of access must be considered having regard to the preparatory nature of the document at issue. It will be remembered that according to Communication 94/C 67/03 of 4 March 1994, 'anyone may... ask for access to any unpublished Commission document, including preparatory documents and other explanatory material'.

45 Taking account of those matters, it is therefore necessary to consider whether the Commission is entitled to rely on the exception relating to protection of the public interest and, if so, to what extent, in order to refuse to grant access to the document requested by the applicant.

46 In the present case, having regard to the preparatory nature of the document at issue and to the fact that, when access to it was requested, the Commission had suspended its decision to deliver the reasoned opinion, it is clear that the procedure under Article 169 of the Treaty was still at the stage of inspection and investigation. As the Court stated in the *WWF* judgment, the Member States are entitled to expect confidentiality from the Commission during investigations which may lead to an infringement procedure (paragraph 63). The disclosure of

documents relating to the investigation stage, during the negotiations between the Commission and the Member State concerned, could undermine the proper conduct of the infringement procedure inasmuch as its purpose, which is to enable the Member State to comply of its own accord with the requirements of the Treaty or, if appropriate, to justify its position (see Case C-191/95 *Commission* v *Germany* [1998] ECR I-5449, paragraph 44), could be jeopardised. The safeguarding of that objective warrants, under the heading of protection of the public interest, the refusal of access to a preparatory document relating to the investigation stage of the procedure under Article 169 of the Treaty.

47 It follows from all of the foregoing that the sole plea cannot be upheld and, therefore, that the application must be dismissed.

Costs

48 Under Article 87(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. As the applicant has been unsuccessful, it will be ordered to pay the costs incurred by the defendant, in accordance with the latter's application.

49 Under Article 87(4) of the Rules of Procedure, the intervener is to bear its own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Fourth Chamber)

hereby:

1. **Dismisses the application;**

2. **Orders the applicant to bear, in addition to its own costs, those of the defendant;**

3. **Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs.**

Moura Ramos Tiili Mengozzi

Delivered in open court in Luxembourg on 14 October 1999.

H. Jung R.M. Moura Ramos

Registrar President