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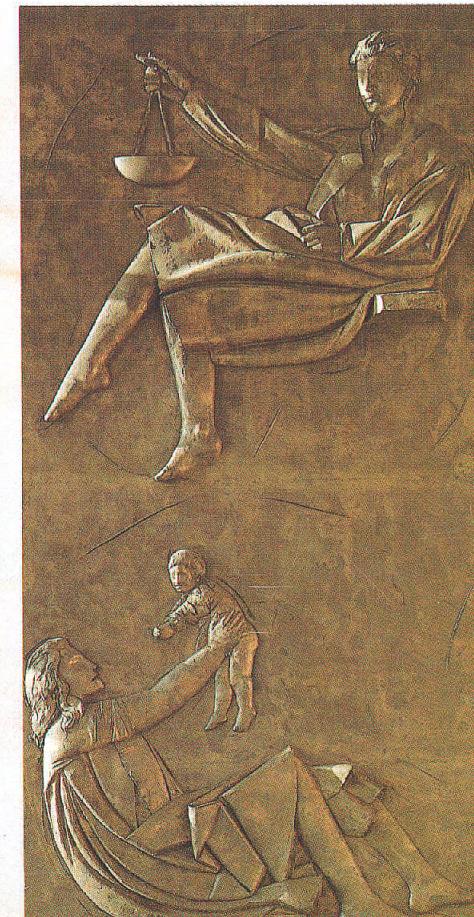
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES – ANNUAL REPORT 1991

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COURT OF JUSTICE
OF THE EUROPEAN COMMUNITIES

ANNUAL REPORT 1991



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ANNUAL REPORT 1991

Synopsis of the work
of the Court of Justice
and
the Court of First Instance
of the
European Communities

Luxembourg, 1993

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Court of Justice of the European Communities
L-2925 Luxembourg
Telephone: 4303-1
Telex (Registry): 2510 CURIA LU
Telex (Information Service): 2771 CJ INFO LU
Telegraphic address: CURIA
Telefax (Court): 4303-2600
Telefax (Information Service): 4303-2500

Court of First Instance of the European Communities
Rue du Fort-Niedergrünewald
L-2925 Luxembourg
Telephone: 4303-1
Telex (Registry): 60216 CURIA LU
Telefax (Court): 4303-2100

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Foreword

This synopsis of the work of the Court of Justice of the European Communities and the Court of First Instance of the European Communities will from now on be published in a 'streamlined' form. As has been the case with synopses for previous years, the 1991 synopsis is intended for judges, lawyers and practitioners, 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 of Justice and the Court of First Instance, whose judgments are published only in the *Reports of Cases before the Court of Justice and the Court of First Instance* (ECR).

The synopsis is published in the official languages of the European Communities (Spanish, Danish, German, Greek, English, French, Italian, Dutch and Portuguese). It is obtainable free of charge on request (specifying the language required) from the Press and Information offices of the European Communities whose addresses are listed on page 99.

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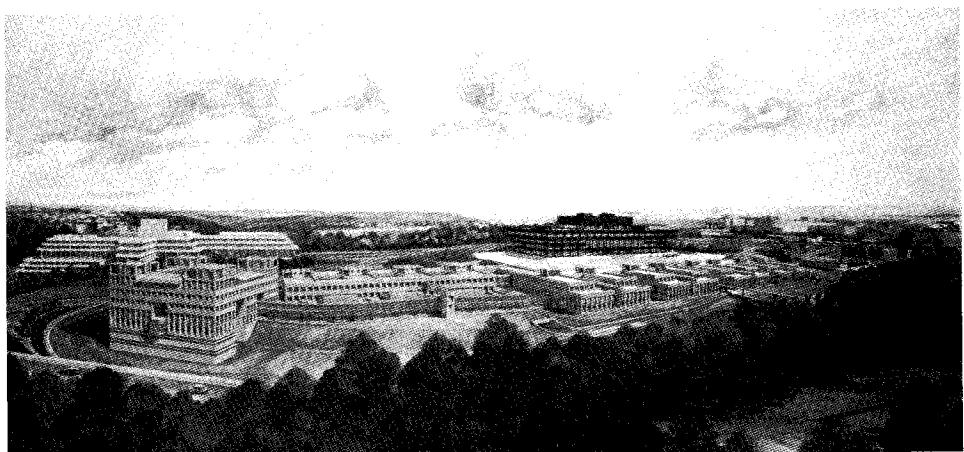
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The Court of Justice of the European Communities



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Overall view of the building complex project
Estimated date of completion: 1995

A — Review of the 1991 judicial year

I — Case-law of the Court of Justice

During 1991, the Court of Justice of the European Communities delivered 204 judgments, 90 of which related to direct actions, 108 to references for a preliminary ruling and five to appeals brought against decisions of the Court of First Instance and one concerning an application for revision of a judgment.

The President of the Court or the Presidents of Chambers were also required to decide on nine applications for interim measures.

In the case of direct actions, these judgments were delivered on average 24 months following the lodging of the application, and 18 months following receipt of the order for reference in the case of references for a preliminary ruling. The duration of proceedings in cases involving Community officials was approximately 15.5 months.

A total of 288 cases were decided, the majority (214) by judgment and the remainder (73) by order terminating the proceedings and one by way of an opinion.

At the end of 1991, the cases pending before the Court totalled 640.

The trend in cases brought before the Court of Justice

In 1991, 345 new cases were brought before the Court of Justice; these consisted of 140 direct actions, 186 references for a preliminary ruling, 14 appeals brought against decisions of the Court of First Instance, and three special procedures; there were also two applications for an opinion submitted by the Commission of the European Communities under Article 228 of the EEC Treaty.

In relation to 1990 there has been a decrease in the number of direct actions (222 in 1990) while there has been an increase in the number of references for a preliminary ruling (141 in 1990). There is a quantitative stability or even a slight decrease in the number of appeals (16 in 1990).

General pattern of the case-law

Out of 204 judgments delivered by the Court of Justice in 1991, 44 concerned the free movement of persons, 35 agriculture, 30 the free movement of goods, 18 the environment and consumer protection, 17 taxation and 12 social policy.

The Court of Justice was also required to decide cases concerning among other things the common commercial policy (seven judgments), transport (seven judgments), State aid (five judgments) and company law (four judgments).

However, along with these, the Court of Justice has had to resolve in 1991 very important questions in other fields, such as external relations. Thus, it delivered an opinion on 14 December 1991 on the draft agreement between the Community and the EFTA countries on the creation of the European Economic Area (EEA). Pursuant to the second subparagraph of Article 228(1) of the EEC Treaty, the Commission had sought the opinion of the Court, particularly on the judicial machinery which the agreement envisaged, based on the creation of a court, the EEA Court, to which a court of first instance would be attached.

The EEA Court, composed of eight judges, of which five would be from the Court of Justice and three would be appointed by the EFTA States, would have jurisdiction with regard to the settlement of disputes between the Contracting Parties, actions concerning the surveillance procedure regarding the EFTA States and appeals concerning decisions in the area of competition initiated by the EFTA Surveillance Authority.

After examining the draft agreement, the Court of Justice concluded that it was incompatible with the EEC Treaty.

First the Court noted that, since the objectives and the context of the agreement and of Community law were so different, neither the use in the EEA of provisions word-for-word the same as the corresponding provisions of Community law nor compliance with the case-law of the Court of Justice laid down by the agreement sufficed to secure the objective of homogeneity of the law throughout the EEA.

Moreover, the jurisdiction conferred on the EEA Court was likely to have an adverse effect on the allocation of responsibilities defined in the Treaties concerning, first, the exclusive jurisdiction of the Court of Justice to ensure respect for the Community legal order and to settle disputes concerning the interpretation or application of the Treaty by virtue of Articles 164 and 219 respectively and, second, because the judicial machinery provided for by the agreement would condition the future interpretation by the Court of the Community rules on free movement and competition.

Moreover, the Court pointed out that it would be very difficult, if not impossible, for those judges who would be called upon to sit, at the same time, in the Court of Justice and in the EEA Court, to tackle questions with completely open minds, when sitting in the Court of Justice, where they have taken part in determining those questions as members of the EEA Court.

Finally, the Court found it unacceptable that the answers which the Court of Justice were to give to the courts and tribunals in the EFTA States were to be purely advisory and without any binding effects. Such a situation would change the nature of the function of the Court of Justice.

Following the Court's opinion, the Commission and the EFTA States reopened negotiations in order to arrive at a judicial system in the context of the EEA which conforms to the requirements of Community law.

In the field of agriculture, and more specifically in the fisheries sector, the Court of Justice had occasion in its judgment of 25 July 1991 in Case C-221/89 (Factortame), to rule on the conditions required by national legislation for the registration of fishing vessels. The Merchant Shipping Act of 1988 had introduced in the United Kingdom new conditions for the registration of fishing vessels in the UK shipping register and, in particular, the requirement that the owner be British. That provision prevented vessels belonging to Factortame Ltd and other companies incorporated under the laws of the United Kingdom, but basically controlled by Spanish interests, from gaining access to fishing quotas allocated by the Community to the United Kingdom.

In its judgment the Court held that, where a vessel constituted an instrument for pursuing an economic activity which involved a fixed establishment in the Member State concerned, the registration of that vessel could not be dissociated from the exercise of freedom of establishment. While noting that, as Community law stands at present, it is for the Member States to determine the conditions which must be fulfilled in order for a vessel to be registered and granted the right to fly their flag, the Court stressed that, in exercising that power, they must comply with the rules of Community law and, in particular, with the prohibition of discrimination against nationals of Member States on grounds of their nationality.

Again in the field of agriculture, the Court ruled on the power of national courts, in proceedings for interim relief, to suspend the operation of an administrative measure based on a Community regulation.

In its judgment of 21 February 1991 in Cases C-143/88 and C-92/89 (*Zuckerfabrik Süderdithmarschen AG v Hauptzollamt Itzehoe* and *Zuckerfabrik Soest GmbH v Hauptzollamt Paderborn*), the Court held that, when national authorities were responsible for the administrative implementation of Community regulations, the right to judicial review guaranteed by Community law included the right of individuals to contest the legality of such regulations indirectly before a national court and to require that court to refer questions to the Court of Justice for a preliminary ruling. That right would be jeopardized if, pending the decision of the Court of Justice, an individual could not obtain an order suspending the operation of an administrative measure and thus interrupt, as far as he was concerned, the effects of the contested regulation.

However, the Court also pointed out in its judgment the conditions on which the national court could order the suspension, in particular the responsibility of the national court to seek a preliminary ruling on the question of validity of the Community act in question, the other conditions corresponding broadly to those under which interim relief is granted by the Court of Justice.

The growing number of cases before the Court concerning environmental protection shows the increasing importance of Community regulation in that field. Thus, in 1991, the Court had to give judgment in several actions for failure to fulfil obligations brought by the Commission against Member States.

The Court declared that the following Member States had failed to fulfil their obligations: Italy, under rules on the conservation of wild birds (C-157/88 and C-334/89); the Federal Republic of Germany and Italy, under Council Directive 80/68/EEC on the protection of groundwater against pollution (C-131/88 and C-360/87); the Federal Republic of Germany and France, under several Directives on air pollution (C-361/88, C-59/89, C-13/90, C-14/90 and C-64/90); Luxembourg and Spain, under Council Directive 85/339/EEC on the reduction of household waste (C-252/89 and C-192/90); Belgium and the Federal Republic of Germany, under Directives on the quality of surface water intended for the abstraction of drinking water (C-290/89 and C-58/89); and Italy, under Directives on waste (C-33/90).

In the context of eliminating discrimination between men and women, the Court ruled in its judgment of 25 July 1991 in Case C-345/89 (*Stoeckel*) that a national provision such as Article L-213 of the French Code du Travail (Labour Code), prohibiting night work for women, was contrary to the principle of equal treatment for men and women.

The Court held that it was not evident that the risks incurred by women in such work were broadly different in kind from the risks incurred by men and that, in any event, suitable measures could be adopted to deal with them without jeopardizing the fundamental principle of equal treatment for men and women.

Two references for preliminary rulings from the Pretura di Vicenza and the Pretura di Bassano del Grappa enabled the Court to rule on the liability of the State for damage arising from breach of its obligations under Community law.

The plaintiffs in the main proceedings were employees who were owed payments of amounts in respect of remuneration. According to Council Directive 80/987/EEC on the approximation of the laws of the Member States in relation to the protection of employees in the event of the insolvency of their employer, Member States were required to bring into force before 23 October 1983 specific guarantees for the payment of amounts due to them in respect of remuneration. Since Italy had failed to fulfil that obligation, the plaintiffs were not able to obtain compensation, and they therefore instituted proceedings against the State seeking an order that it should pay them the sums due or, in default thereof, to pay them damages.

In its judgment of 19 November 1991 in Cases C-6/90 and C-9/90 (*Francovich*) the Court laid down the principle according to which the Member States were obliged to compensate individuals for harm caused to them by infringements of Community law imputable to the Member States provided that three conditions were fulfilled: that the result to be achieved by the directive involves the granting of rights to individuals; that the content of those rights could be identified on the basis of provisions of the directive; and that there was a causal link between the breach of the State's obligation and the harm suffered by the injured parties.

Two applications for the annulment of a Council Regulation imposing a definitive anti-dumping duty on imports of urea originating in Libya and Saudi Arabia gave the Court occasion to stress the importance of guaranteeing observance of the rights of the individual.

In its judgment of 27 June 1991 in Case C-49/88 (*Al-Jubail*), the Court held that, as regards the right to a fair hearing, any action taken by the Community institution must be all the more scrupulous in view of the fact that, as they stood at present, the rules in question did not provide all the procedural guarantees for the protection of the individual which may exist in certain national legal systems.

Again on the question of the protection of the rights of individuals, but from the viewpoint of national law, the Court ruled in its judgment of 25 July 1991 in Case C-208/90 (*Emmot*) that, until such time as a directive had been properly transposed, a defaulting Member State could not rely on an individual's delay in initiating proceedings against it in order to obtain protection of the rights conferred upon him by the provisions of the directive and that a period laid down by national law within which proceedings had to be initiated could not begin to run before that time.

Several judgments of the Court during 1991 dealt with the application of the principle of the free movement of persons. In its judgment of 26 February 1991 in Case C-292/89 (*Antonissen*), the Court had to rule on the possibility open to Member States to introduce a temporal limitation with regard to the right to stay in order to seek employment. In that regard, it pointed out that the effectiveness of Article 48 of the EEC Treaty establishing the freedom of movement for workers was secured in so far as Community legislation or, in its absence, the legislation of a Member State, gave the person concerned 'reasonable time'. In the absence of Community provisions, it considered that six months did not appear in principle to be insufficient. However, the Court added that if, after the expiry of that period, the person concerned provided evidence that he was continuing to seek employment and that he had genuine chances of being engaged, he could not be required to leave the territory of the host Member State.

Again, in its judgment of 4 July 1991 in Case C-213/90 (*ASTI*), the Court acknowledged that workers who are nationals of a Member State have the right to vote in elections for members of an occupational guild to which they must pay contributions and which is responsible for defending the interests of the affiliated workers and exercises a consultative role with regard to legislation. That question

was put by the Cour de Cassation, Luxembourg, in the context of proceedings between the Association de Soutien aux Travailleurs Immigrés (ASTI) and the Chambre des Employés Privés in relation to the refusal of ASTI to pay mandatory contributions to the Chambre des Employés Privés on the ground that it seemed illogical to contribute to a body on behalf of employees who were excluded from it.

Several questions referred by the Højesteret for a preliminary ruling led the Court to define the concept of normal residence within the meaning of Council Directive 83/182/EEC. The main proceedings concerned a Danish national who had moved to Germany in 1973 and who, from the summer of 1982, stayed, nearly every night and most weekends, with a girlfriend who lived in Denmark. In October 1982 he purchased a new car which he had registered in Germany and which he used from then on to visit his girlfriend. In January 1984 the Danish authorities, considering that he had transferred his normal residence to Denmark, confiscated his car on the ground that it had not been registered in Denmark.

In its judgment of 23 April 1991 in Case C-297/89 (*Rybørg*), the Court ruled that normal residence within the meaning of the Directive corresponded to the permanent centre of interests of the person concerned, which must be determined with the aid of all the criteria set out in the Directive and all the relevant facts. Thus, the mere fact that a person spent his nights and weekends over more than a year with a woman-friend in a Member State (Member State B) other than the one in which he had been working and residing for several years (Member State A) was insufficient to support the conclusion that he had transferred his normal residence to Member State B.

At present, Ireland is the only country of the Community to prohibit abortion. Article 40(3) of the Irish Constitution recognizes the right to life of the unborn child. According to the case-law of the Irish courts, that article also prohibits any measures which consist in assisting pregnant women within Ireland to travel abroad in order to obtain medical termination of pregnancy, in particular by providing information on clinics which carry out abortions.

In that context, the Society of the Protection of Unborn Children Ireland Ltd, constituted with the object of preventing the decriminalization of abortions and to defend human life from the moment of conception, initiated proceedings before the High Court of Ireland against Mr Grogan and other officers of student associations who edited publications intended for students in which they informed them of the possibility of having abortions lawfully carried out in the United Kingdom and of the means of communicating with those clinics. The High court referred several questions to the Court for a preliminary ruling on the interpretation of Community law.

In its judgment of 4 October 1991 in Case C-159/90 (*Grogan*), the Court ruled that medical termination of pregnancy, performed in accordance with the law of the State in which it is carried out, constituted a service within the meaning of

Article 60 of the Treaty, as a medical activity which was normally provided for remuneration and carried out as part of a professional activity. As regards the distribution of information concerning clinics which carried out voluntary medical termination of pregnancy in other Member States, the Court held the link between the activities of the officers of the students associations and the clinics in question was too tenuous for the prohibition on the distribution of information to be capable of being regarded as a restriction within the meaning of Article 59 of the Treaty.

II — The Rules of Procedure of the Court of Justice

On 4 July 1991 the Rules of Procedure of the Court of Justice were published in the *Official Journal of the European Communities* (L 176) with the amendments which had been adopted by the Court on 15 May 1991. Those amendments were necessary in order to maintain the effectiveness of judicial review in the Community legal order and coincided with the adoption by the Court of First Instance of its Rules of Procedure (see p. 44).

The amendments take into account, first, the judicial practice of the Court of Justice which had demonstrated the need to redraft certain rules of procedure and, secondly, the need for the Court of Justice to deal with the ever-growing number of cases which are brought before it by rendering the procedure before it as flexible as possible.

In that respect, it was thought desirable to transfer to the President of the Court certain powers which had previously been exercised by the Court. Thus, it is for the President of the Court to order the joinder of cases concerning the same subject-matter (Article 43); he may also decide, either on his own initiative or at the request of one of the parties, to defer a case to be dealt with at a later date (Article 55(2)); he may order a case to be removed from the register where the parties reach a settlement of their dispute (Article 77) or where the applicant wishes to discontinue the proceedings (Article 78) and he may give a decision as to costs (Article 69(1)); finally, in the matter of interventions, he gives the parties an opportunity to submit their written or oral observations on the application to intervene; he gives his decision in the form of an order and, on application by one of the parties, may omit from communicating to the intervener secret or confidential documents (Article 93(2) and (3)).

The new Rules of Procedure have also given the Court greater scope to assign certain cases to a Chamber. Thus, the new wording of Article 95(1) enables the Court to assign to Chambers, in addition to references for preliminary rulings, appeals brought against decisions of the Court of First Instance and 'any other case', with the exception of those brought by a Member State or an institution.

Thanks to that amendment the Court may now assign to a Chamber certain cases, such as a request for authorization made by a natural or legal person for the seizure of property and assets of the Communities under Article 1 of the Protocol on the Privileges and Immunities of the European Communities.

The concern to increase the flexibility of the procedure before the Court of Justice also led to the simplifying of certain procedural formalities. In that respect, the amendment regarding the requirement concerning the formal regularity of applications should first be noted. First, under the new Article 38(2) the parties now have the choice of an address for service in the place where the Court has its seat. Indeed, if the application does not state an address for service, all service on the party concerned for the purpose of the proceedings is to be effected by registered letter addressed to the agent or lawyer of that party. However, in that case, and by way of derogation from the general rule laid down in Article 79, service is then to be deemed duly effected by the lodging of the registered letter at the post office of the place where the Court has its seat. The same rule applies to the defendant (Article 40) and to the interveners (Article 93(1)).

Secondly, as regards legal persons governed by private law, the new wording of Article 38(5) provides, as an alternative to the lodging of its instruments of constitution, a less onerous requirement, namely the lodging of a recent extract from the register of companies, firms or associations or any other proof of its existence in law.

Article 44A, which is a new provision of the Rules of Procedure, enables the Court to give a judgment without an oral procedure in direct actions under certain conditions. Where the Court has sufficient information before it as a result of the pleading lodged during the written procedure, and none of the parties wishes to state its point of view orally, the oral procedure may become a mere formality. In that case, the Court, acting on a report from the Judge-Rapporteur, after hearing the Advocate General and with the express consent of the parties, may dispense with a hearing.

A similar rule has been laid down as regards references for preliminary rulings. By virtue of Article 104(4), as amended, the Court, after the statements of case or written observations referred to in Article 20 of the EEC Statute, Article 21 of the Euratom Statute and Article 103(3) of the Rules of Procedure have been submitted, acting on a report from the Judge-Rapporteur, and after informing the persons who under the aforementioned provisions are entitled to submit such statements or observations, may, after hearing the Advocate General, and provided that none of those persons has asked to present oral argument, decide to give a ruling without an oral procedure.

Also with regard to references for a preliminary ruling, and inspired by the principle of procedural economy, Article 104(3) now enables the Court, where a question referred to it for a preliminary ruling is manifestly identical with a question on which the Court has already ruled, after informing the court or tribunal which referred the question to it, hearing any observations submitted by

the persons concerned and hearing the Advocate General, to give its decision by reasoned order in which reference is made to its previous judgment.

Several amendments of the Rules of Procedure of the Court of Justice are designed to improve the rules already in existence in order to resolve certain problems encountered over the years or to render the procedure before the Court more equitable or efficient.

Thus, for example, the former wording of Article 80 relating to time-limits, which was too imprecise, could give rise to problems of interpretation. That was why it was considered expedient to specify in the same article the methods of calculating time-limits in all the situations that could arise. Thus, the periods of time prescribed by the ECSC, EEC or Euratom Treaties, the Statutes of the Court or the Rules of Procedure for the taking of any procedural step are to be reckoned as follows:

- (a) where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;
- (b) a period expressed in weeks, months or in years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;
- (c) where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;
- (d) periods shall include official holidays, Sundays and Saturdays;
- (e) periods shall not be suspended during the judicial vacations.

With regard to measures of inquiry, the following should be noted: the obligation on the Court to hear the parties before deciding on the measures of inquiry, such as oral testimony, the commissioning of an expert's report or an inspection of the place or thing in question (Article 45(1)), or ordering that a previous inquiry be repeated or expanded (Article 60); the new rule relating to the signature of the minutes in which the evidence of the witness is reproduced (signature by the President or the Judge-Rapporteur responsible for conducting the examination of the witness, as well as by the Registrar, after the witness has been given an opportunity to check the content of the minutes and to sign them (Article 47(6)); the new maximum amount of the pecuniary penalty which the Court may impose upon a duly summoned witness who fails to appear before the Court (ECU 5 000 — Article 48(2)); the possibility for the Court to reduce the pecuniary penalty at the request of the witness where he establishes that it is disproportionate to his income (Article 48(3)); and, finally, the option for the Court to request the parties

or one of them to lodge security for the costs of the expert's report (Article 49(2)).

As regards costs, several amendments have been made to Article 69; in particular, the rules relating to costs in cases of intervention and those relating to costs in discontinued cases have been clarified.

As regards interventions, by virtue of the general rule in Article 69(2), if the party supported by an intervener is successful, the unsuccessful party is to be ordered to pay the costs, not only of the successful party, but also of the intervener. Nevertheless, the new paragraph 4 of that article now provides that the Member States and the Community institutions which intervene in the proceedings are to bear their own costs in order to prevent the decision as to costs increasing disproportionately as a result of the intervention of Member States or Community institutions having no direct interest in the result of the case. Since private interveners have to establish an interest in the result of the case, the rule in Article 69(2) may in principle apply in this instance. However, in view of the range of interests which could justify an intervention and the situations which could arise, the new paragraph 4 now enables the Court to make exceptions to that rule in the interests of equity and order a private intervener to bear his own costs.

As regards costs where a party discontinues or withdraws from proceedings, the new paragraph 5 envisages four possibilities: where a party discontinues or withdraws from proceedings following an unjustified action, the applicant pays the costs of the defendant, if they have been applied for in the latter's pleadings; where a party discontinues or withdraws from proceedings because the action has become pointless, the costs are to be borne by the other party if that appears justified by the conduct of that party; where the parties have come to an agreement on costs, the decision as to costs is to be in accordance with that agreement; and, finally, if costs are not claimed, the parties are to bear their own costs.

The annulment to Article 93 of the Rules of Procedure is designed to clarify, for the benefit of the parties, the course of the procedure where there is an intervention and gives the parties, in a new Article 93(6), the chance to reply to the statement in intervention.

Finally, the amendments to the rules relating to the jurisdiction of the Court in the matter of preliminary issues should be noted.

On the one hand, Article 92(1) has been amended in order to enable the Court, where the action is manifestly inadmissible, to give a decision on the action without taking further steps in the proceedings. In the former version, that possibility was available only where it was clear that the Court had no jurisdiction to take cognizance of an action. The amendment is designed to bring the text into line with Court practice.

On the other hand, a 10th chapter has been inserted after Article 82, as well as a new Article 82a on stay of proceedings. Under that new article, the proceedings may be stayed where the Court of Justice and the Court of First Instance are seized of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, by order of the Court or the Chamber to which the case has been assigned, made after hearing the Advocate General, in order that it may be pursued before the Court of First Instance. In all other cases, the proceedings may be stayed by decision of the President adopted after hearing the Advocate General and, save in the case of references for a preliminary ruling, the parties. The proceedings may be resumed by order or decision, following the same procedure.

The new Rules of Procedure entered into force on 1 September 1991.

B — Composition of the Court of Justice



Composition of the Court of Justice on 6 October 1991

Front row from left to right:

Manuel Díez de Velasco, Judge; José Carlos de Carvalho Moitinho de Almeida, Judge; Federico Mancini, Judge; Ole Due, President; Thomas Francis O'Higgins, Judge; Gil Carlos Rodríguez Iglesias, Judge; Francis Jacobs, Advocate General.

Second row from left to right:

Fernand Schockweiler, Judge; René Joliet, Judge; Marco Darmon, Advocate General; Carl Otto Lenz, Advocate General; Constantinos Kakouris, Judge; Sir Gordon Slynn, Judge.

Third row from left to right:

Jean-Guy Giraud, Registrar; Paul Kapteyn, Judge; Giuseppe Tesauro, Advocate General; Walter Van Gerven, Advocate general; Manfred Zuleeg, Judge; Fernand Grévisse, Judge; Jean Mischo, Advocate General.

I — Order of precedence

1. Order of precedence in the Court of Justice to 6 October 1991

Ole Due, President
Federico Mancini, President of the Sixth Chamber
Thomas Francis O'Higgins, President of the Second Chamber
José Carlos de Carvalho Moitinho de Almeida, President of the Third and Fifth Chambers
Gil Carlos Rodríguez Iglesias, President of the First Chamber
Manuel Díez de Velasco, President of the Fourth Chamber
Francis Jacobs, First Advocate General
Sir Gordon Slynn, Judge
Constantinos Kakouris, Judge
Carl Otto Lenz, Advocate General
Marco Darmon, Advocate General
René Joliet, Judge
Fernand Schockweiler, Judge
Jean Mischo, Advocate General
Fernand Grévisse, Judge
Manfred Zuleeg, Judge
Walter Van Gerven, Advocate General
Giuseppe Tesauro, Advocate General
Paul Kapteyn, Judge
Jean-Guy Giraud, Registrar

**2. Order of precedence in the Court of Justice
from 7 October 1991**

Ole Due, President

Sir Gordon Slynn, Judge, President of the First Chamber

René Joliet, Judge, President of the Fifth Chamber

Fernand Schockweiler, Judge, President of the Second and Sixth Chambers

Fernand Grévisse, Judge, President of the Third Chamber

Giuseppe Tesauro, First Advocate General

Paul Kapteyn, Judge, President of the Fourth Chamber

Federico Mancini, Judge

Constantinos Kakouris, Judge

Carl Otto Lenz, Advocate General

Marco Darmon, Advocate General

José Carlos de Carvalho Moitinho de Almeida, Judge

Gil Carlos Rodríguez Iglesias, Judge

Manuel Diéz de Velasco, Judge

Manfred Zuleeg, Judge

Walter Van Gerven, Advocate General

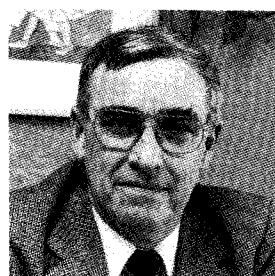
Francis Jacobs, Advocate General

Claus Gulmann, Advocate General

John Murray, Judge

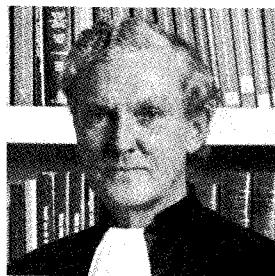
Jean-Guy Giraud, Registrar

II — The Members of the Court of Justice (in order of precedence from 7 October 1991)



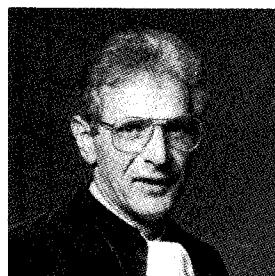
Ole Due

Born 10 February 1931; Director at the Ministry of Justice; Adviser *ad interim* to the Court of Appeal; Member of the Danish delegation to The Hague Conference on Private International Law; Judge at the Court of Justice since 7 October 1979, President of the Court of Justice since 7 October 1988.



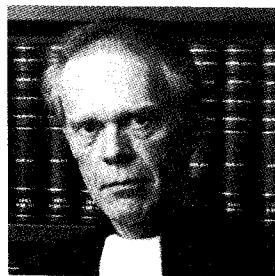
The Honourable Sir Gordon Slynn

Born 1930; Barrister, Master of the Bench and subsequently Treasurer, Gray's Inn; Queen's Counsel; Junior Counsel to the Ministry of Labour, Junior and Leading Counsel to the Treasury; Recorder; Judge of the High Court (Queen's Bench Division); President of the Employment Appeal Tribunal; Visiting Professor at the Universities of Durham, Cornell (USA), Mercer (USA) and King's College London; Advocate General at the Court of Justice since 26 February 1981, Judge since 7 October 1988.



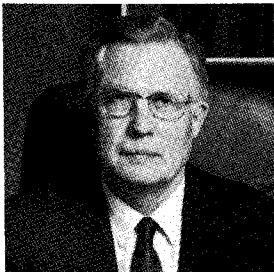
René Joliet

Born 17 January 1938; Ordinary Professor (1974-84) and Special Professor (since 1984), Faculté de droit, Université de Liège (Chair of European Community Law); Holder of the Belgian Chair at King's College London (1977); Visiting Professor at the University of Nancy (1971-78), the Europa Institute of the University of Amsterdam (1976-85), the Catholic University of Louvain-la-Neuve (1980-82) and Northwestern University, Chicago (1974 and 1983); Teacher of European Competition Law at the College of Europe, Bruges (1979-84); Judge at the Court of Justice since 10 April 1984.

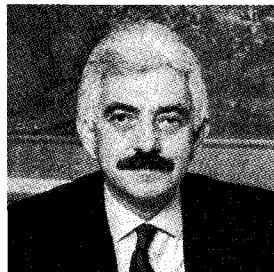


Fernand Schockweiler

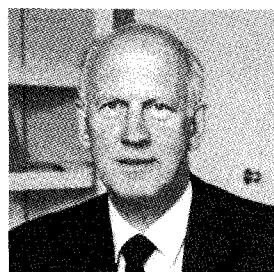
Born 15 June 1935; Ministry of Justice; Senior Government Attaché; Government Adviser; Senior Government Adviser; Judge at the Court of Justice since 7 October 1985.

**Fernand Grévisse**

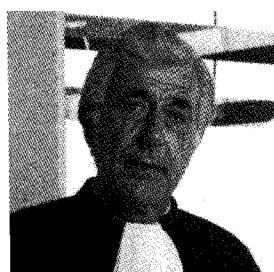
Born 28 July 1924; auditeur and maître des requêtes at the French Conseil d'État; Head of the Cabinet of the Minister for Justice; Director-General responsible for Forestry; Director-General of the General Secretariat of the Government; conseiller d'État; President of the First Subsection of the Judicial Section of the Conseil d'État; Professor at the Institut d'études politiques, Paris; President of the Section for Public Works, Conseil d'État; Judge at the Court of Justice 1981-82 and since 7 October 1988.

**Giuseppe Tesauro**

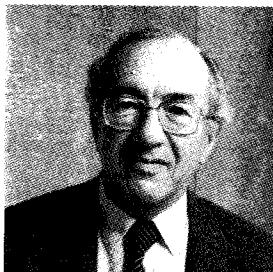
Born 15 November 1942; Titular Professor of International Law (Messina, Naples, Rome); Director of the Institute of International Law in the Faculty of Economics and Commerce at the University of Rome; Director of the Scuola di Specializzazione sulle Comunità Europee at the University of Rome; Advocate before the Corte di Cassazione; Member of the Council for Contentious Diplomatic Affairs at the Ministry of Foreign Affairs; Advocate General at the Court of Justice since 7 October 1988.

**Paul J. G. Kapteyn**

Born 31 January 1928; Official at the Ministry of Foreign Affairs; Professor, Law of International Organizations (Utrecht and Leiden); Member of the Raad van State (Council of State); President of the Chamber for the Administration of Justice at the Raad van State; Member of the Royal Academy of Science; Member of the Administrative Council of the Academy of International Law, The Hague; Judge at the Court of Justice since 1 April 1990.

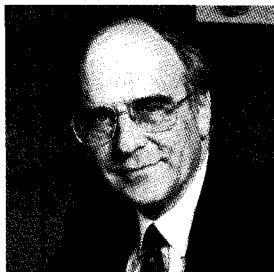
**Federico Mancini**

Born 23 December 1927; Titular Professor of Labour Law (Urbino, Bologna, Rome) and Comparative Private Law (Bologna); Member of the Supreme Council of Magistrates (1976-81); Advocate General at the Court of Justice (1982-88), Judge at the Court of Justice since 7 October 1988.



Constantinos Kakouris

Born 1919: Lawyer (Athens); Auditor and subsequently Junior Judge in the Simvoulio Epikratias (Council of State); State Counselor; President of the Dikastirio Agogon Kakodikias (Special court for actions against judges); Member of the Anotato Idiko Dikastirio (Superior Special Court); General Inspector of Administrative Tribunals; Member of the Supreme Council of Magistrates; President of the Supreme Council of the Ministry of Foreign Affairs; Judge at the Court of Justice since 14 March 1983.



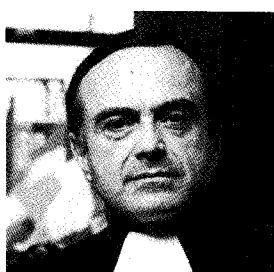
Carl Otto Lenz

Born 5 June 1930; Rechtsanwalt (Lawyer); Notary; Secretary-General of the Christian Democratic Group of the European Parliament; Member of the German Bundestag; Member of the Legal Committee of the Bundestag; Member of the Liaison Committee between the Bundestag and the Bundesrat, the Electoral Committee for the Election of Judges to the Bundesverfassungsgericht (Federal Constitutional Court) and the Foreign Affairs Committee; Chairman of the Committee on European Affairs in the Bundestag; 1990: Honorary Professor of European Law at the University of Saarland; Advocate General at the Court of Justice since 12 January 1984.



Marco Darmon

Born 26 January 1930; employed as a Magistrate in the Ministry of Justice; Lecturer in the Law Faculty in Paris (Paris I); Assistant Director at the Office of the Garde des Sceaux (Minister for Justice); President of Chamber at the cour d'appel, Paris; Head of the direction des affaires civiles et du sceau; Advocate General at the Court of Justice since 13 February 1984.



José Carlos de Carvalho Moitinho de Almeida

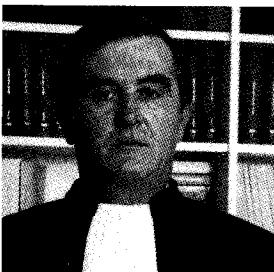
Born 17 March 1936; Public Prosecutor's Office, Court of Appeal, Lisbon; Chief Executive Assistant to the Minister for Justice; Deputy Public Prosecutor; Head of the European Law Office; Professor of Community Law (Lisbon); Judge at the Court of Justice since 31 January 1986.

**Francis Jacobs, QC**

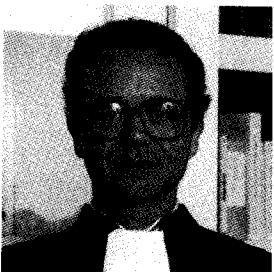
Born 8 June 1939; Barrister; Official in the Secretariat of the European Commission of Human Rights; Legal Secretary to Advocate General J.-P. Warner; Professor of European Law (King's College London); Advocate General at the Court of Justice since 7 October 1988.

**Claus Christian Gulmann**

Born 1942; Official at the Ministry of Justice; Legal Secretary of Judge Max Sørensen; Professor of Public International Law and Dean of the Law School of the University of Copenhagen; in private practice; chairman and member of arbitral tribunals; Member of Administrative Appeal Tribunal; Advocate General at the Court of Justice since 7 October 1991.

**John Loyola Murray**

Born 27 June 1943; President of the Union of Students in Ireland; Barrister, later Senior Counsel called to the Inner Bar of the Supreme Court; Attorney-General; former Member of the Council of State; former Member of the Bar Council of Ireland; Bencher of the Honourable Society of King's Inns; Judge at the Court of Justice since 7 October 1991.

**Jean-Guy Giraud**

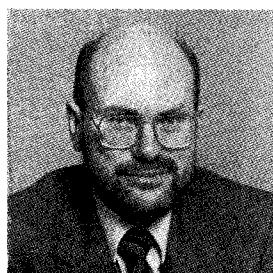
Born 12 April 1944; Administrator in the General Secretariat of the European Parliament; Head of the Secretariat of the Committee on Institutional Affairs and the Committee on Budgets; Member of the Cabinets of the European Parliament Presidents P. Pflimlin and Lord Plumb; Director *ad interim* of the Directorate-General for Committees; Registrar of the Court of Justice since 10 February 1988.

**Gil Carlos Rodríguez Iglesias**

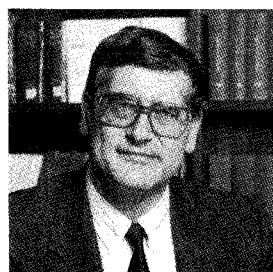
Born 26 May 1946; Assistant Lecturer and Professor (Universities of Oviedo and Freiburg im Breisgau, Universidad Autónoma of Madrid, Universidad Complutense Madrid and University of Granada); Professor of Public International Law (Granada); Judge at the Court of Justice since 31 January 1986.

**Manuel Díez de Velasco Vallejo**

Born 22 May 1926; former Professor of Public and Private International Law at the following universities: Granada, Barcelona and Universidad Autónoma, Madrid; First Professor of Public International Law at the Universidad Complutense, Madrid; Judge of the Spanish Constitutional Court; Member of the Institut de Droit International; former elected member of Consejo de Estado; Member of the Real Academia de Jurisprudencia (Madrid); Judge at the Court of Justice since 7 October 1988.

**Manfred Zuleeg**

Born 21 March 1935; Academic Assistant at the Institute for European Community Law of the University of Cologne; Professor of Public Law, Public International Law and European Law at the Universities of Bonn and Frankfurt; Judge at the Court of Justice since 7 October 1988.

**Walter Van Gerven**

Born 11 May 1935; Professor at the Catholic University of Leuven (KUL), at the University of Chicago and the University of Amsterdam (UvA); Vice-Rector and Member of the Academic Council and Organizing Authority of the Catholic University of Leuven; Advocate (Dendermonde, Leuven, Brussels); Chairman of the Commission on Banking; Advocate General at the Court of Justice since 7 October 1988.

III — Composition of the Chambers

1. Composition of the Chambers to 6 October 1991

First Chamber

Gil Carlos Rodríguez Iglesias, President of the Chamber,
Sir Gordon Slynn and René Joliet, Judges.

Second Chamber

Thomas Francis O'Higgins, President of the Chamber,
Federico Mancini and Fernand Schockweiler, Judges.

Third Chamber

José Carlos de Carvalho Moitinho de Almeida, President of the Chamber,
Fernand Grévisse and Manfred Zuleeg, Judges.

Fourth Chamber

Manuel Díez de Velasco, President of the Chamber,
Constantinos Kakouris and Paul Kapteyn, Judges.

Fifth Chamber

José Carlos de Carvalho Moitinho de Almeida, President of the Chamber,
Gil Carlos Rodríguez Iglesias, Sir Gordon Slynn, René Joliet, Fernand Grévisse
and Manfred Zuleeg, Judges.

Sixth Chamber

Federico Mancini, President of the Chamber,
Thomas Francis O'Higgins, Manuel Díez de Velasco, Constantinos Kakouris,
Fernand Schockweiler and Paul Kapteyn, Judges.

2. Composition of the Chambers from 7 October 1991

First Chamber

Sir Gordon Slynn, President of the Chamber,
René Joliet and Gil Carlos Rodríguez Iglesias, Judges.

Second Chamber

Fernand Schockweiler, President of the Chamber,
Federico Mancini and John Murray, Judges.

Third Chamber

Fernand Grévisse, President of the Chamber,
José Carlos de Carvalho Moitinho de Almeida and Manfred Zuleeg, Judges.

Fourth Chamber

Paul Kapteyn, President of the Chamber,
Constantinos Kakouris and Manuel Díez de Velasco, Judges.

Fifth Chamber

René Joliet, President of the Chamber,
Sir Gordon Slynn, Fernand Grévisse, José Carlos de Carvalho Moitinho de Almeida,
Gil Carlos Rodríguez Iglesias and Manfred Zuleeg, Judges.

Sixth Chamber

Fernand Schockweiler, President of the Chamber,
Paul Kapteyn, Federico Mancini, Constantinos Kakouris,
Manuel Díez de Velasco and John Murray, Judges.

IV — Changes in the composition of the Court of Justice during 1991¹

The composition of the Court underwent a slight change from that of 1990 (see the *Synopsis of the work of the Court of Justice and the Court of First Instance of the European Communities in 1990*):

Mr John Murray took up his duties as Judge with effect from 7 October 1991. He replaced Judge T. F. O'Higgins.

Mr Claus Gulmann took up his duties as Advocate General with effect from 7 October 1991. He replaced Advocate General Jean Mischo.

Following the formal sitting of the Court of Justice of 7 October 1991 on the occasion of the appointment of Mr Murray and Mr Gulmann, Mr Ole Due, President, was re-elected as President by the new composition of the Court for a term of three years.

¹ For further details, reference is made to the section 'Formal sittings', at p. 73.

C — The administrative departments of the Court of Justice

by Thomas Cranfield, Deputy Registrar

As one of the four institutions of the Community which are referred to in Article 4 of the EEC Treaty, the Court of Justice has its own administrative system and budget which it manages independently within the framework of the rules laid down by the Community legislature (Staff Regulations, Financial Regulation) or by the budgetary authority (annual budget determining the authorized number of staff and appropriations) for all institutions.

Staff

At 31 December 1991 the Court of Justice employed 738 officials or other servants, 377 of them women (51.08%) and 361 men (48.91%). The allocation of staff was as follows:

Chambers of the Members of the Court of Justice and the Court of First Instance	162
Registry	43
Library, Research and Documentation	62
Translation	233
Interpretation	35
Information	14
Administration	189

Of these posts actually filled, 40 (5.42%) were allocated to the Court of First Instance.¹

These figures show that the language regime of the Court of Justice accounts for a very high proportion of staff since more than a third are involved in linguistic duties, translation and interpretation. It should also be noted that 22% of staff provide direct assistance to the Members of the Courts in the preparation of judicial work.

¹ See pp. 51-57.

The distribution of the staff by nationality was as follows:

French	125 (16.9 %)
Belgian	88 (11.9 %)
Italian	87 (11.7 %)
German	80 (10.8 %)
British	62 (8.4 %)
Spanish	56 (7.5 %)
Portuguese	50 (6.7 %)
Luxembourg	50 (6.7 %)
Greek	44 (5.9 %)
Danish	42 (5.6 %)
Dutch	37 (5.0 %)
Irish	15 (2.0 %)
Other	2 (0.2 %)

Most members of staff have the status of permanent officials of the Communities. None the less, there are numerous temporary members of staff: 73 (almost 10 %). The reason for this lies in the special situation of part of the staff in the Chambers of the Members, and in particular of that of legal secretaries.

Among the persons employed by the institution it is noticeable that there is quite a high proportion of Grade A (120, or 16 % of the total), but a relatively low number of senior grades (five at A2 and 19 at A3, not including the legal secretaries).

In 1991, 107 new officials and members of temporary staff took up their duties; 67 left the institution. Recruitment needs made it necessary to organize nine external competitions in 12 cities and nine Member States with a total of 3 782 candidates.

In 1991, the Court of Justice undertook substantial vocational training programmes. The appropriations used for that purpose rose to ECU 437 000. In total, 5 313 training days were organized for 933 participants, giving 7.5 training days per official per annum distributed as follows:

Language courses: 3 757 days for 440 persons;

Computer courses: 1 140 days for 346 persons;

Other courses (law, accountancy, induction courses for new entrants, pre-retirement courses, etc.): 325 days for 106 persons;

Lectures, colloquia, seminars, examinations: 91 days for 41 persons.

Internal Services Division

The Internal Services Division concentrated their activities in particular on the following two areas:

Office accommodation policy

During 1991, work on the Court's construction projects continued and Annex B (second extension of the Palais) should be made available towards the end of the first six months of 1992.

In the last quarter of 1991, preparation of the site for the construction of Annex C (third extension of the Palais) was undertaken. Work on the site will be finished, according to current forecasts, towards the end of 1993.

At that stage, the chambers and departments currently located in the Palais will be moved into the building in order to allow maintenance work on the Palais to be carried out.

Reports of Cases before the Court of Justice and the Court of First Instance

The rate at which *Reports of Cases before the Court of Justice and the Court of First Instance* are produced has increased considerably in the last two years.

Thus, the production of the whole of the Reports for the years 1987, 1988 and 1989 has been completed.

A supplementary budget and a transfer of appropriations aggregated with the initial appropriations for the 1991 budgetary year enabled 153 volumes to be published, totalling 74 589 pages of which 36 328 represented Reports in respect of which there had been delays in publication.

Furthermore, using those same appropriations, the indexes of the Reports for 1985, 1986 and 1987 have been published.

In the future, more effort will be dedicated to the swifter and more regular publication of volumes in order to inform those interested as quickly as possible of the case-law of the Court of Justice and the Court of First Instance.

Data-Processing Division

The task entrusted to the Data-Processing Division (created on 13 June 1990) for 1991 was to install office equipment which had been tested during a pilot project approved by the Court of Justice at the end of 1990.

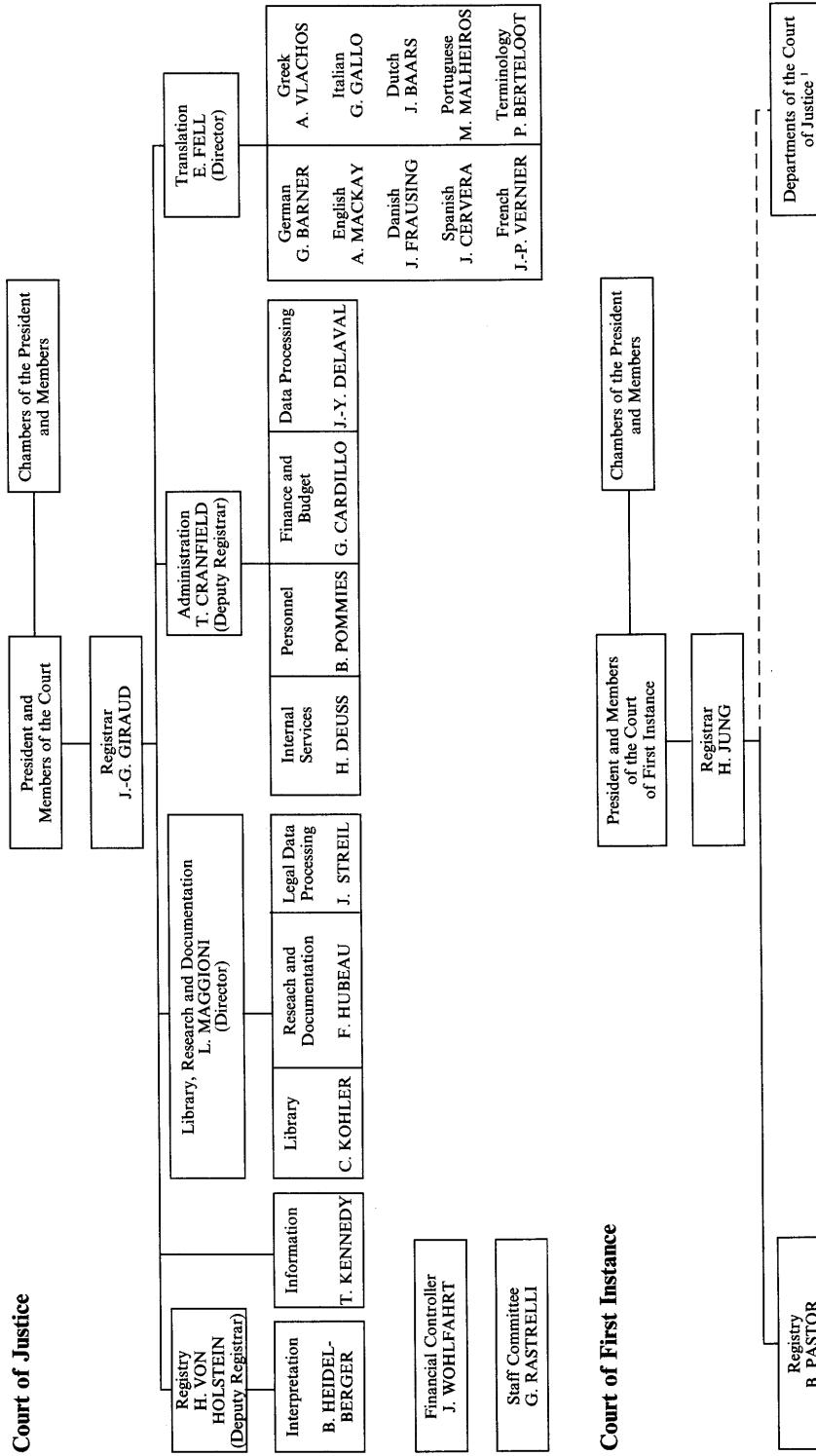
The office equipment relies on the intensive use of PCs equipped with a multilingual word-processing software package (WordPerfect), with access to a range of databases within and outside the institution; these databases relate in particular to proceedings (court proceedings, stages of translation and publication) and contain Community and national case-law databases.

At the same time, the establishment of these databases has enabled the development of data-processing applications, with the aim of automating repetitive tasks and speeding up the process of publishing works for which the Court is responsible (Reports, Digests, the Official Journal and other publications).

Data-processing in figures

	Beginning 1991	End 1991	Forecast 1992
In-house data processors	9	12	16
External data processors	5	4	4
PCs installed	216	436	550
Staff at the institution (officials and external staff)	750	800	850

Abridged organization chart



Pursuant to the new Article 45 of the Protocol on the Statute of the Court of Justice, ‘officials and other servants attached to the Court of Justice shall render their services to the Court of First Instance to enable it to function’.

The Court of First Instance of the European Communities

A — Review of the 1991 judicial year

I — General trend in cases and case-law of the Court of First Instance

During 1991, the Court of First Instance decided 67 cases, 43 of them by judgments and 24 by orders putting an end to the proceedings. Of the 67 cases decided, 48 were disputes between the Community institutions and their staff, 17 concerned the implementation of the rules of competition applicable to undertakings and two were actions against the Commission under the ECSC Treaty. Furthermore, the President of the Court of First Instance or the Presidents of Chambers were also required to decide on 10 applications for interim measures.

There were 91 new cases brought before the Court of First Instance in 1991, which represents an increase of approximately 70% in relation to the preceding year.

It should be pointed out that, regarding decisions of the Court of First Instance open to appeal, only 22% were the subject of appeals to the Court of Justice and that, regarding the nine appeals which were decided by the Court of Justice in 1991, only one was allowed, six were dismissed and another two were removed from the register.

With regard to disputes in matters of competition, the cases concerning the polypropylene market, which were particularly complex, should be mentioned. These were a series of cases brought by 14 polypropylene producers seeking the annulment of a Commission decision which declared that they had been party to agreements and concerted practices contrary to Article 85(1) of the Treaty, ordered them to put an end to the alleged infringement and imposed fines ranging from ECU 750 000 to ECU 11 000 000.

In 1991, the Court of First Instance gave judgment in seven of those actions. As regards the legal classification of their conduct, the applicants complained that the Commission had not clearly classified the infringement referred to as an 'agreement' or a 'concerted practice'. In that respect, the Court of First Instance stated that the various instances of concerted practice observed and the various agreements concluded formed, by reason of their identical purpose, part of systems pursuing a single economic aim, namely to distort the normal movement of prices on the polypropylene market. According to the Court of First Instance, it would therefore be artificial to split up such continuous conduct, characterized by a single objective, by distinguishing within it a number of separate infringements. It considered that those systems constituted a single infringement which

consisted both of elements to be characterized as ‘agreements’ and of elements to be characterized as ‘concerted practices’. Given a complex infringement, the dual characterization by the Commission had to be understood not as reacquiring, concurrently and cumulatively, proof that each of those elements in fact displayed the constituent features both of an agreement and a concerted practice, but rather as referring to a complex whole comprising a number of factual elements, some of which had been characterized as agreements and others as concerted practices for the purposes of Article 85(1) of the EEC Treaty, which laid down no specific category for a complex infringement of that type.

In one of those judgments, delivered on 17 December 1991 in Case T-6/89 (*Enichem Anic SpA*), the Court of First Instance also had to rule on the problem of making an undertaking answerable for an infringement where, between the time when the infringement was committed and the time when the undertaking in question was to be held accountable for it, the person who was responsible for the operation of that undertaking had ceased to exist in law. In that respect, the Court of First Instance considered that it was necessary to find, initially, the combination of physical and human elements that had contributed to the commissioning of the infringement and then to identify the person who had become responsible for the operation, so as to avoid the result that, because of the disappearance of the person responsible for its operation when the infringement was committed, the undertaking might fail to answer for it.

In another judgment, of the same date, in Case T-7/89 (*SA Hercules Chemicals NV*), the Court of First Instance pointed out that, by establishing, in the Twelfth Report on Competition Policy, a procedure for providing access to the file in competition cases, the Commission had imposed rules on itself which went beyond the requirements laid down by the Court of Justice. The Commission was therefore under an obligation to make accessible to the undertakings involved, in a proceeding under Article 85(1) of the EEC Treaty, all documents, whether in their favour or otherwise, that it had acquired during the investigation, except where the business secrets of other undertakings, the Commission’s internal documents or other confidential information were involved.

While the polypropylene cases concerned the application of Article 85 of the EEC Treaty, the RTE, BBC and ITP cases (T-69/89, T-70/89 and T-76/89), which were decided by the Court of First Instance on 10 July 1991, concerned the application of another competition rule in the Treaty (Article 86), which prohibits the abuse of a dominant position within the common market or in a substantial part of it, in so far as it may affect trade between Member States.

In those judgments the Court of First Instance dismissed the actions brought by the applicant undertakings against a Commission decision which found that the policies and practices of those undertakings in relation to the publication of their advance weekly listings for television and radio programmes receivable in Ireland and Northern Ireland constituted an infringement of Article 86 of the EEC Treaty in so far as they prevented the publication and sale of comprehensive weekly television guides in Ireland and Northern Ireland.

In that respect, the Court of First Instance pointed out that, while it was plain that the exercise of the exclusive right to reproduce a protected work was not in itself an abuse, that was not the case when, in the light of the circumstances of each individual case, it was apparent that that right was exercised in such ways and circumstances as in fact to pursue an aim manifestly contrary to the objectives of Article 86. In that event, the copyright was no longer exercised in a manner which corresponded to the essential function of that right, as envisaged in Article 36 of the Treaty, which was to protect the work and reward the creative effort, while respecting the objectives of, in particular, Article 86.

In another field, namely actions brought by undertakings against the Commission under the ECSC Treaty, the Court of First Instance was required to rule on the non-contractual liability of the Community. In Case T-103/85, the Court of Justice had annulled a Commission decision in so far as it refused to adjust the production and delivery quotas for the first quarter of 1985 of a steel company incorporated under German law, as well as individual decisions fixing delivery quotas for the same undertaking for the first and second quarters of 1986 (Cases 33/86, 44/86, 110/86, 226/86 and 285/86). Since the Commission had failed to take within a reasonable time the necessary steps to comply with the two judgments of the Court of Justice annulling the decisions, the undertaking brought an action for damages under Article 34 and 40 of the ECSC Treaty.

In its judgment of 27 June 1991 in Case T-120/89 (*Peine-Salzgitter*), the Court of First Instance had to respond, *inter alia*, to the applicant's argument based on the impossibility of extending the case-law of the Court of Justice concerning non-contractual liability of the Community in the context of the EEC Treaty to actions brought on the basis of the ECSC Treaty, in view of the differences of structure between the two Treaties. The Court of First Instance considered that because of the need, in the context of a single legal order, albeit instituted by three different Treaties, to ensure as far as possible the uniform application of Community law in the area of non-contractual liability of the Community for unlawful legislative acts as well as the coherence of the system of legal protection instituted by the various Treaties, it seemed appropriate, in the case of the unlawfulness of a legislative act, to interpret the concept of 'fault of a such a nature as to render the Community liable' within the meaning of the first paragraph of Article 34 of the ECSC Treaty in the light of the criteria developed by the Court of Justice in its case-law on the second paragraph of Article 215 of the EEC Treaty.

Finally, as regards disputes between Community institutions and their servants, the Court of First Instance has established the interpretation to be given to certain concepts in the Staff Regulations applicable to officials of the European Communities. Thus, it specified in its judgment of 7 February 1991 in Case T-18/89 and in Case T-24/89 (*Tagaras*) the conditions for validity which an 'instrument appointing an official' must fulfil. It also explained the scope of the principle of correspondence between grade and post, laid down in Article 7(1) of the Staff Regulations, in its judgment of 7 May 1991 in Case T-18/90 (*Jongen*). In its judgment of 3 December 1991 in Case T-10/90 and in Case T-31/90 (*Boessen*),

the Court of First Instance considered that an official becomes entitled to the education allowance provided for in Article 3 of Annex VII to the Staff Regulations covering family allowances granted to officials from the moment the child actually and regularly attends an establishment of primary education, even if the national law of the place of residence of his legal guardian does not require attendance. In its judgment of 17 October 1991 in Case T-26/89 (*De Compte v Parliament*), it examined closely the disciplinary system applicable to Community officials under Articles 86 to 89 and under Annex IX to the Staff Regulations, and stated *inter alia* that if no time-limit was prescribed for the opening of disciplinary proceedings against an official accused of having failed to fulfil one of his obligations under the Staff Regulations, the interests of good management required, once proceedings were opened, that the disciplinary board act diligently so that each step in the proceedings was taken within a reasonable time in relation to the preceding step, since failure to observe that time-limit — which could only be assessed according to the particular circumstances of the case — could not only make the institution liable but also entail the annulment of the measure taken outside that time-limit.

II — The Rules of Procedure of the Court of First Instance

The Court of First Instance approved its Rules of Procedure on 2 May 1991. They were published in the *Official Journal of the European Communities* on 30 May 1991 and entered into force on 1 July 1991. Until then, the Court of First Instance had applied *mutatis mutandis* the Rules of Procedure of the Court of Justice, as provided for in the third paragraph of Article 11 of the Council Decision of 24 October 1988 establishing a Court of First Instance of the European Communities.

It required somewhat over a year and a half of hard work to cover the various stages between the beginning of discussions of the *ad hoc* committee set up in October 1989 in the Court of First Instance and the adoption by the Council on 29 April 1991 of the text which had been submitted to it.

Four considerations acted as guidelines in drawing up the Rules of Procedure of the Court of First Instance: the retention as far as possible of the rules applicable before the Court of Justice; the inclusion of new rules to take account of the specific nature of the Court of First Instance; the need to reconcile the concern for procedural economy with observance of the *audi alteram parte* rule; and, finally, the advisability of providing for rules which would enable cases to be better prepared.

Several provisions which do not appear in the Rules of Procedure of the Court of Justice or which contain amendments to the text of those rules were therefore introduced in order to take into account the above considerations.

Thus, from the point of view of the organization, composition and work of the Chambers, the Court of First Instance normally sits in Chambers composed of three judges (in staff cases) or five judges (in competition and ECSC cases), in contrast to the rule which prevails at the Court of Justice which sits in principle in plenary session. Thus, the President of the Court of First Instance assigns cases to the Chambers, and the President of the Chamber proposes to the President of the Court of First Instance the designation of a Judge-Rapporteur for each case. As regards the criteria by which a case is referred either to the Court of First Instance sitting in plenary session or to a Chamber composed of a different number of Judges, the rules of the Court of First Instance no longer grant the Member States and the institutions the option of requesting that a case be referred to a different bench.

There is no corps of Advocates General with a special status at the Court of First Instance. In that respect, Article 2(3) of the Council Decision of 24 October 1988 provides that the Members of the Court of First Instance may be called upon to perform the task of an Advocate General. The Rules of Procedure have thus laid down, first, that the Court of First Instance sitting in plenary session is always to be assisted by an Advocate General designated by the President and, second, that a Chamber of the Court of First Instance may also be assisted by an Advocate General if it is considered that the legal difficulty or the factual complexity of the case so requires. The decision to designate an Advocate General in a particular case is taken by the Court of First Instance sitting in plenary session at the request of the Chamber before which the case comes. It is the President of the Court of First Instance who designates the Judge called upon to perform the function of Advocate General in that case. Finally, the Advocate General may deliver his opinion orally or in writing.

In order that the Court of First Instance might, under the best possible conditions, carry out its obligation to decide on cases which require a close examination of complex facts, Article 69 of the Rules of Procedure enables the Court of First Instance to prescribe at any stage of the proceedings any 'measure of organization of procedure'. This new concept, based on the latest trend in procedure in the legal system of several Member States, is defined in Article 64 of the Rules of Procedure, which provides that the purpose of those measures of organization of procedure is to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions.

Article 64(2) explains the purpose of such measures: they are, in particular, to ensure the efficient conduct of the written and oral procedures, to facilitate the taking of evidence, to determine the points on which the parties must present further argument or which call for measures of inquiry, to clarify the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them, and to facilitate the amicable settlement of proceedings.

The same provision includes a non-exhaustive list of the measures of organization of procedure which may be prescribed by the Court of First Instance. They may consist, *inter alia*, of putting questions to the parties, inviting the parties to make

written or oral submissions on certain aspects of the proceedings, asking the parties or third parties for information or particulars, asking for documents or any papers relating to the case to be produced, or summoning the parties' agents or the parties in person to meetings.

The measures of organization of procedure are prescribed by the Court of First Instance of its own motion or on a proposal by one of the parties, after hearing the Advocate General. The Court of First Instance sitting in plenary session may entrust the task of prescribing the measures of organization to the Chamber to which the case was originally assigned or to the Judge-Rapporteur and, for its part, the Chambers may also entrust the task to the Judge-Rapporteur. The Advocate General takes part in measures of organization of procedure.

The establishment of two levels of jurisdiction in the Community's legal system required the inclusion in the Rules of Procedure of the Court of First Instance of a number of special provisions. Thus, for example, as regards the stay of proceedings, Article 77 of the Rules of Procedure specifies three cases in which proceedings may be stayed: in accordance with the third paragraph of Article 47 of the EEC Statute, where the Court of Justice and the Court of First Instance are seized of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may stay proceedings until the Court of Justice delivers its judgment; where an appeal is brought before the Court of Justice against a decision of the Court of First Instance disposing of the substantive issues in part only, disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, or dismissing an application to intervene; or, finally, at the joint request of the parties, in particular where they envisage the possibility of settling the dispute out of court. In addition to these three cases, there is a fourth: where an appeal before the Court of Justice and an application initiating third-party proceedings (Article 123), an application for revision (Article 128) or an application for interpretation (Article 129) before the Court of First Instance concern the same judgment, the Court of First Instance may stay the proceedings until the Court of Justice has delivered its judgment. The decision to stay or resume proceedings is to be made by order of the Court of First Instance after hearing the parties and the Advocate General (Article 78). While proceedings are stayed time ceases to run except for the purposes of an application to intervene. Time begins to run afresh from the date of resumption (Article 79).

Under the third paragraph of Article 47 of the EEC Statute, where the Court of Justice and the Court of First Instance are seized of cases in which the validity of the same act is called in question, the Court of First Instance may decline jurisdiction in order that the Court of Justice may rule on such applications. The Court of Justice may also decide to stay proceedings; in that case, the proceedings before the Court of First Instance are resumed. In that respect, Article 80 of the Rules of Procedure provides that the decisions declining jurisdiction are to be made by the Court of First Instance by way of an order which is to be served on the parties.

Article 47 of the EEC Statute also provides that, where the Court of First Instance finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it is to refer the action to the Court of Justice; in that respect, Article 112 of the Rules of Procedure provides that, in the case of a manifest lack of competence, the decision to refer the action is to be made without taking any further steps in the proceedings and by reasoned order. It should also be noted that under Article 47 of the EEC Statute, where the Court of Justice finds that an action falls within the jurisdiction of the Court of First Instance, it is to refer that action to the Court of First Instance, which may not then decline jurisdiction. The Rules of Procedure provide for a second situation in which a case may be referred to the Court of Justice: by virtue of Article 114, if a party applies to the Court of First Instance for a decision on admissibility, lack of competence or another preliminary plea not going to the substance of the case, and the Court of First Instance finds that the application falls within the jurisdiction of the Court of Justice, the Court of First Instance must also refer the case to the Court of Justice.

Rules also had to be adopted relating to the procedure to be followed before the Court of First Instance after a judgment of the Court of Justice annulling a decision of the Court of First Instance. Under Article 54 of the EEC Statute, if the appeal is well founded, the Court of Justice is to quash the decision of the Court of First Instance, and may itself give final judgment in the matter, where the state of the proceedings so permits, or may refer the case back to the Court of First Instance for judgment. In the latter case, Article 117 of the Rules of Procedure of the Court of First Instance provides that, where the Court of Justice sets aside a judgment or an order of the Court of First Instance and refers the case back to that Court of Justice, the latter is to be seized of the case by the judgment so referring back to it, i.e. without the need to submit a new application.

Where the Court of Justice sets aside a judgment and refers the case back to the Court of First Instance, it is for the Court of First Instance to determine which Chamber is to hear the case again. According to Article 118 of the Rules of Procedure, if the judgment or order annulled by the Court of Justice was delivered or made by a Chamber, the President of the Court of First Instance may assign the case to another Chamber composed of the same number of Judges. On the other hand, if it has been delivered or made by the Court of First Instance sitting in plenary session, the case is assigned to the Court of First Instance sitting in plenary session. Furthermore, the last paragraph of Article 118 introduces an element of flexibility, enabling cases to be referred from a Chamber to the Court of First Instance sitting in plenary session or vice versa.

Article 119(1) of the Rules of Procedure organizes the steps in the procedure to be followed where, when the judgment referring the case back to the Court of First Instance is delivered, the written procedure before the Court of First Instance is already completed. The applicant has two months, from the service upon him of the judgment of the Court of Justice, within which to lodge a statement of written observations. In the month following the communication to him of that state-

ment, the defendant may himself also lodge a statement of written observations, the time-limit for the defendant in no case being less than two months from the service upon him of the judgment of the Court of Justice. The same time-limit applies also as regards the interveners, who are granted one following the simultaneous communication of the observations of the applicant and the defendant.

If, on the other hand, when the judgment referring the case back to the Court of First Instance is delivered, the written procedure is not completed, Article 119(2) of the Rules of Procedure provides that it is to be resumed at the stage it had reached by means of measures of organization of procedure adopted by the Court of First Instance. Nevertheless, Article 119(3) enables the Court of First Instance, if the circumstances so justify, to enable supplementary statements of written observations to be lodged.

Most of the other provisions of the Rules of Procedure of the Court of First Instance correspond to the Rules of Procedure of the Court of Justice as amended in 1991 (see p. 17). The Court of First Instance considered it desirable that the rules applicable to the procedure before it should not differ more than necessary from the rules applicable to the procedure before the Court of Justice. Furthermore, the Rules of Procedure as adopted should enable the Court of First Instance to cope, with a minimum of amendments, with the foreseeable substantial enlargement of its jurisdiction in the near future.

III — Extension of the jurisdiction of the Court of First Instance

On 17 October 1991, the President of the Court of Justice sent to the President of the Council of the European Communities a draft Council Decision amending the Decision of 24 October 1988 (88/591/ECSC, EEC, Euratom) establishing a Court of First Instance of the European Communities. The purpose of the draft was to amend Article 3 of the Decision of 24 October 1988 and to make the necessary adaptations to Article 4 of that Decision, and also to the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community, in order to extend the jurisdiction of the Court of First Instance.

By virtue of Article 3(3) of the Decision of 24 October 1988, the Council had undertaken to re-examine, after two years of operation of the Court of First Instance and in the light of experience, in particular regarding the development of the case-law, the proposal by the Court of Justice to give the Court of First Instance competence to exercise certain jurisdiction.

Consequently, the Court of Justice requested that the Council extend the jurisdiction of the Court of First Instance so that, as well as disputes between the Communities and their servants, it might hear and determine at first instance in:

- actions brought by natural or legal persons pursuant to the second paragraph of Article 33, Article 34 and the first and second paragraphs of Article 40 of the ECSC Treaty;
- actions brought by natural or legal persons pursuant to the second paragraph of Article 173, the third paragraph of Article 175 and Article 178 of the EEC Treaty;
- actions brought by natural or legal persons pursuant to the second paragraph of Article 146, the third paragraph of Article 148 and Article 151 of the EAEC Treaty.

Such a transfer of jurisdiction to the Court of First Instance practically exhausts all the possibilities offered by the wording of Article 32d of the ECSC Treaty, Article 168a of the EEC Treaty and Article 140a of the EAEC Treaty.

The Court of Justice considers that the proposed allocation of jurisdiction is that which best responds to the considerations which led to the establishment of the Court of First Instance. The purpose of establishing two levels of jurisdiction is, according to the recitals in the preamble to the Decision of 24 October 1988, in the first place, to improve legal protection of the individual in respect of actions requiring close examination of complex facts and, secondly, to maintain the quality and effectiveness of judicial review in the Community legal order by enabling the Court of Justice to concentrate its activities on its fundamental task. In that respect, the Court of Justice points out that, in practice, actions brought by natural or legal persons, regardless of the type of action or subject-matter in question, require, in most cases, an assessment of facts which are often complex.

B — Composition of the Court of First Instance



Front row from left to right:

Christos Yeraris, Judge; David Edward, Judge; Donal Barrington, Judge; José Luís da Cruz Vilaça, President; Antonio Saggio, Judge; Heinrich Kirschner, Judge; Romain Schintgen, Judge.

Second row from left to right:

Cornelis Briët, Judge; Rafael García-Valdecasas y Fernández, Judge; Bo Vesterdorf, Judge; Jacques Biancarelli, Judge; Koenraad Lenaerts, Judge; Hans Jung, Registrar.

I — Order of precedence

1. Order of precedence in the Court of First Instance to 31 August 1991

José Luís da Cruz Vilaça, President
Antonio Saggio, President of the Second Chamber
Christos Yeraris, President of the Third Chamber
Romain Schintgen, President of the Fourth Chamber
Cornelis Briët, President of the Fifth Chamber
Donal Barrington, Judge
David Edward, Judge
Heinrich Kirschner, Judge
Bo Vesterdorf, Judge
Rafael García-Valdecasas y Fernández, Judge
Jacques Biancarelli, Judge
Koenraad Lenaerts, Judge

Hans Jung, Registrar

2. Order of precedence in the Court of First Instance from 1 September 1991

José Luís da Cruz Vilaça, President
David Edward, President of the Second Chamber
Bo Vesterdorf, President of the Third Chamber
Rafael García-Valdecasas y Fernández, President of the Fourth Chamber
Koenraad Lenaerts, President of the Fifth Chamber
Donal Barrington, Judge
Antonio Saggio, Judge
Heinrich Kirschner, Judge
Christos Yeraris, Judge
Romain Schintgen, Judge
Cornelis Briet, Judge
Jacques Biancarelli, Judge

Hans Jung, Registrar

II — The Members of the Court of First Instance (in order of precedence from 1 September 1991)¹



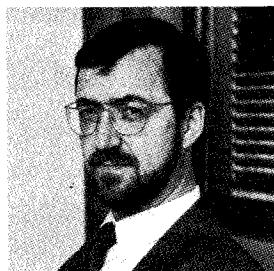
José Luís da Cruz Vilaça

Born 20 September 1944; Professor of Revenue Law (Coimbra) and of Community Law (Lisbon); Founder and Director of the Institute of European Studies (Lisbon); Co-founder of the Centre for European Studies (Coimbra); State Secretary (at the Ministry of the Interior) to the President of the Council and Member of the Committee on European Integration; Member of the Portuguese Parliament; Vice-President of the Christian Democratic Group; Advocate General at the Court of Justice; President of the Court of First Instance.



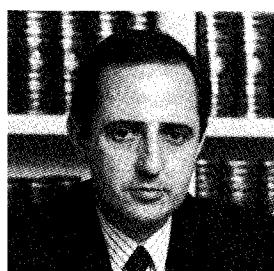
David Alexander Ogilvy Edward

Born 14 November 1934; Advocate (Scotland); Queen's Counsel (QC) (Scotland); Clerk, and subsequently Treasurer, of the Faculty of Advocates; President of the Consultative Committee of the Bars and Law Societies of the European Communities; Salvesen Professor of European Institutions and Director of the Europa Institute, University of Edinburgh; Chairman of the Medical Appeals Tribunal; President of the Scottish Council for Arbitration; Special Adviser to the House of Lords Select Committee on the European Communities.



Bo Vesterdorf

Born 11 October 1945; Lawyer-linguist at the Court of Justice; Administrator in the Ministry of Justice; Examining Magistrate; Legal Attaché in the Permanent Representation of Denmark to the European Communities; Temporary Judge at the Østre Landsret (Eastern Division of the High Court); Head of the Administrative Law Division in the Ministry of Justice; Head of Division in the Ministry of Justice; University lecturer; Member of the Steering Committee on Human Rights at the Council of Europe (CDDH), and subsequently Member of the Bureau of the CDDH.



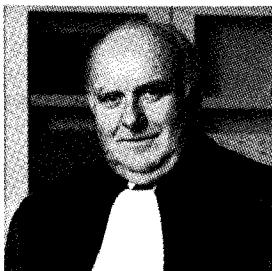
Rafael García-Valdecasas y Fernández

Born 9 January 1946; Abogado del Estado (at Jaén and Granada); Registrar to the Economic and Administrative Court of Jaén, and subsequently of Córdoba; Member of the Bar (Jaén and Granada); Head of the Spanish State Legal Service for cases before the Court of Justice of the European Communities; Head of the Spanish Delegation in the working group created at the Council of the European Communities with a view to establishing the Court of First Instance of the European Communities.

¹ In view of the fact that all Members of the Court of First Instance were appointed as such with effect from 1 September 1989, the individual presentation of each Member does not give any indication as to the date of his appointment.

**Koenraad Lenaerts**

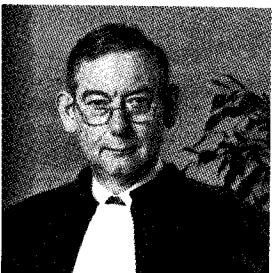
Born 20 December 1954; Professor at the Katholieke Universiteit Leuven; Visiting Professor at the Universities of Burundi, Strasbourg and Harvard; Professor at the College of Europe, Bruges; Law Clerk at the Court of Justice; Member of the Brussels Bar; Member of the International Relations Council of the Katholieke Universiteit Leuven.

**Donal Patrick Michael Barrington**

Born 28 February 1928; Barrister; Senior Counsel; Specialist in constitutional and commercial law; Judge of the High Court; Chairman of the General Council of the Bar of Ireland; Bencher of King's Inns; Chairman of the Educational Committee Council of King's Inns.

**Antonio Saggio**

Born in 1934; Pretore (Magistrate); Judge of the Court of Naples; Member of the Court of Appeal, Rome, and subsequently the Court of Cassation; attached to the Ufficio Legislativo del Ministero di Grazia e Giustizia (Legislative Department of the Ministry of Justice); Chairman of the General Committee in the Diplomatic Conference which adopted the Lugano Convention; Law Clerk to the Italian Advocate General at the Court of Justice; Professor at the Scuola Superiore della Pubblica Amministrazione (Higher School of Public Administration) in Rome.

**Heinrich Kirschner**

Born 7 January 1938; Magistrate, *Land Nordrhein-Westfalen*; Official at the Ministry of Justice (Department of Community Law and Human Rights); Assistant in the office of the Danish Member of the Commission and subsequently in Directorate-General III (Internal Market); Head of the department dealing with supplementary penalties in the Federal Ministry of Justice; Principal of the Minister's Office, final post; Director (Ministerialdirigent) of an under-department dealing with criminal law.

**Christos G. Yeraris**

Born 13 September 1938; Member of the Simvoulio Epikratias (Council of State), and subsequently State Counsellor; Member of the Anotato Idiko Dikastirio (Superior Special Court) and of the Dikastiria Simaton (Trade Mark Courts); Adviser to the Government on the application of Community law; Professor of Community Law at the National School of Public Administration and the Adult Education Institute.

**Romain Schintgen**

Born 22 March 1939; Avocat-avoué; General Administrator at the Ministry of Labour and Social Security; President of the Economic and Social Council; Director, *inter alia*, of the Société nationale de crédit et d'investissement and of the Société européenne des satellites; Government Representative on the European Social Fund Committee, the Consultative Committee on the free movement of workers and the Board of Directors of the European Foundation for the Improvement of Living and Working Conditions.

**Cornelis Paulus Briët**

Born 23 February 1944; Executive Secretary, D. Hudig & Co., Insurance Brokers, and subsequently Executive Secretary with Granaria BV; Judge, Arrondissementsrechtbank (District Court), Rotterdam; Member of the Court of Justice of the Dutch Antilles; Cantonal Judge, Rotterdam; Vice-President, Arrondissementsrechtbank Rotterdam.

**Jacques Biancarelli**

Born 18 October 1948; Inspector at the Treasury; Auditeur and subsequently Maître des requêtes in the Conseil d'État; Legal Adviser to several ministers; Lecturer in a number of French professional colleges and institutes of higher education; Law Clerk at the Court of Justice; Head of Legal Department, Crédit lyonnais; President of the Association européenne pour le droit bancaire et financier (AEDBF).

**Hans Jung**

Born 29 October 1944; Assistant, and subsequently Assistant Lecturer at the Faculty of Law (Berlin); Rechtsanwalt (Frankfurt am Main); Lawyer-linguist at the Court of Justice; Law Clerk at the Court of Justice in the Chambers of President Kutscher and subsequently in the Chambers of the German Judge at the Court of Justice; Deputy Registrar at the Court of Justice; Registrar of the Court of First Instance.

III — Composition of the Chambers

1. Composition of the Chambers for the judicial year 1990-91

First Chamber

José Luis da Cruz Vilaça, President of the Chamber,
Romain Schintgen, David Edward, Heinrich Kirschner, Rafael García-Valdecasas
and Koenraad Lenaerts, Judges.

Second Chamber

Antonio Saggio, President of the Chamber,
Christos Yeraris, Cornelis Paulus Briët, Donal Barrington, Bo Vesterdorf and
Jacques Biancarelli, Judges.

Third Chamber

Christos Yeraris, President of the Chamber,
Antonio Saggio, Bo Vesterdorf and Koenraad Lenaerts, Judges.

Fourth Chamber

Romain Schintgen, President of the Chamber,
David Edward and Rafael García-Valdecasas, Judges.

Fifth Chamber

Cornelis Paulus Briët, President of the Chamber,
Donal Barrington, Heinrich Kirschner and Jacques Biancarelli, Judges.

2. Composition of the Chambers for the judicial year 1991-92

Première Chamber

David Edward, President of the Chamber,
Bo Vesterdorf, Rafael García-Valdecasas, Koenraad Lenaerts, Heinrich Kirschner
and Romain Schintgen, Judges.

Second Chamber

José Luís da Cruz Vilaça, President of the Chamber,
Donal Barrington, Antonio Saggio, Christos Yeraris, Cornelis Briët and Jacques
Biancarelli, Judges.

Third Chamber

Bo Vesterdorf, President of the Chamber,
Antonio Saggio, Christos Yeraris and Jacques Biancarelli, Judges.

Fourth Chamber

Rafael García-Valdecasas, President of the Chamber,
David Edward, Romain Schintgen and Cornelis Briët, Judges.

Fifth Chamber

Koenraad Lenaerts, President of the Chamber,
Donal Barrington and Heinrich Kirschner, Judges.

Activities of the two Courts

A — Meetings and visits

The Court of Justice of the European Communities is far from being an institution which merely looks inward on its own specialized area of activity. Alongside its judicial functions, the Court maintains close contacts with the judicial institutions of the various Member States, with government departments and with legal and scientific circles interested in its work. Obviously, the various national Bar Associations and the CCB (Consultative Committee of the European Bar Associations) are frequent visitors to the Court, as are, from time to time, various groups from other Community institutions, who come for the purpose of discussing matters of common interest.

The Court of Justice also receives many official visits: Mr Václav Havel, President of the Czech and Slovak Federal Republic came to the Court on 18 May 1991. The speeches delivered on that occasion are included in the annex. It should also be pointed out that on 10 April the Prince of Asturias, successor to the Spanish throne, visited the Court.

As regards such official visits, it should be noted that there is an increasing interest among non-member countries in visiting the Court: on 16 May 1991 the Court was visited by the Austrian Chancellor, Mr Franz Vranitzky. Similarly, many other representatives of EFTA member States have been received at the Court.

The growing interest of the countries of Eastern Europe in the Court is also noteworthy. In addition to President Havel, the Court was visited by several other representatives from the Czech and Slovak Federal Republic as well as from the former USSR, Hungary and Poland.

With regard to the institution itself, each of the Members of the Court of Justice and the Court of First Instance travels frequently to his own country and elsewhere for the purpose of attending a wide variety of congresses, conferences and discussions on a variety of subjects relating to Community law and its application. Mention should be made in particular of the participation of a number of Members of the Court of Justice in a forum bringing together these Members and Judges of the Supreme Court of the United States of America held in Edinburgh on 25 to 28 August 1991.

Similarly, several members of the Court of Justice and the Court of First Instance travelled to Quito, Ecuador, at the invitation of the Tribunal de Justicia del Acuerdo de Cartagena. The conferences, which were the high point of those visits, took place on 28 and 29 October 1991.

Apart from such official visits, the Court of Justice maintained in 1991 its programme of study visits, which are organized primarily for national judges called upon to apply Community law and to collaborate with the Court of Justice in the preliminary reference procedure under Article 177 of the EEC Treaty, for practising lawyers in the various Member States and for law students, who in the future will be increasingly called upon to work in a Community-law context. In this context, the Court of Justice held its traditional conference of senior members of the judiciary from the Member States between 6 and 7 May 1991 and the seminar course for other judges from the Member States, which took place on 14 and 16 October 1991.

Apart from this, the number of lawyers, law students and non-specialist groups who take an interest in the contribution of the Court of Justice to the process of European integration continues to grow. The number of these visits has reached such a level that the Information Service, which is responsible for the reception of visitors, has been obliged to impose a restriction on the number of individuals and groups who may be received on any particular day, and gives preference to those groups which have a professional interest in the work of the Court. A table providing a summary of these visits is given below.

Finally, in the life of any institution it happens that its composition must be altered for one reason or another. Thus, Judge T. F. O'Higgins, appointed in 1985, and Advocate General Jean Mischo, appointed in 1985, left the Court of Justice. To mark the departure of two Members and to welcome their successors, Advocate General Claus Christian Gulmann and Judge John L. Murray, the Court held a formal sitting on 7 October 1991. On that occasion the President of the Court, Mr Ole Due, delivered a farewell address to Mr O'Higgins and Mr Mischo and also welcomed Mr Gulmann and Mr Murray. Mr O'Higgins and Mr Mischo also delivered farewell addresses. The three addresses are reproduced below.

I — Visit by Mr Václav Havel, President of the Czech and Slovak Federal Republic, to the Court of Justice on 18 March 1991

Address of welcome to President Václav Havel (delivered by President Ole Due)

Mr President,

It is an honour and a pleasure to welcome you to the Court of Justice of the European Communities.

We greet, in you, the symbol of a new era in European history, an era of peace and democracy, but above all we welcome Václav Havel the man.

We welcome the dramatist, the writer who found in the theatre a 'space of freedom' which enabled him to take up the defence of the individual confronted with a faceless and heartless authority poised to crush all individuality in the name of an ideology.

We also greet the spokesman for Charter 77, the dissident who defended human rights and the human conscience against an authoritarian system and paid the price for his opposition to that system.

And, finally, we welcome the President of the Czech and Slovak Federal Republic, the statesman who represents a new authority, based on free elections and respect for human rights and for the individual.

But there is no need for me to introduce you here. Everyone knows you already.

On the other hand, I must introduce to you the Community institutions present here in Luxembourg, since the Court of Justice is not alone on the Kirchberg Plateau, which the hospitality of the Grand Duchy has transformed into a veritable European centre.

The European Parliament, which, after its election by direct suffrage, is the true representative of the European peoples, has its Secretariat here.

Several departments of the Commission are established here too. Among them I should mention the Office for Official Publications responsible for disseminating the measures through which Community law develops. In a Community subject to the rule of law the effective propagation of information in this field is of fundamental importance.

The Court of Auditors has its seat here on the Kirchberg Plateau. Its task is to see that the finances of the Community are soundly managed, a task which, bearing in mind the size of the sums concerned, is increasingly essential.

The neighbour of the Court of Justice is the European Investment Bank which participates in the financing of projects in the Communities and in the associated countries, projects which, by reason of their size, cannot easily be financed by means available in the individual Member States.

I should also mention the presence, on the Kirchberg Plateau, of the European School, the oldest in the Communities. The children of European officials have received and are receiving in this school a truly European education. The fact that many young Europeans will be able to benefit from a similar experience through actions such as the Erasmus and Tempus projects is a matter for rejoicing. It is so important to teach the young of all Europe to live and work together.

But I must of course turn back to the institution in which we find ourselves today, the Court of Justice. Its task is to ensure that in the interpretation and application of the Treaties the law is observed. The most original aspect of its jurisdiction is in the matter of references for preliminary rulings which enable it, in close collaboration with the national courts, to ensure the uniform application of the Community rules in all the Member States. But it is also at the disposition of the other institutions and of the Member States for the purpose of deciding disputes between them in the Community field. And, together with the new Court of First Instance, it enables individuals to assert their rights *vis-à-vis* the authorities, if those rights have been injured.

Such, then, are the institutions and bodies which make up the European centre of Kirchberg and which you, Mr President, honour with your presence today. They are all working towards a common goal, the creation of a united Europe. With the developments over recent years in Central and Eastern Europe, this goal is taking on a new dimension which embraces all our old continent, so often ravaged by wars and discord.

Mr President, I now have the honour of calling upon you to speak.

Address by President Václav Havel

Mr President, Ladies and Gentlemen,

I am very glad that I have been able to begin my tour of the Benelux and NATO countries precisely in Luxembourg. It is not only because of the deep and ancient historical links which tie us to that country, but also because the whole of Luxembourg reminds us that a small country, although surrounded by rich and powerful neighbours, can find an honourable place in today's Europe.

The success of the revolt of Czechs and Slovaks against a totalitarian regime placed the whole of our society before a fundamental and extremely difficult task, namely, the rebuilding of the country. And what kind of country will it be? First of all, it will be a State governed by the rule of law which fully respects all human rights and civil liberties in the context of a pluralist and democratic society. It should also be a federative State ensuring thereby for both our nations as well as all minorities and ethnic groups equality under the law in an effective constitutional system, whose administration is decentralized. In short, it is to be a State with a modern and growing market economy, based on freedom of action and enterprise for all individuals. Finally, we wish to build a sovereign State, respected by the world community, a State which will quickly find its new place in the European Community of free and democratic countries.

It is therefore not by chance that, at the same time as the definition of major principles of economic reform, Czechoslovak legislation has concentrated on finalizing such legal rules and institutions which, after 50 years of injustice sanctioned by the State, lay down the basis for a system of law which will be worthy of being included in the European juridical culture.

At the beginning of this year the Czechoslovak Federal Assembly voted in a constitutional law introducing a Charter of Fundamental Rights and Freedoms. It is the first time in history that our legislation has recognized the primacy of international law over national law in relation to human rights.

Parliament has recently decided that the Constitutional Court is to become one of the guarantors of the maintenance of human rights and freedoms. It will monitor the observance of the law in the activity of State bodies and will also become in a certain manner the supreme court to which citizens will have recourse where rights enshrined in the Charter have been violated. We also foresee the establishment of the referendum formula which, among other things, will give Czechs and Slovaks the constitutional opportunity to opt freely, for the first time in our history, for a common federative state.

The adoption of new constitutions — the Federal, Czech and Slovak constitutions — will mark the end of a complicated legislative process, thus fulfilling the mandate of the Federal Assembly.

Fortunately, the previous decades have not wholly succeeded in erasing from the minds of our nations that which the Preamble to the European Convention of Human Rights calls being 'likeminded' and a common heritage of political traditions, ideals of freedom and of a State governed by the rule of law. It is also the reason for which one of the most popular slogans to be found on the walls of towns and small villages in Czechoslovakia before the parliamentary elections called for a return to Europe. At the start of the year, that return began to become reality. Czechoslovakia became the 25th member of the Council of Europe and acceded to the European Convention. It gives us great satisfaction, but it is also an important undertaking. We now wish to accede to more than 30 conventions concluded between democratic European States.

We attach great importance to our relations with the European Communities. We make no secret of the fact that the objective which we seek to achieve this decade is to become full members of this important European body. This political choice made by Czechoslovakia is based on a wide consensus throughout the territory. Nevertheless, we know full well that it is not by means of negotiation that we will be able to accede to the Communities, but through hard, unremitting work.

The success of European integration depends not only on admirable economic achievements and the art of political compromise, but also on the technical and professional qualities of the officials of the institutions who give effect to and monitor the common will of the Member States, firmly based in European laws.

Allow me to take this opportunity to congratulate you on the results achieved to date.

I would also like to thank those of you who last year gave your support to the countries of Central and Eastern Europe. We appreciate that the European Communities and their institutions are able to react quickly and with great flexibility to the changes in Eastern Europe, that they helped the young European democracies by means of effective advice and assistance in carrying out the extremely difficult tasks facing them.

Shortly after the signature of the trade, commercial and economic cooperation treaty, negotiations were opened on the association of Czechoslovakia with the European Communities.

The PHARE programme has been extended to cover Czechoslovakia; the European Communities, as coordinators, have played a very important part in mobilizing the financial resources necessary to ensure that the balance of payments of Czechoslovakia is in equilibrium. It was with great pleasure that we learnt in the last few days that the European Council had decided to grant the Czech and Slovak Federal Republic and some other countries favourable credits from the European Investment Bank. This is aid of inestimable value at a time when, by means of radical measures, we are implementing a programme of economic reforms and are trying to minimize the negative impact of the economic

situation abroad. Nevertheless, in the long term, we do not wish merely to benefit from the help of our friends. With your help, we would like to develop real cooperation which would be of benefit to both parties. We have, for our part, also something to offer you, on condition that our cooperation is centred from the start, above all, on the training of specialists who will be able to communicate quickly with you on a European wavelength and on a frequency based on the standards and the level of current and future cooperation.

I am firmly persuaded that the new generation of Czechoslovak lawyers, economists, bankers, technical experts and scientists will be able to breach the large gap which will be opened up before us by the Association Agreement, which is to be signed by the Czech and Slovak Federal Republic, and which the European Communities will bring about. I would like to mention here that two conferences of European Communities' ministers are to be held in our country this year. In the spirit of my message to the President of the Commission, Mr Delors, a conference of environment ministers is to be organized in June at a castle near Prague. We consider that it would be opportune to establish a complex European programme and a system of environmental protection ranging from the joint analysis of the ecological evidence to the taking of measures in cases of serious damage or natural disasters. I need not stress that the holding of that conference is of great interest in our country, which has one of the most damaged environments in this continent.

In the autumn, another conference is to take place in Prague, that of European transport ministers. Situated at the heart of Europe, Czechoslovakia welcomes all efforts to establish a common policy as regards transport and the unification of the European transport infrastructure.

After the association of our country to the Communities, we hope to adapt all aspects of life, including legislation, to the conditions prevailing in the Community in order to become an integral part of the European political, economic, legal and cultural area. We will also seek gradually to coordinate and harmonize Czechoslovak foreign policy with that of the Member States of the Community.

The deepening of political dialogue with the European Communities is all the more important for our country because Czechoslovakia, by reason of the collapse of the former Warsaw Pact and Comecon structures, has found itself, in some respect, in a security vacuum. We must seek new roots for our State, including the necessary guarantees of security. We are closely following the talks on relations between NATO, the Western European Union and the future political union of the European Communities because we perceive our definitive entry into the Communities not only in an economic context, but also in a political and security context.

Together with the other CSCE States we seek to ensure that the process begun in Helsinki will continue to be dynamic and that the current disarmament efforts will end in the reduction of armed forces and of weapons in Europe to a reasonable level. Our objective is clear: as a peaceful continent and a community of

democratic countries with no ideological disputes or long-running conflicts, Europe will be in a position to contribute effectively to the solution of the thorny problems the world faces today.

The collapse of the totalitarian systems in Central and East European countries has opened real opportunities for a profoundly human and contended way of life in peace, friendship and prosperity. Nevertheless, it is not an easy route that we follow.

After the Second World War, the United States helped to stabilize, through the Marshall Plan, the democracies of Western Europe and thereby to encourage their economic development. The West and the European Communities in particular today face the same historical challenge. Without your effective assistance, the new democracies of Central and Eastern Europe are exposed to the threat of economic collapse, their reforms could fail and the old demons of nationalism and xenophobia could reappear.

That would be in no one's interest. Let us do together all that is necessary to avoid that danger.

Thank you for your attention.

II — Official visits to the Court of Justice in 1991

14 January	Visit by Mr Ivrakis, Ambassador of the Hellenic Republic
25 January	Visit by Mr Lukas, Ambassador of the Czech and Slovak Republic
31 January	Visit by Mr Kenneth B. Davis, Ambassador of the United States of America
13 February	Visit by Mr Pavel Rychetsky, Deputy Prime Minister of the Czech and Slovak Federal Government
19 February	Visit by a delegation of members of the Irish Parliament
1 March	Visit by Mr Tomoji Kawai, Ambassador of Japan
6 March	Visit by Mrs Penaud, the French Prime Minister's delegate for international civil servants
6 March	Visit by Mr Lima Rigney, Ambassador of Ireland
11 and 12 March	Colloquium on the Brussels Convention
13 March	Visit by members of the Danish Parliament
13 March	Visit by Italian deputies
18 March	Visit by Mr Václav Havel, President of the Czech and Slovak Federal Republic
19 March	Visit by the Legal Affairs Committee of the European Parliament
10 April	Visit by the Prince of Asters
16 April	Visit by Mr Vayenas, Ambassador of the Hellenic Republic at Brussels
17 April	Visit by Mr Vitor Martins, Portuguese State Secretary for European Integration
17 April	Visit by Ambassador Weyland, Chairman of the Committee of Permanent Representatives
17 April	Visit by Mr P. Caesar, Minister for Justice of Rheinland-Pfalz
19 April	Visit by Mr Cornelio da Silva, Ambassador of Portugal
24 April	Visit by the presidents of the Swedish courts of appeal
26 April	Visit by Ambassador Szasz, head of the Hungarian mission to the European Communities at Brussels
6 and 7 May	Meeting of judges of the Member States

15 May	Visit by Mr Jean-Claude Piris, Director-General of the Council Legal Service (Intergovernmental Conference)
15 May	Visit by Mr Franz Vranitzky, Austrian Chancellor
16 May	Visit by Mr N. Deryabin, Government Coordinator, Ambassador of the former USSR
28 and 29 May	Visit by Mr Legg, Permanent Secretary to the Lord Chancellor
10 June	Visit by Mr Jean Vidal, Ambassador of France to the European Communities at Brussels
11 and 12 June	Visit by Mr Ugarte del Pino, President of the Tribunal de Justicia del Acuerdo de Cartagena and members of that court
12 June	Visit by Mr Torres, Minister for Labour and Employment of the Philippines
17 June	Visit by agriculture ministers of the Member States
17 June	Visit by Mr S. Hashimoto, Judge of the Supreme Court of Cassation of Japan, and Mr K. Yoshihara, Judge of the Court of Appeal
18 June	Visit by Mr J. L. Dewost, Director-General of the Commission Legal Service (EEC-EFTA negotiations on the EEA court)
25 June	Visit by Mr Talal S. Hasan, Ambassador of Jordan at Brussels
26 June	Visit by members of the Italian Senate
1 to 3 July	Visit by Lord Bridge, House of Lords and Lord Ross, Lord Justice Clerk, Scotland
3 July	Unveiling of Irish painting by HE Ambassador L. Rigney
23 September	Visit by the Committee on Petitions
24 September	Visit by senior Finnish judges
7 October	Formal sitting — Departure of Mr Mischo and Mr O'Higgins, arrival of Mr Gulmann and Mr Murray
14 to 16 October	Judicial study visit
15 October	Visit by Mrs Hannele Pokka, Finnish Minister for Justice
17 October	Visit by Mr Kurt Haulrig, President of the Østre Landsret
5 to 8 November	Visit by Mr F. Yakovlev, President of the Supreme Court of Arbitration of the former USSR and members of that court
6 and 7 November	Visit by the Verfassungsdienst, Vienna

11 November	Visit by Mr J. G. W. Faber, Ambassador of the Netherlands
12 November	Visit by Mr Papaconstantinou, Minister for Justice of the Hellenic Republic
22 November	Visit by the Bundesverfassungsgericht, Karlsruhe
27 November	Visit by Mr A. F. Montoro, President of the Latin American Institute
3 and 4 December	Visit by Mr Andreas L. Loizou, President of the Supreme Court of Cyprus and members of that court
4 December	Visit by Mrs Anna Fornalczuk, President of the Anti-Monopoly Office, Poland
6 December	Visit by Mr Franz Birrer, Ambassador of Switzerland

III – Study visits to the Court of Justice and the Court of First Instance during 1991

¹ The 'Mixed groups' column includes the total number of judges from all the Member States who took part in the Judges' meetings and the judicial study visits organized by the Court of Justice. *V. 1001 4-5*

all along by the Court of Justice. In 1991 the figures were:

10
Bolivian
Dollars

Denmark	...	1
Belgium	...	10

Spain	26
France	·

Netherlands	4
Luxembourg	4

Not including professors accompanying student groups

The 'Mixed groups' column includes participants in the *Not interacting* professor's accompanying student groups.

¹¹ The 'Mixed groups' column includes participants in the Conference on the Brussels Convention. ¹² and ¹³ March [99]

B — Formal sittings

Formal sitting of the Court of Justice of 7 October 1991 on the occasion of the departure of Judge O'Higgins and Advocate General Mischo and of the entry into office of Judge Murray and Advocate General Gulmann

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Address by President Ole Due on the occasion of the departure from office of Judge O'Higgins and Advocate General Mischo

In declaring this formal sitting open, I would like first of all, in the name of the Court, to greet the eminent persons present, the representative of the European institutions of the Member States and, particularly, of the Grand Duchy which generously hosts the Court. We are honoured by your presence here today.

We must apologize for the lateness of the invitation, even if, it is true, it is not the Court's fault. It is as a consequence of the decision of the representatives of the governments of the Member States having only been adopted practically at the last minute.

This has also had other consequences more serious than delaying the invitation. It has entailed difficulties for the organization of the work of the Court and has deprived new Members of the chance to prepare fully for the duties which they take up today. I must say that I regret the lack of understanding on the part of the Member States of the difficult situation of the work of the Court.

We must thus take our leave of two highly esteemed colleagues, Chamber President Thomas O'Higgins and Advocate General Jean Mischo.

Dear Tom O'Higgins,

You came to the Court from the highest judicial post in your country. You came with the experience of a whole life at the bar and on the bench completed with that of a brilliant political career. The Court has greatly profited from your experience.

We admire you not only for your knowledge and your sound judgment, but also for your courage.

We know that you have given proof of this part of your character both in your political and in your legal career in Ireland. But we admire especially the courage you showed in embarking on a new adventure at an age where most of your colleagues start to revise their collection of fishing-rods and look forward to their retirement in a cottage in the beautiful Irish countryside. You decided to take part in the construction of a new legal system, to join a court where the judges discuss the cases in a foreign tongue and to settle in the only Member State where English is neither the first nor the second foreign language.

And you succeeded. You have left your mark on many important decisions which the secret of the deliberations prevents me from mentioning. And Community law has greatly gained by these marks.

One of your secrets certainly is your Irish humour and another the unfailing support of your wife Terry. We shall miss you both, but we are grateful for the time we have had the pleasure of being with you.

Dear Jean Mischo,

The two posts of Advocate General which the Member States have agreed to hold in rotation pose particular problems. Six years is not long enough to become familiar with all the nooks and crannies of Community law.

The Government of the Grand Duchy, ever anxious to push the construction of Europe forward, has truly been able to find the best candidate for this difficult post. Practically all of your career, both in the service of your country and in the European institutions, has prepared you admirably for the post of Advocate General of the Court. You have acquired perfect knowledge of Community law and you have had experience of the difficulties facing political institutions.

Your opinions, based on a very careful analysis of all the problems involved in the case in question, on a thorough examination of the relevant case-law and, at the same time, on your grasp of facts, have had a great deal of influence on the case-law of the Court. Moreover, not only your opinions, but also your work on the reform of the Rules of Procedure of the Court and its working methods will bear fruit a long time after your departure.

We shall miss your wise counsel but, as you will be joining your former post in the Ministry of Foreign Affairs as Ambassador, we will fortunately not be completely deprived of your company and that of your wife Anne-Marie.

I also wish to convey to you the warmest thanks of the Court for your great contribution to its work.

Address by Judge O'Higgins on the occasion of his departure from office

There are, Mr President, some other remarks which I would like to make.

The contribution which each Member makes to the Court's output of declarations and judgments depends to a great extent on the service and help which is provided by his cabinet. National judges, who in many countries must do their own research and prepare in secrecy their own judgments, may regard with envy such a service. But given the range and complexity of the issues which arise and the involvement of so many different systems of law, the existence of such a service is essential. I have to say that I have been particularly fortunate in this regard in the manner in which I have been helped and supported by my cabinet.

In the first place I must thank my secretary Maureen Russell and her office staff for their loyalty, efficiency and concern. My *référendaires*, starting with Philippa Watson and David O'Keeffe, continuing with Deirdre Curtin, Pierre Roseren, Jean-Yves Art and Tony Collins, have all given a service which recognized no time-limit and which was not merely occasionally excellent but which was consistently valuable and good. To all of them I express my sincere appreciation.

May I conclude by welcoming my successor, John Murray, and wishing him well. As Attorney-General he has occupied a great office of State in Ireland and he will bring to this Court a richness of experience in the practice and administration of law which must be of assistance to the Court. Added to that experience will come a degree of common sense which will no doubt prove valuable at meetings of the Court when as sometimes happens in human affairs 'the wood is not seen because of the trees'.

I wish him many long and successful years as a Member of this Court and with this wish I conclude.

Address by Advocate General Mischo on the occasion of his departure from office

Mr President,

Thank you very much for the kind words you have addressed to me.

It is obviously with great emotion that I take my leave of the Court today.

Can one conceive of a greater mission than that of contributing to the observance of the law in the interpretation and application of the Treaties that have created an entirely new kind of community of peoples which is so close where once some of them had made war on each other?

Within the Court the duties of the Advocate General are both fascinating and formidable. It is fascinating because in complex cases it is his duty first of all to show the way, that is, to set to one side all the irrelevant or secondary arguments of the parties to the dispute, to focus on the nub of the problem and to then propose the close reasoning which should lead to its fair settlement. But this mission is also formidable because it is carried out alone and in public. It none the less brings great satisfaction to whoever has the honour of carrying it out.

The fact that most of the Member States and the Bar Councils of the European Community insisted that there should also be an Advocate General in the Court of First Instance proves that it is widely held that the post actually furnishes a further guarantee of fair justice to all those who turn to the Court.

In the midst of the upheavals which have taken place recently in Central and Eastern Europe, it is noticeable to what extent the Community appears an oasis of agreement and propriety and acts as a magnet.

The applications for accession, or the notification of such applications, are increasing and are submitted both for political and economic reasons. The analyses of some commentators who only skim the surface and see the Community as the 'Europe of traders' or a bureaucratic club have been given the lie in no uncertain terms.

Must we therefore, as has been said more and more frequently in the last few weeks, prepare for a rapid expansion of the Community to 24 or 30 Member States? In that respect the pros and the cons will have to be carefully weighed. The advantage of such a step would be to confirm that certain peoples, particularly those in Central Europe, belong in Europe, and to contribute also to the strengthening of democracy in those countries as well as to the development of their economies. On the other hand, it is, however, clear that the majority of those new Member States would need much more than the usual transitional period before being able to assume all the obligations flowing from membership of the

Community. In a Community of 30 Member States there could be as many countries with an exceptional status as those on full membership. Would the *acquis communautaire* survive in the long term? Would such a Community work? Well before the events of this summer, it had become evident in other parts of the world that federations as well as confederations are unstable if they are not sufficiently homogenous. As everyone knows, the Community is far from being a federation even if in several respects it has quite federalistic characteristics, and even if in certain areas the harmonization of legislation has been taken much further than in the United States of America. One must not, however, expect that the Community should suddenly become a total federation for it is hardly conceivable that in the foreseeable future the Member States would accept to transfer all their sovereignty in foreign policy and defence to a shared minister for foreign affairs and minister for defence.

The alternative solutions to a massive enlargement should therefore also be given close attention. Having written a paper as a student on the various forms membership of a country in an international organization can take, I was struck by the wide range of formulas that are possible in that respect. Thus, in the past, the OECE, the OECD and many specialized agencies of the United Nations have had as 'associate members' countries which were not able to assume all the obligations of a member State but which were represented — albeit without a vote — at the meeting of directors of the relevant organization.

It should not, of course, simply be a question of copying one of those models. However, the question arises whether, after having concluded a 'bespoke' association agreement with each country or group of countries concerned, covering economic and social questions, the Community could not, moreover, invite them to participate at regular intervals, every four months, for example, in a new kind of 'Association Council'. It would bring together, around the Community Council and the Commission, all of the associated countries, and it would be dedicated to an exchange of views on all the current major political problems as well as certain economic and social questions of common interest. As common opinions developed, they could be recorded and serve as guidelines both for the Community and for the associated States. At the same time, I believe it is conceivable that those countries could send observers to the European Parliament. In that way, the associated States could very quickly feel that they are members of the great Community family in the wider sense of the term.

Of course, the successor State or States of the former USSR should not be forgotten. In that respect, along with the economic cooperation agreements concluded or to be concluded with the Community, the most appropriate framework for coordination on foreign, security, human rights and minority rights policy seems to me to be that of a strengthened CSCE in which the Community would, of course, continue to speak with one voice.

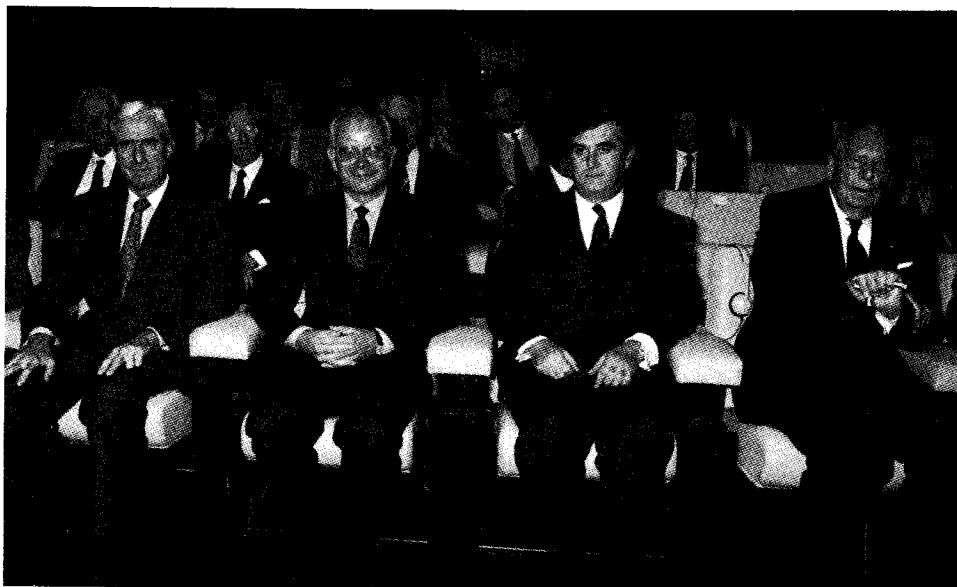
However, Mr President, Ladies and Gentlemen, whatever the options taken by the Community in this respect, the role of the Court will not change.

In the past, and in particular in a somewhat eventful period of the Community's history, the Court was able to be an anchor and maintain intact observance of the letter and the spirit of the Treaties. In the future it will have to play that role again in order to ensure that the new responsibilities of the Community in relation to the well-being of the other peoples of our continent do not undermine its substance. I am sure that you, Mr President, and you, my dear colleagues, will be equal to that task.

I thank you sincerely for your kind words and the warm friendship you have shown my wife and myself. I have no doubt that you will give the same cordial welcome to my eminent successor, who already knows the Court well, and I wish him the greatest satisfaction in his new duties.

I would also like to thank publicly the members of my Chambers who, in an atmosphere of perfect understanding, have helped me with great devotion and competence: my legal secretaries Messrs René Barents, Marc Thill, Marco Jaeger, Georges Friden and Alex Pauly, my assistants Mrs Sonja Toschi, Marianne di Carlo, Isabelle Grossy, Nicole Vanaverbeke and my chauffeur, Mr Josephus Middendorp. I must mention the particular merits of Marc Thill who has been in the team from the beginning to the end and who has been able to combine a remarkable ability to analyse the most complex legal problems with an exemplary meticulousness in the accuracy of each citation and each reference.

Finally, I would like to say to all the permanent officials of the Court that, even if they are not as close to the Members as the members of the Chambers, their role is felt to be just as important. It is reassuring for the Members of the Court to feel that they have the support of such a highly qualified staff. I thank you all sincerely.



Left to right:

Luxembourg Foreign Minister Jacques Poos

Advocate General Claus Christian Gulmann

Mr John Loyola Murray, Judge

Mr Hans Kutscher, former President of the Court of Justice

**Address by President Ole Due
on the occasion of the entry into office of
Advocate General Gulmann and Judge Murray**

Fortunately, the sadness of farewells is always softened by the arrival of new colleagues and already the curriculum vitae of the two new Members of the Court promise an almost imperceptible transition.

Dear Claus Gulmann,

In order to save everyone from needing the services of the interpreters, I will address these few words to you in French and not in our common mother tongue.

Just as with your predecessor, your career has admirably prepared you for the duties of Advocate General at the Court.

During nearly 25 years you have delved into Community law, both at the academic and practical level, as an official of the Ministry of Justice, as a law clerk here at the Court, as professor, as adviser to the Minister for Foreign Affairs and as a lawyer.

Your book on the restrictions on the free movement of goods is a very great contribution to Danish literature on Community law and it has, like your other works, played a large role in the spreading of awareness of that law in our country.

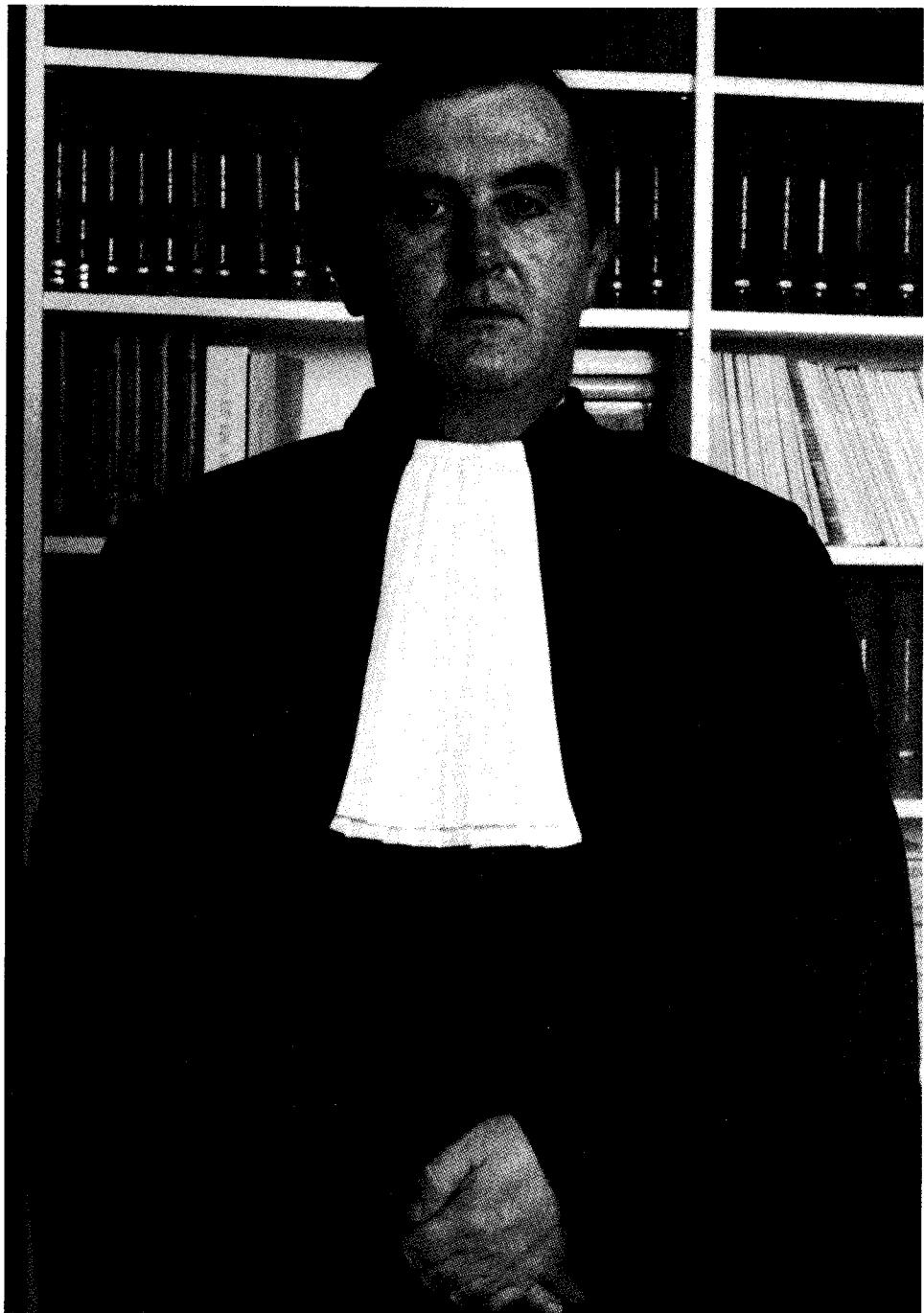
Dear John Murray,

Just like Justice O'Higgins you combine the experience of a barrister and that of a politician. Twice you have held the eminently important post of Attorney-General of Ireland, and you have practised at the bar for nearly 25 years. No doubt this combination of experience will be very valuable to the work of the Court.

We also know your keen interest in the development of Community law, and we are looking forward to working together with you.

We welcome our two new Members, and we call on them to take the oath and sign the solemn declaration provided for in the Rules of Procedure of the Court of Justice.

The Court accepts your declarations and I close the sitting and invite you all to take a glass in the Salle des pas perdus.



Mr John Loyola Murray, Judge

Curriculum vitae of John Loyola Murray

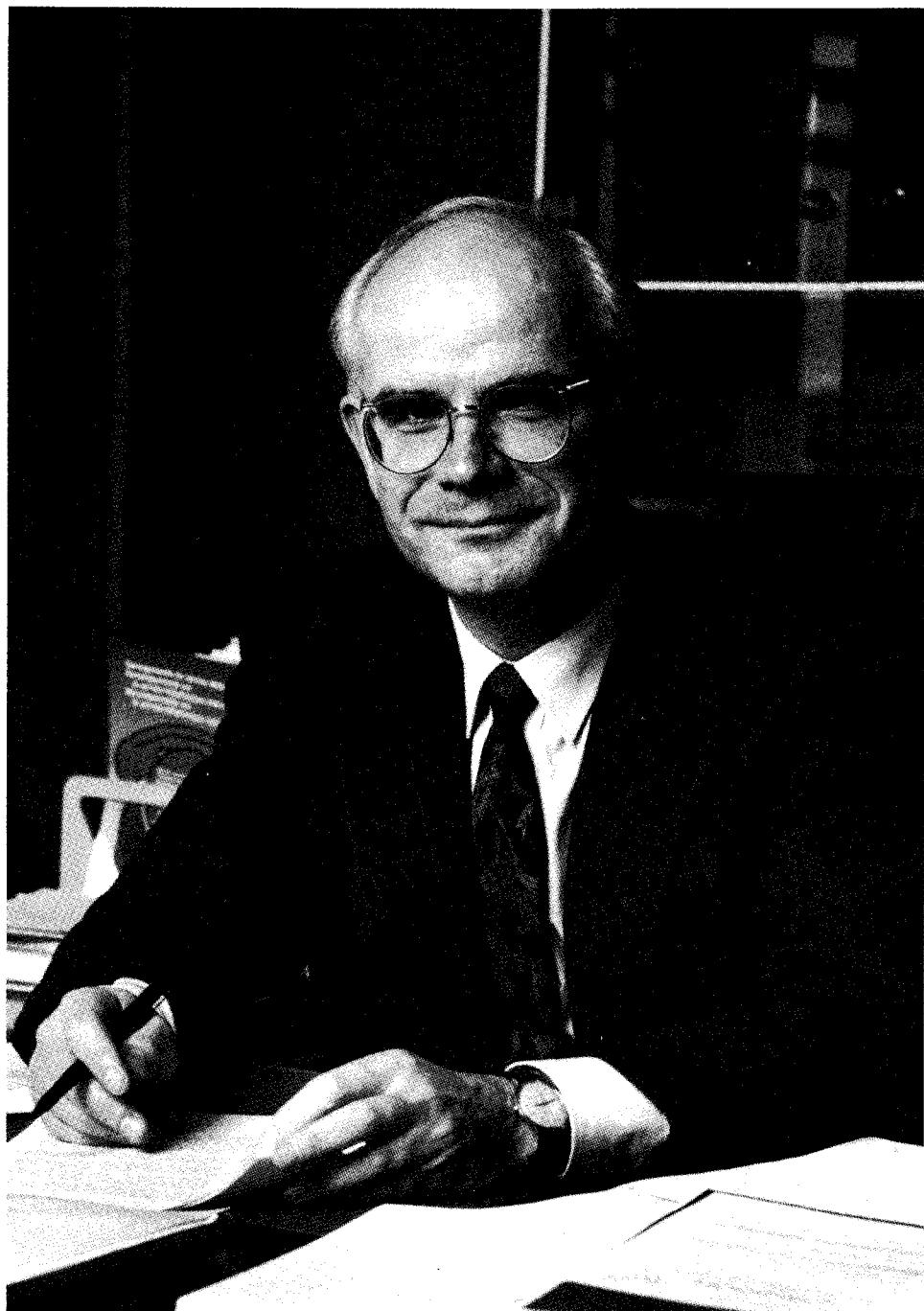
John L. Murray was born in 1943 at Limerick, Ireland, and educated at Crescent College, Rockwell College, University College Dublin and the King's Inns. During his student days he was active in student affairs, and was twice elected President of the Union of Students in Ireland (USI).

In 1967 he qualified as a barrister. In 1981 he became a Senior Counsel having been called to the Inner Bar in the Supreme Court. In the early 1970s, while in private practice, he acted as an independent adviser to the Attorney-General in criminal matters. As a practising member of the Bar he had a wide-ranging practice in civil and constitutional law matters. He appeared in major public tribunals of enquiry (e.g. the Whiddy Oil Terminal catastrophe and the 'Stardust' disaster). He acted as counsel on behalf of Ireland in cases before the Court of Justice of the European Communities, the European Commission on Human Rights and the European Court of Human Rights.

In August 1982 he was appointed Attorney-General of Ireland, an office which he held until a change of government in December of that year. He then returned to private practice at the Bar. In March 1987, on the election of a new government, he again held the office of Attorney-General. He continued in this office until his appointment as a Judge of the Court of Justice of the European Communities. From 1987 to 1991 he was a member of the Council of State. During that period he was also a member of the Bar Council of Ireland and the Incorporated Council for Law Reporting.

Married, in 1969, to Gabrielle Walsh (two children, Catriona and Brian).

He is a Bencher of the Honourable Society of the King's Inns and a Trustee of the Rotunda Hospital Education Fund.



Advocate General Claus Christian Gulmann

Curriculum vitae of Claus Christian Gulmann

Born 1942, married, three children.

In private practice with the law firm of B. Helmer Nielsen, Copenhagen, 1990.

Graduated Copenhagen University Law School, 1965; law studies at New York University, 1966-67, and Université de Paris, Sorbonne, 1970-71; Doctor of Law, Copenhagen University, 1980 (dissertation on trade restrictions within the European Community).

Ministry of Justice, 1965-77.

Copenhagen University since 1977; Dean of the Law School, 1980-86; Professor of Public International Law and European Community Law, 1981-89.

Judicial experience:

Deputy Judge in a court of first instance, 1968-70;

Legal Secretary of the Danish Judge in the European Court of Justice, Luxembourg, 1973-76;

Chairman and member of arbitral tribunals, notably in ICC cases, since 1980;

Expert member of administrative appeal tribunal in commercial matters, since 1988;

Ad hoc member of administrative appeal tribunal in anti-trust matters in 1988.

Supplementary experience in commercial law:

Legal Counsel to the Danish Provincial Chamber of Commerce, 1982-87;

Vice-Chairman of the Board of the Danish Deposit Insurance Fund, since 1987;

Chairman of committee defending the interests of scientists in copyright matters, 1988-90, and member of a governmental committee for the preparation of a new copyright act.

Practical experience in the fields of public international law and European Community law:

Assisting the Ministry of Foreign Affairs in the field of Community law since 1977 (pleaded before the European Court of Justice as co-agent for the Danish government);

Consultant to the Ministry of Foreign Affairs in the *Jan Mayen* case and in the *Great Belt* case before the International Court of Justice in the Hague.

Chairman (1986-89) and now Member of the Board of the Danish Centre for Human Rights; Member of the Board of the Danish Red Cross, 1988-90; member of the boards of different humanitarian foundations.

Editor of *Karnovs Lovsamling* and *EF-Karnov*; Editor of the *Nordic Journal of International Law* (1978-84) and *Justitia*; Member of the editorial boards of *Tidsskrift for Rettssvitenskab* and of the *Yearbook of European Law*.

Author of textbooks on public international law and European Community law, etc.

C — Publications and general information

I — Texts of judgments and opinions

1. *Reports of Cases before the Court of Justice and the Court of First Instance*

The *Reports of Cases before the Court of Justice and the Court of First Instance* are published in the nine Community languages, and are the only authentic source for citations of decisions of the Court of Justice or of the Court of First Instance.

In the Member States and in certain non-member countries, the Reports are on sale at the addresses shown on p. 98. In other countries, orders should be addressed to the Office for Official Publications of the European Communities, L-2985 Luxembourg.

2. *Judgments of the Court of Justice and the Court of First Instance and opinions of the Advocates General*

Orders for offset copies may, subject to availability, be made in writing, stating the language desired, to the Internal Services Division of the Court of Justice of the European Communities, L-2925 Luxembourg, on payment of a fixed charge of BFR 200 for each document. Orders will no longer be accepted once the issue of the *Reports of Cases before the Court* containing the required judgment or opinion has been published.

Subscribers 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 fee is the same as for the *Reports of Cases before the Court*.

For certain cases, the *Reports of Cases before the Court* will in future contain only a summary publication of the judgment and the opinion of the Advocate General. In such cases, the full text of the judgment in the language of the case and of the opinion delivered in the language of the Advocate General may be obtained on request from the Registry of the Court of Justice.

II — Other publications

1. *Selected instruments relating to the organization, jurisdiction and procedure of the Court*

This work contains a selection of the provisions concerning the Court to be found in the Treaties, in secondary law and in a number of conventions.

The 1990 edition has been updated to 31 December 1989. It contains in particular all the rules which, pending its own Rules of Procedure, governed procedure before the Court of First Instance (which took up its duties on 31 October 1989) and appeals against decisions of that Court.

The selected instruments are available in the nine official languages at the price of ECU 12, excluding VAT, from the Office for Official Publications of the European Communities, L-2985 Luxembourg, and from the addresses given on p. 98.

2. *List of the sittings of the Court of Justice and the Court of First Instance*

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

This list may be obtained on request.

3. *Publications of the Information Service of the Court of Justice*

Applications to subscribe to the following publications, which are available in the nine Community languages, should be sent to the Information Service of the Court of Justice, L-2925 Luxembourg, specifying the language required. They are supplied free of charge.

(i) *Proceedings of the Court of Justice and the Court of First Instance of the European Communities*

Weekly information on the judicial proceedings of the Court of Justice and the Court of First Instance containing a short summary of judgments delivered and brief notes on opinions delivered, hearings conducted and new cases brought during the previous week.

(ii) *Synopsis of the work of the Court*

Annual publication giving a synopsis of the work of the Court of Justice and of the Court of First Instance both in their judicial capacity and in the field of their other activities (meetings and study courses for members of the judiciary, visits, study groups, etc.). This publication contains much statistical information and the texts of addresses delivered at formal sittings of the Courts.

4. Publications of the Library Division of the Court

(i) 'Bibliographie courante'

Bi-monthly bibliography comprising a complete list of all the works—both monographs and articles—received or catalogued during the reference period. The bibliography consists of two separate parts:

Part A:

Legal publications dealing with European integration;

Part B:

General theory of law — International law — Comparative law — National legal system.

(ii) Legal bibliography of European integration

Annual publication based on books acquired and periodicals analysed during the year in question in the area of Community law.

In 1987, a cumulative edition of Volumes 4 to 6 (1984-86) of the bibliography was published.

Enquiries concerning these publications should be sent to the Library Division of the Court of Justice.

5. Publications of the Research and Documentation Division and the Legal Data-Processing Department of the Court

Digest of case-law relating to the European Communities

The Court of Justice has commenced publication of the *Digest of case-law relating to the European Communities*, which systematically presents not only the whole of the case-law of the Court of Justice of the European Communities but also selected judgments of courts in the Member States. Its concept is based on that of the former *Répertoire de la jurisprudence relative aux traités instituant les Communautés européennes*. The Digest is published, in several of the Community languages, in the form of looseleaf binders and supplements are issued periodically.

The Digest comprises four series, each of which may be obtained separately, covering the following fields:

A Series: Case-law of the Court of Justice of the European Communities excluding the matters covered by the C and D Series;

B Series: Case-law of the courts of Member States excluding the matters covered by the D Series (not yet published);

C Series: Case-law of the Court of Justice of the European Communities relating to Community staff law (not yet published);

D Series: Case-law of the Court of Justice of the European Communities and of the courts of the Member States relating to the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments, in Civil and Commercial Matters. (This series replaces the *Synopsis of case-law* which was formerly published in instalments but which has now been discontinued.)

The first issue of the A Series was published in 1983. Since the publication of the fourth issue, it now covers the case-law of the Court of Justice of the European Communities from 1977 to 1985.

The first issue of the D Series was published in 1981. With the publication of the fourth issue, it will cover the case-law of the Court of Justice of the European Communities from 1976 to 1987 and the case-law of the courts of the Member States from 1973 to 1985.

Work on the C Series is in progress. Work on the B Series is also in progress and priority has been given to its computerization.

Orders for the available series may be sent either to the Office for Official Publications of the European Communities, L-2985 Luxembourg, or to any of the addresses listed below.

In addition to the commercially marketed publications, the Research and Documentation Division compiles a number of working documents for internal use.

Bulletin périodique de jurisprudence: This document assembles, for each quarterly, half-yearly and yearly period, all the summaries of the decisions of the Court which will appear in due course in the *Reports of Cases before the Court*. It is set out in systematic form and contains an analytical table of contents and an alphabetical table of parties so that it forms a precursor, for any given period, to the Digest and can provide a similar service to the user (available only in French).

Notes — Références des notes de doctrine aux arrêts de la Cour: This publication gives references in legal literature to the judgments of the Court since its inception. Regular updates are issued.

Index A-Z: Computer-produced publication containing a numerical list of all the cases brought before the Court since 1954, and an alphabetical list of names of parties. These lists give the details of the publication of the Court's judgment in the *Reports of Cases before the Court*.

Jurisprudence nationale en matière de droit communautaire: The B Series of the *Digest of Community case-law* at present takes the form of a computer databank which is internal to the Court. Using that databank, as the work of analysis and coding progresses, it is possible to print out tables of the judgments it contains (with keywords, in French, indicating their tenor), either by Member State or by subject-matter.

Publications covering case-law in Belgium, Ireland, Greece and France are available.

Enquiries concerning these publications should be sent to the Research and Documentation Division of the Court of Justice.

III — Information and addresses

The Court of Justice and the Court of First Instance

Information on general questions relating to the work of the Court of Justice and the Court of First Instance may be obtained from the Information Service.

The Courts' addresses, telephone, telex and fax numbers are as follows:

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Annex

Statistical information for 1991

A — Proceedings of the Court of Justice

I — Synopsis of judgments delivered by the Court of Justice in 1991

Agriculture

C-372/89	15.1.1991	Gold-Ei Erzeugerverbund GmbH v Überwachungsstelle für Milcherzeugnisse und Handelsklassen	Common organization of the market in dairy products and eggs — Marketing standards — Grading Supervisory Office — Indication of the date of laying
C-215/89	15.1.1991	Friedel Eddelbüttel v Bezirksregierung Lüneburg	Premiums for the conversion of dairy herds
C-341/89	15.1.1991	Heinrich Ballmann v Hauptzollamt Osnabrück	Additional levy on milk
C-27/90	24.1.1991	Société Industrielle de Transformation de Produits Agricoles (SITPA) v Office National Interprofessionnel des Fruits, des Légumes et de l'Horticulture (Oniflhor)	Regulations — Aid for the processing of tomatoes — Validity
C-281/89	19.2.1991	Italian Republic v Commission of the European Communities	Clearance of EAGGF accounts — 1986 financial year — Cost of colouring cereals
C-143/88 C-92/89	21.2.1991	Zuckerfabrik Süderdithmarschen AG v Hauptzollamt Itzehoe and Zuckerfabrik Soest GmbH v Hauptzollamt Paderborn	Jurisdiction of national courts in proceedings for interim relief to suspend the operation of a national measure based on a Community regulation — Validity of the special elimination levy in the sugar sector
C-28/89	21.2.1991	Federal Republic of Germany v Commission of the European Communities	EAGGF — Clearance of accounts — Expenditure for 1986
C-32/89	19.3.1991	Hellenic Republic v Commission of the European Communities	Clearance of EAGGF accounts — 1986 financial year
C-359/89	21.3.1991	SAFA SRL v Amministrazione delle Finanze dello Stato	Common organization of the market in oils and fats — Import levies
C-314/89	21.3.1991	S. Rauh v Hauptzollamt Nürnberg-Fürth	Additional levy on milk

C-338/89	7.5.1991	Organisationen Danske Slagterier v Landbrugsmisteriet	<i>Force majeure</i> — Interruption of supplies owing to strike action
C-201/90	15.5.1991	G. Buton SpA and Others v Amministrazione delle Finanze dello Stato and Others	Ethyl alcohol of agricultural origin — Countervailing charge
C-110/89	30.5.1991	Commission of the European Communities v Hellenic Republic	Market in cereals — Article 34 of the EEC Treaty — Regulation (EEC) No 2727/75
C-64/88	11.6.1991	Commission of the European Communities v French Republic	Fisheries — Duty of inspection imposed on the Member States
C-248/89	20.6.1991	Cargill BV v Commission of the European Communities	Application for the annulment of Commission Regulation (EEC) No 1358/89 of 18 May 1989 modifying with retroactive effect the annex to Commission Regulation (EEC) No 735/85 of 21 March 1985 laying down the amount of aid for processing oil seeds
C-365/89	20.6.1991	Cargill BV v Produktschap voor Margarine, Vetten en Oliën	Validity of Commission Regulation (EEC) No 1358/89 of 18 May 1989 modifying Commission Regulation (EEC) No 735/85 of 21 March 1985 laying down the amount of aid for processing oil seeds
C-146/89	9.7.1991	Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland	Failure of a Member State to fulfil its obligations — Modification of baselines for the territorial sea — Effects on the activities of fishermen from other Member States
C-90/90 C-91/90	10.7.1991	Jean Neu and Others v Secretary of State for Agriculture and Viticulture	Additional levy on milk
C-368/89	11.7.1991	Antonion Crispoltori v Fattoria Autonoma Tabacchi di Città di Castello	Common organization of the market in raw tobacco — Validity of Regulations (EEC) Nos 1114/88 and 2268/88
C-221/89	25.7.1991	The Queen v Secretary of State for Transport, Ministry of Transport, ex parte Factortame Ltd and Others	Fisheries — Registration of vessels — Conditions
C-258/89	25.7.1991	Commission of the European Communities v Kingdom of Spain	Control measures — Catches of fish stocks subject to a TAC or quota outside the Community fishing zone
C-75/90	25.7.1991	Ministère Public v R. Guitard	Common organization of the market in wine — Minimum alcoholic strength of wine — Marketing of an alcohol-free wine

C-113/90	2.10.1991	Gebroeders Schulte AG and E. Reinert KG v Belgische Dienst voor Bedrijfsleven en Landbouw (OBEA) and Others	Contract for the sale of beef and veal from intervention stocks — Latent defects — Complaint made after purchase
C-364/89	3.10.1991	An Bord Bainne, Irish Dairy Board, Cooperative Ltd v Hauptzollamt Gronau	Monetary compensatory amounts — Exemption from levy
C-161/90 C-162/90	10.10.1991	C. Petruzzi and Another v Associazione Italiana Produttori Olivicoli (AIPO), Associazione Salentina Olivicoltori (SALO), Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA)	Interpretation of Article 3(2) of Commission Regulation (EEC) No 3472/85 of 10 December 1985 with regard to the examination of the organoleptic characteristics of olive oil
C-24/90	16.10.1991	Hauptzollamt Hamburg-Jonas v Werner Faust Offene Handelsgesellschaft	Preserved mushrooms — Protective measures
C-25/90	16.10.1991	Hauptzollamt Hamburg-Jonas v Wünsche Handelsgesellschaft KG	Preserved mushrooms — Protective measures
C-26/90	16.10.1991	Hauptzollamt Hamburg-Jonas v Wünsche Handelsgesellschaft KG	Preserved mushrooms — Protective measures
C-342/89	17.10.1991	Federal Republic of Germany v Commission of the European Communities	EAGGF — Monthly advances — Commission's power of inspection
C-346/89	17.10.1991	Italian Republic v Commission of the European Communities	EAGGF — Monthly advances — Commission's power of inspection
C-44/89	22.10.1991	Georg von Deetzen v Hauptzollamt Oldenburg	Agriculture
C-22/90	7.11.1991	French Republic v Commission of the European Communities	EAGGF — Disallowed expenditure — Supplementary levy on milk
C-199/90	27.11.1991	Italtrade SpA v Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA)	Distillation of wine — Submission of proof — Time-limit — Validity
C-121/90	6.12.1991	J. Lolkes Posthumus v R. Oosterwoud and Others	Additional levy on milk

Approximation of laws

C-310/89	19.3.1991	Commission of the European Communities v Kingdom of the Netherlands	Failure of a Member State to fulfil its obligations — Failure to implement a directive
C-112/89	16.4.1991	The Upjohn Company and NV Upjohn v Farzoo Inc; and J.A.W.M.J. Kortmann	Concepts of 'medicinal product' and 'cosmetic product'

Common commercial policy

C-69/89	7.5.1991	Nakajima All Precision Co. Ltd v Council of the European Communities	Dumping — Definitive duty — Imports of serial-impact dot-matrix printers originating in Japan
C-96/89	16.5.1991	Commission of the European Communities v Kingdom of the Netherlands	Failure of a Member State to fulfil its obligations — Admission to free circulation at a reduced rate of levy of a consignment of manioc exported from Thailand without an export certificate — Failure to establish own resources and make them available to the Commission
C-358/89	16.5.1991	Extramet Industrie SA v Council of the European Communities	Dumping — Importers — Action for annulment — Admissibility
C-49/88	17.6.1991	AL-Jubail Fertilizer Company (SAMAD) and Another v Council of the European Communities	Application for a declaration that Council Regulation (EEC) No 3339/87 of 4 November 1987 imposing a definitive anti-dumping duty on imports of urea originating in Libya and Saudi Arabia is void
C-16/90	22.10.1991	D. Nölle, trading as 'Eugen Nölle' v Hauptzollamt Bremen-Freihafen	Dumping — Paint brushes — Reference country
C-315/90	27.11.1991	Groupement des Industries de Matériels d'Equipement Electrique et de l'Electronique Industrielle Associée (Gimelec) and Others v Commission of the European Communities	Dumping — Termination of the proceeding — Single-phase, two-speed electric motors
C-170/89	28.11.1991	Bureau Européen des Unions de Consommateurs v Commission of the European Communities and Others	Anti-dumping proceeding — Right to inspect the Commission's non-confidential file

Company law and public tendering

C-19/90 C-20/90	30.5.1991	M. Karella and N. Karella v Greek Minister for Industry, Energy and Technology (Intervener: Organismos Anasinkrotiseos Epikhiriseon AE)	Directives — Direct effect — Precedence
C-295/89	18.6.1991	Impresa Donà Alfonso di Donà Alfonso & Figli SNC v Consorzio per lo Sviluppo Industriale del Comune di Monfalcone (CSI)	Public works contracts — Abnormally low tenders
C-247/89	11.7.1991	Commission of the European Communities v Portuguese Republic	Failure to publish a notice of a tendering procedure for a supply contract
C-351/88	11.7.1991	Laboratori Bruneau SRL v Unità Sanitaria Locale RM/24 de Monterotondo	Public supply contracts — Reservation of 30 % of such contracts to undertakings located in the Mezzogiorno

Competition

C-234/89	28.2.1991	Stergios Delimitis v Henninger Bräu AG	Beer-supply agreements — Effects on intra-Community trade — Block exemption — Jurisdiction of the national courts
C-202/88	19.3.1991	French Republic and Others v Commission of the European Communities	Competition in the markets in telecommunications terminal equipment
C-260/89	18.6.1991	Elliniki Radiophonia Tileorassi — Anonimi Etairia v Dimotiki Etairia Pliroforisis (DEP) and Others	Exclusive radio and television broadcasting rights — Free movement of goods — Freedom to provide services — Competition rules — Freedom of expression
C-62/86	3.7.1991	AKZO Chemie BV v Commission of the European Communities	Article 86 — Exclusionary practices by an undertaking in a dominant position
C-179/90	10.12.1991	Merci Convenzionali Porto di Genova SpA v Siderurgica Gabrielli SpA	Port undertakings — Legal monopoly — Competition rules — Prohibition of discrimination on ground of nationality — Free movement of goods

Convention on Jurisdiction and the Enforcement of Judgments

C-351/89	27.6.1991	Overseas Union Insurance Ltd, Deutsche Ruck UK, Pine Top Insurance Co. v New Hampshire Insurance Co.	Brussels Convention — <i>Lis alibi pendens</i> — Taking into account the domicile of the parties — Power of the Court second seized — Jurisdiction in matters relating to insurance — Re-insurance
C-190/89	25.7.1991	Marc Rich & Co. AG v Società Italiana Impianti pA	Brussels Convention — Indent 4 of the second paragraph of Article 1 — Arbitration
C-183/90	4.10.1991	B. J. Van Dalzen and Others v B. Van Loon	Brussels Convention — Interpretation of Articles 37 and 38

EAEC

C-330/88	5.3.1991	Alfredo Grifoni v European Atomic Energy Community (EAEC)	Contractual liability — Arbitration clause
C-246/88	7.5.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Euratom directives — Failure to transpose within the prescribed time-limits

Energy policy

C-374/89	19.2.1991	Commission of the European Communities v Kingdom of Belgium	Failure to comply with Directive 76/491/EEC — Repeated failure to fulfil obligations — Article 5 of the EEC Treaty
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Environment and consumers

C-157/89	17.1.1991	Commission of the European Communities v Italian Republic	Disregard of a directive — Conservation of wild birds
C-334/89	17.1.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Conservation of wild birds
C-360/87	28.2.1991	Commission of the European Communities v Italian Republic	Failure to transpose a directive — Groundwater
C-131/88	28.2.1991	Commission of the European Communities v Federal Republic of Germany	Failure of a Member State to fulfil its obligations — Failure to transpose a directive — Groundwater
C-57/89	28.2.1991	Commission of the European Communities v Federal Republic of Germany	Conservation of wild birds — Construction work in a special protection area
C-361/89	14.3.1991	Criminal proceedings against P. Di Pinto	Consumer protection — Doorstep canvassing
C-361/88 C-59/89	30.5.1991	Commission of the European Communities v Federal Republic of Germany	Directives — Nature of national implementing measure — Air pollution — Sulphur dioxide and suspended particulates — Lead
C-290/89	11.6.1991	Commission of the European Communities v Kingdom of Belgium	Failure to implement Council Directives 75/440/EEC and 79/869/EEC — Surface water intended for the abstraction of drinking water — Obligation to notify
C-300/89	11.6.1991	Commission of the European Communities v Council of the European Communities	Directive on titanium dioxide waste — Legal basis
C-252/89	25.7.1991	Commission of the European Communities v Grand Duchy of Luxembourg	Failure of a Member State to fulfil its obligations — Containers of liquids for human consumption — Failure to implement a directive or to communicate programmes
C-32/90	25.7.1991	Commission of the European Communities v Italian Republic	Failure to comply with a directive — Labelling and advertising of foodstuffs
C-13/90 C-14/90 C-64/90	1.10.1991	Commission of the European Communities v French Republic	Failure of a Member State to fulfil its obligations — Limit value for lead in the air — Air quality standards for nitrogen dioxide — Air quality limit values and guide values for sulphur dioxide

C-58/89	17.10.1991	Commission of the European Communities v Federal Republic of Germany	Failure to implement Council Directives 75/440/EEC and 79/869/EEC — Surface water intended for the abstraction of drinking water — Duty to provide information
C-192/90	10.12.1991	Commission of the European Communities v Kingdom of Spain	Failure of a Member State to fulfil its obligations — Containers of liquid for human consumption — Implementation of a directive in national law
C-33/90	13.12.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Directives — Waste — Toxic and dangerous waste — Obligation to transmit information to the Commission — Failure to do so

External relations

C-18/90	31.1.1991	Office National de l'Emploi (ONEM) v Bahia Kziber	EEC-Morocco Cooperation Agreement — Principle of non-discrimination — Social security
C-226/89	21.3.1991	Haniel Spedition GmbH v Commission of the European Communities	Commission Regulation (EEC) No 2200/87 — Withholding of payments in connection with food aid
Opinion 1/91	14.12.1991	Opinion delivered pursuant to the second subparagraph of Article 228(1) of the Treaty on the draft agreement between the Community, on the one hand, and the countries of the European Free Trade Association, on the other, relating to the creation of the European Economic Area	

Fisheries

C-244/89	31.1.1991	Commission of the European Communities v French Republic	Management of quotas — Obligations of Member States
C-246/89	4.10.1991	Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland	Registration of vessels — Nationality requirement

Free movement of goods

C-339/89	24.1.1991	Alsthom Atlantique SA v Compagnie de Construction Mécanique Sulzer SA and Others	Articles 2, 3(f), 34 and 85(1) of the EEC Treaty — Liability for defective products
C-384/89	24.1.1991	Ministère Public v Tomatis and Fulchiron	Common Customs Tariff — Tariff Heading 87.02 — Motor vehicles for the transport of persons or goods

C-312/89	28.2.1991	Union Départementale des Syndicats CGT de l'Aisne v Sidef Conforama, Société Arts et Meubles, Société Jima	Interpretation of Articles 30 and 36 of the EEC Treaty — National legislation prohibiting the employment of workers in retail shops on Sundays
C-332/89	28.2.1991	Criminal proceedings against André Marchandise, J.-M. Chapuis and Trafitec SA	Interpretation of Articles 3(f), 5, 30 to 36, 59 to 66 and 85 of the EEC Treaty — National legislation prohibiting the employment of workers in retail shops on Sundays after 12 noon
C-116/89	7.3.1991	BayWa AG v Hauptzollamt Weiden	Valuation of goods for customs purposes — Harvest seed — Licence fees
C-249/88	19.3.1991	Commission of the European Communities v Kingdom of Belgium	Article 30 of the EEC Treaty — National legislation on the price of pharmaceutical products — System of public programme contracts
C-205/89	19.3.1991	Commission of the European Communities v Hellenic Republic	Pasteurized butter — Health certificate
C-209/89	21.3.1991	Commission of the European Communities v Italian Republic	Charge having equivalent effect to a customs duty — Services provided simultaneously to several undertakings — Payment of an amount disproportionate to the cost of the service
C-369/88	21.3.1991	Criminal proceedings against J.-M. Delattre	Interpretation of Articles 30 and 36 of the EEC Treaty — Concepts of 'disease' or 'illness' and 'medicinal product' — Pharmacists' monopoly of the right to sell certain products
C-60/89	21.3.1991	Criminal proceedings against J. Monteil and D. Samanni	Interpretation of Articles 30 and 36 of the EEC Treaty — Concepts of 'disease' or 'illness' and 'medicinal product' — Pharmacists monopoly of the right to sell certain products
C-347/89	16.4.1991	Freistaat Bayern v Eurim-Pharm GmbH	Interpretation of Articles 30 and 36 of the EEC Treaty — Importation of medicinal products
C-79/89	18.4.1991	Brown Boveri & Cie AG v Hauptzollamt Mannheim	Customs value of goods — Value of software and carrier medium
C-219/89	18.4.1991	WeserGold GmbH & Co. KG v Oberfinanzdirektion München	Common Customs Tariff — Orange juice containing added sugar
C-324/89	18.4.1991	Nordgetränke GmbH & Co. KG v Hauptzollamt Hamburg-Ericus	Common customs Tariff — Apricot purée
C-239/90	30.4.1991	SPC Boscher, Studer and Fromentin v SA British Motors Wright and Others	Measures having equivalent effect — Freedom to provide services — Luxury and second-hand motor cars — Sale by public auction

C-287/89	7.5.1991	Commission of the European Communities v Kingdom of Belgium	Retail price system for manufactured tobacco — Article 30 of the Treaty
C-120/90	7.5.1991	L. Post GmbH v Oberfinanzdirektion München	Common Customs Tariff — Tariff Headings 0404 10 11 and 0404 90 33 — 75 % whey protein concentrate
C-350/89	7.5.1991	Sheptonhurst Ltd v Newham Borough Council	Interpretation of Articles 30 and 36 of the EEC Treaty — National legislation prohibiting the sale of sex articles from unlicensed sex establishments
C-328/89	15.5.1991	Berner Allgemeine Versicherungsgesellschaft v Amministrazione delle Finanze dello Stato	Community transit — Release of security
C-263/85	16.5.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Measure having equivalent effect — Aid for the purchase of vehicles of domestic manufacture
C-369/89	18.6.1991	ASBL Piageme v BVBA Peeters	Interpretation of Article 30 of the EEC Treaty and Articles 14 of Directive 79/112/EEC — Labelling and presentation of foodstuffs for sale to the consumer — Labelling in the language of the region in which the product is offered for sale
C-39/90	20.6.1991	Denkavit Futtermittel GmbH, Warendorf (Federal Republic of Germany) v Land Baden-Württemberg	Compound feedingstuffs — Obligation to specify the ingredients used therein — Articles 30 and 36 of the EEC Treaty and Directive 79/373/EEC
C-348/89	27.6.1991	Mecanarte — Metalurgica da Lagoa Lda v Chefe do Serviço da Conférence final da Alfandega do Porto	Post-clearance recovery of customs duties
C-1/90 C-176/90	25.7.1991	Aragonesa de Publicidad Exterior SA (APESA) and Publivía SAE v Departamento de Sanidad y Seguridad Social de la Generalitat de Cataluña (DSSC)	National legislation on the advertising of alcoholic beverages
C-299/90	25.7.1991	Hauptzollamt Karlsruhe v Gebr. Hepp GmbH & Co. KG	Customs value — Buying commission
C-367/89	4.10.1991	Criminal proceedings against A. Richardt, Société en nom collectif 'Les Accessoires Scientifiques'	Community transit — Strategic material
C-269/90	21.11.1991	Technische Universität München v Hauptzollamt München-Mitte	Common Customs Tariff — Exemption for scientific apparatus — Equivalent scientific value

C-273/90	27.11.1991	Meico-Fell v Hauptzollamt Darmstadt	Interpretation of Article 3 of Council Regulation (EEC) No 1697/79 — Post-clearance recovery of import or export duties — Act that could give rise to criminal court proceedings
C-18/88	13.12.1991	Régie des Télégraphes et des Téléphones v SA 'GB-Inno-BM'	Competition — Approval of telephone sets
C-69/90	13.12.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Physical inspections and administrative formalities in respect of the carriage of goods between Member States — Directive 87/53/EEC

Free movement of persons

C-363/89	5.2.1991	D. Roux v Belgian State	Right of residence of Community nationals
C-227/89	7.2.1991	L. Rönsfeldt v Bundesversicherungsanstalt für Angestellte (BVA)	Social security — Regulation (EEC) No 1408/71 — Pension rights acquired in a Member State before its accession to the Communities
C-140/88	21.2.1991	G. C. Noij v Staatssecretaris van Financiën	Social security — Determination of the legislation applicable
C-245/88	21.2.1991	H. C. M. Daalmeijer v Bestuur der Sociale Verzekeringsbank	Social security — Determination of the legislation applicable
C-154/89	26.2.1991	Commission of the European Communities v French Republic	Failure to fulfil an obligation under the EEC Treaty — Freedom to provide services — Tourist guides — Professional qualification prescribed under national law
C-180/89	26.2.1991	Commission of the European Communities v Italian Republic	Failure to fulfil an obligation under the EEC Treaty — Freedom to provide services — Tourist guides — Professional qualification prescribed under national law
C-198/89	26.2.1991	Commission of the European Communities v Hellenic Republic	Failure to fulfil an obligation under the EEC Treaty — Freedom to provide services — Tourist guides — Professional qualification prescribed under national law
C-292/89	26.2.1991	The Queen v Immigration Appeal Tribunal, ex parte Gustaff Desiderius Antonissen	Freedom of movement of workers — Right of residence — Seeking employment — Temporal limitation
C-376/89	5.3.1991	Panagiotis Giagounidis v City of Reutlingen	Interpretation of Directive 68/360/EEC — Right of residence — Identity card

C-10/90	7.3.1991	Maria Masgio v Bundesknappschaft	Social security for migrant workers — National rules against overlapping — Equal treatment — Interpretation of Articles 7 and 48 to 51 of the EEC Treaty and Article 3 of Regulation (EEC) No 1408/71
C-93/90	20.3.1991	E. Cassamali v Office National des Pensions (ONP)	Social security — Old-age benefits — Revalorization and recalculation of benefits
C-63/89	18.4.1991	Les Assurances du Crédit and Compagnie Belge d'Assurance Crédit v Council of the European Communities	Action for damages — Directive — Article 57(2) of the EEC Treaty — Export credit insurance operations
C-41/90	23.4.1991	K. Höfner and Others v Macrotron GmbH	Freedom to provide services — Exercise of official authority — Competition — Personnel consultants for business executives
C-340/89	7.5.1991	I. Vlassopoulou v Ministerium für Justiz, Bundes- und Europaangelegenheiten Baden-Württemberg	Freedom of establishment — Recognition of qualifications — Lawyers
C-167/90	16.5.1991	Commission of the European Communities v Kingdom of Belgium	Failure to implement a directive — Mutual recognition of diplomas and coordination in the field of pharmacy
C-168/90	16.5.1991	Commission of the European Communities v Grand Duchy of Luxembourg	Failure to implement a directive — Mutual recognition of diplomas and coordination in the field of pharmacy
C-272/90	16.5.1991	Jan van Noorden v Association pour l'Emploi dans l'Industrie and le Commerce (Assedic) for Ardèche and Drôme	Social security — Unemployment benefits
C-68/89	30.5.1991	Commission of the European Communities v Kingdom of the Netherlands	Border controls
C-251/89	11.6.1991	N. Athanasopoulos and Others v Bundesanstalt für Arbeit (BAA)	Social security for migrant workers — Benefits for dependent children of pensioners and for orphans
C-307/89	11.6.1991	Commission of the European Communities v French Republic	Social security — Supplementary benefit of the Fonds National de Solidarité — Community nationals residing in France
C-356/89	20.6.1991	Roger Stanton Newton v Chief Adjudication Officer	Social security for migrant workers — Scope <i>ratione materiae</i> of Regulation (EEC) No 1408/71 — Residence requirement

C-344/89	27.6.1991	Manuel Martinez Vidal v Gemeenschappelijke Medische Dienst (GMD)	Social security — Recognition of incapacity for work
C-355/89	3.7.1991	Department of Health and Social Security v Christopher Stewart Barr, Montrose Holdings Ltd	Restrictions on the free movement of workers in the Isle of Man — Article 177 of the EEC Treaty — Admissibility
C-213/90	4.7.1991	Association de Soutien aux Travailleurs Immigrés v Chambre des Employés Privés	Equal treatment — Participation in the management of bodies governed by public law and the holding of an office governed by public law
C-294/89	10.7.1991	Commission of the European Communities v French Republic	Lawyers — Freedom to provide services
C-296/90	11.7.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Failure to transpose directives
C-288/89	25.7.1991	Stichting Collectieve Antennevoorziening Gouda and Others v Commissariaat voor de Media (CM)	Freedom to provide services — Conditions imposed for the retransmission of advertisements contained in radio and television programmes broadcast from other Member States
C-353/89	25.7.1991	Commission of the European Communities v Kingdom of the Netherlands	Infringement of EEC Treaty obligations — Freedom to provide services — Obligation to commission radio and television programmes from a domestic undertaking — Conditions imposed on the retransmission of advertisements contained in radio or television programmes from other Member States
C-58/90	25.7.1991	Commission of the European Communities v Italian Republic	Articles 48, 52 and 59 of the EEC Treaty — Recognition of vocational qualifications obtained abroad restricted to Italian citizens — Work in auxiliary health occupations
C-76/90	25.7.1991	M. Säger v Société Dennemeyer & Co. Ltd	Freedom to provide services — Activities connected with the maintenance of industrial property rights
C-93/89	4.10.1991	Commission of the European Communities v Ireland	Fisheries — Licences — Right of establishment
C-15/90	4.10.1991	D. Maxwell Middleburgh v Chief Adjudication Officer	Social security — Status as an employed person — Regulation (EEC) No 1408/71 — Child benefit — Residence clause — Articles 48 and 52 of the EEC Treaty

C-349/87	4.10.1991	E. Paraschi v Landesversicherungsanstalt Württemberg	Social security — Invalidity pensions
C-196/90	4.10.1991	Fonds voor Arbeidsongevallen v M. De Paep and Others	Worker employed on a fishing vessel flying the British flag and paid by a Belgian undertaking — Accident at work on board the vessel — Determination of the legislation applicable to the employment relationship for social security purposes
C-159/90	4.10.1991	The Society for the Protection of Unborn Children Ireland Ltd v S. Grogan and Others	Freedom to provide services — Prohibition on the distribution of information on clinics carrying out voluntary terminations of pregnancy in other Member States
C-302/90	15.10.1991	Caisse Auxiliaire d'Assurance Maladie-Invalidité (CAAMI) and Another v N. and J. Faux	Social security for frontier workers — Regulation (EEC) No 36/63
C-313/89	7.11.1991	Commission of the European Communities v Kingdom of Spain	Failure to fulfil obligations — Directive 80/155/EEC — Training of midwives
C-17/90	7.11.1991	Pinaud Wieger Spedition v Bundesanstalt für den Güterfernverkehr	Freedom to provide services — Cabotage
C-309/90	7.11.1991	Commission of the European Communities v Hellenic Republic	Failure of a Member State to fulfil its obligations — Professional activities in architecture
C-27/91	21.11.1991	Union de Recouvrement des Cotisations de Sécurité Sociale et d'Allocations Familiales de la Savoie (Ursaff) v SARL Hostellerie Le Manoir	Indirect discrimination — Social security contributions
C-4/91	27.11.1991	A. Bleis v Ministère de l'Education Nationale	Secondary-school teachers
C-186/90	28.11.1991	G. Durighello v Istituto Nazionale della Previdenza Sociale (INPS)	Social security — Benefits for a pensioner's dependent spouse
C-198/90	28.11.1991	Commission of the European Communities v Kingdom of the Netherlands	Council Regulation (EEC) No 1408/71 — Workers taking early retirement
C-306/89	10.12.1991	Commission of the European Communities v Hellenic Republic	Failure to transpose Council Directive 82/470/EEC — Effective exercise of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in certain services incidental to transport and travel agencies and in storage and warehousing

Law governing the Community institutions

C-70/88	4.10.1991	European Parliament v Council of the European Communities	Radioactive contamination of foodstuffs and of feedingstuffs
C-213/88 C-39/89	28.11.1991	Grand Duchy of Luxembourg v European Parliament	Seat of the institutions and places of work of the European parliament — Transfer of staff

Regional policy

C-303/90	13.11.1991	French Republic and Others v Commission of the European Communities	Code of conduct — Act actionable under Article 173 of the EEC Treaty
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Social policy

C-184/89	7.2.1991	Helga Nimz v Freie und Hansestadt Hamburg	Passage to a higher salary bracket — Doubling of the probationary period for part-time workers — Indirect discrimination
C-377/89	13.3.1991	A. Cotter and N. McDermott v Minister for Social Welfare and Another	Equal treatment in matters of social security — Principle of national law prohibiting unjust enrichment
C-229/89	7.5.1991	Commission of the European Communities v Kingdom of Belgium	Equal treatment for men and women in matters of social security — Determination of the amount of unemployment benefits and invalidity allowances
C-291/89	7.5.1991	Interhotel v Commission of the European Communities	European Social Fund — Application for the annulment of the reduction in financial assistance originally approved
C-304/89	7.5.1991	Estabelecimentos Isodoro M. Oliveira SA v Commission of the European Communities	European Social Fund — Application for the annulment of the reduction in financial assistance originally approved
C-51/89 C-90/89 C-94/89	11.6.1991	United Kingdom of Great Britain and Northern Ireland and Others v Council of the European Communities	Second phase of the programme on cooperation between universities and industry regarding training in the field of technology (Comett II) (1990-94) — Action for annulment — Legal basis — Vocational training — Research
C-87/90 C-88/90 C-89/90	11.7.1991	A. Verholen (Case C-87/90), T. H. M. Van Wetten-Van Uden (Case C-88/90) and G. H. Heiderijk (Case C-89/90) v Sociale Verzekeringsbank Amsterdam	Equal treatment for men and women — Social security — Directive 79/7/EEC — Temporal scope

C-31/90	11.7.1991	Elsie Rita Johnson v Chief Adjudication Officer	Equal treatment for men and women in matters of social security — Articles 2 and 4 of Directive 79/7/EEC
C-345/89	25.7.1991	Ministère Public v A. Stoeckel	Equal treatment for men and women — Legislative prohibition of night work for women
C-362/89	25.7.1991	G. d'Urso and Others v Ercole Marelli Elettromeccanica (EMG), Nuova EMG and Others	Safeguarding of employees' rights in the event of transfers of undertakings
C-208/90	25.7.1991	T. Emmott v Minister for Social Welfare	Equal treatment in matters of social security — Disability benefit — Direct effect and time-limits for initiating proceedings before national courts
C-6/90 C-9/90	19.11.1991	A. Francovich and Others v Italian Republic	Failure to transpose directive — Liability of the Member State

State aid

C-375/89	19.2.1991	Commission of the European Communities v Kingdom of Belgium	Failure of a Member State to fulfil its obligations — Failure to comply with the judgment in Case 5/86
C-303/88	21.3.1991	Italian Republic and Others v Commission of the European Communities	State aid in the textiles and clothing sector
C-305/89	21.3.1991	Italian Republic v Commission of the European Communities	Capital investment — Motor-vehicle sector
C-261/89	3.10.1991	Italian Republic v Commission of the European Communities	State aid to aluminium undertakings — Capital contributions
C-354/90	21.11.1991	Fédération Nationale du Commerce Extérieur des Produits Alimentaires and Others v French Republic	Aid granted by the State — Interpretation of the last sentence of Article 93(3) of the EEC Treaty — Prohibition on putting the proposed measures into effect

Taxation

C-15/89	5.2.1991	Deltakabel BV v Staatssecretaris van Financiën	Raising of capital — Capital duty — Writing off a current account claim
C-249/89	5.2.1991	Trave Schiffahrts-GmbH & Co. KG v Finanzamt Kiel-Nord	Raising of capital — Capital duty — Interest-free loan granted by a member
C-120/88	26.2.1991	Commission of the European Communities v Italian Republic	VAT — Importation — Non-taxable persons — Deduction of residual VAT paid in the Member State of exportation

C-119/89	26.2.1991	Commission of the European Communities v Kingdom of Spain	VAT — Importation — Non-taxable persons — Deduction of residual VAT paid in the Member State of exportation
C-159/89	26.2.1991	Commission of the European Communities v Hellenic Republic	VAT — Importation — Non-taxable persons — Deduction of residual VAT paid in the Member State of exportation
C-109/90	19.3.1991	Giant NV v Gemeente Overijse	Interpretation of Article 33 of the sixth VAT Directive
C-230/89	18.4.1991	Commission of the European Communities v Hellenic Republic	Spirits — Differentiated taxation
C-297/89	23.4.1991	Rigsadvokaten v N. C. Ryborg	Directive 83/182/EEC — Temporary importation of a private motor vehicle — Normal residence — Duty of the Member States to cooperate
C-60/90	20.6.1991	Polysar Investments Netherlands BV v Inspecteur der Invoerrechten en Accijnzen, Arnhem	Interpretation of Articles 4 and 13B(d)5 of the sixth Directive — Taxable person — Activities of a holding company
C-152/89	26.6.1991	Commission of the European Communities v Grand Duchy of Luxembourg	Excise duty on beer — Export refund — Countervailing duty on imports
C-153/89	26.6.1991	Commission of the European Communities v Kingdom of Belgium	Excise duty on beer — Export refund — Countervailing duty on imports
C-97/90	11.7.1991	H. Lennartz v Finanzamt München III	VAT — Deduction of VAT paid in respect of capital goods
C-202/90	25.7.1991	Ayuntamiento de Sevilla v Recaudadores de las Zonas Primera y Segunda	Persons chargeable to VAT — Bodies governed by public law
C-35/90	17.10.1991	Commission of the European Communities v Kingdom of Spain	VAT — Directive 77/388/EEC — National law not complying therewith
C-100/90	17.10.1991	Commission of the European Communities v Kingdom of Denmark	Council Directive 69/169/EEC — National law not complying therewith
C-235/90	19.11.1991	SARL Aliments Morvan v Directeur des Services Fiscaux du Finistère	Compatibility with Community law of a parafiscal charge on cereals
C-164/90	13.12.1991	Muwi Bouwgroep BV v Staatssecretaris van Financiën	Raising of capital — Capital duty — Transfer to a company of a parcel of shares held in another company

Transport

C-354/89	16.4.1991	Schiocchet v Commission of the European Communities	Action for the annulment of measures — Decision concerning the establishment of a special regular passenger service between Member States
C-45/89	7.5.1991	Commission of the European Communities v Italian Republic	Failure to comply with a directive — Combined road/rail carriage of goods
C-266/89	8.5.1991	Commission of the European Communities v Italian Republic	Failure of a Member State to fulfil its obligations — Statistical returns in respect of carriage of goods by road — Non-compliance with a judgment of the Court
C-7/90	2.10.1991	Criminal proceedings against Paul Vandevenne and Others	Road transport — Social legislation — Obligation of the employer
C-8/90	2.10.1991	Criminal proceedings against Willy Kennes and PVBA Verkooyen	Road transport — Legislation in social matters — Reference provision
C-19/91	10.12.1991	Commission of the European Communities v Kingdom of Belgium	Failure to fulfil obligations — Failure to implement a judgment of the Court
C-158/90	13.12.1991	M. Nijs v NV Transport Vanschoonbeek-Matterne	Road transport — Social legislation — Monitoring

II — Statistical information

Summary of the proceedings of the Court of Justice in 1991

Judgments delivered

During 1991, the Court of Justice of the European Communities delivered 204 final and interim judgments:

- 90 were in direct actions (not relating to the law of the Community civil service);
- 108 were in cases referred to the Court for preliminary rulings by the national courts of the Member States;
- 5 were in cases concerning appeals;
- 118 of the judgments were delivered by the Court;
- 86 by the Chambers.

The President of the Court, or the Presidents of Chambers, were called upon in 1991 to decide on nine applications for interim measures.

Public sittings

In 1991 the Court held 112 hearings. The Chambers held 87 sittings. There were also 204 sittings to hear opinions of the Advocates General.

Cases pending

Cases¹ pending may be analysed as follows:

	31 December 1989	31 December 1990	31 December 1991
Full Court	362	494	544
Chambers	139	88	96
President of the Court	—	1	—
Total numbers of cases pending	501 ²	583	640

¹ Gross figures.

² This figure does not include the 153 cases referred to the Court of First Instance by order of the President of the Court of Justice of 15 November 1989.

Duration of proceedings

The average duration of proceedings before the Court was as follows:

In direct actions brought before the Court, the average duration was approximately 24.2 months. In cases concerning questions referred to the Court by national courts for preliminary rulings, the average duration was approximately 18.2 months (including judicial vacations). The average duration for appeals was 15.4 months.

Cases brought in 1991

In 1991, 326 cases were brought before the Court of Justice. They concerned:

1. Proceedings brought by the Commission against a Member State for failure to fulfil obligations:

Belgium	7
Denmark	1
Federal Republic of Germany	1
Greece	9
Spain	2
France	4
Ireland	3
Italy	19
Luxembourg	3
Netherlands	7
Portugal	2
United Kingdom	—
Total	58

2. Actions brought against the institutions:

Commission	49
Council	16
European Parliament	3
Council and Commission	14
Total	82

3. References to the Court of Justice from national courts for preliminary rulings on the interpretation or validity of provisions of Community law. Such references originated as follows:

<i>Belgium</i>	19
----------------	----

from the Cour de cassation	1
from courts of first instance or of appeal	18

<i>Denmark</i>	2
----------------	---

from the Højesteret	—
from courts of first instance or of appeal	2

<i>Federal Republic of Germany</i>		54
from the Bundesgerichtshof	5	
from the Bundesverwaltungsgericht	2	
from the Bundesfinanzhof	9	
from the Bundessozialgericht	1	
from courts of first instance or of appeal	37	
<i>Greece</i>		3
from lower courts	3	
<i>Spain</i>		5
from lower courts	5	
<i>France</i>		29
from the Cour de cassation	2	
from the Conseil d'État	1	
from courts of first instance or of appeal	26	
<i>Ireland</i>		2
from the Supreme Court	—	
from courts of first instance or of appeal	2	
<i>Italy</i>		36
from the Corte Suprema di cassazione	15	
from the Consiglio di Stato	1	
from courts of first instance or of appeal	20	
<i>Luxembourg</i>		2
Cour supérieure de justice	—	
from the Conseil d'État	1	
from courts of first instance or of appeal	1	
<i>Netherlands</i>		17
from the Raad van State	1	
from the Hoge Raad	3	
from the College van Beroep	3	
from courts of first instance or of appeal	10	
<i>Portugal</i>		3
from the Supremo Tribunal Administrativo	2	
from courts of first instance or of appeal	1	
<i>United Kingdom</i>		14
from the House of Lords	3	
from the Court of Appeal	3	
from courts of first instance or of appeal	8	
	Total	186

Lawyers

During the hearings held in 1991, apart from the representatives or agents of the Council, the European Parliament, the Commission and the Member States, the Court heard:

lawyers from Belgium	32
lawyers from Denmark	2
lawyers from the Federal Republic of Germany	43
lawyers from Greece	8
lawyers from Spain	12
lawyers from France	18
lawyers from Ireland	10
lawyers from Italy	20
lawyers from Luxembourg	15
lawyers from the Netherlands	23
lawyers from Portugal	3
lawyers from the United Kingdom	57
	243

Table of general information for 1989, 1990 and 1991 *

	1989	1990	1991
Cases brought	385	384	345
Cases decided	429 (489) ¹	267 (302)	275 (288)
Cases pending	457 (501)	558 (583)	573 (640)

Table of cases brought in 1989, 1990 and 1991

	1989	1990	1991
References for a preliminary ruling	139	141	186
Direct actions	205	222 ²	140
Actions brought by Community officials	41	—	—
Appeals	—	16	14
Opinions	—	—	2
Special proceedings	—	5	3
Total	385	384 ²	345

* The figures in brackets (gross figure) represent the total number of cases, without taking account of cases joined on grounds of related subject-matter (one case number = one case). The net figure represents the number of cases after account has been taken of those joined on grounds of related subject-matter (one series of joined cases = one case).

¹ It should be noted that 151 (153) cases were transferred to the Court of First Instance on 15 November 1989.

² It should be noted that the direct actions include 95 identical applications for compensation for damage in respect of milk quotas.

Tables of cases decided in 1989, 1990 and 1991 *

	1989	1990	1991
References for a preliminary ruling	97 (128)	133 (162)	122 (131)
Direct actions	202 (217) ¹	121 (125)	138 (142)
Actions brought by Community officials	125 (139) ²	9 (11)	—
Appeals	—	—	11 (11)
Special proceedings	5 (5)	4 (4)	3 (3)
Opinions	—	—	1 (1)
Total	429 (489) ³	267 (302)	275 (288)

Table of cases pending on 31 December of each year *

	1989	1990	1991
References for a preliminary ruling	205 (230)	197 (209)	215 (264)
Direct actions	242 (259)	343 (356)	336 (354)
Actions brought by Community officials	9 (11)	—	—
Appeals	—	16 (16)	19 (19)
Opinions	—	—	1 (1)
Special proceedings	1 (1)	2 (2)	2 (2)
Total	457 (501)	558 (583)	573 (640)

Average duration of proceedings in 1989, 1990 and 1991 ⁴

	1989	1990	1991
References for a preliminary ruling	16.6	17.4	18.2
Direct actions	22.3	25.5	24.2
Actions brought by Community officials	20.8	24.9	—
Appeals	—	—	15.4
Special proceedings	—	—	2.7

* The figures in brackets (gross figure) represent the total number of cases, without taking account of cases joined on grounds of related subject-matter (one case number = one case). The net figure represents the number of cases after account has been taken of those joined on grounds of related subject-matter (one series of joined cases = one case).

¹ It should be noted that 75 (75) cases were transferred to the Court of First Instance on 15 November 1989.

² It should be noted that 76 (78) cases were transferred to the Court of First Instance on 15 November 1989.

³ It should be noted that 151 (153) cases were transferred to the Court of First Instance on 15 November 1989.

⁴ The average duration of proceedings is expressed in months and tenths of months.

Statistical tables

Tables of cases decided in 1991¹

TABLE 1

Cases closed in 1991 — Manner of closure

	Direct actions	Preliminary rulings	Appeals	Special procedures	Opinion Deliberations	Total
<i>Judgments</i>						
Final	89 (92)	—	5 (5)	1 (1)	—	95 (98)
Interim	1 (1)	—	—	—	—	1 (1)
In references for a preliminary ruling	—	108 (116)	—	—	—	108 (116)
Total judgments	90 (92)	108 (116)	5 (5)	1 (1)	—	204 (214)
<i>Orders</i>						
Removal from Register	40 (41)	14 (15)	4 (4)	—	—	58 (60)
Action inadmissible	7 (8)	—	—	—	—	7 (8)
Lack of jurisdiction of the Court	1 (1)	—	—	—	—	1 (1)
Action manifestly inadmissible	—	—	1 (1)	—	—	1 (1)
Action manifestly unfounded	—	—	1 (1)	—	—	1 (1)
Action partially founded	—	—	—	1 (1)	—	1 (1)
Action well founded	—	—	—	1 (1)	—	1 (1)
Total orders	48 (50)	14 (15)	6 (6)	2 (2)	—	70 (73)
Opinions	—	—	—	—	1 (1)	1 (1)
Total opinions/deliberations	—	—	—	—	1 (1)	1 (1)
Total	138 (142)	122 (131)	11 (11)	3 (3)	1 (1)	275 (288)

TABLE 2

Total number of cases decided in 1991 — Bench hearing case

Bench hearing case	Total cases decided	Judgments	Orders
Full Court	73	35	34
Small Plenum	113	83	25
Chambers	100	86	9
President	2	—	2
Total	288	204	70

¹ The figures in brackets (gross figure) represent the total number of cases, without taking account of cases joined on grounds of related subject-matter (one case number = one case). The net figure represents the number of cases after account has been taken of those joined on grounds of related subject-matter (one series of joined cases = one case).

TABLE 3
Cases decided in 1991 — Basis of proceedings

Basis of proceedings	Judgments	Orders	Total
Article 169 EEC Treaty	58 (58)	28 (28)	86 (86)
Article 171 EEC Treaty	3 (3)	6 (6)	9 (9)
Article 173 EEC Treaty	24 (37)	12 (14)	36 (39)
Article 175 EEC Treaty	—	2 (2)	2 (2)
Article 177 EEC Treaty	105 (113)	14 (15)	119 (128)
Article 178 EEC Treaty	1 (1)	—	1 (1)
Article 228 EEC Treaty	—	1 (1)	1 (1)
Protocol 1971	3 (3)	—	3 (3)
Statute of the Court of Justice Article 49	5 (5)	6 (6)	11 (11)
EEC Treaty	199 (208)	69 (72)	268 (280)
Article 38 ECSC Treaty	1 (2)	—	1 (2)
ECSC Treaty	1 (2)	—	1 (2)
Article 141 EAEC Treaty	1 (1)	—	1 (1)
Article 146 EAEC Treaty	1 (1)	—	1 (1)
Article 153 EAEC Treaty	1 (1)	—	1 (1)
EAEC Treaty	3 (3)	—	3 (3)
Total	203 (213)	69 (72)	272 (285)
Article 74 Rules of Procedure	—	2 (2)	2 (2)
Article 98 Rules of Procedure	1 (1)	—	1 (1)
Special proceedings	1 (1)	2 (2)	3 (3)
Overall total	204 (214)	71 (74)	275 (288)

TABLE 4

Cases decided in 1991 — Subject-matter of the proceedings

Subject-matter of the proceedings	Judgments	Orders	Total
Agriculture	35 (38)	15 (18)	50 (56)
Approximation of laws	2 (2)	5 (5)	7 (7)
Brussels Convention	3 (3)	—	3 (3)
Commercial policy	7 (6)	2 (2)	9 (8)
Company law	4 (5)	2 (2)	6 (7)
Competition	5 (5)	4 (4)	9 (9)
Economic policy	1 (1)	—	1 (1)
Energy policy	1 (1)	—	1 (1)
Environmental and consumer affairs	18 (18)	6 (6)	24 (24)
External relations	2 (2)	2 (2)	4 (4)
Free movement of goods	30 (31)	12 (12)	42 (43)
Free movement of persons	44 (44)	9 (9)	53 (53)
Law governing the institutions	—	1 (1)	1 (1)
Principles of the Treaty	1 (1)	1 (1)	2 (2)
Social policy	12 (17)	3 (3)	15 (20)
State aid	5 (5)	1 (1)	6 (6)
Taxation	17 (17)	1 (1)	18 (18)
Transport	7 (7)	2 (2)	9 (9)
Total EEC Treaty	194 (203)	66 (69)	260 (272)
Law governing the institutions	1 (1)	—	1 (1)
Protection of the population	2 (2)	—	2 (2)
Total EAEC Treaty	3 (3)	—	3 (3)
Law governing the institutions	2 (3)	2 (2)	4 (5)
Staff Regulations	5 (5)	3 (3)	8 (8)
Total EC	7 (8)	5 (5)	12 (13)
Overall total	204 (214)	71 (74)	275 (288)

Tables of cases brought in 1991

TABLE 1

Cases brought in 1991 — Nature of the proceedings

References for a preliminary ruling	186
Direct actions	140
— for annulment	58
— for failure to act	6
— for compensation for damage	16
— for failure to fulfil obligations	58
— under an arbitration clause	4
— appeals	14
— opinions	2
	Total
	342
Special proceedings	3
— taxation of costs	2
— revision of a judgment	1
— immunities	—
— application for attachment order	—
	Overall total
	345
Applications for interim measures	9

TABLE 2
Cases brought in 1991 — Basis of proceedings

Article 169 EEC Treaty	52
Article 171 EEC Treaty	6
Article 173 EEC Treaty	58
Article 175 EEC Treaty	5
Article 177 EEC Treaty	182
Article 178 EEC Treaty	16
Article 181 EEC Treaty	2
Article 228 EEC Treaty	2
1971 Protocol to Brussels Convention	4
Article 49 Statute of the Court of Justice of the EC	13
	Total EEC Treaty
	340
Article 49 ECSC Treaty	1
	Total ECSC Treaty
	1
Article 148 EAEC Treaty	1
	Total EAEC Treaty
	1
	Total
	342
Article 74 Rules of Procedure	2
Article 98 Rules of Procedure	1
	Special proceedings
	3
	Overall total
	345

TABLE 3
Cases brought in 1991 — Subject of actions

Subject of actions	Direct actions	References for a preliminary ruling	Total of cases brought
Agriculture	47	43	90
Approximation of laws	9	1	10
Brussels Convention	—	4	4
Commercial policy	5	1	6
Company law	7	4	11
Competition	1	16	22
Environmental and consumer affairs	8	1	9
External relations	3	3	7
Free movement of goods	9	27	36
Free movement of persons	3	29	32
Law governing the institutions	2	1	4
Regional policy	5	1	6
Social policy	15	28	43
State accession	—	2	2
State aid	11	—	11
Taxation	10	17	27
Transport	2	5	7
Total EEC Treaty	135	186	328
Procurement	1	—	1
Total EAEC Treaty	1	—	1
Steel	1	—	1
Total ECSC Treaty	1	—	1
Financial and budgetary provisions	2	—	2
Law governing the institutions	2	—	5
Staff Regulations	—	—	8
Total EC	4	—	15
Overall total	140	186	345

TABLE 4
Direct actions brought in 1991 — Applicants and defendants

By		Against	
Belgium	1	Belgium	7
Denmark	—	Denmark	1
Federal Republic of Germany	1	Federal Republic of Germany	1
Greece	1	Greece	9
Spain	6	Spain	2
France	5	France	4
Ireland	—	Ireland	3
Italy	2	Italy	19
Luxembourg	—	Luxembourg	3
Netherlands	2	Netherlands	7
Portugal	1	Portugal	2
United Kingdom	1	United Kingdom	—
Member States total	<u>20</u>	Member States total	<u>58</u>
Council	—	Council	16
Commission	59	Commission	49
Parliament	3	Parliament	3
Natural or legal persons	58	Council and Commission	14
Total	<u>140</u>	Natural or legal persons	—
		Total	<u>140</u>

TABLE 5

Cases brought in 1991 — Origin of references for a preliminary ruling — Courts making the references

Member State	National court	Total
Belgium	Cour de cassation 1 Lower courts 18	19
Denmark	Højesteret — Lower courts 2	2
Federal Republic of Germany	Bundesgerichtshof 5 Bundesverwaltungsgericht 2 Bundesfinanzhof 9 Bundessozialgericht 1 Lower courts 37	54
Greece	Lower courts 3	3
Spain	Lower courts 5	5
France	Cour de cassation 2 Conseil d'État 1 Lower courts 26	29
Ireland	Lower courts 2	2
Italy	Corte Suprema di Cassazione . . . 15 Lower courts 20 Consiglio di Stato 1	36
Luxembourg	Conseil d'État 1 Lower courts 1	2
Netherlands	Raad van State 1 Hoge Raad 3 Centrale Raad van Beroep — College van Beroep 3 Tariefcommissie — Lower courts 10	17
Portugal	Supremo Tribunal Administrativo . . 2 Lower courts 1	3
United Kingdom	House of Lords 3 Court of Appeal 3 Lower courts 8	14
	Overall total	186

GENERAL TREND

TABLE 6
Cases brought from 1953 to 31 December 1991

Year	Direct actions ¹	References for a preliminary ruling	Total	Applications for interim measures	Judgments
1953	4	—	4	—	—
1954	10	—	10	—	2
1955	9	—	9	2	4
1956	11	—	11	2	6
1957	19	—	19	2	4
1958	43	—	43	—	10
1959	47	—	47	5	13
1960	23	—	23	2	18
1961	25	1	26	1	11
1962	30	5	35	2	20
1963	99	6	105	7	37
1964	49	6	55	4	31
1965	55	7	62	4	52
1966	30	1	31	2	24
1967	14	23	37	—	24
1968	24	9	33	1	27
1969	60	17	77	2	30
1970	47	32	79	—	64
1971	59	37	96	1	60
1972	42	40	82	2	61
1973	131	61	192	6	80
1974	63	39	102	8	63
1975	61	69	130	5	78
1976	51	75	126	6	88
1977	74	84	158	6	100
1978	145	123	268	7	97
1979	1 216	106	1 322	6	138
1980	180	99	279	14	132
1981	214	109	323	17	128
1982	216	129	345	16	185
1983	199	98	297	11	151
1984	183	129	312	17	165
1985	294	139	433	22	211
1986	238	91	329	23	174
1987	251	144	395	21	208
1988	194	179	373	17	238
1989	246	139	385	20	188
1990	238	141	379	12	193
1991	156 ²	186	342	9	204
Total	5 050 ³	2 369	7 374	282	3 319

¹ Actions brought by Community officials are included up to 1989. As from 1990, these actions are no longer included in the figures, following the transfer of jurisdiction in this type of action to the Court of First Instance. However, the figures include appeals from 1990.

² This figure includes two applications for an opinion pursuant to the second paragraph of Article 228.

³ Includes 2 388 actions brought by Community officials up to 31 December 1989.

TABLE 7

Trend from 1 January 1980 to 31 December 1991

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Cases brought												
References for a preliminary ruling	99	109	129	98	129	139	91	144	179	139	141	186
Direct actions	64	120	131	131	140	229	181	174	136	205	222	140
Actions brought by Community officials	116	94	85	68	43	65	57	77	58	41	—	—
Appeals ¹	—	—	—	—	—	—	—	—	—	—	16	14
Opinions	—	—	—	—	—	—	—	—	—	—	—	2
Total	279	323	345	297	312	433	329	395	373	385	379	342
Cases decided (judgments)												
References for a preliminary ruling	75	65	94	58	77	109	78	71	108	90	113	108
Direct actions	34	21	60	53	57	63	59	101	98	64	73	91
Actions brought by Community officials	23	42	31	39	30	38	35	36	32	34	7	—
Opinions	—	—	—	—	—	—	—	—	—	—	—	1
Revisions	—	—	—	1	1	1	1	—	—	—	—	—
Third-party proceedings	—	—	—	—	—	—	1	—	—	—	—	—
Appeals	—	—	—	—	—	—	—	—	—	—	—	5
Total	132	128	185	151	165	211	174	208	238	188	193	205
Judgments of the Chambers	63	73	102	99	110	138	107	115	123	116	119	86
Judgments of the Full Court	69	55	83	52	55	73	65	93	115	72	74	118 ²

¹ Since 1990.² Including the opinion.TABLE 8
Direct actions brought up to 31 December 1991

By		Against	
Belgium	11	Belgium	137
Denmark	5	Denmark	20
Federal Republic of Germany	32	Federal Republic of Germany	67
Greece	3	Greece	81
Spain	22	Spain	12
France	38	France	120
Ireland	8	Ireland	42
Italy	47	Italy	268
Luxembourg	7	Luxembourg	40
Netherlands	26	Netherlands	41
Portugal	4	Portugal	5
United Kingdom	19	United Kingdom	31

TABLE 9
References for a preliminary ruling made up to 31 December 1991

Belgium		Ireland																																																																																			
Cour de cassation	32	The Supreme Court	7																																																																																		
Conseil d'État	10	The High Court	15																																																																																		
Lower courts	223	Circuit courts and District courts	5																																																																																		
Total	265	Total	27																																																																																		
Denmark		Italy																																																																																			
Højesteret	10	Consiglio di Stato	1																																																																																		
Lower courts	28	Corte Suprema di Cassazione	52																																																																																		
Total	38	Lower courts	220																																																																																		
Federal Republic of Germany		Total	273																																																																																		
Bundesgerichtshof	38	Luxembourg																																																																																			
Bundesarbeitsgericht	4	Bundesverwaltungsgericht	28	Cour Supérieur de Justice	9	Bundesfinanzhof	119	Conseil d'État	10	Bundessozialgericht	38	Lower courts	11	Lower courts	511	Total	30	Total	738	Netherlands		Greece		Raad van State	13	Council of State	3	Hoge Raad	58	Lower courts	23	Centrale Raad van Beroep	30	Total	26	College van Beroep voor het Bedrijfsleven	81	Spain		Tariefcommissie	19	Lower courts	16	Lower courts	144	Total	16	Total	345	France		Portugal		Cour de cassation	41	Supremo Tribunal Administrativo	2	Conseil d'État	10	Lower courts	4	Lower courts	377	Total	6	Total	428	United Kingdom				House of Lords	11			Court of Appeal	16			Lower courts	105			Total	132
Bundesverwaltungsgericht	28	Cour Supérieur de Justice	9																																																																																		
Bundesfinanzhof	119	Conseil d'État	10																																																																																		
Bundessozialgericht	38	Lower courts	11																																																																																		
Lower courts	511	Total	30																																																																																		
Total	738	Netherlands																																																																																			
Greece		Raad van State	13																																																																																		
Council of State	3	Hoge Raad	58																																																																																		
Lower courts	23	Centrale Raad van Beroep	30																																																																																		
Total	26	College van Beroep voor het Bedrijfsleven	81																																																																																		
Spain		Tariefcommissie	19																																																																																		
Lower courts	16	Lower courts	144																																																																																		
Total	16	Total	345																																																																																		
France		Portugal																																																																																			
Cour de cassation	41	Supremo Tribunal Administrativo	2																																																																																		
Conseil d'État	10	Lower courts	4																																																																																		
Lower courts	377	Total	6																																																																																		
Total	428	United Kingdom																																																																																			
		House of Lords	11																																																																																		
		Court of Appeal	16																																																																																		
		Lower courts	105																																																																																		
		Total	132																																																																																		

TABLE 10

References to the Court for preliminary rulings

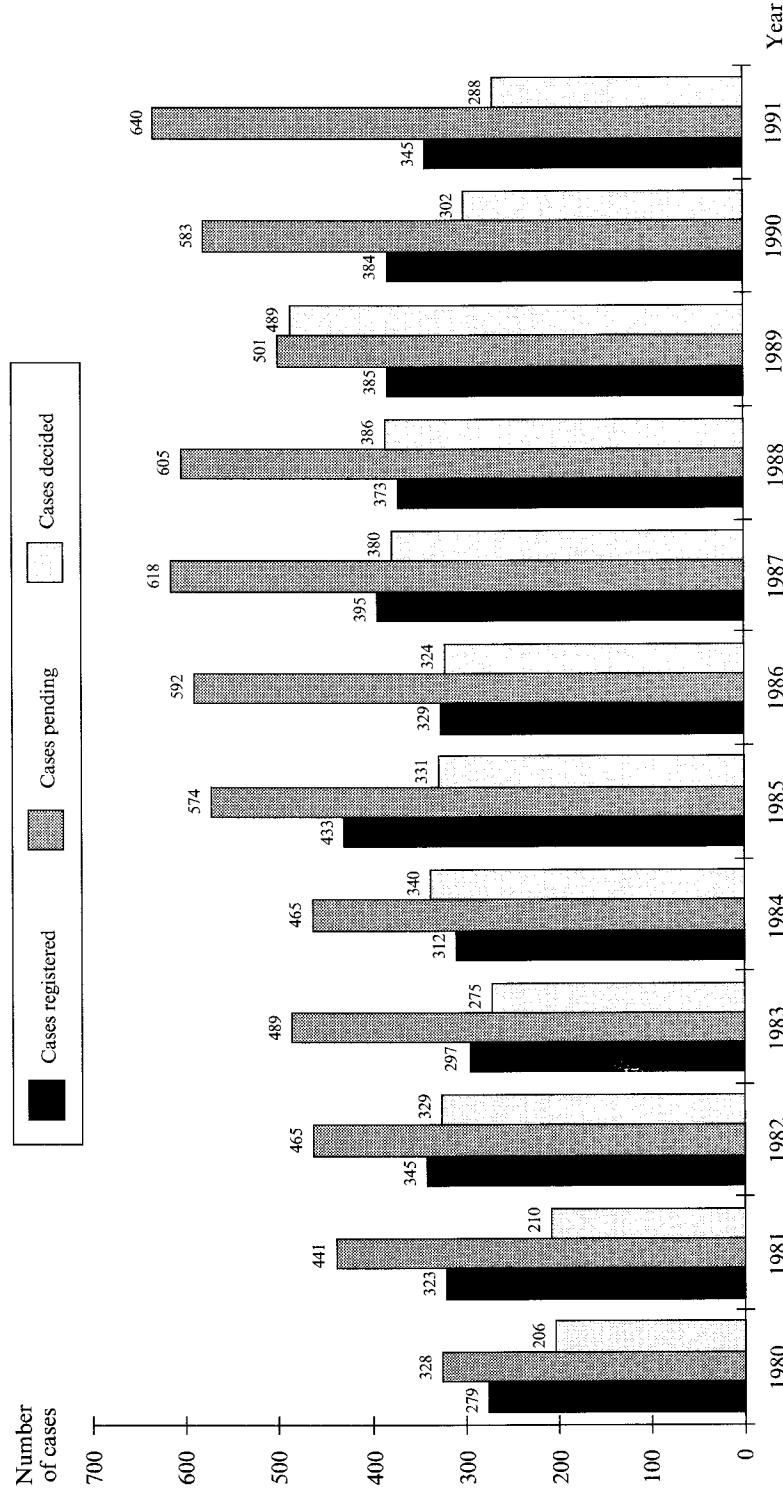
(Articles 177 EEC Treaty, 41 ECSC Treaty, 153 EAEC Treaty, Protocol to Brussels Convention)

Classified by Member State

Year	Belgium	Denmark	Germany	Greece	Spain	France	Ireland	Italy	Luxembourg	Netherlands	Portugal	United Kingdom	Total
1961	—	—	—	—	—	—	—	—	—	—	—	—	1
1962	—	—	—	—	—	—	—	—	—	5	—	—	5
1963	—	—	—	—	—	—	—	—	—	5	—	—	6
1964	—	—	—	—	—	—	—	—	—	4	—	—	6
1965	—	—	4	—	—	—	—	—	—	1	—	—	7
1966	—	—	—	—	—	—	—	—	—	1	—	—	1
1967	5	—	—	11	—	—	—	—	—	1	3	—	23
1968	1	—	—	4	—	—	—	—	—	2	—	—	9
1969	4	—	—	11	—	—	—	—	—	—	—	—	17
1970	4	—	—	21	—	—	—	2	—	1	—	—	32
1971	1	—	—	28	—	—	—	—	—	1	6	—	37
1972	5	—	—	20	—	—	—	1	—	10	—	—	40
1973	8	—	—	37	—	—	—	4	—	6	—	—	61
1974	5	—	—	15	—	—	—	6	—	7	—	—	39
1975	7	1	—	26	—	—	—	15	—	4	—	—	69
1976	11	—	—	28	—	—	—	8	1	12	—	—	75
1977	16	1	—	30	—	—	—	14	2	7	—	—	84
1978	7	3	—	46	—	—	—	12	1	11	—	—	123
1979	13	1	—	33	—	—	—	18	2	19	1	—	106
1980	14	2	—	24	—	—	—	14	3	19	—	—	99
1981	12	1	—	41	—	—	—	17	—	12	4	—	109
1982	10	1	—	36	—	—	—	39	—	18	—	—	129
1983	9	4	—	36	—	—	—	15	2	7	—	—	98
1984	13	2	—	38	—	—	—	34	1	10	—	—	129
1985	13	—	—	40	—	—	—	45	2	11	6	14	139
1986	13	4	—	18	2	1	—	19	4	5	1	16	91
1987	15	5	—	32	17	1	—	36	2	5	3	19	144
1988	30	4	—	34	—	1	—	38	—	28	2	26	179
1989	13	2	—	47	2	2	—	28	1	10	1	18	139
1990	17	5	—	34	2	6	—	21	4	25	4	9	141
1991	19	2	—	54	3	5	—	29	2	36	2	17	186
Total	265	38	738	26	16	428	27	273	30	345	6	132	2 324

GRAPH 1

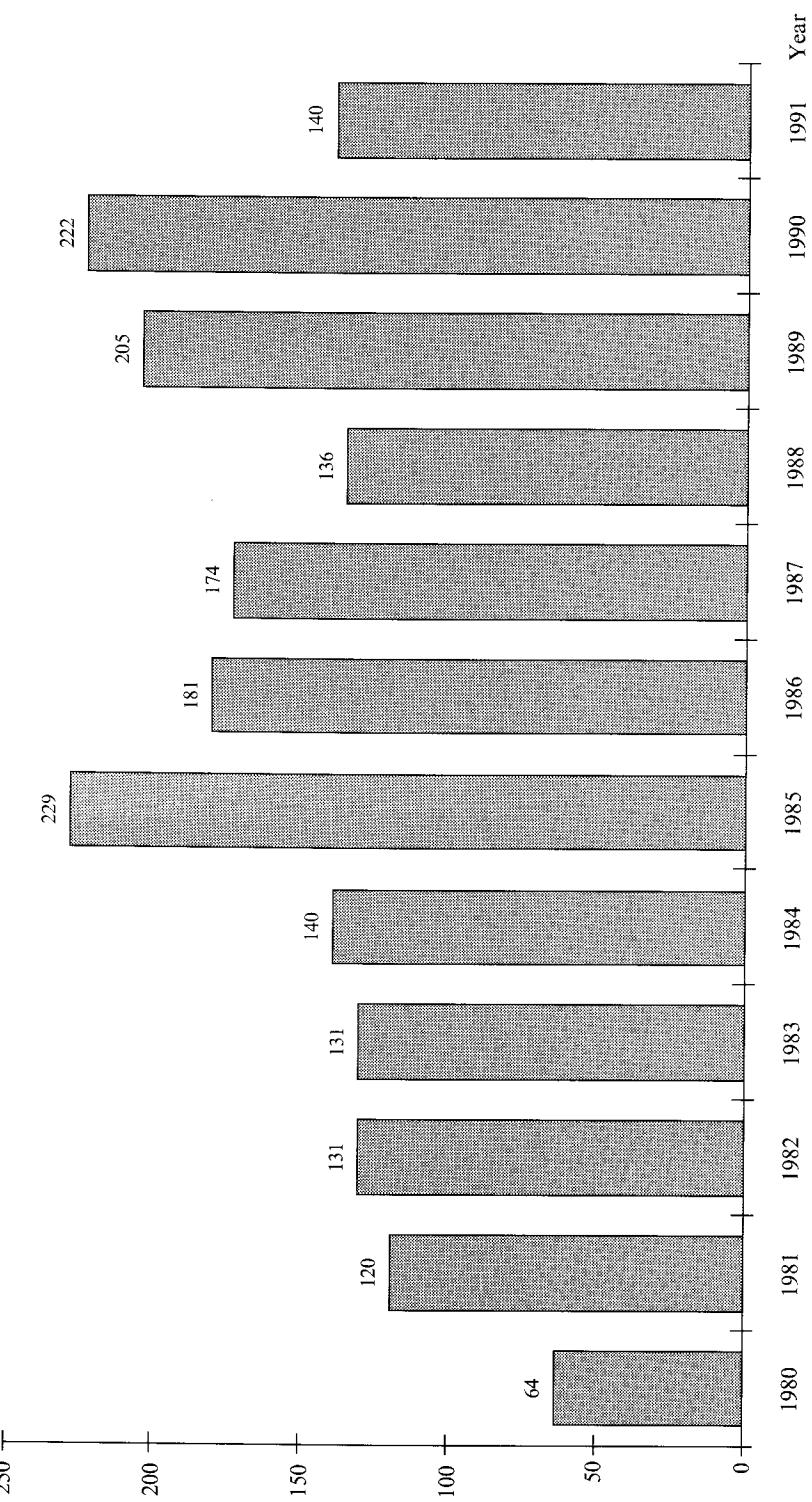
General trend in the number of cases registered, decided and pending (1980-91)



NB: These statistics do not include staff cases brought in 1979 concerning weightings in which the proceedings were stayed until removal from the register.

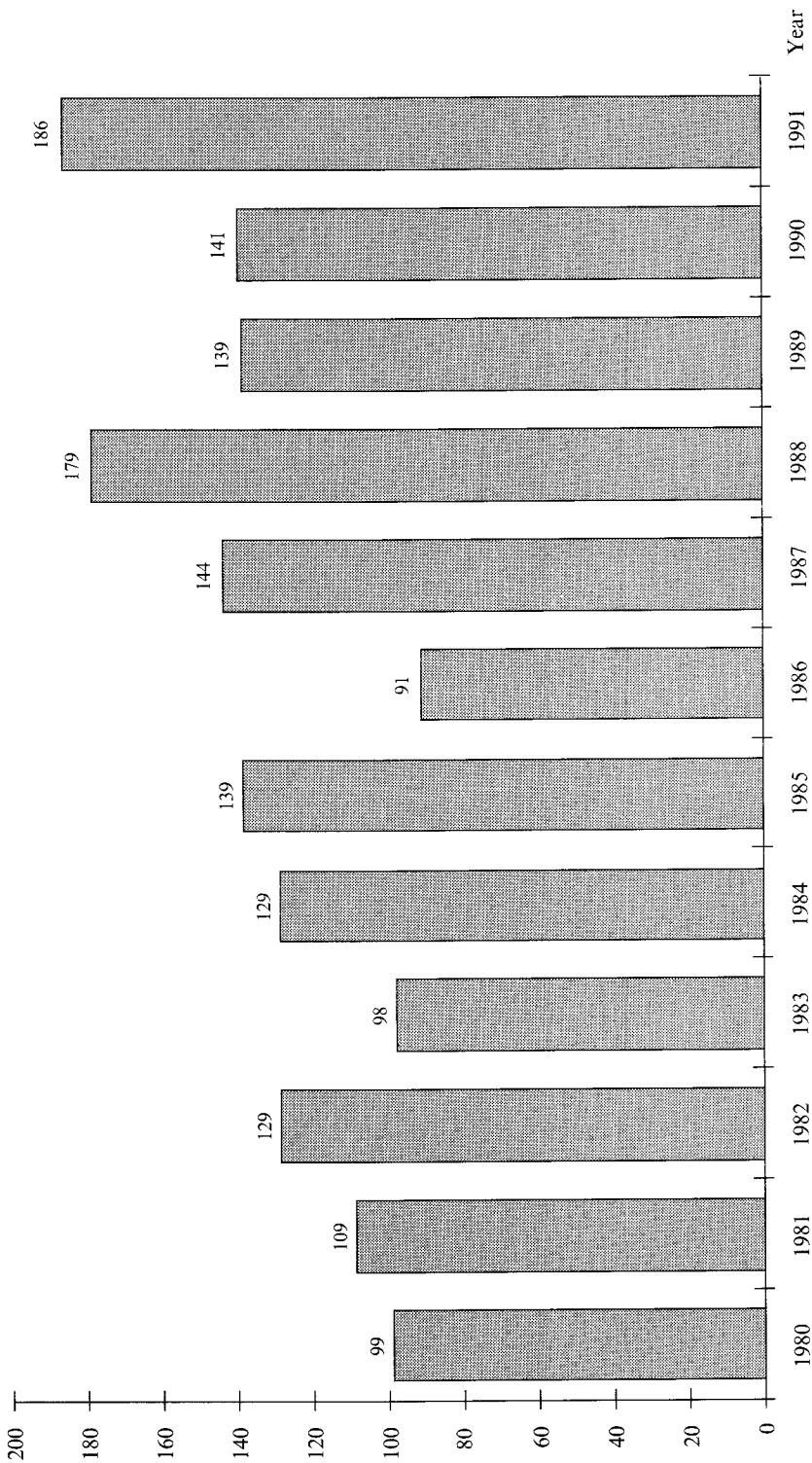
GRAPH 2

Cases registered (1980-91)
Direct actions
Number of cases



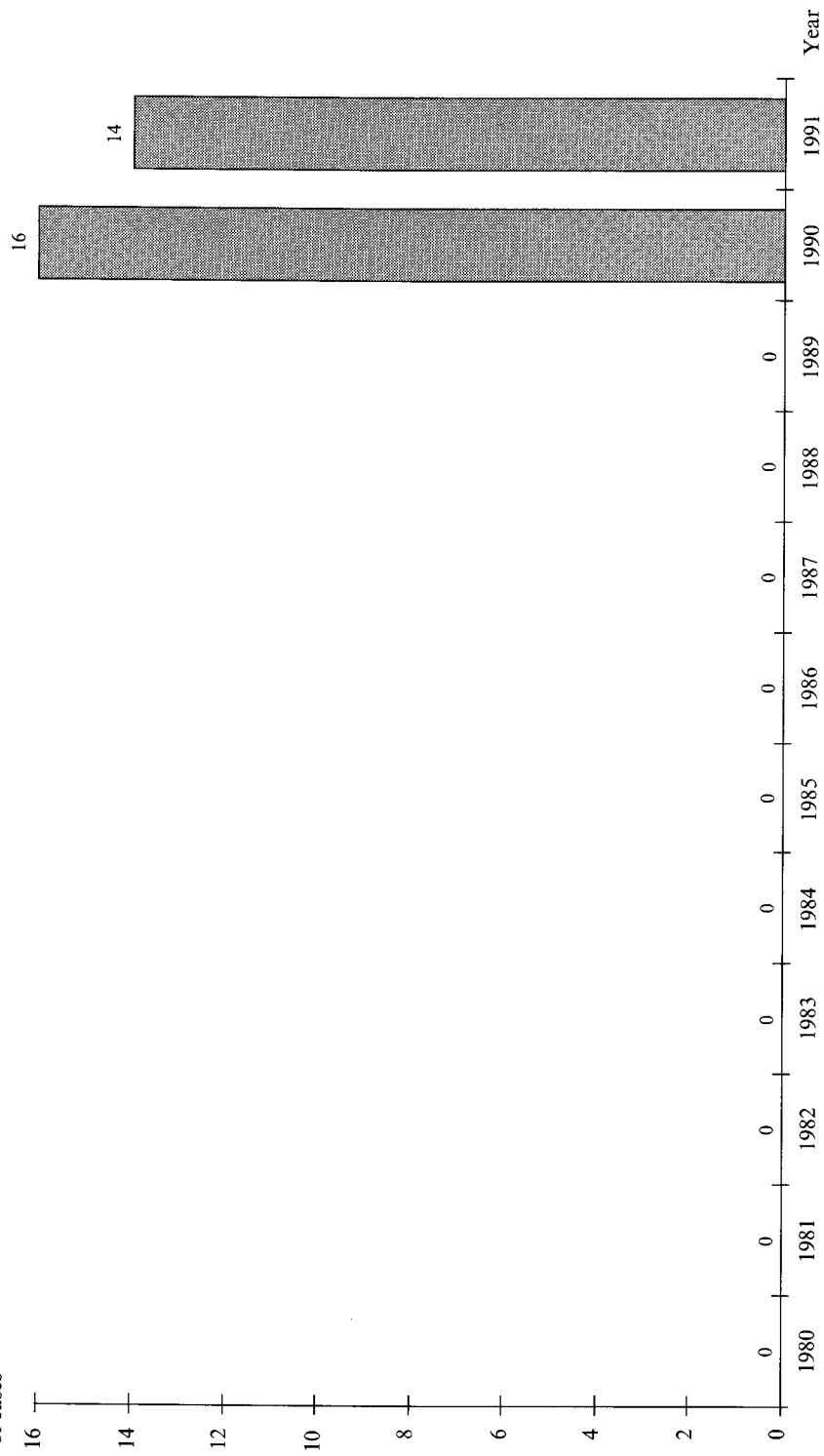
GRAPH 3

Cases registered (1980-91)
References for a preliminary ruling



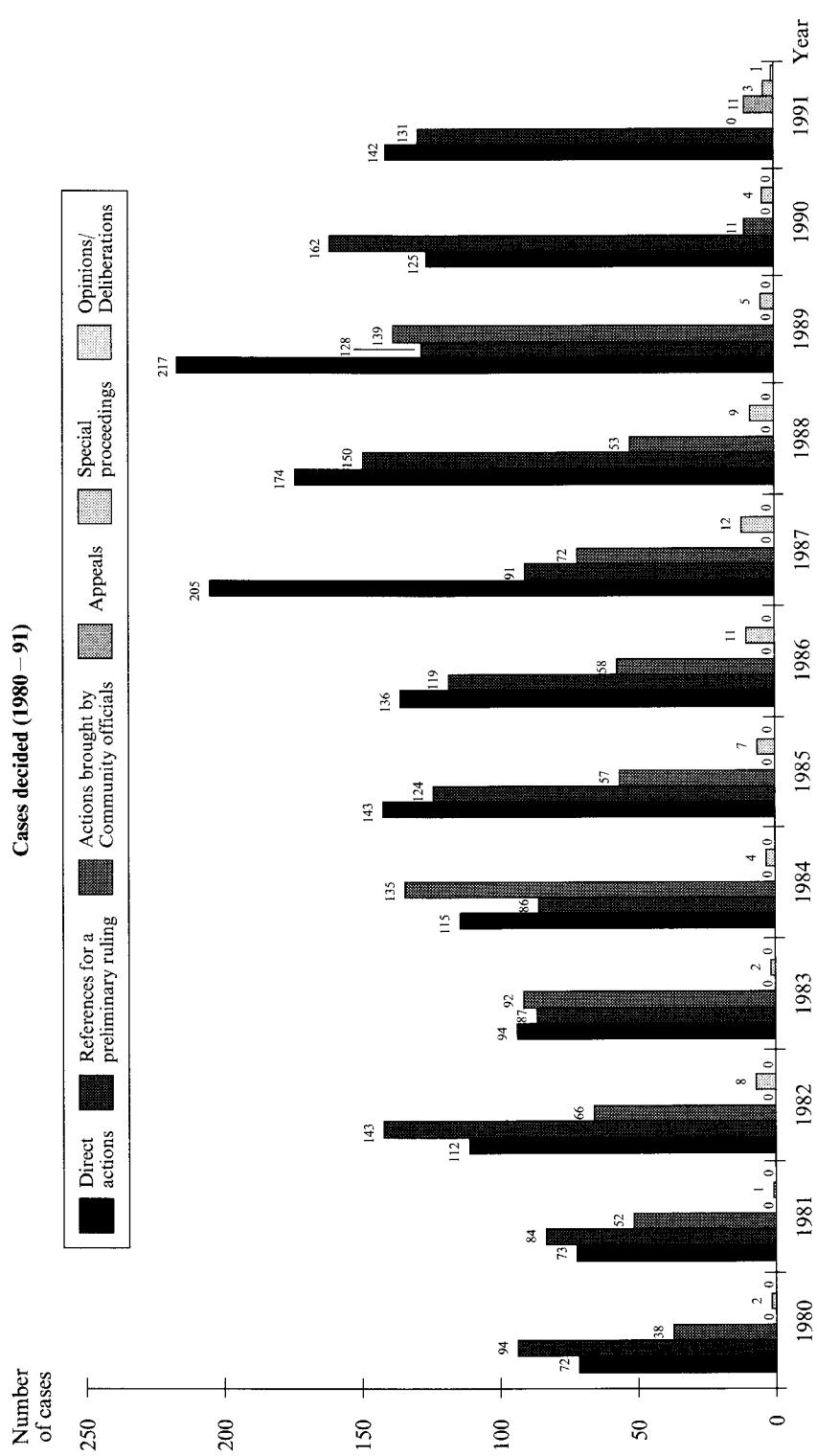
GRAPH 4

Cases registered (1980-91)
Appeals



GRAPH 5

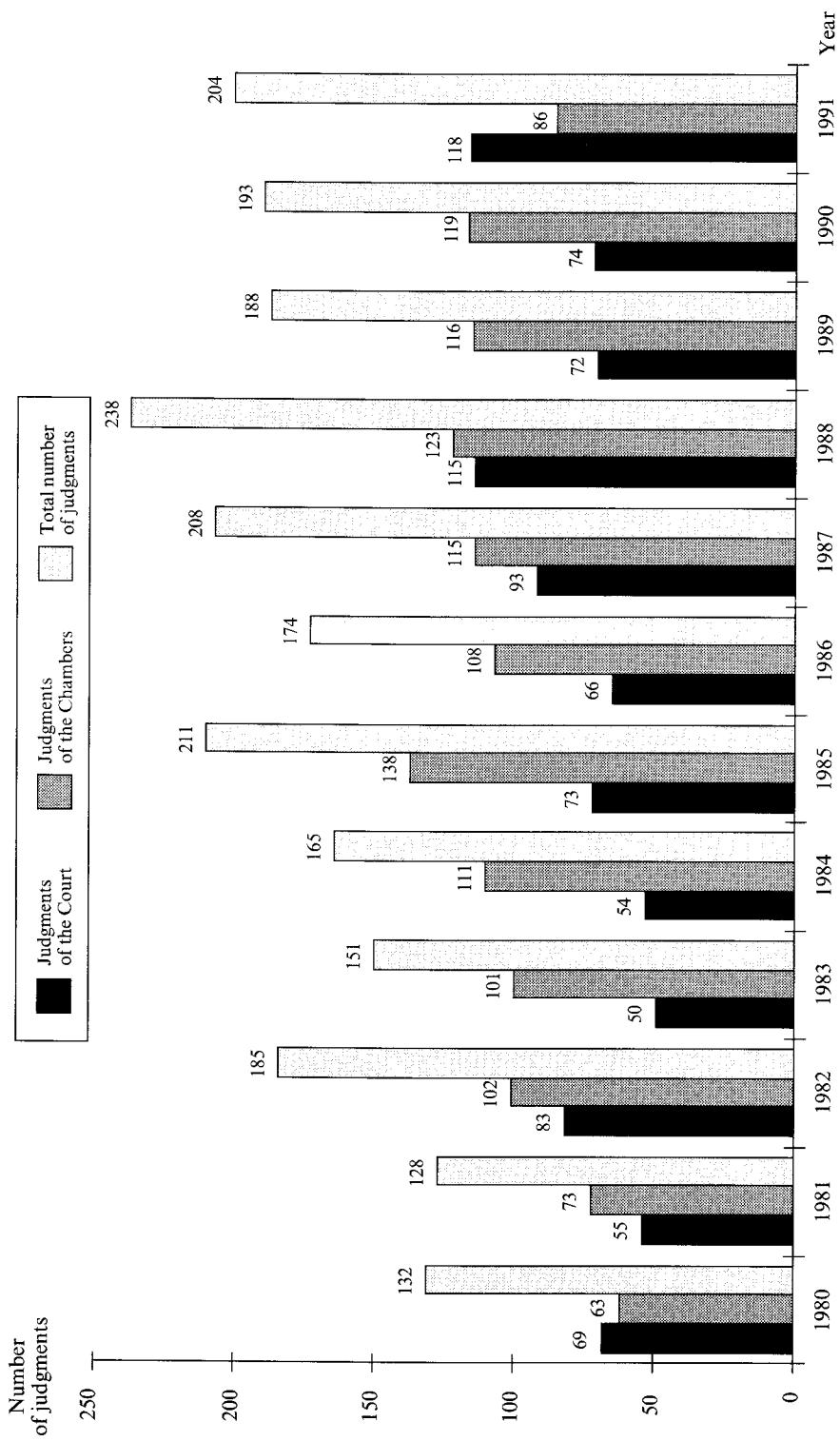
Cases decided (1980-91)



NB: These statistics do not include staff cases brought in 1979 concerning weightings in which the proceedings were stayed until removal from the register.

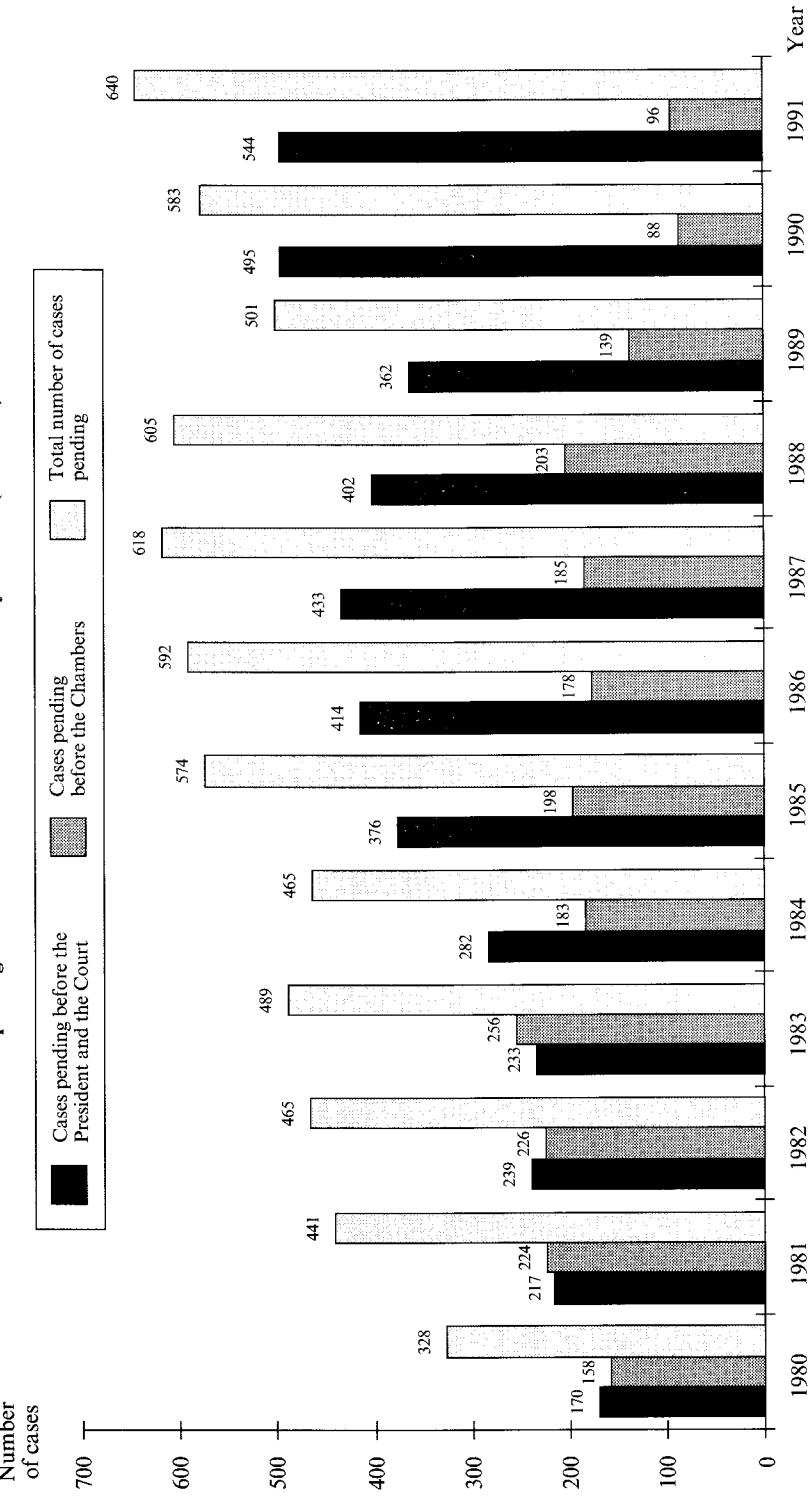
GRAPH 6

Judgments delivered by the Court and the Chambers (1980 – 91)



GRAPH 7

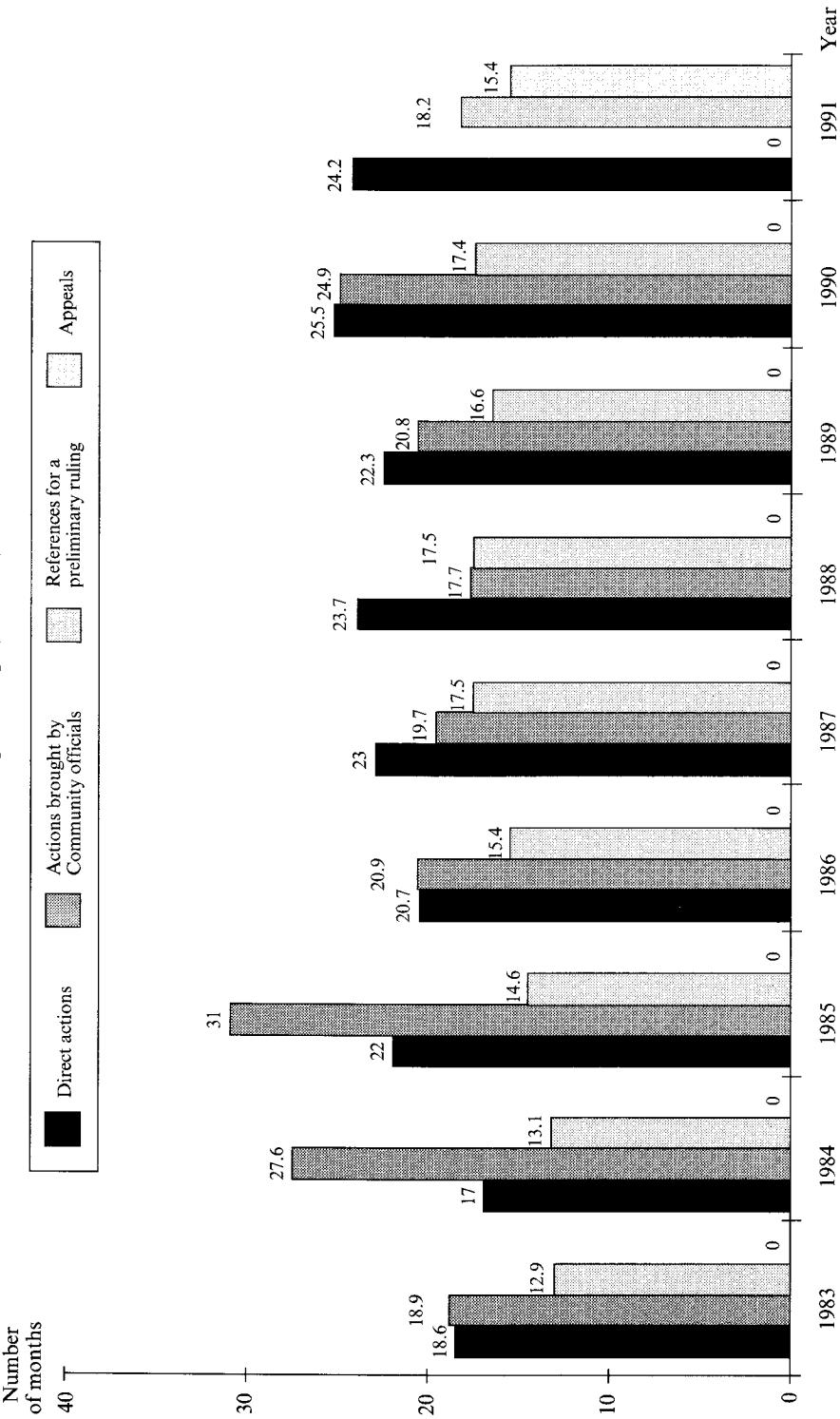
Cases pending before the Court and the chambers at year's end (1980–91)



NB: These statistics do not include staff cases brought in 1979 concerning weightings in which the proceedings were stayed until removal from the register.

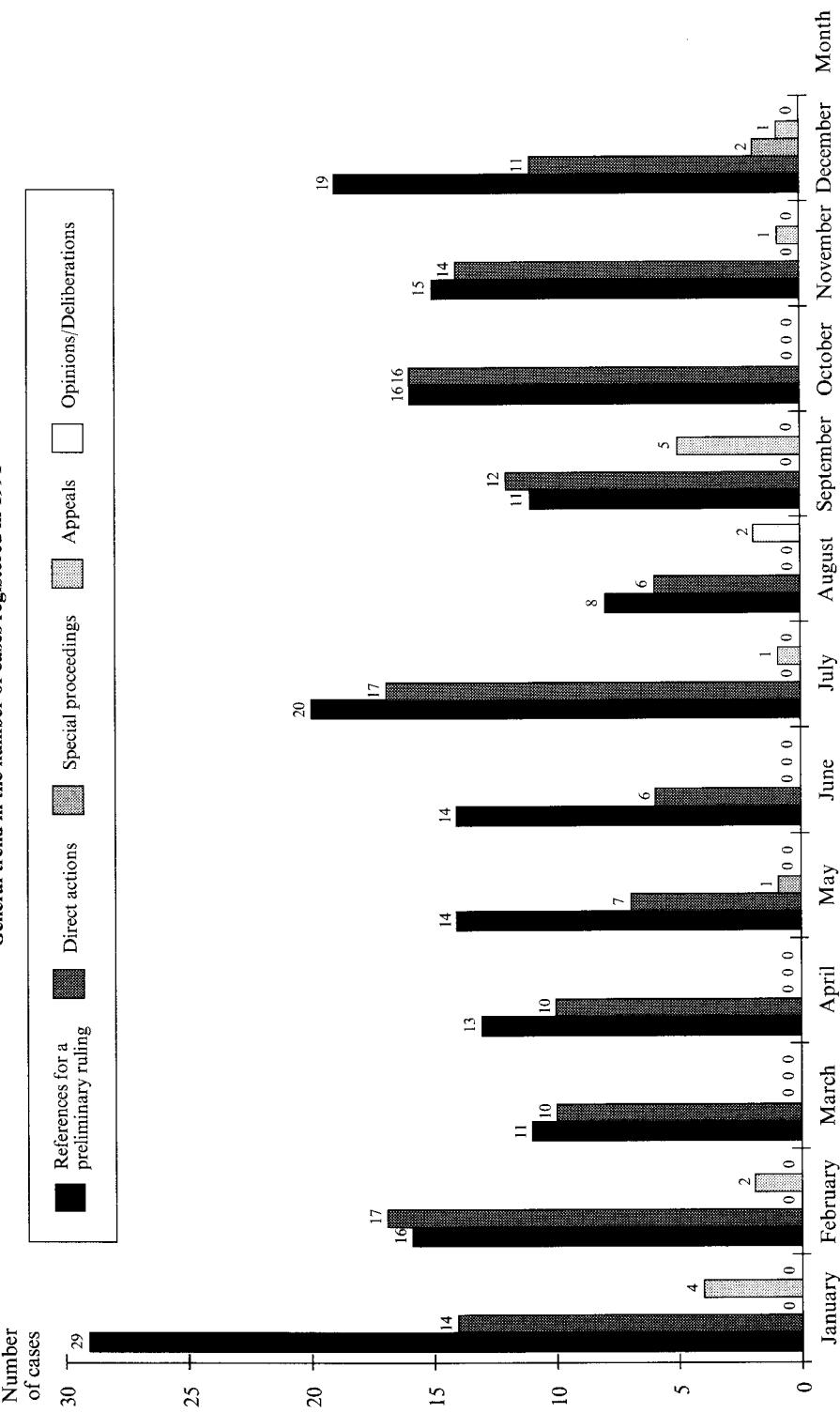
GRAPH 8

Duration of proceedings (1983-91)



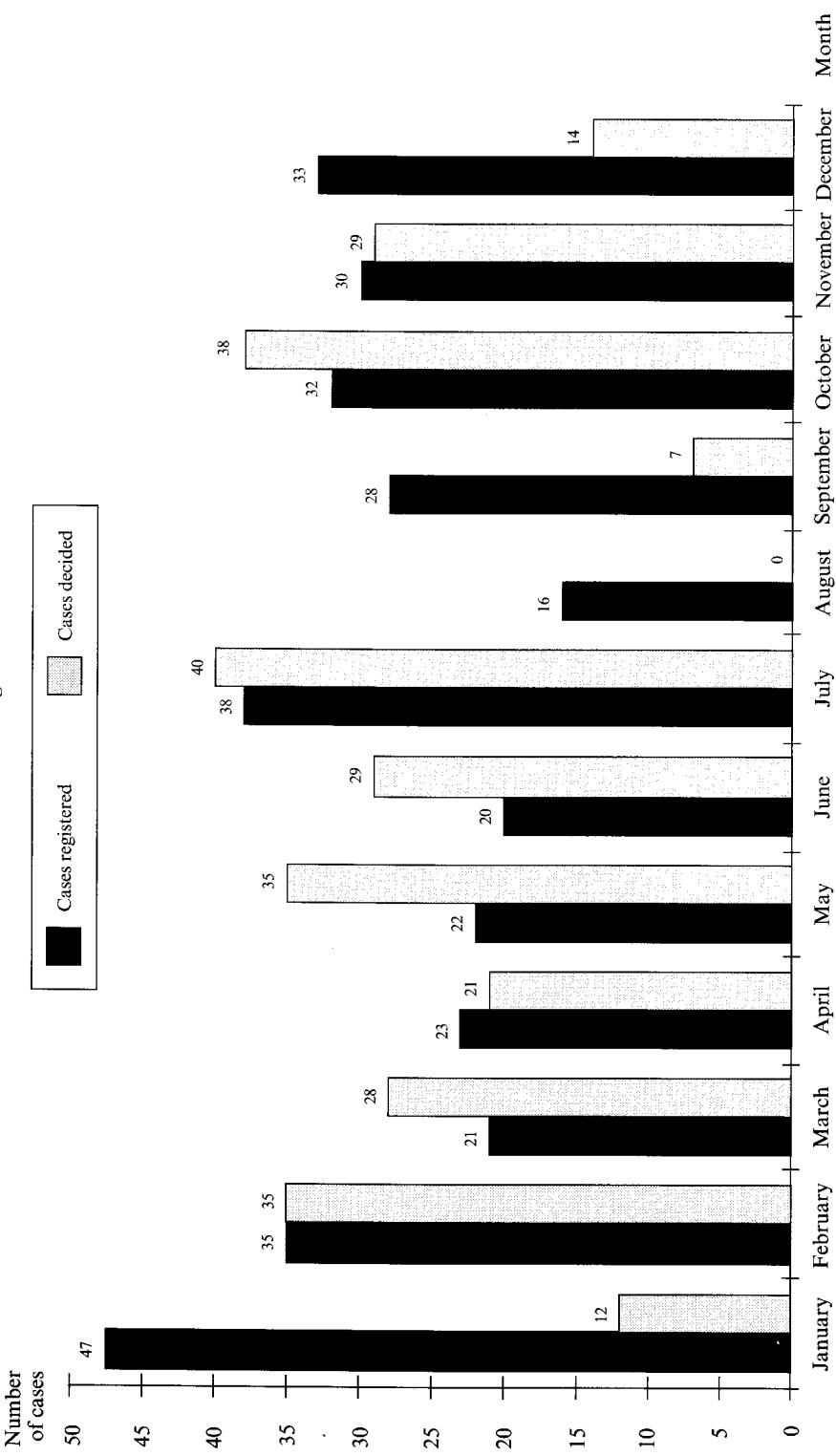
GRAPH 9

General trend in the number of cases registered in 1991



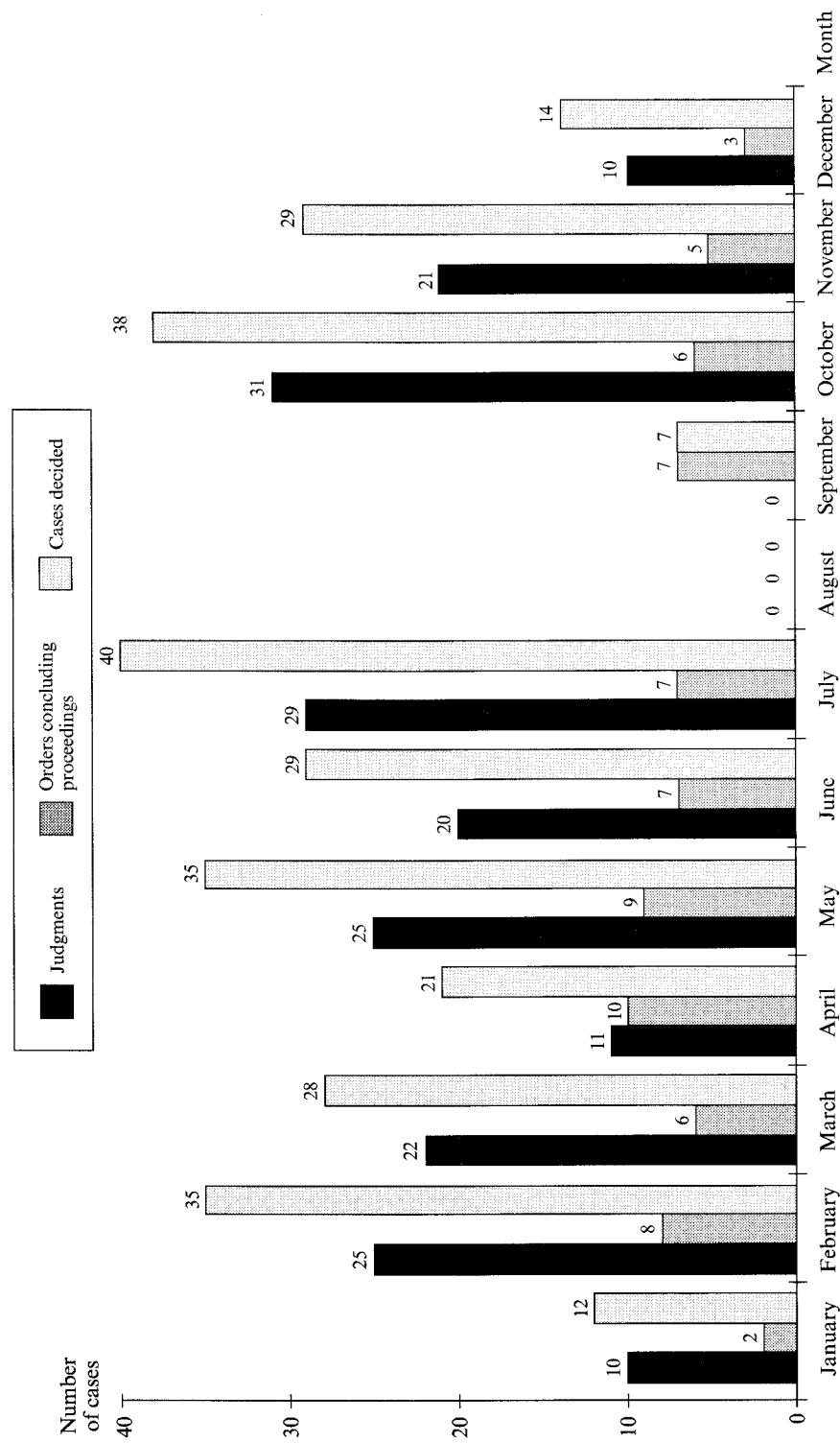
GRAPH 10

General trend in the number of cases registered and decided in 1991

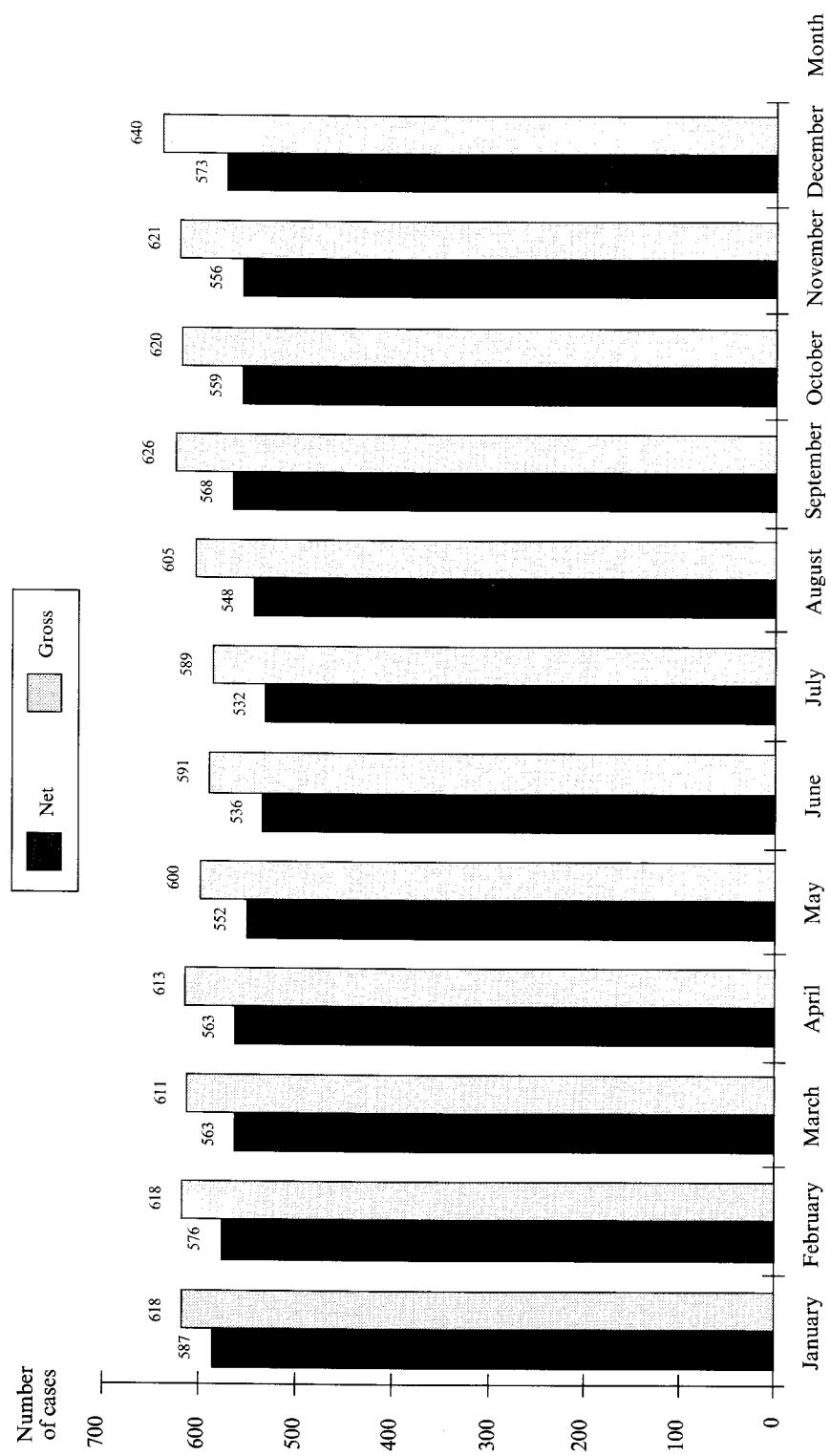


GRAPH 11

General trend in the number of cases decided in 1991



General trend in the number of cases pending in 1991



B — Proceedings of the Court of First Instance

I — Synopsis of judgments delivered by the Court of First Instance in 1991

Competition			
T-3/90	23.1.1991	Prodifarma v Commission of the European Communities (Order)	Inadmissibility
T-12/90	29.5.1991	Bayer AG v Commission of the European Communities	Admissibility — Time-limit for bringing proceedings — Legality of notification — Excusable error — Fortuitous event or <i>force majeure</i>
T-19/91R	7.6.1991	Société d'hygiène dermatologique de Vichy v Commission of the European Communities (Order)	Referred
T-42/91	21.6.1991	Koninklijke PTT Nederland NV and PTT Post BV v Commission of the European Communities	Discontinuance
T-69/89 T-70/89 T-76/89	10.7.1991	Radio Telefis Eireann (Case T-69/89), British Broadcasting Corporation (Case T-70/89) and Independent Television Publications Ltd (Case T-76/89) v Commission of the European Communities	Abuse of a dominant position — Copyright — Practices preventing the publication and sale of comprehensive weekly television guides
T-23/90	12.7.1991	Automobiles Peugeot SA and Peugeot SA v Commission of the European Communities	Motor vehicle distribution — Regulation for the exemption per category — Provisional measures
T-1/89	24.10.1991	Rhône-Poulenc SA v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility
T-2/89	24.10.1991	Petrofina SA v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility
T-3/89	24.10.1991	Atochem SA v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility
T-35/89	28.11.1991	Eurosport Consortium v Commission of the European Communities (Order)	Intervention

T-30/89	12.12.1991	Hilti AG v Commission of the European Communities	Nails for nail guns — Relevant market — Dominant position — Abuse — Product liability — Fine
T-39/90	12.12.1991	NV Samenwerkende Elektriciteits-produktiebedrijven v Commission of the European Communities	Administrative procedure — Decision requesting information addressed to an undertaking — Necessary information — Principle of proportionality and obligation of Member States to observe professional secrecy, especially in relation to public undertakings, with regard to documents forwarded to those States by the Commission (Council Regulation (EEC) No 17, Arts 10(1), 11 and 20)
T-4/89	17.12.1991	BASF Aktiengesellschaft v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility
T-6/89	17.12.1991	Enichem Anic SpA v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility — Whether accountable for an infringement
T-7/89	17.12.1991	SA Hercules Chemicals NV v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility
T-8/89	17.12.1991	DMS NV v Commission of the European Communities	Concepts of agreement and concerted practice — Collective responsibility

ECSC

T-120/89	27.6.1991	Stahlwewrke Peine-Salzgitter AG v Commission of the European Communities	Non-contractual liability of the Community
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Officials of the Community

T-63/89	24.1.1991	E. P. Latham v Commission of the European Communities	Staff report — Compensation for damage
T-27/90	24.1.1991	E. P. Latham v Commission of the European Communities	Admissibility — Recruitment procedure under Article 29(1)(a) of the Staff Regulations — Staff report — Delay — Compensation for damage
T-18/89 T-24/89	7.2.1991	H. Tagaras v Court of Justice of the European Communities	Classification — Additional seniority — Equal treatment — Admissibility

T-58/89	7.2.1991	C. Williams v Court of Auditors of the European Communities	Reclassification — Admissibility of new facts — Promotion procedure and competition
T-167/89	7.2.1991	J. R. de Rijk v Commission of the European Communities	Family allowances — National family allowances of like nature — Deduction — Application of the 'transfer rate'
T-2/90	7.2.1991	A. Fernandes Ferreira de Freitas v Commission of the European Communities	Classification — Additional seniority — Experience counted
T-124/89	28.2.1991	E. Kormeier v Commission of the European Communities	Dependent child allowance — Recovery of overpayments
T-10/91R	11.3.1991	L. Bodson v European Parliament (Order)	
T-109/89	20.3.1991	G.-M. André v Commission of the European Communities	Reclassification
T-1/90	20.3.1991	G. Pérez-Minguez Casariego v Commission of the European Communities	External competition procedure on the accession of Spain and Portugal — Admissibility — Mandatory intervention — Appointment of a candidate whose name is included in the list of suitable candidates — Requirement to state reasons
T-13/91R	15.4.1991	M. Harrison v Commission of the European Communities (Order)	
T-18/90	7.5.1991	E. Jongen v Commission of the European Communities	Appointment — Classification in grade and step on recruitment — Previous experience — Correspondence between grade and posts — Equal treatment of officials — Principle of legitimate expectation and duty to have regard for the interests of officials
T-30/90	14.5.1991	W. Zoder v European Parliament	Promotion — Seniority
T-14/91	7.6.1991	G. Weyrich v Commission of the European Communities	Inadmissibility
T-156/89	27.6.1991	I. Valverde Mordt v Court of Justice of the European Communities	Conditions for promotion — Seniority — Competition — Regularity of steps in an internal competition — Action for annulment and damages
T-47/90	4.7.1991	A. Herremans v Commission of the European Communities	Inadmissibility
T-48/91	9.7.1991	D. Minic v Court of Auditors of the European Communities (Order)	Manifest inadmissibility
T-19/90	11.7.1991	D. von Hoessle v Court of Auditors of the European Communities	Classification in step — Professional experience

T-110/89	12.7.1991	G. Pincherle v Commission of the European Communities	Social security — Article 72 of the Staff Regulations — Implementing provisions — Reimbursement of medical expenses — Equal treatment
T-51/91R	1.8.1991	P. E. Hoyer v Commission of the European Communities (Order)	Application for interim measures
T-52/91R	1.8.1991	C. Smets v Commission of the European Communities (Order)	Application for interim measures
T-36/89	25.9.1991	H. Nijman v Commission of the European Communities	Liability of the Commission — Service-related fault — Failure to notify illness at the time of the medical examination
T-163/89	25.9.1991	E. Sebastiani v European Parliament	Interim — Promotion — Admissibility
T-5/90	25.9.1991	A. Marcato v Commission of the European Communities	Records of meetings in the context of an assessment procedure — Action for annulment and compensation — Inadmissibility
T-54/90	25.9.1991	M. Lacroix v Commission of the European Communities	Admissibility — Period for lodging a complaint
T-38/91	1.10.1991	D. Coussios v Commission of the European Communities (Order)	Inadmissibility
T-26/89	17.10.1991	H. de Compte v European Parliament	Disciplinary measures — Downgrading
T-129/89	17.10.1991	K. Offermann v European Parliament	Admissibility — Request — Implied rejection — Complaint lodged out of time — Express confirmation of rejection
T-33/90	6.11.1991	C. von Bonkewitz-Lindner v European Parliament	Staff report — Description of duties — Inadequate marks — Withdrawal of duties and assignment of new duties
T-77/91R	22.11.1991	I. Hochbaum v Commission of the European Communities (Order)	Provisional measures — Suspension of implementation of a judgment of the Court of First Instance — Rejection
T-146/89	26.11.1991	C. E. Williams v Court of Auditors of the European Communities	Obligations — Conduct incompatible with the status of an official — Duty of loyalty — Disciplinary measures — Penalty
T-21/90	27.11.1991	G. Generlich v Commission of the European Communities	Voluntary termination of service — Period of entitlement to allowance — Retirement pension — Basic salary for the purpose of calculating the pension

T-158/89	28.11.1991	G. van Hecken v Economic and Social Committee	Annulment of decision refusing to admit the applicant to the tests in open competition CES/LA/102/87 — Compensation for damage
T-10/90 T-31/90	3.12.1991	M. Boessen v Economic and Social Committee	Education allowance — Compulsory schooling — Expenses in connection with psychological tests
T-78/91	4.12.1991	A. Macrae Moat and Association v Commission of the European Communities (Order)	Inadmissibility and manifest lack of jurisdiction to hear action brought by an official
T-60/91	10.12.1991	I. Chevolet v Commission of the European Communities (Order)	Inadmissibility
T-169/89	11.12.1991	E. D. Frederiksen v European Parliament	Annulment of a promotion — Annulment of the rejection of a candidature

II — Statistical information

Summary of the proceedings of the Court of First Instance in 1991

Judgments delivered

During 1991, the Court of First Instance of the European Communities delivered 41 final and interim judgments;

15 were in direct actions (excluding actions brought by officials of the Communities):

26 were in actions brought by officials of the Communities.

All judgments were delivered by the different Chambers.

The President of the Court of First Instance, or the Presidents of Chambers, were called upon in 1991 to decide on 10 applications for interim measures.

Public hearings

In 1991, the Chambers of the Court of First Instance held 66 public hearings.

Cases pending

Cases pending may be analysed as follows:

	31 December 1989	31 December 1990	31 December 1991
Direct actions	77	80	73
— Competition	75	76	70
— ECSC	2	4	3
Staff cases	91	65 ¹	96
Total number of cases pending	168	145 ¹	169 ²

¹ This figure includes three cases which have been suspended.

² This figure includes ten cases which have been suspended.

Table of the general proceedings of the Court of First Instance in 1990 and in 1991

	1990	1991
Cases brought	55	93
Cases decided	79	67
Cases pending	123	169

Table of cases brought in 1990 and in 1991

	1990	1991
Direct actions ¹	12	12
Actions brought by Community officials	43	81
Total	55	93

Table of cases decided in 1990 and in 1991

	1990	1991
Direct actions ¹	9	19
Actions brought by Community officials	71	48
Total	80	67

Table of cases pending on 31 December each year

	1990	1991
Direct actions ¹	80	73
Actions brought by Community officials	64	96
Total	144	169

¹ Competition cases or concerning the ECSC Treaty.

Statistical tables

Tables of cases decided in 1991¹

TABLE 1
Cases decided in 1991 — Form of decision

Form of decision	Direct actions	Actions brought by officials	Special proceedings	Total
<i>Judgments</i>				
In contested cases	15 (15)	26 (28)	—	41 (43)
Total judgments	15 (15)	26 (28)	—	41 (43)
<i>Orders</i>				
Removal from Register	2 (2)	12 (13)	—	14 (15)
Action inadmissible	1 (1)	4 (4)	—	5 (5)
Lack of jurisdiction of the Court	—	1 (1)	—	1 (1)
Cases not to proceed to judgment	—	1 (1)	—	1 (1)
Discontinuance	1 (1)	—	—	1 (1)
Referred to the Court of Justice	—	1 (1)	—	1 (1)
Total orders	4 (4)	19 (20)	—	23 (24)
Total	19 (19)	45 (48)	—	64 (67)

TABLE 2
Total number of cases decided in 1991 — Bench hearing case

Bench hearing case	Total cases decided	Judgments	Orders
Full Court Chambers	— 67	— 41	— 23
Total	67	41	23

¹ The figures in brackets (gross figure) represent the total number of cases, without taking account of cases joined on grounds of related subject-matter (one case number = one case). The net figure represents the number of cases after account has been taken of those joined on grounds of related subject-matter (one series of joined cases = one case).

TABLE 3

Cases decided in 1991 — Basis of proceedings

Basis of proceedings	Judgments	Orders	Total
Article 173 EEC Treaty	14 (14)	1 (1)	15 (15)
	—	2 (2)	2 (2)
Total EEC Treaty	14 (14)	3 (3)	17 (17)
Article 33 ECSC Treaty	—	1 (1)	1 (1)
	1 (1)	—	1 (1)
Total ECSC Treaty	1 (1)	1 (1)	2 (2)
Staff Regulations	26 (28)	19 (20)	45 (48)
Overall total	41 (43)	23 (24)	64 (67)

Tables of cases brought in 1991

TABLE 1

Cases brought in 1991¹ — Nature of the proceedings

Direct actions	12
— For annulment of measures	11
— For failure to act	1
— For compensation	—
— Brought by officials	81
Total	93
Special proceedings	
— Taxation of costs	2
— Revision of a judgment	—
Total	2
Overall total	95
Applications for interim measures	10

TABLE 2

Cases brought in 1991¹ — Basis of proceedings

Article 173 EEC Treaty	10
Article 175 EEC Treaty	1
Total EEC Treaty	11
Article 33 ECSC Treaty	1
Total ECSC Treaty	1
Staff Regulations	83
Total	95

¹ These figures include secondary proceedings without separate case numbers (for example for taxation of costs or revision of a judgment) which do not figure in the overall statistics.

GENERAL TREND

	Year	Officials	Competition	ECSC	Total
Cases brought before the Court of First Instance (including 151 cases referred by the Court of Justice on 15.11.1989)	1989	92 (78)	75 (73)	2 (2)	169 (153)
	1990	43	10	2	55 ²
	1991	81	11	1	93
Cases pending before the Court of First Instance at 31 December (including suspended cases)	1989	91	74	3	168
	1990	65 (3)	76	4	145 (3) ³
	1991	96 (10)	70	3	169 (10) ³
Cases decided	1989 ¹	1	—	—	1
	1990	71	9	—	77 ²
	1991	48	17	2	67
Judgments delivered	1989	—	—	—	—
	1990	52	6	—	58
	1991	26	14	1	41
Number of orders for interim measures granted	1989 ¹	1	1	—	2
	1990	1	2	—	3
	1991	9	1	—	10
Number of sittings	1989 ¹	1	2	—	3
	1990	73	23	1	97
	1991	36	29	1	66
Number of cases in which an Advocate General was appointed	1989	—	1	—	1
	1990	—	14	2	16
	1991	—	2	—	2
Number of cases referred to a Chamber composed of a different number of Judges under Articles 14 and 51 of the Rules of Procedure	1989	—	1	—	1
	1990	4	—	—	4
	1991	—	2	—	2
Number of appeals brought (the figures in brackets indicate the number of decisions (judgments, orders declaring an action inadmissible, granting interim measures, and orders stating that a case is not to proceed to judgment) in respect of which the period within which an appeal could be brought expired during the year)	1989	—	—	—	—
	1990	14 (37)	2 (7)	—	16 (44)
	1991	8 (48)	4 (10)	1 (1)	13 (59)
Outcome of appeals from 1.1.1991 to 31.12.1991					
Removed from Register		—	2	—	2
Dismissed		6	—	—	6
— by order		(2)	(—)	(—)	(2)
— by judgment		(4)	(—)	(—)	(4)
Annulment		(1)	(—)	(—)	(1)
— and referral back		(1)	(—)	(—)	(1)
— and no referral back		(—)	(—)	(—)	(—)

¹ Between 15 November 1989 and 31 December 1989.

² Special proceedings excepted.

³ Net figure.

C — Statistics relating to the two Courts in 1991

Cases brought

	1990	1991
References for a preliminary ruling	141	186
Direct actions	234 ¹	152
Actions brought by Community officials	43	83
Appeals	16	14
Opinions/Deliberations	—	2
Special proceedings	9	3
Total	443 ¹	440

Cases decided²

	1990	1991
References for a preliminary ruling	133 (162)	122 (131)
Direct actions	130 (134)	157 (134)
Actions brought by Community officials	77 (82)	45 (48)
Appeals	—	11 (11)
Special proceedings	6 (6)	3 (3)
Opinions/Deliberations	—	1 (1)
Total	346 (384)	339 (355)

Cases pending²

	1990	1991
References for a preliminary ruling	197 (209)	215 (264)
Direct actions	409 (436)	405 (427)
Actions brought by Community officials	55 (63)	92 (98)
Appeals	16 (16)	19 (19)
Opinions/Deliberations	—	1 (1)
Special proceedings	4 (4)	4 (4)
Total	681 (728)	736 (813)

¹ It should be noted that the direct actions brought include 95 applications for compensation in respect of milk quotas.

² The figures in brackets (gross figure) represent the total number of cases, without taking account of cases joined on grounds of related subject-matter (one case number = one case). The net figure represents the number of cases after account has been taken of those joined on grounds of related subject-matter (one series of joined cases = one case).

D — Decisions of national courts on Community law

Synopsis 1990/91

Statistical information

The Court of Justice endeavours to obtain the fullest possible information on decisions of national courts on Community law.

The table below shows the number of national decisions, with a breakdown by Member State, delivered between 1 July 1990 and 30 June 1991 entered in the card-indexes maintained by the Library, Research 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 'Decisions concerning the Brussels Convention' contains the decisions on the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, which was signed in Brussels on 27 September 1968.

It should be emphasized that the table is only a guide as the card-indexes on which it is based are necessarily incomplete.

Table showing the number of judgments on questions of Community law delivered between 1 July 1990 and 30 June 1991, arranged by Member State

Member State	Decisions on questions of Community law other than those concerning the Brussels Convention	Decisions concerning the Brussels Convention	Total
Belgium	52	29	80
Denmark	5	2	7
France	155	17	172
Germany	208	30	238
Greece	28	1	29
Ireland	9	1	10
Italy	153	12	165
Luxembourg	7	3	10
Netherlands	187	32	219
Portugal	16	1	17
Spain	71	—	71
United Kingdom	50	21	71
Total	941	148	1 089

European Communities — Court of Justice

Annual report 1991

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