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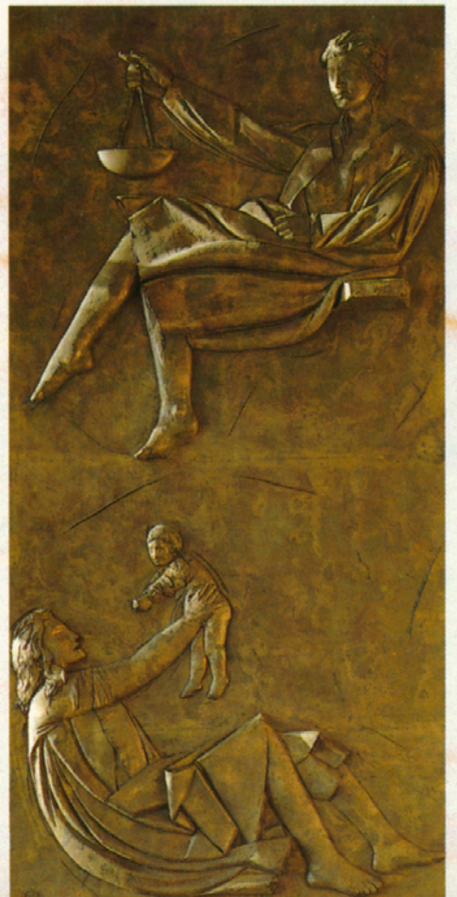

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COURT OF JUSTICE
OF THE EUROPEAN COMMUNITIES

ANNUAL REPORT

1995

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

Luxembourg 1996

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Foreword

This year, the Report of the Work of the Court of Justice of the European Communities and of the Court of First Instance appears once again in its usual form.

As has been the case with publications for previous years, the 1995 Report is intended for judges, lawyers and, in general, practitioners, 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 officially in the *Reports of Cases before the Court of Justice and the Court of First Instance* and in the *Reports of European Community Staff Cases*.

The report is published in the official languages of the European Communities. In particular, it appears for the first time in Swedish and Finnish. It is obtainable free of charge on request, specifying the language required, from the Press and Information Office of the Court of Justice.

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Foreword

by Mr G.C. Rodríguez Iglesias, President of the Court of Justice

The present Report of Activities concerns a year during which the Court of Justice has experienced considerable development.

1995 was the year in which the European Union was enlarged to include Austria, Finland and Sweden. The new accessions have necessitated important changes in the composition of the Community judicature: the Court of Justice is today composed of 15 judges and nine advocates general and the Court of First Instance now has 15 judges.

Enlargement has also made it necessary to recruit a large number of new officials, in particular as a result of the two new official languages — Swedish and Finnish — in which the Community judicature must henceforth work. Particular effort was deployed by the Court so that, as from 1 January 1995, judgments should be available in those two new official languages, as in the others, on the very day of delivery.

As has been the custom, contacts with the three new Member States were quickly established. The institution thus welcomed high-ranking personalities of the legal and political world of the new Member States of the Union and has made official visits to those States.

Also in 1995 the Court of Justice, in response to an invitation from the European Council to the Community institutions, drew up a report intended for the study group set up in order to prepare the work of the 1996 Intergovernmental Conference. In that report, [1] the Court of Justice recalled the role and the powers of the Community judicature and described the consequences of the Treaty on European Union for the rules relating to its organization and work as well as on its prerogatives. It, further, set out a number of suggestions and observations on various proposals which were put forward in that field. The Court of First

1 Reproduced at page 19.

Instance, for its part, drafted its own contribution to the Intergovernmental Conference.

It will be noted, finally, that the institution, which attaches the greatest importance to the decisions of the Community judicature being published as soon as possible after delivery, has succeeded in maintaining a satisfactory rate of publication of the Court Reports despite tight budgetary constraints.

The Court of Justice of the European Communities

A — The proceedings of the Court of Justice in 1995

by President G.C. Rodríguez Iglesias

The accession of three Member States and the recent renewal of Members of the Court — which took place in October 1994 — have not precluded the number of cases decided from being maintained at a level substantially equal to that of the preceding year. 172 judgments were delivered during the previous year, together with 19 orders terminating proceedings by judicial determination and two opinions delivered on the basis of Article 228 of the Treaty. Of the 172 judgments delivered, 110 concerned references for preliminary rulings, 52 were direct actions and 9 were appeals.

Likewise, one cannot but be glad to observe that the average length of proceedings as a whole approached that of 1994: the slight increase in references for a preliminary ruling (20.5 months instead of 18 months in 1994) was in fact compensated by a noticeable reduction in the length of proceedings in direct actions (17.8 instead of 20.8 months in 1994).

Beyond those figures, the case-law of the Court of Justice has developed significantly in important areas of Community law.

During 1995 several *inter-institutional disputes* have highlighted the European Parliament's role in the drafting and review of Community law. It should be observed in this regard that the judgments in Cases C-65/93 *Parliament* v *Council* [1995] ECR I-643 and in C-21/94 *Parliament* v *Council* [1995] ECR I-1827, in which the Court was called upon to define the limits of the European Parliament's power of consultation as well as Case C-41/95 *Council* v *Parliament* [1995] ECR I-4411, in which the act of the President of the European Parliament of 15 December 1994 declaring the final adoption of the general budget of the European Union for the financial year 1995 was annulled for failure to observe the provisions of Article 203(9) of the EC Treaty.

It is interesting to note that the last two actions were brought under the new version of the first and third paragraphs of Article 173 of the Treaty which, echoing the judgments in Cases C-70/88 *Parliament* v *Council* [1990] ECR I-2041 and 294/83 *Les Verts* v *Parliament* [1986] ECR 1339, confers, on the one hand, the right of the European Parliament to bring an action for annulment in order to safeguard its own prerogatives and, on the other, the possibility of bringing an

action for annulment against measures of the Parliament intended to have legal effects *vis-à-vis* third parties.

The scope and the limits of *the influence of the rules of Community law on national rules of procedure* were made clear by the judgments in Case C-312/93 *Peterbroeck and Others* v *Belgian State* [1995] ECR I-4599 and Joined Cases C-430/93 and C-431/93 *Van Schijndel and Others* v *Stichting Pensioenfonds voor Fysiotherapeuten* [1995] ECR I-4705. In those cases, the Court set down certain limits to the principle that, in the absence of Community rules governing a matter, it is for the Member States to lay down the detailed procedural rules governing actions for safeguarding rights which individuals derive from the direct effect of Community law. In *Peterbroeck*, it held that Community law precludes application of a domestic procedural rule whose effect, in procedural circumstances such as those in question in the present case, was to prevent the national court, seised of a matter falling within its jurisdiction, from considering of its own motion whether a measure of domestic law is compatible with a provision of Community law when the latter provision has not been invoked by the litigant within a certain period. Moreover, in *Van Schijndel*, the Court held that Community law does not require national courts to raise of their own motion an issue concerning the breach of provisions of Community law where examination of that issue would oblige them to abandon the passive role assigned to them by going beyond the ambit of the dispute defined by the parties themselves and relying on facts and circumstances other than those on which the party with an interest in application of those provisions bases his claim.

It is also important, in that connection, to mention Case C-465/93 *Atlanta Fruchthandelsgesellschaft (I)* v *Bundesamt für Ernährung und Forstwirtschaft* [1995] ECR I-3761 which set down the extent of national courts' powers to adopt, in the context of their collaboration with the Court of Justice, positive interim measures in cases where Community law is at issue. The Court ruled that a national court may order a positive measure rendering a Community regulation provisionally inapplicable where serious doubts exist as to the validity of that regulation on condition that it refers the question of validity of that act to the Court of Justice, if there is urgency, the Community interest is duly taken into account and it respects any decisions of the Court of Justice or the Court of First Instance ruling on the lawfulness of the regulation or on an application for interim measures seeking similar interim relief at Community level.

As in previous years, abundant case-law has helped to define the scope of the principle of freedom of movement within the common market while ensuring that full account is taken of the need to protect the general interest in assessing whether certain barriers to trade are compatible with Community law.

As regards *free movement of goods* the Court confirmed and explained its rule in *Keck and Mithouard*, according to which national provisions restricting or prohibiting certain selling arrangements do not constitute measures having an effect equivalent to quantitative restrictions prohibited by Article 30, provided that so long as those provisions apply to all relevant traders operating within the national territory and so long as they affect in the same manner, in law and in fact, the marketing of domestic products and of those from other Member States. To this end, reference is made to Cases C-412/93 *Leclerc-Siplec* [1995] ECR 179, C-391/92 *Commission* v *Greece* [1995] ECR I-1621 and C-63/94 *Belgapom* [1995] ECR I-2467. In those cases national legislation prohibiting any sale which yields a very low profit margin (*Belgapom*), the broadcasting of televised advertisements for the distribution sector (*Leclerc-Siplec*), or which reserves the sale of processed milk for infants exclusively to pharmacies (*Commission* v *Greece*) was regarded as concerning selling arrangements. In the last-mentioned case, the Court moreover held that the fact that the Member State concerned did not produce processed milk for infants did not affect the sale of products originating in other Member States any differently from that of domestic products since it did not protect domestic products which were similar or which were in competition with the products concerned.

As regards *freedom of movement for persons*, the judgment in Case C-415/93 *Union Royale Belge des Sociétés de Football Association and Others* v *Bosman and Others* [1995] ECR I-4921, delivered in the course of a reference for a preliminary ruling made by the Cour d'Appel, Liège, was undeniably the one which attracted the most media attention of the year. The Court found that the rules laid down by sporting associations, on the one hand, making the 'transfer' of players from clubs in one Member State to clubs in another Member State subject to the payment of a fee and, on the other, limiting of the number of players having the nationality of other Member States who may be fielded in competition matches were contrary to Article 48.

Moreover, although, at present, direct taxation does not fall within the purview of Community law, the powers of the Member States may be restricted in that field under Article 48 of the Treaty. According to the judgment in Case C-279/93 *Schumacker* [1995] ECR I-225, that provision precludes rules of a Member State under which a worker who is a national of, and resides in, another Member State and is employed in the first State is taxed more heavily than a worker who resides in the first State and performs the same work there when the national of the second State obtains his income entirely or almost exclusively from the work performed in the first State and does not receive in the second State sufficient income to be subject to taxation there in a manner enabling his personal and family circumstances to be taken into account.

As *free movement of services*, the importance should be noted of the judgment in Case C-384/93 *Alpine Investments* [1995] ECR I-1141 which concerns the prohibition, in one Member State, on the practice of making unsolicited telephone calls to potential clients resident in other Member States to offer them services linked to investment in commodities futures. The Court considered that such a prohibition constituted a restriction on freedom to provide services within the meaning of Article 59 of the Treaty but that it did not preclude such prohibition since it was intended to protect investor confidence in national financial markets.

Also worthy of note was the judgment in C-55/94 *Gebhard* [1995] ECR I-4165 in which the Court was called upon to lay down the criteria making it possible to distinguish between the concepts of establishment and provision of services. A 'rechtsanwalt' who pursued an essentially non-contentious activity in Italy and who used the title 'avvocato' in that State considered himself to come under the provisions relating to freedom to provide services. The Court held that the situation of a national of a Member State who pursues an activity on a stable and continuous basis in another Member State where he holds himself out from an established professional base to, amongst others, nationals of that State comes under the provisions relating to the right of establishment. Moreover, where the taking-up or the pursuit of those activities is subject to certain conditions in the host Member State, a Community national must in principle comply with them. However, national measures liable to hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty must fulfil four conditions: they must be applied in a non-discriminatory manner; they must be justified by imperative requirements in the general interest; they must be suitable for securing the attainment of the objective which they pursue; and they must not go beyond what is necessary in order to attain it.

1995 was also characterized by a noticeable development in disputes relating to the *free movement of capital*. Of particular note was the judgment in Joined Cases C-358/93 and C-416/93 *Bordessa and Others* [1995] ECR I-361 in which the Court ruled that rules which make the export of coins, banknotes or bearer cheques conditional upon a prior declaration or administrative authorization and which make that requirement subject to criminal penalties do not fall either within the scope of Article 30 or of Article 59 of the Treaty but under Directive 88/361/EEC on the free movement of capital. According to the Court, that directive does not preclude the export of coins, banknotes or bearer cheques being made conditional on prior authorization but do not by contrast preclude transactions of that nature being made conditional on a prior declaration. The judgment in Joined Cases C-163/94, C-165/94 and C-250/94 *Sanz de Lera and Others* 1995 ECR I-4821, on the basis of Articles 73b(1) and 73d(1)(b) of the

Treaty, extended that case-law where the currency is intended for export to a third country and not to another Member State.

Finally, in Case C-484/93 *Svensson* [1995] ECR I-3955, the Court was called upon to interpret Articles 67 and 71 with regard to a rule in a State which makes the grant of a housing benefit subject to the requirement that the loans intended to finance the construction, acquisition or improvement of the housing which is to benefit from the subsidy have been obtained from a credit institution approved in that State. According to the Court, Articles 59 and 67 preclude such a rule since it implies that the credit institution must be established there.

As regards *common commercial policy*, the Court, in the judgments in Joined Cases C-70/94 and C-83/94 *Werner and Leifer* [1995] ECR I-3189 and I-3231, was asked to rule on the compatibility, in the light of Article 113 of the Treaty, of a national rule which makes the sale of a produce which is capable of being used for both civilian and military purposes subject to the issue of a licence. The Community had adopted Regulation (EEC) No 2603/69, presupposing free trade with third countries, while allowing exceptions identical with those referred to in Article 36. The Court considered that the national rule in issue complied with Community law inasmuch as it was necessary in order to avoid the risk of a serious disturbance to its foreign relations which may affect the public security of a Member State.

As regards *equal treatment of men and women*, it should be recalled that in the judgment in C-450/93 *Kalanke* [1995] ECR I-3051 the Court was called upon to interpret Article 2(1) and (4) of Council Directive 76/207/EEC in the light of rules which provided that, where candidates for promotion are equally qualified, priority should automatically be given to women in sectors where they do not make up at least half of the staff in the relevant personnel group. It held that such rules were not compatible with the directive.

Also worthy of note in this regard are the judgments in Cases C-444/93 *Megner and Scheffel* v *Innungskrankenkasse* [1995] ECR I-4741 and C-317/93 *Nolte* v *Landesversicherungsanstalt Hannover* [1995] ECR I-4625 which concern Directive 79/7/EEC on social security statutory schemes. The Court took the view that national provisions under which 'minor employment', that is employment which consists of fewer than a certain number of hours' work a week and attracts remuneration below a certain amount, is excluded from compulsory insurance under the statutory sickness and old-age insurance schemes, and or from the obligation to contribute to the statutory unemployment insurance scheme, do not amount to discrimination on grounds of sex where it affects many more women than men, since the national legislature was reasonably entitled to consider

that the legislation in question was necessary in order to achieve a social policy aim unrelated to any discrimination on grounds of sex.

So far as concerns *consumer protection*, the Court, in the judgment in Case C-85/94 *Groupement des Producteurs, Importateurs et Agents Généraux d'Eaux Minérales Etrangères, VZW (Piageme) and Others* v *Peeters* [1995] ECR I-2955 clarified the judgment in Case C-369/89 *Piageme and Others* v *Peeters* [1991] ECR I-2971 by ruling that Directive 79/112/EEC relating to the labelling of products precludes a Member State, with regard to the use of a language easily understood by purchasers, from requiring the use of a language which is that most widely spoken in the area in which the product is offered for sale, even if the use at the same time of another language is not excluded. It moreover considered that the compulsory particulars specified in directive on labelling must appear in a language easily understood by consumers in the State or region concerned or by means of other measures such as designs, symbols or pictograms.

Finally, in Opinion 2/92 [1995] ECR I-521, the Court considered that the Third Revised Edition of the OECD on national treatment, which mainly concerns the conditions under which foreign-controlled undertakings participate in the internal economy of the Member States in which they operate, falls within the joint competence shared between the Community and the Member States.

B — Report of the Court of Justice on certain aspects of the application of the Treaty on European Union
(Luxembourg, May 1995)

Introduction

1. The European Council, meeting at Corfu on 24 and 25 June 1994, decided to set up a Study Group to prepare for the work of the 1996 Intergovernmental Conference provided for under Article N(2) of the Treaty on European Union. It invited the institutions (before the Study Group begins its work on 1 June 1995) to draw up reports on the operation of the Treaty on European Union.

2. In responding to that request, the Court of Justice must reconcile its concern to provide a useful contribution to the work of the Group with the duty of discretion incumbent upon it as a judicial institution.

Under the revision procedure laid down by the Treaties, it is essentially the Member States who have the task of drawing up and approving such amendments as are deemed necessary to meet the requirements of a Union which is, necessarily, always in a state of evolution. In that context, the Court's duty is to indicate what is needed, or indeed indispensable, to allow the judicial system of the Union to continue carrying out its task effectively. It is of the utmost importance that the Union, based on the principle of the rule of law, should possess a system of courts capable of ensuring that that rule is observed.

This report will therefore concentrate on the judicial system and will touch on other aspects only in so far as they may have implications for its operation.

After first outlining the role of the judicature within the framework of the Union, the Court's report will deal with the application of certain provisions of the Treaty on European Union, and submit observations on prospective amendments affecting or likely to have repercussions on the judicial system.

I — The role of the courts in the European Union

3. The Union, like the European Communities on which it is founded, is governed by the rule of law. Its very existence is conditional on recognition by the Member States, by the institutions and by individuals of the binding nature of its rules.

The Court of Justice, which is charged with ensuring that in the interpretation and application of the Treaties the law is observed, is responsible for monitoring the legality of acts and the uniform application of the common rules. The Treaties, the protocols annexed to certain conventions between Member States, and certain agreements concluded by the Communities with non-member States, confer various kinds of jurisdiction upon the Court. It is called on to rule on direct actions brought by the Member States, by the institutions and by individuals; to maintain close cooperation with national courts and tribunals through the preliminary ruling procedure; and to give opinions on certain agreements envisaged by the Communities. The Court thus carries out tasks which, in the legal systems of the Member States, are those of the constitutional courts, the courts of general jurisdiction or the administrative courts or tribunals, as the case may be.

In its constitutional role, the Court rules on the respective powers of the Communities and of the Member States, and on those of the Communities in relation to other forms of cooperation within the framework of the Union and, generally, determines the scope of the provisions of the Treaties whose observance it is its duty to ensure. It ensures that the delimitation of powers between the institutions is safeguarded, thereby helping to maintain the institutional balance. It examines whether fundamental rights and general principles of law have been observed by the institutions, and by the Member States when their actions fall within the scope of Community law. It rules on the relationship between Community law and national law and on the reciprocal obligations between the Member States and the Community institutions. Finally, it may be called upon to judge whether international commitments envisaged by the Communities are compatible with the Treaties.

As regards the remainder of the Court's jurisdiction, the setting up of a two-tier system for all actions brought by natural or legal persons, which are now dealt with by the Court of First Instance subject to the possibility of an appeal to the Court of Justice, has undoubtedly afforded greater protection to individuals and has enabled the latter to devote itself more fully to its essential task of ensuring the uniform interpretation of the law, under conditions which preserve the quality and efficiency of the judicial system.

4. The Court considers it indispensable, if the essential features of the Community legal order are to be maintained, that the functions and prerogatives of its judicial organs be safeguarded in the forthcoming process of revision. The success of Community law in embedding itself so thoroughly in the legal life of the Member States is due to its having been perceived, interpreted and applied by the nationals, the administrations and the courts and tribunals of all the Member

States as a uniform body of rules upon which individuals may rely in their national courts. Even before there was the idea of citizenship of the Union, the Court had inferred from the Treaties the concept of a new legal order applying to individuals and had in many cases ensured that those individuals could exercise effectively the rights conferred upon them.

Any decision affecting the structure of the judicial system must therefore ensure that the courts remain independent and their judgments binding. Were that not to be the case, the very foundations of the Community legal order would be undermined.

By virtue of Article L of the Treaty on European Union, the Court of Justice has, for all practical purposes, no jurisdiction over activities of the Union which fall within the spheres of common foreign and security policy and of cooperation in the fields of justice and home affairs. [1] In that regard, the attention of the Intergovernmental Conference should be drawn to the legal problems which may arise in the long, or even the short, term. Thus, it is obvious that judicial protection of individuals affected by the activities of the Union, especially in the context of cooperation in the fields of justice and home affairs, must be guaranteed and structured in such a way as to ensure consistent interpretation and application both of Community law and of the provisions adopted within the framework of such cooperation. Further, it may be necessary to determine the limits of the powers of the Union *vis-à-vis* the Member States, and of those of each of the institutions of the Union. Finally, proper machinery should be set up to ensure the uniform implementation of the decisions taken.

5. It is obvious that the need to ensure uniform interpretation and application of Community law and of the conventions which are inseparably bound up with the achievement of the objectives of the Treaties presupposes the existence of a single judicial body, such as the Court of Justice, which can give definitive rulings on the law for the whole of the Community. That requirement is essential in any case which is constitutional in character or which otherwise raises a question of importance for the development of the law.

1 In its order of 7 April 1995 in Case C-167/94 *Grau Gomis and Others* [1995] ECR I-1023, the Court held that it had no jurisdiction, in the context of a preliminary ruling, to interpret Article B of the Treaty on European Union.

II — The application of the Treaty on European Union

6. As far as the Court of Justice is concerned, the effect of the amendments introduced by the Treaty on European Union has to date been only limited. The reasons for that are, firstly, that the Treaty has only recently come into force and, secondly, that a certain period is bound to elapse between the introduction of procedures or the implementation of provisions, and their repercussions in terms of litigation.

7. At a formal level, the amendments required by the Treaty on European Union have been made to the EC Statute of the Court and to the Rules of Procedure both of the Court of Justice and of the Court of First Instance. The amendments to the Statute were approved by the Council, at the request of the Court, by decision of 22 December 1994. [2] The Court of Justice adopted the amendments to its Rules of Procedure on 21 February 1995, following approval by the Council. [3] The Court of First Instance adopted the amendments to its Rules of Procedure on 17 February 1995, following approval by the Council and with the agreement of the Court of Justice. [4]

8. At a practical level, as yet the first innovation to have borne fruit to any appreciable extent is the one whose implementation depended on the Court itself, namely the new version of Article 165(3). Under that provision, the Court of Justice may now assign any case to a Chamber unless a Member State or an institution which is a party to the proceedings requests that the case be heard in plenary session. Whilst cases raising fundamental issues are still heard in plenary session, the Court makes regular use of this new possibility in cases which previously had to be heard by the plenary. This has probably contributed to the shortening of the length of proceedings revealed in the most recent statistics. [5] That achievement has been made possible by the attitude of the Member States

2 OJ 1994 L 379, p. 1.

3 OJ 1995 L 44, p. 61.

4 OJ 1995 L 44, p. 64.

5 Between 1993 and 1994, the average length of proceedings for direct actions before the Court of Justice went from 22.9 months to 20.8 months; for preliminary rulings from 20.4 to 18.0 months; and for appeals from 19.2 to 21.2 months. The last figure is due in particular to the relative increase in the number of appeals in the field of competition, which are often long and complex, compared with those in Community staff cases.

and the institutions, which have confined to exceptional cases their requests that the Court sit in plenary session.

9. As regards the other Treaty amendments of direct concern to the Court, one action has been brought under the new version of Article 173(1) of the EC Treaty, for annulment of a measure adopted by the European Parliament and the Council in accordance with the procedure laid down in Article 189b of the EC Treaty. [6]

The new version of Article 173(1) of the EC Treaty, which endorses the solution provided by the Court's case-law, [7] namely that an action for annulment may lie against measures adopted by the European Parliament intended to have legal effects *vis-à-vis* third parties, has also formed the basis for a recent action brought by the Council. [8]

Similarly, the European Parliament, whose right to bring an action for annulment of an act of the Council or the Commission in order to safeguard its prerogatives had already been recognized [9] and indeed exercised on a number of occasions before the Treaty on European Union entered into force, has been able to bring three further actions for annulment [10] on the basis of the new version of Article 173(3) of the EC Treaty, which endorses the previous case-law.

The Court has not been called upon to apply the other amendments relating specifically to the judicial system of the Union. That is true, for example, of the new version of Article 171 of the EC Treaty (and of the corresponding provision of the Euratom Treaty), which enables the Commission to bring an action before the Court of Justice seeking imposition of penalties on a Member State which has failed to comply with a judgment finding that it had infringed the Treaty; similarly there have been as yet no cases concerning the European Monetary Institute or pursuant to the last subparagraph of Article K.3(2)(c) of the Treaty

6 Case C-233/94 *Germany* v *Parliament and Council*.

7 Case 294/83 *Les Verts* v *Parliament* [1986] ECR 1339.

8 Case C-41/95 *Council* v *Parliament*.

9 Case C-70/88 *Parliament* v *Council* [1990] ECR I-2041.

10 Case C-21/94 *Parliament* v *Council*, Case C-271/94 *Parliament* v *Council* and Case C-303/94 *Parliament* v *Council*.

on European Union, which allows attribution of jurisdiction to the Court of Justice in respect of the interpretation and application of conventions concluded within the framework of cooperation in the fields of justice and home affairs. [11]

As regards the new version of Article 168a of the EC Treaty (and the corresponding provisions of the ECSC and Euratom Treaties), which makes it possible to confer jurisdiction on the Court of First Instance to hear and determine certain classes of action or proceedings brought by the Member States or the institutions, with the exception of questions referred for a preliminary ruling, the Court of Justice considers that the possibility of applying that provision can only be evaluated in the light of experience gained from exercise by the Court of First Instance of the jurisdiction recently transferred to it to hear and determine actions brought by individuals. [12]

10. Some of the other amendments introduced by the Treaty on European Union have already given rise to cases currently pending before the Court of Justice.

These include the principle of subsidiarity embodied in Article 3b of the EC Treaty, [13] the new provisions relating to movement of capital in Articles 73b to 73h of that Treaty [14] and certain of the new legal bases introduced into the EC Treaty. [15]

11 The only convention of that type yet signed, the Convention on simplified extradition procedure between the Member States of the European Union, drawn up by Council Act of 10 March 1995 (OJ 1995 C 78, p. 1) does not give any jurisdiction to the Court of Justice.

12 Council Decision 93/350/Euratom, ECSC, EEC of 8 June 1993 (OJ 1993 L 144, p. 21) and Council Decision 94/149/ECSC, EC of 7 March 1994 (OJ 1994 L 66, p. 29).

13 Case C-84/94 *United Kingdom* v *Council* and Case C-233/94 *Germany* v *Parliament and Council*.

14 Case C-163/94 *Ministerio Fiscal* v *Sanz de Lera*, Case C-165/94 *Ministerio Fiscal* v *Díaz Jiménez*, C-250/94 *Ministerio Fiscal* v *Kapanoglu*, Case C-294/94 *Ministerio Fiscal* v *Quintanilha* and Case C-20/95 *Ministerio Fiscal* v *Weg*.

15 Case C-268/94 *Portugal* v *Council* and Case C-271/94 *Parliament* v *Council*.

III — Possible revision of provisions relating to the judicial system

11. The development of the Community legal order has been to a large extent the fruit of the dialogue which has built up between the national courts and the Court of Justice through the preliminary ruling procedure. It is through such cooperation that the essential characteristics of the Community legal order have been identified, in particular its primacy over the laws of the Member States, the direct effect of a whole series of provisions and the right of individuals to obtain redress when their rights are infringed by a breach of Community law for which a Member State is responsible. To limit access to the Court would have the effect of jeopardizing the uniform application and interpretation of Community law throughout the Union, and could deprive individuals of effective judicial protection and undermine the unity of the case-law.

But that is not all. The preliminary ruling system is the veritable cornerstone of the operation of the internal market, since it plays a fundamental role in ensuring that the law established by the Treaties retains its Community character with a view to guaranteeing that that law has the same effect in all circumstances in all the Member States of the European Union. Any weakening, even if only potential, of the uniform application and interpretation of Community law throughout the Union would be liable to give rise to distortions of competition and discrimination between economic operators, thus jeopardizing equality of opportunity as between those operators and consequently the proper functioning of the internal market.

One of the Court's essential tasks is to ensure just such a uniform interpretation, and it discharges that duty by answering the questions put to it by the national courts and tribunals. The possibility of referring a question to the Court of Justice must therefore remain open to all those courts and tribunals.

It is true that the effectiveness of the preliminary ruling procedure, which from a technical point of view is merely a step in the national proceedings, depends on the time it takes. If it takes too long, national courts may be discouraged from submitting questions for a preliminary ruling. The Court is aware of the need to reduce further the time taken to deal with such questions and would stress in that connection that the recent transfer to the Court of First Instance of all direct actions brought by individuals should make it possible to obtain a significant reduction in the time taken for other types of proceedings, in particular references for a preliminary ruling.

The Court is currently examining further measures to increase its productivity. It should be pointed out in that regard that for cases of great importance —

particularly constitutional or economic importance — it is hardly possible, or even desirable, to speed up the proceedings before the Court. For cases of lesser importance, however, procedural simplification may certainly be envisaged and could have beneficial effects. The measures necessary for that purpose fall within the framework of the Statute of the Court and its Rules of Procedure, or are pure matters of practice, and do not require any amendment to the Treaties.

12. In view of the considerable period of time which elapsed before its Rules of Procedure were adapted in line with the Treaty on European Union (it was not possible to adopt the necessary amendments until February 1995), the Court considers that the rule in Article 188(3) of the EC Treaty (and in the corresponding provisions of the other Treaties), which requires the unanimous approval of the Council for any amendment to those Rules, should be relaxed. Thus, the Court might be authorized to adopt its Rules of Procedure without the approval of the Council or, if the Member States felt it indispensable to retain the right to be consulted, such approval might be deemed to be given on expiry of a specified period in the absence of amendments by the Council to the Court's proposal. A similar amendment would need to be made to Article 168a(4) of the EC Treaty and to the corresponding provisions of the other Treaties concerning the Rules of Procedure of the Court of First Instance.

13. In its requests submitted to the Council following the introduction of a two-tier court system, the Court of Justice has already stressed that such a system is not appropriate for preliminary ruling procedures both because it would be likely to lead to unacceptable procedural delays and because it would raise problems as to the authority of judgments given at first instance and as to identification of the parties entitled to lodge an appeal. The Court's jurisdiction to give preliminary rulings cannot be split up on the basis of pre-established criteria relating to the subject-matter of the case or the status of the referring court, which might jeopardize the consistency of the case-law, or on the basis of a flexible system of case-by-case referrals from the Court of Justice to the Court of First Instance, which might run counter to certain conceptions of the «lawful judge» (*juge légal*).

14. The Court has been informed of certain proposals, first, for amending Article 173 of the EC Treaty and the corresponding provisions of the other Treaties to allow the European Parliament to bring actions for annulment without having to establish an interest and, second, for giving the Parliament the right to request the Court's opinion on an international agreement envisaged by the Community, in accordance with Article 228(6) of the EC Treaty. It is, of course, for the Intergovernmental Conference to decide what action is to be taken on those proposals. The Court wishes to point out that there should be no technical objection to such amendments and that, as regards the procedure for obtaining

opinions, it has already allowed the Parliament to submit observations in connection with requests made by Member States, the Council or the Commission. However, the Court doubts whether it would be appropriate to remove to the judicial arena disputes which could just as satisfactorily be settled at a political level, given the mechanisms provided for that purpose.

15. The Court has begun to reflect on the future judicial structure of the Union. The organization of the judicial system will in any event depend on political decisions as regards developing the process of union among the peoples of Europe and as regards the prospects of further enlargement.

At the present stage of development, the Court feels that the structure of the judicial system should not be altered. In particular, there seems to be no need to amend Article 168a of the EC Treaty and the corresponding provisions of the other Treaties with regard to the allocation of tasks between the Court of Justice and the Court of First Instance. A more detailed assessment cannot be made until it has become possible to evaluate the capacity of both Courts to deal satisfactorily with the volume of litigation assigned to them. In any case, the obvious need to maintain an efficient court system means that the number of courts should not be increased unless there are objective reasons for doing so, particularly since the national courts are called upon to play a central role as the courts with general jurisdiction for Community law.

However, if closer integration is achieved in certain fields, with a concomitant increase in the volume of litigation, it might be that, in the longer term, it would be desirable for the Chambers of the Court of First Instance to become specialized or perhaps for new specialized Community courts to be established. Once the principle of the two-tier system is accepted, there is a certain logic in having the vast majority of direct actions dealt with by one or more courts of first instance and in subjecting certain appeals to the Court of Justice to a filtering system. Increasing the number of courts would be unlikely to endanger the unity of the case-law provided there is still a supreme court to ensure uniformity of interpretation through appeals or preliminary rulings as the case may be.

16. With regard to the prospects of enlargement of the Union, the Court wishes to draw the attention of the Intergovernmental Conference to the problem of maintaining the link between the number of Judges and the number of Member States, even though the Treaties do not provide for any link between nationality and membership of the Court.

In that regard, two factors must be balanced.

On the one hand, any significant increase in the number of Judges might mean that the plenary session of the Court would cross the invisible boundary between a collegiate court and a deliberative assembly. Moreover, as the great majority of cases would be heard by Chambers, this increase could pose a threat to the consistency of the case-law.

On the other hand, the presence of members from all the national legal systems on the Court is undoubtedly conducive to harmonious development of Community case-law, taking into account concepts regarded as fundamental in the various Member States and thus enhancing the acceptability of the solutions arrived at. It may also be considered that the presence of a Judge from each Member State enhances the legitimacy of the Court.

Finally, it should be noted that the question of the number of Judges arises in a completely different way in the Court of First Instance, which normally sits in Chambers and whose decisions are subject to an appeal to the Court of Justice.

17. The Court does not intend to express any opinion with regard to the procedure for the appointment of its members or the term of their appointment, beyond those aspects which concern the preservation of its independence and its functional efficiency.

The Court stresses that the procedure for appointment laid down by the Treaties and the practice generally followed in renewing the terms of office of its members have satisfactorily ensured its independence and the continuity of its case-law. The Court would not, however, object to a reform which would involve an extension of the term of office with a concomitant condition that the appointment be non-renewable. Such a reform would provide an even firmer basis for the independence of its members and would strengthen the continuity of its case-law. Provided that the fixed term of appointment of each member were calculated from the time of taking office, such a solution would also have the advantage, over time, of limiting the operational inconveniences regularly suffered by the Court's activities as a result of the partial replacement rule.

However, without needing to express an opinion at this stage on the other proposals which have been put forward, the Court considers that a reform involving a hearing of each nominee by a parliamentary committee would be unacceptable. Prospective appointees would be unable adequately to answer the questions put to them without betraying the discretion incumbent upon persons whose independence must, in the words of the Treaties, be beyond doubt and without prejudging positions they might have to adopt with regard to contentious issues which they would have to decide in the exercise of their judicial function.

18. The Court would like to put forward once again the suggestion, already raised during the preparations for the Treaty on European Union, that Article 167(5) of the EC Treaty (and the corresponding provisions of the ECSC and Euratom Treaties) should be amended to allow the Advocates General as well as the Judges to take part in the election of the President of the Court from among the Judges. The basis for that proposal lies in the fact that the status of Advocate General is identical to that of Judge; without prejudice to their specific function, they are members of the Court in the same way as the Judges. As such, moreover, they have the same responsibilities with regard to administrative decisions and are concerned in the same way with the functioning of the institution. Since the President organizes the business and directs the administration of the Court, it would be perfectly logical for the Advocates General to take part in the election together with the Judges. It is evident that the President, who directs the hearings and deliberations of the Court sitting in plenary session, can be chosen only from among the Judges. The Advocates General would thus be entitled to vote but not to stand for election.

IV — Repercussions on the judicial system of certain amendments envisaged

19. The Court is aware that the Intergovernmental Conference is called upon to examine problems of a constitutional nature, such as changes in the nomenclature of acts and the introduction of a hierarchy of norms, together with the introduction into the Treaty of a catalogue of fundamental rights in keeping with the democratic nature of the Union, which renders the protection of human rights an essential element of European construction. Whilst it is not for the Court to express a view on the desirability of such reforms, it nevertheless notes that they have important aspects which will necessarily have repercussions on the system of judicial review.

20. In the first place, if a catalogue of fundamental rights were to be introduced into the text of the Treaty, the question would arise as to the mechanism for reviewing observance of those rights in legislative and administrative measures adopted in the framework of Community law.

In the exercise of its present jurisdiction, the Court already examines whether fundamental rights have been respected by the legislative and executive authorities of the Communities and by the Member States when their actions fall within the field of Community law. In doing so, it draws on the constitutional traditions common to the Member States and on the international instruments relating to the protection of human rights in which the Member States have cooperated or to which they are parties, in particular the European Convention on Human Rights.

The Court would not, therefore, be taking on a new role in reviewing respect for of such fundamental rights as might be provided for in the Treaty. It may be asked, however, whether the right to bring an action for annulment under Article 173 of the EC Treaty (and the corresponding provisions of the other Treaties), which individuals enjoy only in regard to acts of direct and individual concern to them, is sufficient to guarantee for them effective judicial protection against possible infringements of their fundamental rights arising from the legislative activity of the institutions.

21. Secondly, if the Intergovernmental Conference were to decide to revise the nomenclature of the acts of the institutions and possibly to establish a hierarchy amongst those acts, it would be essential to take account of the consequences which such changes would have for the system of remedies, in particular the right of individuals to bring actions for the annulment of such acts.

22. It would be premature to formulate any more detailed observations but, in view of the fundamental importance of those matters for the judicial protection of individuals, the Court wishes to be involved at the appropriate moment in any process of reflection.

23. Finally, in the Court's opinion, the forthcoming process of revision might provide an opportunity for codifying and streamlining the constitutive Treaties. The multiplicity of Treaties forming the constitutional basis for the law of the Union, of which one (the ECSC Treaty) expires in July 2002, the sometimes artificial compartmentalization entailed by the system of three pillars, the survival of many superseded or obsolete provisions, and a numbering system which uses both letters and figures, all run counter to the need for transparency and put citizens of the Union in an unsatisfactory position from the point of view of legal certainty.

* * * * *

24. The Court has confined itself, at the present stage, to expressing observations of a general nature concerning, essentially, the judicial sphere. The Court reserves the possibility of submitting to the Study Group its observations on the reports of the other institutions in so far as they concern the judicial system or include proposals likely to have repercussions on it. Furthermore, the Court would like to be associated in an appropriate manner with the preparatory work prior to the revision of the Treaties. In any event, the Court must be consulted should the Intergovernmental Conference intend to amend the Treaty provisions relating to the judicial system.

C — Composition of the Court of Justice

First row, from left to right:
Judge G. Hirsch, Judge D.A.O. Edward, Judge C.N. Kakouris, Mr G.C. Rodríguez Iglesias, President, First Advocate General G. Tesauro, Judge J.-P. Puissochet, Judge G.F. Mancini.

Second row, from left to right:
Judge J.L. Murray, Judge P.J.G. Kapteyn, Judge J.C. Moitinho de Almeida, Advocate General C.O. Lenz, Judge F. Schockweiler, Advocate General F.G. Jacobs, Judge C. Gulmann, Advocate General A.M. La Pergola.

Third row, from left to right:
Judge M. Wathelet, Advocate General N. Fennelly, Judge H. Ragnemalm, Advocate General M.B. Elmer, Advocate General G. Cosmas, Advocate General P. Léger, Judge P. Jann, Judge L. Sevón, Advocate General D. Ruiz-Jarabo Colomer, Mr R. Grass, Registrar.

I — Order of precedence

from 1 to 24 January 1995

G.C. RODRÍGUEZ IGLESIAS, President of the Court
R. JOLIET, President of the First and Fifth Chambers
F.A. SCHOCHWEILER, President of the Second and Sixth Chambers
F.G. JACOBS, First Advocate General
P.J.G. KAPTEYN, President of the Fourth Chamber
C. GULMANN, President of the Third Chamber
G.F. MANCINI, Judge
C.N. KAKOURIS, Judge
C.O. LENZ, Advocate General
J.C. MOITINHO DE ALMEIDA, Judge
G. TESAURO, Advocate General
J.L. MURRAY, Judge
D.A.O. EDWARD, Judge
A.M. LA PERGOLA, Judge
G. COSMAS, Advocate General
J.-P. PUISSOCHET, Judge
P. LEGER, Advocate General
G. HIRSCH, Judge
M.B. ELMER, Advocate General

R. GRASS, Registrar

from 25 January to 17 September 1995

G.C. RODRÍGUEZ IGLESIAS, President
F.A. SCHOCKWEILER, President of the Second and Sixth Chambers
F.G. JACOBS, First Advocate General
P.J.G. KAPTEYN, President of the Fourth Chamber
C. GULMANN, President of the Third and Fifth Chambers
P. JANN, President of the First Chamber
G.F. MANCINI, Judge
C.N. KAKOURIS, Judge
C.O. LENZ, Advocate General
R. JOLIET, Judge
J.C. MOITINHO DE ALMEIDA, Judge
G. TESAURO, Advocate General
J.L. MURRAY, Judge
D.A.O. EDWARD, Judge
A.M. LA PERGOLA, Advocate General
G. COSMAS, Advocate General
J.-P. PUISSOCHET, Judge
P. LEGER, Advocate General
G. HIRSCH, Judge
M.B. ELMER, Advocate General
H. RAGNEMALM, Judge
L. SEVÓN, Judge
N. FENNELLY, Advocate General
D. RUIZ-JARABO COLOMER, Advocate General

R. GRASS, Registrar

from 18 September to 6 October 1995

G.C. RODRÍGUEZ IGLESIAS, President
F.A. SCHOCKWEILER, President of the Second and Sixth Chambers
F.G. JACOBS, Advocate General
P.J.G. KAPTEYN, President of the Fourth Chamber
C. GULMANN, President of the Third and Fifth Chambers
P. JANN, President of the First Chamber
G.F. MANCINI, Judge
C.N. KAKOURIS, Judge
C.O. LENZ, Advocate General
J.C. MOITINHO DE ALMEIDA, Judge
G. TESAURO, Advocate General
J.L. MURRAY, Judge
D.A.O. EDWARD, Judge
A.M. LA PERGOLA, Advocate General
G. COSMAS, Advocate General
J.-P. PUISSOCHET, Judge
P. LEGER, Advocate General
G. HIRSCH, Judge
M.B. ELMER, Advocate General
H. RAGNEMALM, Judge
L. SEVÓN, Judge
N. FENNELLY, Advocate General
D. RUIZ-JARABO COLOMER, Advocate General
M. WATHELET, Judge

R. GRASS, Registrar

from 7 October to 31 December 1995

G.C. RODRÍGUEZ IGLESIAS, President
C.N. KAKOURIS, President of the Fourth and Sixth Chambers
G. TESAURO, First Advocate General
D.A.O. EDWARD, President of the First and Fifth Chambers
J.-P. PUISSOCHET, President of the Third Chamber
G. HIRSCH, President of the Second Chamber
G.F. MANCINI, Judge
C.O. LENZ, Advocate General
F.A. SCHOCKWEILER, Judge
J.C. MOITINHO DE ALMEIDA, Judge
F.G. JACOBS, Advocate General
P.J.G. KAPTEYN, Judge
C. GULMANN, Judge
J.L. MURRAY, Judge
A.M. LA PERGOLA, Advocate General
G. COSMAS, Advocate General
P. LEGER, Advocate General
M.B. ELMER, Advocate General
P. JANN, Judge
H. RAGNEMALM, Judge
L. SEVÓN, Judge
N. FENNELLY, Advocate General
D. RUIZ-JARABO COLOMER, Advocate General
M. WATHELET, Judge

R. GRASS, Registrar

II – Members of the Court of Justice
(in order of their entry into office)

Giuseppe Federico Mancini

Born 1927; Titular Professor of Labour Law (Urbino, Bologna, Rome) and Comparative Private Law (Bologna); Member of the Supreme Council of Magistrates (1976-1981); Advocate General at the Court of Justice since 7 October 1982; Judge at the Court of Justice since 7 October 1988.

Constantinos Kakouris

Born 1919; Lawyer (Athens); Junior Member and subsequently Member of the State Council; Senior Member of the State Council; President of the Special Court for actions against judges; Member of the Superior Special Court; General Inspector of Administrative Tribunals; Member of the Supreme Council of Magistrates; President of the Supreme Council of Magistrates of the Ministry of Foreign Affaires; Judge at the Court of Justice since 14 March 1983.

Carl Otto Lenz

Born 1930; Rechtsanwalt (lawyer); Notary; Secretary-General of the Christian Democratic Group of the European Parliament; Member of the German Bundestag; Chairman of the Legal Committee and of the Committee on European Affairs at the Bundestag; Honorary Professor of European Law at the University of Saarland (1990); Advocate General at the Court of Justice since 12 January 1984.

René Joliet

Born 1938; Ordinary Professor (1974-1984) and Special Professor (since 1984), Faculté de Droit, Université de Liège (Chair of European Community Law); Holder of the Belgian Chair at the University of London, King's College (1977); Visiting Professor at the University of Nancy (1971-1978), the Europa Institute of the University of Amsterdam (1976-1985), the Catholic University of Louvain-la-Neuve (1980-1982) and Northwestern University, Chicago (1974 and 1983); Teacher of European Competition Law at the College of Europe, Bruges (1979-1984); Judge at the Court of Justice since 10 April 1984.

Fernand Schockweiler

Born 1935; Ministry of Justice; Senior Government Attaché; Government Adviser; Senior Government Adviser at the Comité du Contentieux of the Conseil d'État; Judge at the Court of Justice since 7 October 1985.

José Carlos de Carvalho Moitinho de Almeida

Born 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.

Gil Carlos Rodríguez Iglesias

Born 1946; Assistant lecturer and subsequently Professor (Universities of Oviedo, Freiburg im Breisgau, Universidad Autónoma, Madrid, Universidad Complutense, Madrid and the University of Granada); Professor of Public International Law (Granada); Judge at the Court of Justice since 31 January 1986; President of the Court of Justice since 7 October 1994.

Francis Jacobs, QC

Born 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); Author of several works on European law; Advocate General at the Court of Justice since 7 October 1988.

Giuseppe Tesauro

Born 1942; Titular Professor of International Law and Community Law at the University of Naples; 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 Joan George Kapteyn

Born 1928; Official at the Ministry of Foreign Affairs; Professor, Law of International Organizations (Utrecht and Leiden); Member of the Raad van 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.

Claus Christian Gulmann

Born 1942; Official at the Ministry of Justice; Legal Secretary to 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; Judge at the Court of Justice since 7 October 1994.

John Loyola Murray

Born 1943; Barrister (1967) and Senior Counsel (1981): Private practice at the Bar of Ireland. Attorney General (1987); 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.

David Alexander Ogilvy Edward

Born 1934; Advocate (Scotland); Queen's Counsel (Scotland); Clerk, and subsequently Treasurer, of the Faculty of Advocates; President of the Consultative Committee of the Bars and Law Societies of the European Community; Salvesen Professor of European Institutions and Director of the Europa Institute, University of Edinburgh; Special Adviser to the House of Lords Select Committee on the European Communities; Judge at the Court of First Instance from 1 September 1989 to 9 March 1992; Judge at the Court of Justice since 10 March 1992.

Antonio Mario La Pergola

Born 1931; Professor of Constitutional Law and General and Comparative Public Law at the Universities of Padua, Bologna and Rome; Member of the High Council of the Judiciary (1976-1978); Member of the Constitutional Court and President of the Constitutional Court (1986-1987); Minister for Community Policy (1987-1989); elected to the European Parliament (1989-1994); Judge at the Court of Justice since 7 October 1994; Advocate General at the Court of Justice since 19 January 1995

Georges Cosmas

Born 1932; appointed to the Athens Bar; Junior Member of the Greek State Council in 1963; Member of the Greek State Council in 1973 and State Counsellor (1982-1994); Member of the Special Court which hears actions against judges; Member of the Special Supreme Court which, in accordance with the Greek Constitution, is competent to harmonize the case-law of the three supreme courts of the country and ensures judicial review of the validity of both legislative and European elections; Member of the High Council of the Judiciary; Member of the High Council of the Ministry of Foreign Affairs; President of the Trademark Court of Second Instance; Chairman of the Special Legislative Drafting Committee of the Ministry of Justice; Advocate General at the Court of Justice since 7 October 1994.

Jean-Pierre Puissochet

Born 1936; State Counsellor (France); Director, subsequently Director General of the Legal Service of the Council of the European Communities (1968-1973); Director-General of the Agence Nationale pour l'Emploi (1973-1975); Director of General Administration, Ministry of Industry (1977-1979); Director of Legal Affairs in the OECD (1979-1985); Director of the Institut International d'Administration Publique (1985-1987); Jurisconsult, Director of Legal Affairs in the Ministry of Foreign Affairs (1987-1994); Judge at the Court of Justice since 7 October 1994.

Philippe Léger

Born 1938; a member of the judiciary serving at the Ministry of Justice 1966-1970); Head of, and subsequently Technical Adviser at, the Private Office of the Minister for Living Standards in 1976; Technical Adviser at the Private Office of the Garde des Sceaux (1976-1978); Deputy Director of Criminal Affairs and Reprieves at the Ministry of Justice (1978-1983); Senior Member of the Court of Appeal, Paris (1983-1986); Deputy Director of the Private Office of the Garde des Sceaux, Minister for Justice (1986); President of the Regional Court at Bobigny (1986-1993); Head of the Private Office of the Ministre d'État, the Garde des Sceaux, Minister for Justice, and Advocate General at the Court of Appeal, Paris (1993-1994); Associate Professor at René Descartes University (Paris V) (1988-1993); Advocate General at the Court of Justice since 7 October 1994.

Günter Hirsch

Born 1943; Director at the Ministry of Justice of Bavaria; President of the Constitutional Court of Saxony and the Court of Appeal of Dresden (1992-1994); Honorary Professor of European Law and Medical Law at the University of Sarrebruck; Judge at the Court of Justice since 7 October 1994.

Michael Bendik Elmer

Born 1949; Official at the Ministry of Justice in Copenhagen since 1973; Head of Department at the Ministry of Justice (1982-1987 and 1988-1991); Judge at the Østre Landsret (1987-1988); Vice-President of the Sø-og Handelsretten (Maritime and Commercial Court)(1988); Minister in the Ministry of Justice responsible for Community Law and Human Rights (1991-1994); Advocate General at the Court of Justice since 7 October 1994.

Peter Jann

Born 1935; Doctor of Law of the University of Vienna; Judge; Magistrate; Referent at the Ministry of Justice and the Parliament; Member of the Constitutional Court; Judge at the Court of Justice since 19 January 1995.

Hans Ragnemalm

Born 1940; Doctor of Law and Professor of Public Law at Lund University; Professor of Public Law and Dean at the University of Stockholm; Parliamentary Ombudsman; Judge at the Supreme Administrative Court; Judge at the Court of Justice since 19 January 1995.

Leif Sevón

Born 1941; Doctor of Law (OTL) of the University of Helsinki; Director at the Ministry of Justice; Adviser at the Trade Directorate of the Ministry of Foreign Affairs; Judge at the Supreme Court; Judge at the EFTA Court; President of the EFTA Court; Judge at the Court of Justice since 19 January 1995.

Nial Fennelly

Born 1942; M.A. (Econ) from University College, Dublin; Barrister-at-Law; Senior Counsel; Chairman of the Legal Aid Board and of the Bar Council; Advocate General at the Court of Justice since 19 January 1995.

Dámaso Ruiz-Jarabo Colomer

Born 1949; Judge at the Consejo General del Poder Judicial (General Council of the Judiciary); Professor; Head of the Private Office of the President of the Consejo General del Poder Judicial; *ad hoc* Judge to the European Court of Human Rights; Advocate General at the Court of Justice since 19 January 1995.

Melchior Wathelet

Born 1949; Deputy Prime Minister, Minister for National Defence (1995); Mayor of Verviers; Deputy Prime Minister, Minister for Justice and Economic Affairs (1992-1995); Deputy Prime Minister, Minister for Justice and Small Firms and Traders (1988-1991); Member of the Chamber of Representatives (1977-1995); Degrees in Law and in Economics (University of Liège); Master of Laws (Harvard University, USA); Lecturer at the University of Liège; Professor at the Catholic University of Louvain-la-Neuve; Judge at the Court of Justice since 18 September 1995.

Roger Grass

Born 1948; Graduate of the Institut d'Études Politiques, Paris, and of Études Supérieures de Droit Public; Deputy Procureur de la République attached to the Tribunal de Grande Instance, Versailles; Principal Administrator at the Court of Justice; Secretary-General in the office of the Procureur Général attached to the Court of Appeal, Paris; Private Office of the Garde des Sceaux, Minister for Justice; Legal Secretary to the President of the Court of Justice; Registrar at the Court of Justice since 10 February 1994.

III – Changes in the composition of the Court in 1995

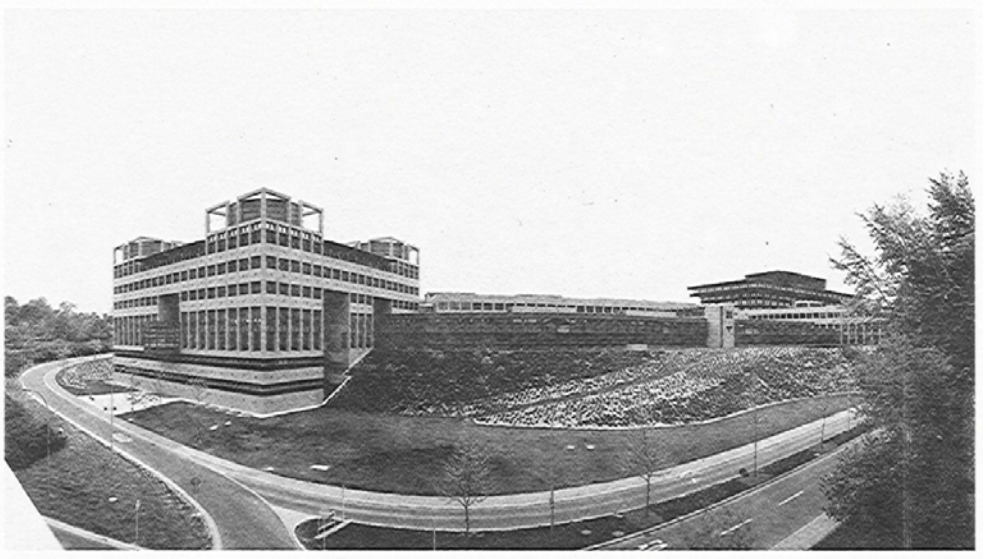
In 1995 the composition of the Court of Justice changed as follows:

As a result of the new accessions to the European Union of Austria, Finland and Sweden, the following Members entered into office on 19 January 1995: Peter Jann, Leif Sevón and Hans Ragnemalm as judges and Nial Fennelly and Dámaso Ruiz-Jarabo Colomer as Advocates General. Antonio La Pergola was appointed Advocate General.

On 18 September 1995 Melchior Wathelet entered into office as judge following the death on 15 July of Judge René Joliet.

For further details, please refer to the section under 'Formal sittings', p. 97.

The Court of First Instance of the European Communities



A — The proceedings of the Court of First Instance in 1995, by President A. Saggio

Proceedings of the Court

1. In 1995 the composition of the Court was changed on two occasions. In this regard, it should be observed, first, that the accession of the three new Member States on 1 January of that year brought to 15 the number of judges in the Court of First Instance. It should be pointed out, secondly, that the normal partial renewal on 18 September 1995 involved the departure of Mr Cruz Vilaça, its first president.

So far as concerns the flow of cases, the number of new cases lodged has only slightly dropped by comparison with the high level reached the previous year (other than milk quota cases, there were 212 cases in 1995 as against 224 in 1994; in the field of milk quotas, the number dropped from 173 in 1994 to 32 in 1995).

Among those new cases, a relatively high number were competition cases (65 as against 51 in 1994; in 1993 there were only 21). In respect of a large proportion, that trend reflects the scope of certain decisions whereby the Commission imposed fines on a large number of undertakings in a given sector. Thus, among the competition actions lodged in 1995, 42 were directed against a Commission decision concerning the cement sector, whereas in 1994 two similar series of actions concerning the woodpulp sector (22 actions) and the steel beams sector (11 actions) respectively. It is to be noted that dealing with this type of dispute requires particular efforts of coordination on the part of the Court of First Instance.

The number of staff cases is slightly below that of the previous year (79 as against 81).

265 cases (as against 442 in 1994) were decided in 1995. In this regard it should be noted that the number of cases removed from the register was much reduced (from 341 in 1994 to 94 in 1995). This is largely connected with milk quota cases (cases removed from the register in 1994: 314; in 1995: 55). As the decrease in the number of new cases brought also confirms, the trend in those disputes seems to be towards a 'hard core' which will go to judgment.

In view of those trends and in order to prevent the number of cases pending from increasing appreciably, the Court of First Instance has continued its efforts to increase its output. Thus, the net number of judgments per year, that is, after

joinder, has risen from 60 in 1994 to 98 in 1995 (in gross figures, those become 70 (1994) and 128 (1995)). That particularly substantial increment in productivity concerns, in particular, competition cases. In that field, 33 cases were decided in 1995, of which 30 by way of judgment (in gross figures they amount to 48 and 45 respectively). In 1994 the number of cases was 16 and 14 respectively (or, in gross figures, 17 and 15). The number of cases pending at the end of year was slightly lower by comparison with the situation prevailing at the end of the preceding year, both in gross and in net terms (628 end 1994, 616 end 1995 gross and 433 end 1994, 427 end 1995).

The number of interlocutory orders made in 1995 (19) was smaller than the corresponding figure for the preceding year (35) but falls within the general constant upward trend (thus, 7 orders were made in 1992 and 12 in 1993).

Finally, although the number of appeals brought before the Court of Justice against decisions of the Court of First Instance have substantially increased (48 as against 13 in 1994), that trend may be explained, essentially, by the growing number of decisions for which the relevant time-limit expired during the year (131 in 1995 as against 94 in 1994) and by the fact that, among those decisions, a large number (20 as against 7 in 1994) fall within fields in which jurisdiction was transferred to the Court of First Instance only in 1993 and 1994 (see the Report for those two years).

2. Following the abovementioned renewal on 18 September 1995 and in order to consolidate the progress achieved in productivity, the Court of First Instance set up five chambers (the former Rules of Procedure provided for four) each of which is composed of three judges (restricted composition) or five judges (enlarged composition). The decision restricting, in principle, the jurisdiction of the Chambers of five judges to disputes concerning specific matters under the EC Treaty (competition, control of concentrations, State aid and trade protection measures) and to the ECSC and Euratom Treaties was extended. None the less, since it was foreseeable that there would be an increase in the number of new cases in the near future, in view of the trend of the case-law since the creation of the Court of First Instance and of the new jurisdiction of that Court in the sphere of intellectual property (see in particular Council Regulation No 40/94 of 20 December 1993 on the Community trade mark and Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights), the Court of First Instance drew the attention of the Intergovernmental Conference to the need to make greater reforms to enable it to deal with that trend (see page ... et seq. of this volume).

3. So far as concerns more in particular disputes in the field of intellectual property rights, it should be noted that the Commission adopted on 13 December 1995 a number of provisions to enable the Office for Harmonization in the Internal Market to begin to fulfil its task, in particular Commission Regulation (EC) No 2886/95 of 13 December 1995 implementing the abovementioned regulation on the Community trade mark. The necessary amendments to the Protocol on the Statute of the Court of Justice and to the Rules of Procedure of the Court of First Instance entered into force on 6 June and 1 September 1995 respectively.

Trends in the case-law

In the fields of *competition* and of *control of concentrations*, it should first of all, be pointed out that a number of cases enabled the Court of First Instance to specify the conditions governing access to it. Thus, in Case T-114/92 *Bemim* v *Commission* [1995] ECR II-147, which concerned a dispute between discotheque operators and a society which manages copyright in musical works, the Court gave judgment on whether an association of undertakings had an interest in bringing proceedings against decision of the Commission rejecting an application which it had submitted under Article 3(2)(b) of Regulation No 17. According to the Court, such a right must be acknowledged, even if the association does not itself operate in the relevant market and it is therefore not directly concerned by the conduct complained of, provided it has an interest in lodging a complaint. In the present case, that condition was met since the applicant was entitled to represent the interests of its members and the conduct complained of is liable adversely to affect the interests of its members. Once the action was held to be admissible, the Court annulled in part the contested decisions, considering that no reason had been provided for rejecting one of the allegations made in the complaint. As to the remainder, the Court found that the Commission, after having adopted measures of inquiry, could lawfully reject the complaint on the ground of lack of a sufficient Community interest, since proceedings in respect of those infringements have been brought before the courts and competent administrative authorities of the Member State concerned (to whose territory the effects of the infringements alleged in a complaint are essentially confined). (idem, the judgment in Case T-5/93 *Tremblay* v *Commission* [1995] ECR II-185, which is currently the subject of an appeal before the Court of Justice).

In the field of control of concentrations, the Court of First Instance resolved a matter of admissibility as part of a larger issue, that of protection of the interests of workers and their organizations following a merger. In Case T-96/92 *CCE de la Société Grandes Sources and Others* v *Commission* [1995] ECR II-1213,

several institutions representing the workforce of a company, whose shares were the subject of a takeover bid, and a trade union operating within that company challenged the Commission's decision declaring that, subject to full compliance with certain conditions and obligations, the concentration was compatible with the common market. Following an analysis of the admissibility of the action, the Court found that the applicants were individually concerned by the contested decision since, first, their status as representatives of the workers of the undertakings concerned was recognized under national law and, secondly, Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings confers on such representatives a legitimate interest to be heard during the investigative procedure for which it provides. However, since the takeover at issue affected neither the own rights of those representatives nor those of the workforce, since the latter were covered by Community law in matters of transfers of undertakings, only a breach of the procedural rights of the employees' representatives could be of individual concern to them. Considering, in the light of this, the substance of the action, the Court found that the Commission had not committed any breach of that type. Accordingly, it dismissed the action (idem the judgment in Case T-12/93 *CCE de Vittel and Others* v *Commission* [1995] ECR II-1247 concerning an action brought by representative institutions and a trade union operating within a company which was required to transfer one of its operations to a third party by virtue of the contested decision).

In two of the 'soda-ash' cases (Case T-30/91 *Solvay* v *Commission* [1995] ECR II-1775 and Case T-36/91 *ICI* v *Commission* [1995] ECR II-1847), the Court made clear the scope of an undertaking's rights of defence during administrative procedures. The contested decision alleged that Solvay and ICI infringed Article 85 of the Treaty by reserving certain parts of the western European soda-ash market for each of themselves. The Commission adopted on the same day two other decisions finding that, contrary to Article 86 of the Treaty, the two undertakings had abused the dominant position they each held in one or other of those areas. The Court found that the Commission had breached the applicants' rights of defence in two respects. First, it refused to grant to each the two undertakings access to certain documents used against the other undertaking under Article 86. In this regard, after analysing the facts put forward by the Commission in its Statement of Objections, and the defence relating thereto, the Court pointed out that the documents which had not been communicated were of such a kind as to support the defence of each of the applicants inasmuch as they could help to explain the parallel passive conduct found otherwise than by concertation. The Court made it clear that it was not a question of ruling definitively on that conduct but of ascertaining whether the applicants' rights of defence were impaired. It pointed out that, under the adversarial procedure provided for by Regulation No 17 and if the general principle of equality of arms

is not to be disregarded, it cannot be for the Commission alone to decide which documents are of use for the defence of undertakings. That is particularly true where parallel conduct is concerned, which is characterized by a set of actions that are prima facie neutral, where documents may just as easily be interpreted in a way favourable to the undertakings concerned as in an unfavourable way. Such an infringement of the rights of defence cannot be regularized during legal proceedings. Secondly, the Commission failed to communicate certain documents from the other party to the criticized agreement, decision or concerted practice. The court pointed out that decision to be taken as to the existence of an agreement, decision or concerted practice between two undertakings could not differentiate between the alleged parties to it. It should also be pointed out that the other decisions in the field of soda-ash, adopted by the Commission on the same date as the abovementioned decision, namely, the decisions finding that the two undertakings infringed Article 86 of the Treaty, were annulled for lack of proper authentification (Joined Cases T-31/91 and T-32/91 *Solvay* v *Commission* [1995] ECR II-1821 and 1825; Case T-37/91 *ICI* v *Commission* [1995] ECR II-1901; the judgments given in those three case are at present the subject of an appeal before the Court of Justice).

Remaining on the subject of rights of defence, in a number of cases referred to as the 'steel mesh' cases (Case T-148/89 *Tréfilunion* v *Commission* [1995] ECR II-1063; Case T-151/89 *Société des Treillis et Panneaux Soudés* v *Commission* [1995] ECR II-1191), the Court ruled that the annexes to the statement of objections which do not emanate from the Commission must be regarded as supporting documentation on which the Commission relies and must therefore be brought to the attention of the addressee as they are, so that the addressee can apprise himself of the interpretation of them which the Commission has adopted. In the same judgments, the Court defined the requirements which must be met by the statement of reasons for a decision to impose a fine. It considered that, although the Commission was not required to indicate at the administrative procedure stage the criteria according to which it envisages imposing any fine, it is none the less desirable for undertakings — in order to be able to define their position in full knowledge of the facts — to be able to determine in detail, in accordance with any system which the Commission might consider appropriate, the method of calculation of the fine imposed upon them, without being obliged, in order to do so, to bring court proceedings. The Commission may, however, choose a means of communication which enables it to respect any business secrets which may cover some of the data in question.

Furthermore, the Court was able to clarify the duties of the Commission where a complaint under Article 3 of Regulation No 17 is brought before it. Thus, in Case T-74/92 *Ladbroke Racing Deutschland* v *Commission* [1995] ECR II-115,

it held that the Commission cannot be regarded as having failed to act for the purposes of Article 175 of the Treaty if it has not been possible for it to respond appropriately to that complaint (by addressing a communication to the complainant in accordance with Article 6 of Regulation No 99/63 or, following this, by rejecting the complaint definitively). At the same time, it pointed out that where the complainant has brought the matter before the Commission under both Article 85 and Article 86 of the Treaty and where the Commission intends to pursue the investigation solely on the basis of Article 85, it was bound, if it decided that an investigation of the complaint on the basis of Article 86 was either unwarranted or unnecessary, to inform the applicant of that decision, explaining the reasons for it, in order to enable its legality to be the subject of judicial review. The mere adoption of a position on the complaint concerning Article 85 cannot be sufficient in that regard.

In another case (Case T-186/94 *Guérin Automobiles* v *Commission* [1995] ECR II-1753), the Court confirmed that the right of an applicant to obtain a decision of the Commission extends to the stage following any notification whereby the Commission informs it that it does not intend to grant the application (Article 6 of Regulation (EEC) No 99/63). If the applicant submits within a stipulated time further comments in reply to that notification, he is entitled to obtain a definitive decision from the Commission on its complaint. That decision may be challenged in an action for annulment before the Court of First Instance. An appeal against that judgment is at present pending before the Court of Justice.

Finally, so far as concerns the diligence required when investigating a complaint, the Court held that, where the Commission itself has admitted that the competition issue raised by the complaint can only be resolved by examining the compatibility of the national legislation with the Treaty rules and by taking action, if appropriate, under Article 90 of the Treaty, it may not reject the complaint without first having resolved those preliminary points (judgment in Case T-548/93 *Ladbroke Racing* v *Commission* [1995] ECR II-2565; an appeal against that judgment is pending before the Court of Justice).

So far as concerns the interpretation of substantive rules on competition, attention should be drawn, first, to Case T-102/92 *Viho* v *Commission* ECR II-17. According to that judgment Article 85 of the Treaty does not apply to relations between a subsidiary and its parent company which fully owns it and with which, by the same token, it forms a single economic unit, irrespective of whether the agreements at issue are solely intended to carry out an internal allocation of tasks within the group. That principle is also valid even with regard to a distribution policy which may contribute to preserving and partitioning the various national markets inasmuch as it consists in the parent company prohibiting its subsidiaries

from supplying its products to customers established in Member States other than that of the subsidiary. An appeal against that judgment is pending before the Court of Justice.

Cases T-7/93 *Langnese-Iglo* v *Commission* [1995] ECR II-1533 and T-9/93 *Schöller* v *Commission* [1995] ECR II-1611, in which actions were brought before the Court against two Commission decisions on exclusive purchase agreements concluded by the applicants with their ice-cream distributors in Germany, should also be noted. The Commission found that those agreements infringed Article 85(1) of the Treaty and it withdrew the benefit of the application of a block exemption (Commission Regulation (EEC) No 1984/83 on the application of Article 85(3) of the Treaty to categories of exclusive purchasing agreements). It further prohibited the applicants from concluding agreements of the same type during a period of approximately five years. As regards the application of Article 85(1) of the Treaty, the Court confirmed the Commission's analysis that, taking into account all the similar agreements entered into in the relevant market and the other features of the economic and legal context of those agreements, the agreements at issue were liable appreciably to affect competition. It pointed out the need for such an analysis since the mere fact that the ceilings laid down in the Commission Notice on Agreements of Minor Importance are exceeded is not sufficient to conclude that competition would be thus affected. Confirming also the withdrawal of the application of a block exemption for certain categories, the Court held, in particular, that exclusive purchase contracts may not benefit from such exemption if they are subject to tacit renewal which may endure beyond five years. Such contracts must be regarded as having been concluded for an indefinite duration. With regard to a plea claiming that the Commission should have adhered to its assessment of the case as set out in a comfort letter sent to one of the applicants (namely that the contracts at issue were compatible with the rule on competition of the Treaty), the Court found that the lawfulness of the contested decisions were not affected by such a letter. First, it constitutes neither a decision granting negative clearance nor a decision applying Article 85(3) of the Treaty. Secondly, in this case, it appeared that the letter was the result of only a provisional analysis by the Commission, based essentially on the information provided by one of the applicants, and that the situation had changed appreciably since it had been issued. Although the Court then confirmed the contested decision so far as concerns the application of Article 85(1) of the Treaty and the withdrawal of a block exemption by category, it none the less annulled the prohibition of concluding, for a fixed period, exclusive purchase agreements like the disputed agreements. There is no legal basis which enables such a prohibition to be imposed either in Article 85(1) of the Treaty or in Article 3 of Regulation No 17 or in Regulation No 1984/83. An appeal is currently pending against the judgment in Case T-7/93.

In the field of *State aid*, in three judgments delivered on 27 April 1995 in Cases T-435/93 *ASPEC and Others* v *Commission* [1995] II-1281; T-442/93 *AAC and Others* v *Commission* [1995] II-1329; T-443/93 *Casillo Grani* v *Commission* [1995] II-1375, the Court held admissible the action of the applicant undertakings against a decision terminating a procedure initiated under Article 93(2) of the EC Treaty, even though those undertakings had not taken part in that procedure. According to the Court, the applicants were individually concerned by the contested decision on account of the limited number of undertakings present in the market concerned and the fact that investments benefiting from the aid would involve a considerable increase in production capacity which was already in surplus. As regards the substance, the Court ruled that the contested decision could be adopted only collegially and not, as it was, by means of the habilitation of one Commissioner. Although it concerned a single aid forming part of a general scheme approved by the Commission, examination of the conditions governing that scheme raised complex factual and legal questions.

In the judgment in Joined Cases T-447/93, T-448/93 and T-449/93 *AITEC and Others* v *Commission* [1995] ECR II-1971, the Court, in view of the circumstances of the case, allowed the action of an association of undertakings of the sector concerned directed against a decision finding aid compatible with the common market. Such an association must be considered to be individually concerned by that type of decision if it has protected, within the framework of the procedure laid down by Article 93(2) of the Treaty and in accordance with the powers conferred on it by its statutes, the interests of some of its members to whom the decision is of direct and individual concern and who could thus have themselves brought an admissible action. The contested decision was annulled on the grounds that it lacked a proper statement of reasons and that the Commission had failed to observe that the aid came within the scope of the reservation on the approval applicable to certain special cases contained in the decision whereby the Commission had authorized the relevant general aid scheme.

In Case T-95/94 *Sytraval* v *Commission* [1995] ECR II-2651, the Court annulled, on the ground of breach of the obligation to provide a statement of reasons, the decision whereby the Commission, without opening the procedure provided for by Article 93(2) of the EC Treaty, had rejected a complaint on the ground that the State measures complained of did not constitute aid within the meaning of that Treaty. The Court found that the reasons indicated did not bear out the defendant's conclusion. According to the Court, the reasons for such a decision must be based on the principle that the judicial review which such a statement of reasons must allow is not a review of the question whether there has been a manifest error of assessment (such as that on the findings of the Commission as to the compatibility of the aid measure with the common market) but a review of

the interpretation and application of the concept of State aid. Following its finding that the statement of reasons for the contested decision did not furnish appropriate replies to several of the complaints raised by the complainants, the Court stated that, in order to justify the inadequacy of the reasons for its decision, it is not open to the Commission to rely on the alleged flimsiness of the evidence put forward by the complainants in support of their complaint. In general, complainants, who have no means of coercion at their disposal, are faced with an obstructive attitude on the part of the authorities which are themselves the subject of the complaints for which the complainants seek evidence. The Commission, on the other hand, has at its disposal more effective and appropriate means of gathering the necessary information. Moreover, the Commission's obligation to state reasons for its decisions may in certain circumstances require an exchange of views and arguments with the complainant, since, in order to justify its assessment of the nature of a measure characterized by the complainant as State aid, the Commission needs to ascertain what view the complainant takes of the information gathered by it in the course of its inquiry. An appeal is currently pending before the Court of Justice.

In the decisions which form the subject matter of the judgment in Joined Cases T-244/93 and T-486/93 *TWD Textilwerke Deggendorf* v *Commission*, the Commission, in approving the disputed drafts, had none the less stipulated that the Member State concerned should suspend payment of the aid until the beneficiary undertaking had not repaid other aid declared incompatible with the common market in an earlier decision which has become final. The Court interpreted the two contested decisions as meaning that the Commission, considering that the cumulative effect of the old and the new aid to be to alter trading conditions in a significant way, had come to the conclusion that they were incompatible with the common market as long as the old aid had not been repaid. In those circumstances, the Court held that the Commission, which has power to decide that an aid must be altered, was also empowered to insert the abovementioned clause in the contested decisions by way of a condition ensuring that authorized aid does not alter trading conditions in a way contrary to the general interest (Article 92(3)(c) of the EC Treaty). The Court further pointed out that that purpose differs from that of infringement proceedings which, in the present case, would have been to find that there had been an infringement of the Treaty arising from the failure to observe the earlier decision. It concluded therefrom that the Commission did not follow procedures not provided for by the Treaty and that the infringement proceedings were not the only remedies available to the Commission. An appeal is currently pending before the Court of Justice.

In the field of *antidumping*, worthy of note is the judgment in Joined Cases T-163/94 and T-165/94 *Koyo Seiko* v *Council* [1995] ECR II-1381, in which the

Court annulled a Council Regulation on account of a number of serious errors of fact. According to the Court, it is not inconceivable that, had there been no errors, the Council would still have concluded that there was a threat of injury to the Community industry because of dumped imports. While acknowledging that the Community authorities enjoy a wide discretion in the matter, the Court pointed out that certain disputed findings showed tendencies contrary to the actual trend of the market, that others were misleading or inaccurate and that, because of an error in law, the Council had taken into consideration irrelevant information when assessing the injury. The Court also allowed the plea alleging that the normal period had expired for completing the investigation, thus rejecting the justifications which had been put forward in that respect. That judgment is currently under appeal.

In the field relating to *Community staff law*, of particular note is, first, the judgment in Case T-12/94 *Daffix* v *Commission* [1995] ECR-SC II-233, in which the Court of First Instance, before which an action had been brought against a decision to remove an official from his post and after having raised of its own motion a plea in law alleging that the statement of reasons is inadequate, laid down the requirements which decisions on matters of disciplinary proceedings must meet. According to the Court, they must indicate, first, the conduct with which the official is charged and, secondly, the considerations which led the appointing authority to impose the disciplinary measure on the official including, where appropriate, the reasons for which it adopted a more severe penalty than the one proposed by the Disciplinary Board. Since the contested decision does not meet either of the two requirements, the Court considered that it was not able to carry out a proper review. In view of the seriousness of the disciplinary measure imposed and of the fact that it did not correspond to that suggested by the Disciplinary Board, the inadequacy of the statement of reasons could not be regularized by means of the explanations given in the course of the oral proceedings. That judgment is currently the subject of an appeal.

In the judgment in Joined Cases T-39/93 and T-553/93 *Baltsavias* v *Commission* ECR-SC II-695, the Court granted an application against the refusal by the appointing authority to place in the official's personal file (Article 26 of the Staff Regulations) documents which had been filed in a parallel file and which included among others negative assessments of his conduct, of the way in which he carried out his duties and on other aspects of his work in the defendant institution. The Court, stressing the significance of the personal file for the official's rights of defence, considered that the existence of such a parallel file is incompatible with Article 26. In the Court's view, neither the destruction of the alleged documents, carried out contrary to that provision, nor the applicant's exoneration called in question the applicant's interest to seek the annulment of the contested refusal in

that they could not efface by the breach found beforehand. At the applicant's request, the Court granted him compensation for the non-material damage which he might suffer in the future as a result of the existence of a parallel file and which cannot be obliterated by the annulment of the contested refusal.

In the judgment in Case T-176/94 *K* v *Commission* [1995] ECR-SC II-621, the Court gave a judgment on the protection of the confidentiality of private life in the context of the common sickness insurance scheme. In order to obtain reimbursement of certain expenditure at the rate of 100%, the applicant had submitted a claim, together with a postscript in which he complained that, in order to make his claim, he had been forced to give details of his state of health in a document which, according to the applicant, would be widely distributed within the defendant institution. Notwithstanding the attached postscript, the claim was distributed without restriction or reservation to various departments in that institution. Accordingly, he submitted a request to the defendant seeking, first, a public acknowledgement of the wrongful act it had allegedly committed in divulging his health problems and, second the payment of one ecu by way of symbolic compensation. In support of the action brought against the rejection of that request, the applicant relied, in particular, on Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (EHRC) which enshrines the right of everyone to respect for his private life. The Court found that this is one of the fundamental rights protected by the legal order of the Community and which includes in particular a person's right to keep his state of health secret. However, without ruling on the question whether the transmission of the information at issue to certain of the defendant's departments constituted interference in the applicant's private life, the Court found that, in any event, it was justified since the conditions laid down in Article 8(2) of the EHRC had been fulfilled. First, the provisions relating to the common sickness insurance scheme and to the handling of claims constitute a legal basis which justifies the alleged interference. Second, it pursues the objective of 'economic well-being' in so far as it is necessary in order to verify whether claims are well founded, on which the survival of the insurance scheme in question depends, and the objective of 'protection of health'. Third, the alleged interference was not disproportionate in relation to the objective pursued inasmuch as, first, only persons responsible for examining the claim received a copy of it and, secondly, those persons were bound by the obligation of professional secrecy under Article 214 of the EC Treaty. The Court further considered that, since the applicant did not ask that this claim be dealt with anonymously, he cannot complain that the administration did not deal with it thus.

In an order in Case T-203/95 *Connolly* v *Commission* [1995] ECR-SC II-847, the President of the Court of First Instance ruled on an application for interim

measures brought in relation to an action for damages in order to prevent the defendant from disclosing information concerning the disciplinary proceedings commenced against the applicant and information on his career, personality, views and health. In the disciplinary proceedings the applicant was accused of having published without prior authorization a book on the Union's monetary policy. So far as concerns the admissibility of the application, the Court found, first, that the possible absence of a prior request for compensation (Article 90 of the Staff Regulations) could not deprive the applicant of the possibility of obtaining urgent measures on the ground of urgency. It held, secondly, that, since it merely requires the defendant to comply with certain rules of law which it must observe, the measure requested falls within the jurisdiction of the Court which, moreover, may simply issue a reminder to observe the existing provisions where it appears capable of ensuring the provisional protection of the applicant's rights. As to the substance, the President considered that the disclosure to the press of information concerning the initiation of disciplinary proceedings and the decision to suspend the applicant from his duties do not cause him any damage since such information concerns an obvious and known difference of view between the applicant and the defendant. Furthermore, to mention the hypothetical possibility of removal from post is merely a reiteration of one of the disciplinary measures provided for under the applicable provisions. Finally, such statements cannot affect the regularity of the disciplinary proceedings either at the level of the Disciplinary Board which is aware of the administration's position, or at the level of the administration itself, which may adopt any disciplinary measure after an inter partes procedure. None the less, the absence of measures to prevent statements from being reported in the press capable of tarnishing the honour and professional reputation of the applicant (concerning his health, his personality, his professional qualifications and his health) and which were attributed in particular to Commission officials was deemed to constitute a breach of the duty to have due regard to the interests of officials and of the principle of sound administration. Since there was a risk that further statements of that kind might cause serious and irreparable harm to the applicant, the President of the Court of First Instance found that the situation was urgent and reminded the defendant to take all necessary measures to ensure that no information on the matter was disclosed by its staff.

Among the judgments delivered in consequence of *actions brought by individuals against measures of general application*, special mention should be made, first, of that in Joined Cases T-480/93 and T-483/93 *Antillean Rice Mills and Others* v *Commission* [1995] ECR II-2305. The applicant companies, two of which in particular export processed rice from the Netherlands Antilles to the Community, challenged a Community decision adopting a safeguard measure for rice originating in that territory. The Court found that, although the contested decision applied to the traders concerned in general, was legislative in nature, it

was of individual concern to the two applicants within the meaning of the fourth paragraph Article 173 of the EC Treaty. Since the provisions which formed the legal basis of the contested decision were to be interpreted as meaning that the Commission was obliged to take into account the consequences of the measure which it intended to adopted upon the situation of certain individuals (see Article 109(2) of Council Decision of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community). The Court took the view that the two applicants form part of that circle since, when the contested decision was adopted, they had shipments of rice in transit to the Community, a fact of which the Commission was aware. As regards the substance, the Court found that the measures contained in the contested decision infringed Article 109(2), cited above, since they exceeded the limit of what was strictly necessary to remedy the difficulties in respect of Community rice to which the importation of Antillean rice had given rise. It should be observed that the claims for damages brought jointly with the action for annulment were rejected on the ground, in particular, that the applicants had not proven that the error committed by the Commission constituted a serious breach of a superior rule of law for the protection of the individual. The Court found that such proof was necessary before the Community could incur liability, since the safeguard measures provided for in Article 109 are legislative measures and their adoption involves a choice of economic policy. Characterisation of such measures as legislative measures for the purposes of the claim for damages is not called in question by the fact that, in the context of actions for annulment, the applicants were considered to be individually concerned by the measure at issue and that such consideration implied that that measure constitutes a decision in concerning them.

On the other hand, by its order in Case T-585/93 *Greenpeace* v *Commission* [1995] ECR II-2205, the Court gave a decision on the admissibility of an action for annulment brought by a number of individuals and associations directed against a decision of the Commission to pay, in the context of the European Regional Development Fund (ERDF), additional amounts to finance two power stations on Gran Canaria and Tenerife. In order to establish that they had locus standi, the applicant individuals argued that the preceding case-law, according to which, in order to establish locus standi an applicant must show that he is affected in the same way as the addressee of a decision should not be applied. That case-law concerned almost exclusively cases involving economic interests, whereas their interests affected by the contested decision were linked to the protection of the environment and the preservation of health. Since they had suffered or potentially would suffer detriment or loss from the harmful environmental effects arising out of unlawful conduct on the part of the Community institutions, they had locus standi. The Court rejected that argument. The essential criterion set

down by the case-law, namely, in substance, the existence of a combination of circumstances sufficient for the third-party applicant to be able to claim that he is affected by the contested decision in a manner which differentiates him from all other persons, remains applicable whatever the nature, economic or otherwise, of the interests affected, remained applicable. Applying that principle to the case before it, the Court found that the applicant individuals were affected by the contested decision only to the same extent as any other individual (local resident, fisherman, farmer or tourist) currently or potentially in similar circumstances. Since the rules relating to the ERDF did not comprise any specific procedures whereby individuals may be associated with the adoption, and implementation of decisions to be taken, the mere fact that certain applicants had lodged a complaint with the Commission and proceeded to exchange correspondence with it did not suffice, according to the Court, for them to be considered to be individually concerned by the contested decision. As regards the applicant associations, the Court found that the possible effect on their members cannot be any different from that alleged by the applicants who are private individuals and cannot therefore suffice to determine the existence of locus standi of those associations any more than the approaches made to the Commission by one of the applicant associations. That order is currently the subject of an appeal.

With regard to *non-contractual liability* (see also the judgment in *Antillean Rice Mills*, cited above), the judgment in Case T-572/93 *Odigitria* v *Council and Commission* [1995] ECR II-2025, is concerned with the activities of the institutions in the field of fishery relations with third countries. This case arose out of a dispute between two non-member States over the exact demarcation of their respective marine areas. Each had concluded a fishery agreement with the Community. Armed with a fishing licence issued by one of the two countries, a vessel belonging to the applicant Community shipowner undertook fishing operations in the disputed marine area. The authorities of the other country boarded the vessel and seized and confiscated its cargo. Charged with having fished in waters under the sovereignty of that State without holding the necessary licence, the master was ordered to pay a fine. The vessel was not released for several weeks after the seizure. In his action for damages, the applicant complained that the defendant institutions had, in particular both concluded fishing agreements without taking account of the dispute between the two non-member States concerned. According to the applicant, if they were not to act in breach of the principle that due care must be exercised and good administration, the Council and the Commission were at least bound to exclude from such agreements in question the area in dispute until the International Court of Justice gave final judgment on the dispute. The Court rejected that argument. The defendant institutions could not have asked for the zone in dispute to be excluded from those agreements, considered to be in the Community interest, without risking

compromising the conclusion the conclusion of those same agreements, since such a request would certainly have been interpreted as interference in the dispute between the two non-member states. The Court also rejected the applicant's complaint that the principle of legitimate expectations was breached. It considered that the uncertainty for operators fishing in the disputed waters was not attributable to the agreements which the Community concluded but to a dispute for which the Community is not responsible. In such circumstances, no fault can be found with the defendant institutions for not having given up the benefits which conclusion of the fishing agreements in question could bring to the Community, especially since Community fishermen were in a position to avoid the damaging consequences of the situation of uncertainty thus created. An appeal is currently pending before the Court.

Finally, a noteworthy judgment was delivered in Case T-194/94 *Guardian Newspapers* v *Council* [1995] II-2765 which enabled the Court to give a ruling on the interpretation of decision Council Decision 93/731/EC on public access to Council documents. In reply to a request from the first applicant, made in his capacity as editor of the second applicant and seeking access to a number of documents relating to the Council's work, the defendant stated that they referred to the deliberations of the Council and could not, therefore, be disclosed. The Court found that, under Article 4(2) of Decision 93/731/EC, when the Council intended to refuse access to certain documents in order to protect the confidentiality of its deliberations, it must balance the interest of citizens in gaining access to its documents against any interest of its own in maintaining such confidentiality. In the present case, no such balance was undertaken since the Council based its refusal solely on the aspect of the confidentiality of its deliberations. Accordingly, the Court annulled the refusal.

B — Contribution of the Court of First Instance for the purposes of the 1996 Intergovernmental Conference

(Luxembourg, 17 May 1995)

I — Development of the Community courts

Since it was set up in 1989, the role and jurisdiction of the Court of First Instance have been progressively extended. Under Council Decisions 93/350 of 8 June 1993 [1] and 94/149 of 7 March 1994, [2] it has acquired general jurisdiction to hear and determine at first instance all direct actions brought by natural and legal persons; in addition, it has received jurisdiction in completely new areas under Regulation No 4064/89 on the control of concentrations between undertakings, [3] under Regulation No 40/94 on the Community trade mark [4] and under Regulation No 2100/94 on Community plant variety rights. [5] The Treaty on European Union has paved the way for an acceleration of that process with the amended version of Article 168a, which makes it possible to give jurisdiction to the Court of First Instance to hear and determine all actions, whether brought by natural or legal persons or by institutions or Member States, with the exception of questions referred for a preliminary ruling under Article 177. Finally, jurisdiction to hear and determine actions brought by natural and legal persons relating to the European Central Bank, and disputes involving its staff, has already been conferred on the Court of First Instance by the abovementioned Council Decisions.

The jurisdiction of the Court of First Instance is thus much wider now than when it was set up as a Community court. Further extension can, moreover, be envisaged on the basis of the present version of Article 168a and is likely to be

1 OJ 1993 L 144, p. 21.

2 OJ 1994 L 66, p. 29.

3 OJ 1989 L 395, p. 1.

4 OJ 1994 L 11, p. 1.

5 OJ 1994 L 227, p. 1.

implemented progressively, particularly in fields where one and the same measure may be challenged simultaneously before the Court of Justice and before the Court of First Instance, depending on the standing of the applicant. That situation leads to problems of coordination between the two Courts, particularly in the fields of State aids and anti-dumping measures, which could be resolved by giving the Court of First Instance jurisdiction to hear and determine all actions of those types, regardless of the standing of the applicant.

The extension of the jurisdiction of the Court of First Instance, coupled with a constant progression in the amount of traditional litigation, has led to a very considerable increase in the number of cases brought each year before the Court of First Instance, with a more than fourfold increase since 1990. Concurrently, over the same period, the numbers of cases decided by the Court of First Instance and pending before it have increased to a very considerable extent.

That trend towards an appreciable increase in the number of cases brought before the Court of First Instance is set to become even more pronounced in the future. As a result, a growing proportion of Community litigation will fall to be dealt with by the Court of First Instance and the number of cases to be decided by it will exceed, as it has already exceeded, the number brought before the Court of Justice.

Moreover, the volume of litigation on Community trade marks alone, the effects of which will very soon be felt with some 100 cases expected to be brought by the second half of 1996, will grow sharply, to exceed 400 cases a year, from 1997 onwards. Other more or less similar areas of litigation, such as plant variety rights or industrial designs, will be added in the near future.

Independently of the new jurisdiction conferred on the Court of First Instance, a considerable increase can be seen in the volume of cases already falling within its jurisdiction, particularly those which require close examination of complex facts as, for example, in the fields of competition proceedings, State aids and anti-dumping measures. That increase is no doubt simply a consequence, at least in part, of the establishment of a two-tier system within the Community judicature and the resulting improvement in the conditions under which cases are dealt with.

II — Measures to ensure the proper administration of justice

In order to respond to that situation, it is essential that measures be taken to ensure that the Community courts can operate properly in a rapidly changing context. If they were not, the Court of First Instance would soon no longer be

able to ensure the proper administration of justice in the best possible manner and to perform the task for which it was set up, namely to improve judicial protection for individuals and to alleviate the case-load of the Court of Justice. In the absence of any such measures, the increased volume of Community litigation would result in a lengthening of proceedings under conditions likely to jeopardize the protection of individuals.

To that end, the Court of First Instance has already taken a number of steps to adapt its internal operational arrangements in order, *inter alia*, to rationalize the number, structure, organization and working methods of its chambers and to shorten the time taken for oral procedures and the length of judgments. In addition, with the approval of the Council, it has amended its Rules of Procedure to allow an increasing number of cases to be dealt with by a chamber of three judges. Further measures simplifying the procedure before the Court of First Instance, with a particular view to streamlining, simplifying and clarifying the way in which cases are prepared for hearing, will shortly be submitted to the Council.

The Court of First Instance is aware that it is not only judicial procedure whose efficiency has an impact on the protection of individuals. It is particularly attentive to certain ideas which are aimed at improving the Community decision-making process in certain fields at an earlier stage and which could prevent litigation arising and thus reduce the number of cases brought.

Nevertheless, it must be acknowledged that the operational imperatives of the Court of First Instance are such that it will not be possible to cope with the increase in volume of Community litigation solely by recourse to such modifications, which are bound to remain limited in scope, and that its role as court of general jurisdiction at first instance will necessarily affect not only its operating methods but also its structure and composition.

The debate which has opened up in recent years in that regard has engendered a number of ideas on which the Court of First Instance feels it should make its views known to the Intergovernmental Conference.

In the first place, the Court of First Instance feels that some of those ideas — in particular the establishment of new courts on a regional or specialized subject-matter basis — are unlikely to provide a solution to the problems faced and should not, therefore, be retained.

With regard to the creation of 'regional courts', this Court has already expressed its conclusion that, at the present stage in the Community's development, such a

solution would be of no relevance or interest and would be extremely costly. [6] That assessment is still valid, particularly since a juxtaposition of several parallel courts would be likely to jeopardize the unity and consistency of Community case-law and would necessarily entail a considerable increase in the cost of the administration of justice.

As regards the idea of setting up *specialized courts*, the Court of First Instance would point out that such a solution, which would entail considerable administrative and budgetary costs and does not really seem compatible with the concept of a Community judicature of general jurisdiction, does not appear desirable since it might jeopardize the unity not merely of that judicature but of its case-law. The same reservation would not, however, apply to the setting up, if necessary, of specialized chambers within the Court of First Instance.

The Court of First Instance wishes, on the other hand, to draw the attention of the Intergovernmental Conference to a number of options which might be envisaged as a solution to the problems arising out of the increasing volume of Community litigation and which might be implemented either as alternatives or concurrently.

First, there are a number of measures which would be more especially suitable for implementation in specific areas which give rise to a large volume of litigation but do not generally require decisions on particularly complex or important questions of law. These include the appointment of assistant rapporteurs, the hearing of cases by a single judge and the specialization of chambers.

The appointment of *assistant rapporteurs,* which would require no more than an amendment to the Statute of the Court of Justice, would have the advantage of leaving responsibility for deciding the case with the judges while at the same time allowing research and drafting tasks to be carried out, under the responsibility of the court, by an expert of proven competence whose status would be transparent and who would be appointed in the light of his or her particular qualifications and specialization in a specific field. The presence of such an expert would be apparent in the course of proceedings, which would be an obvious safeguard for the parties, and he or she could be present during the Court's deliberations, which would offer a considerable advantage over the assistance provided by the judges' traditional associates, such as legal secretaries.

6 'Reflections on the Future Development of the Community Judicial System', a document drawn up by the Court of First Instance in December 1990 to report on its views to the Intergovernmental Conference whose deliberations were to lead to the Treaty on European Union.

The introduction of the possibility of having cases dealt with by a *single judge* in certain fields would offer considerable advantages in terms of the Court's productivity and procedural efficiency. It would be possible to draw on the experience of similar systems in the courts of many of the Member States. It must of course be stressed that if a single judge were to sit alone in certain types of case, it would have to be possible for that judge to propose that the case be referred to a chamber if he or she considered that it was of particular importance. Alternatively, such a solution might be restricted to cases which a chamber, after an initial examination, decided did not present any particular difficulty. Recourse to a single judge might indeed be particularly effective if it were combined with the use of assistant rapporteurs in certain areas of technical specialization, especially where the judicial phase is preceded by a compulsory pre-litigation procedure in which individuals' interests receive appropriate protection. That solution could be achieved simply by an amendment to the Decision of 24 October 1988 establishing the Court of First Instance.

In the same context, mention may be made of the gains in productivity which could be expected from the setting up of *specialized chambers* for litigation of a repetitive kind. Setting up such chambers would make it possible to reap the advantages of specialization in certain series of actions, should the need be felt at a future stage, without thereby incurring the disadvantages which would necessarily ensue for the Community judicial system from the establishment of independent specialist courts or the appointment of specialist judges to the Community courts of general jurisdiction. A specialization of chambers falls within the scope of the Court's internal organization and can be implemented on the basis of the existing rules.

The Court of First Instance considers, however, that all those measures will not be sufficient to enable it to cope with the increasing number of actions with which it will be faced. Without at present putting forward any specific proposals in that regard, the Court of First Instance wishes, therefore, to draw the attention of the Intergovernmental Conference to the fact that an *increase in the number of judges* will inevitably have to be envisaged. In that regard, account must be taken of the fact that the Court of First Instance sits almost exclusively in chambers composed of three or five judges, so that an increase in its overall membership would not give rise to any operational difficulties. An increase in the number of judges would make it possible to form a greater number of chambers and deal with a greater number of cases, and constitutes the most effective way of dealing with the increase in litigation. Again, such an increase could be achieved simply by an amendment to the Decision of 24 October 1988.

Since all the above solutions can be implemented without any amendment to the Treaties, the Court of First Instance merely wishes to mention them at the present stage. It will submit, at the appropriate time, reasoned proposals through the channels and procedures provided.

III — Judges' terms of office

Various proposals have been made in the past to amend the rules governing the appointment of the judges.

It is not for the Court of First Instance to put forward specific proposals in that regard, but the attention of the Intergovernmental Conference should be drawn to certain aspects of the problem which have not always been taken into consideration.

Continuity in the membership of the Court of First Instance is of fundamental importance for the proper administration of justice. The replacement of a judge inevitably entails not only disruption in the scheduling of proceedings but also the loss of considerable investment in terms of both the time and the effort required of each new judge to adapt to the specific nature of work in a Community court. It is therefore essential that the relevant provisions allow the judges to carry out their functions for a sufficient length of time.

At present, the rules provide for appointment for a normal term of six years, with a partial renewal of membership at fixed dates every three years and replacement for the remainder of the predecessor's term if a judge leaves before the expiry of his or her term of office (Article 7 of the EC Statute of the Court of Justice). The effect of those provisions is that six years is the longest period for which an appointment can be made, subject, of course, to renewal. In addition, as a result of the system of fixed dates for renewals, some members of the Court of First Instance are appointed for a considerably shorter initial term — much too short in the light of the requirements of continuity in the work of the Court and the effort of adaptation demanded of the new judge.

The Court of First Instance feels that it would be helpful to amend those provisions so that every judge, regardless of his or her date of appointment, will always be appointed for a sufficient length of time.

The present system of renewable appointments does, however, appear the best suited to the specific requirements of the way in which the Court of First Instance

operates. Renewal ensures the continuity in the exercise of the judicial function required by the nature of the litigation which the Court has to deal with. [7]

Finally, the Court of First Instance wishes to draw the attention of the Conference to the fact that any projected intervention by the Parliament in the procedure for appointing judges should be confined to the initial appointment, for the obvious reason that it cannot extend to a review of the manner in which judicial functions have actually been carried out. Any such intervention by the Parliament should be solely for the purpose of ascertaining whether the prospective nominees possess the qualifications required by the Treaty in order to exercise their functions. [8]

IV — Appropriate reference to the Court of First Instance in the Treaty

The Treaty mentions the Court of First Instance only in Article 168a, with the words 'A Court of First Instance shall be attached to the Court of Justice ...', which derive ultimately from those of the Single European Act by which the Council was empowered to set up a new court. It must nevertheless be asked whether that formula can still be considered satisfactory today.

It seems contrary to the need for clarity and transparency in the provisions of the Treaty that Article 4, which lists all the institutions and organs of the Community, should make no reference to the Court of First Instance. The failure to mention the Court of First Instance, which is now an integral part of the Community's judicial system, constitutes all the more serious a lacuna in that, unlike the organs mentioned in Article 4(2), the Court exercises decision-making powers.

7 In this regard, the report of the Committee on Institutional Affairs of the European Parliament 'on the role of the Court of Justice in the development of the European Community's constitutional system', drawn up by Mr Willi Rothley and submitted on 13 July 1993, stresses that there is no need, for the moment, to change the way in which the members of the Court of First Instance are appointed (PE 155.441/fin.).

8 In this regard, it should be borne in mind that the working document of the Committee on Institutional Affairs of the European Parliament on the 'composition and appointment of judicial organs and of the Court of Auditors', prepared by Mr Brendan Donnelly and submitted on 19 January 1995 (PE 211.536) likewise stresses that any new procedure 'should ensure that any parliamentary scrutiny avoids political considerations and concentrates entirely on verifying the qualifications required of office-holders in Articles 167 and 168a of the Treaty, namely that a nominee can demonstrate his or her independence and that they have held high judicial office or can otherwise show outstanding legal abilities'.

The Court of First Instance therefore wishes to point out to the Intergovernmental Conference that it might be desirable to make good that omission in the present version of the Treaty by inserting into Article 4 an appropriate reference to the Court of First Instance, thus making it clear that the Community's judicial system is a two-tier system. Such a result might be achieved, for example, by inserting a provision to the effect that, within the Court of Justice as an institution, a Court of First Instance assists that Court in carrying out the tasks assigned to it, within the limits of the powers conferred upon it by the Treaty. Such an amendment to Article 4 would in no way alter the present institutional structure as laid down by the Treaty.

In that context, a change in the name of the Court of First Instance might be envisaged, as some have proposed. The Court is well aware that the name 'Court of First Instance' does not correspond in reality to the role it plays within the Community judicial system. On the one hand, its decisions on questions of fact are final and, on the other hand, it hears and determines appeals against decisions taken by quasi-judicial authorities. At the present stage, however, the Court of First Instance will not put forward any proposal for a change in its name, which is now familiar in the relevant legal circles.

C — Composition of the Court of First Instance

First row, from left to right:
Judge B. Vesterdorf, Judge R. Schintgen, Judge D.P.M. Barrington, A. Saggio, President, Judge H. Kirschner, Judge C.P. Briët, Judge R. García-Valdecasas y Fernandez.

Second row, from left to right:
Judge R. Moura Ramos, Judge J. Azizi, Judge Virpi Tiili, Judge C.W. Bellamy, Judge K. Lenaerts, Judge A. Kalogeropoulos, Judge Pernilla Lindh, Judge A. Potocki, H. Jung, Registrar

I – Order of precedence

from 1 to 17 January 1995

J.L. DA CRUZ VILAÇA, President of the Court of First Instance
B. VESTERDORF, President of the Second Chamber and the Second Chamber, Extended Composition
J. BIANCARELLI, President of the Third Chamber and the Third Chamber, Extended Composition
K. LENAERTS, President of the Fourth Chamber and the Fourth Chamber, Extended Composition
D.P.M. BARRINGTON, Judge
A. SAGGIO, Judge
H. KIRSCHNER, Judge
R. SCHINTGEN, Judge
C.P. BRIËT, Judge
R. GARCÍA-VALDECASAS Y FERNANDEZ, Judge
C.W. BELLAMY, Judge
A. KALOGEROPOULOS, Judge

H. JUNG, Registrar

from 18 January to 17 September 1995

J.L. DA CRUZ VILAÇA, President of the Court of First Instance
B. VESTERDORF, President of the Second Chamber and the Second Chamber, Extended Composition
J. BIANCARELLI, President of the Third Chamber and the Third Chamber, Extended Composition
K. LENAERTS, President of the Fourth and of the Fourth Chamber, Extended Composition
D.P.M. BARRINGTON, Judge
A. SAGGIO, Judge
H. KIRSCHNER, Judge
R. SCHINTGEN, Judge
C.P. BRIËT, Judge
R. GARCÍA-VALDECASAS Y FERNANDEZ, Judge
C.W. BELLAMY, Judge
A. KALOGEROPOULOS, Judge
V. TIILI, Judge
P. LINDH, Judge
J. AZIZI, Judge

H. JUNG, Registrar

from 18 September to 31 December 1995

A. SAGGIO, President of the Court of First Instance
D.P.M. BARRINGTON, President of the Fourth Chamber and the Fourth Chamber, Extended Composition
H. KIRSCHNER, President of the Second Chamber and the Second Chamber, Extended Composition
R. SCHINTGEN, President of the Fifth Chamber and of the Fifth Chamber, Extended Composition
C.P. BRIËT, President of the Third Chamber and of the Third Chamber, Extended Composition
B. VESTERDORF, Judge
R. GARCÍA-VALDECASAS Y FERNANDEZ, Judge
K. LENAERTS, Judge
C.W. BELLAMY, Judge
A. KALOGEROPOULOS, Judge
V. TIILI, Judge
P. LINDH, Judge
J. AZIZI, Judge
A. POTOCKI, Judge
R. MOURA RAMOS, Judge

H. JUNG, Registrar

II – The Members of the Court of First Instance
(in order of their entry into office)

José Luís da Cruz Vilaça

Born 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 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 from 1 September 1989 to 17 September 1995.

Donal Patrick Michael Barrington

Born 1928; Barrister; Senior Counsel; Specialist in constitutional and commercial law; Judge at 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; Judge at the Court of First Instance 1 September 1989.

Antonio Saggio

Born 1934; Judge, Naples District Court; Adviser to the Court of Appeal, Rome, and subsequently the Court of Cassation; attached to the *Ufficio Legislativo del Ministero di Grazia e Giustizia*; Chairman of the General Committee in the Diplomatic Conference which adopted the Lugano Convention; Legal Secretary to the Italian Advocate General at the Court of Justice; Professor at the Scuola Superiore della Pubblica Amministrazione, Rome; Judge at the Court of First Instance since 1 September 1989; President of the Court of First Instance since 18 September 1995.

Heinrich Kirschner

Born 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 DG III (internal market); Head of 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; Judge at the Court of First Instance since 1 September 1989.

Romain Schintgen

Born 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; Judge at the Court of First Instance since 1 September 1989.

Cornelis Paulus Briët

Born 1944; Executive Secretary, D. Hudig & Co., Insurance Broker, and subsequently Executive Secretary with Granaria B.V.; Judge, Arrondissementsrechtbank (District Court), Rotterdam; Member of the Court of Justice of the Dutch Antilles; Cantonal Judge, Rotterdam; Vice-President, Arrondissementsrechtbank Rotterdam; Judge at the Court of First Instance since 1 September 1989.

Bo Vesterdorf

Born 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 Kabdsret; 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; Judge at the Court of First Instance since 1 September 1989.

Rafael García-Valdecasas y Fernández

Born 1946; Abogado del Estado (at Jaén and Granada); Registrar to the Economic and Administrative Court of Jaén, and subsequently of Cordova; 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; Judge at the Court of First Instance since 1 September 1989.

Jacques Biancarelli

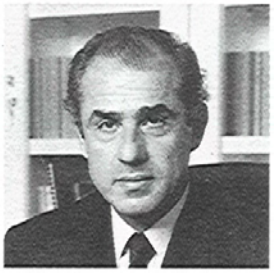
Born 1948; Inspector at the Treasury; Junior Member and subsequently Member of the Conseil d'Etat; Legal Adviser to several ministers; Lecturer in a number of French professional colleges and institutes of higher education; Legal Secretary at the Court of Justice; Head of Legal Department, Crédit Lyonnais; President of the Association Européenne pour le Droit Bancaire et Financier (AEDBF); Judge at the Court of First Instance from 1 September 1989 to 17 September 1995.

Koenraad Lenaerts

Born 1954; Professor at the Katholieke Universiteit Leuven; Visiting Professor at the universities of Burundi, Strasbourg and Harvard; Professor at the College of Europe, Bruges; Legal Secretary at the Court of Justice; Member of the Brussels Bar; Member of the International Relations Council of the Katholieke Universiteit Leuven; Judge at the Court of First Instance since 1 September 1989.

Christopher William Bellamy

Born 1946; Barrister, Middle Temple; Queen's Counsel, specialising in Commercial law, European law and public law; co-author of the three first editions of *Bellamy & Child, Common Market Law of Competition*, Judge at the Court of First Instance since 10 March 1992.



Andreas Kalogeropoulos

Born 1944; lawyer (Athens); legal secretary to judges Chloros and Kakouris at the Court of Justice; professor of public and Community law (Athens); legal adviser; senior attaché at the Court of Auditors; Judge at the Court of First Instance since 18 September 1992.

Virpi Tiili

Born 1942; Doctor of Laws of the University of Helsinki; assistant lecturer in civil and commercial law at the University of Helsinki; Director of Legal Affairs at the Central Chamber of Commerce of Finland; Director General of the Office for Consumer Protection, Finland; Judge at the Court of First Instance since 18 January 1995.

Pernilla Lindh

Born 1945; Law graduate of the University of Lund; Judge (assessor), Court of Appeal, Stockholm; Legal adviser and Director General at the Legal Service of the Department of Trade at the Ministry of Foreign Affairs; Judge at the Court of First Instance since 18 January 1995.

Josef Azizi

Born 1948; Doctor of Laws of the University of Vienna; Lecturer and senior lecturer at the Vienna School of Economics; Ministerialrat and Head of Department at the Federal Chancellery; Judge at the Court of First Instance since 18 January 1995.

André Potocki

Born 1950; Judge, Court of Appeal, Paris, and Associate Professor at Paris X Nanterre University (1994); Head of European and International Affairs of the Ministry of Justice (1991); Vice-President of the Tribunal de Grande Instance, Paris (1990); Secretary General to the First President of the Cour de Cassation (1988); Judge at the Court of First Instance since 18 September 1995.

Rui Manuel Gens de Moura Ramos

Born 1950; Professor, Law Faculty, Coimbra, and at the Law Faculty of the Catholic University, Oporto; Jean Monnet Chair; Course Director at the Academy of International Law, The Hague, (1984) and visiting professor at Paris I Law University (1995); Portuguese Government delegate to United Nations Commission on International Trade Law (UNCITRAL); Judge at the Court of First Instance since 18 September 1995.

Hans Jung

Born 1944; Assistance, and subsequently Assistant Lecturer at the Faculty of Law (Berlin); Rechtsanwalt (Frankfurt am Main); Lawyer-linguist at the Court of Justice; Legal Secretary 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 — Changes in the composition of the Court of First Instance in 1995

In 1995, the composition of the Court of First Instance changed as follows:

As a result of the new accessions to the European Union of Austria, Finland and Sweden, three new judges entered into office on 18 January 1995: Virpi Tiili, Pernilla Lindh and Josef Azizi.

On 17 September 1995, J.L. da Cruz Vilaça and J. Biancarelli left the Court of First Instance at the end of their term of office. They were replaced by Rui Manuel de Moura-Ramos and André Potocki, who entered into office on 18 September 1995.

On 18 September 1995, the judges elected Antonio Saggio as President of the Court of First Instance.

For further details, please refer to the section under 'Formal sittings', p. 97.

Meetings and visits

The Court of Justice of the European Communities dedicates much effort to establishing and maintaining a range of contacts in a spirit of openness towards the wider world.

In order to discuss matters of common interest, the Court organizes meetings with the judiciary of various Member States, legal and academic circles and with government bodies and receives numerous official visits from ministers and ambassadors.

According to a well-established tradition, the Court did not fail to organize its programme of meetings with magistrates from the Member States responsible for applying Community law and for cooperating with it in the context references for a preliminary ruling. Thus, on 19 and 20 June, the Court invited the senior judges of the Member States. The study visit for the other judges took place on 19 and 17 October. For the first time, judges from Austria, Sweden and Finland took part.

Such contacts were maintained with a number of higher courts in non-member States: in that connection, worthy of note is the visit of the Supreme Court of Arbitration of the Russian Federation and of its President (30 March), and, on two occasions, of the Tribunal de Justicia del Acuerdo de Cartagena and its President (2 to 5 May and 2 to 6 October) and of the President of the Corte Centroamericana de Justicia.

As a result of the accession of Austria, Finland and Sweden to the European Union, relations with the institutions of those countries have intensified. In September, the Court received the visit of the Constitutional Committee and of the Standing Committee on Civil Law Legislation of the Swedish Parliament and of the Federal Minister for Justice of the Austrian Republic. In Autumn, the Court was invited to make an official visit to the Austrian Constitutional Court. The Court also made an official visit to Finland, where it was received, in particular, by the President of the Republic, the Prime Minister, the Minister for Foreign Affairs, the Minister for European Affairs and the Minster for Justice, as well as by the Supreme Court and the Supreme Administrative Court.

On 16 May the Court had the honour of being visited by Mary Robinson, President of Ireland, accompanied by the Irish Minister of State for European Affairs. The Court also received various ministers for justice (of the Federal Republic of Germany, the French Republic, the Kingdom of the Netherlands and the Republic of Austria) in the context of work and discussions with a view to the Intergovernmental Conference of 1996 (to that end, see the reports of the Court of Justice and the Court of First Instance, reproduced at pages 19 and 65).

In addition to the official visits, as part of its policy of information in order to make the Community judicial institution better known and to promote better understanding of its case-law and its procedure, the Court maintained in 1995 its programme of visits by law students, lawyers, university lecturers and non-specialist groups. In this regard, the Court's Information Service took charge of those visitors consisting of 445 groups involving a total of 9 974 persons. A table summarizing those visits may be found at page ... .

Finally, mention must be made of a new initiative undertaken by the Court in cooperation with the Syndicat d'Initiative of Luxembourg City, namely the opening of the Palais of the Court to tourists interested in visiting the institution and wishing to admire the major works of art located there. Since April, tourists accompanied by official guides from the City of Luxembourg have been allowed into the Palais on Saturdays, Sundays, holidays and in the weeks when the Court is not sitting. The Information Service organized training sessions for the approved guides in order to enable them to inform visitors of the work of the Court of Justice. Some 100 groups, involving approximately 3 600 tourists from all over Europe, visited the Court between June and the end of December, which bears witness to the great enthusiasm with which this initiative was welcomed.

A – Official visits and Functions at the Court of Justice and the Court of First Instance in 1995

10 January	Sir John Kerr, Permanent Representative of the United Kingdom to the European Union
3 February	Ms Sabine Leutheusser-Schnarrenberger, Bundesministerin für Justiz der Bundesrepublik Deutschland
16 March	H.E. Mr Tudorel Postolache, Ambassador of Rumania to the Grand Duchy of Luxembourg
23 March	H.E. Mr Stuart E. Eizenstat, Ambassador of the United States of America to the European Union
27 March	H.E. Mr Leopoldo Formichella, Ambassador of Italy to the Grand Duchy of Luxembourg
28 March	Mr Klaus Hänsch, President of the European Parliament
29-30 March	Mr Jirí Malenovsky, Permanent Representative of the Czech Republic to the Council of Europe
30 March	The Supreme Court of Arbitration of the Russian Federation: Mr F. Yakovlev, President of the Supreme Court of Arbitration of Russia, Mr Abdoullaiev Kalboulla Ibragimovitch, President of the Supreme Court of Arbitration of the Republic of Dagestan, Ms Loktionova Tatiana Vassilievna, President of the Arbitration Court of the Primorié Region, Ms Lydia Mikhallovna Antonova, Judge at the Supreme Court of Arbitration of Russia
3-4 April	Mr S. Royer, President, and a delegation from the Hoge Raad der Nederlanden
25 April	Mr Yoshiharu Kamijo, *chargé d'affaires* at the Embassy of Japan in the Grand Duchy of Luxembourg

2-5 May	Tribunal de Justicia del Acuerdo de Cartagena: Mr Luís Henrique Farías Mata, President and Messrs Juan Civente Ugarte del Pino et Edgar Barrientos Cazazola, Judges
4 May	Mr Pierre Méhaignerie, *Garde des Sceaux,* Minister for Justice of the French Republic
4 May	Delegation from the Verwaltungsgerichtshof, Vienna, Austria
16 May	Ms Mary Robinson, President of Ireland and Mr Gay Mitchell, Minister of State for European Affairs
22-23 May	Official visit of President Rodríguez Iglesias to the Swedish Ministry of Justice (Stockholm)
30 May	CCBE — Consultative Committee of the Bars and Law Societies of the European Community
31 May	Mr Carlo Casini, President, and a delegation from the Legal Affairs Committee of the European Parliament
2 June	Official visit of President Rodríguez Iglesias to Messina on the occasion of the 40th anniversary ceremony of the Conference of Messina
6-7 June	Mr Carlos Westendorp y Cabeza, State Secretary for the European Communities of the Kingdom of Spain
8 June	Official visit of President Rodríguez Iglesias to Madrid at the invitation of HM the King of Spain to attend the commemoration of the Xth anniversary of the signature of the Treaty of Accession of Spain to the EC
19-20 June	Study Visit of the Judiciary of the Member States
20 June	Mr Jacques Toubon, *Garde des Sceaux*, Minister for Justice of the French Republic
22 June	H.E. Mr Missoum Sbih, ambassador of Algeria to Brussels
28 June	Mr Claus Dieter Ehlermann, Honorary Director General of the Commission of the EC

3 July	Mr Jorge Antonio Giammatei Aviles, President of the Corte Centroamericana de Justicia
4 July	H.E. Mr Erhan Tuncel, Ambassador of Turkey to the Grand Duchy of Luxembourg
6 July	Mr Pascual Sala, President of the Tribunal Supremo and the Consejo General del Poder Judicial of the Kingdom of Spain
10 July	Ms Winnifred Sorgdrager, Minister for Justice of the Kingdom of the Netherlands
20 September	President and Members of the Riksdagens Konstitutionsutskott (Constitutional Committee of the Swedish Parliament)
21 September	Mr Tomás Kybal, *chargé d'affaires* of the Czech Embassy in the Grand Duchy of Luxembourg
22 September	H.E. Mr Tudorel Postolache, Ambassador of Rumania in the Grand Duchy of Luxembourg
27 September	Mr Nikolaus Michalek, Bundesminister für Justiz der Republik Österreich
27 September	Delegation from Standing Committee on Civil Law Legislation of the Swedish Parliament
28 September	Legal Affairs Committee of the Danish Parliament
2-6 October	Tribunal de Justicia del Acuerdo de Cartagena: Mr Roberto Salazar Manrique, President, Messrs Patricio Bueno Martinez and Galo Pico Mantilla, Judges
3 October	H.E. Mr Philippe de Schoutheete de Tervarent, Permanent Representative of Belgium to the European Union
9 October	H.E. Mr Jacques Leclerc, Ambassador of France to Grand Duchy of Luxembourg
10 October	Mr Steffen Heitmann, Sächsischer Staatsminister der Justiz
16-17 October	Judicial Study Visit of the Magistrates of the Member States

19-20 October	Official visit of the Court to Verfassungsgerichtshof Austria (Vienna)
1-3 November	Visit official of the Court to Finland
24 November	Mr Justice Hardie-Boys, New Zealand
30 November	Ms Katarina Tothova, Deputy Prime Minister of the Slovak Republic

B – Study Visits to the Court of Justice and the Court of First Instance in 1995

(Number of visitors)

	National judiciary[1]	Lawyers, legal advisers, trainees	Community law lecturers, teachers[2]	Diplomats, parlementarians, political groups, national civil servants	Students, trainees EC/EP	Members of professional associations	Other	TOTAL
B	-	10	-	-	359	65	61	495
DK	53	-	50	18	91	-	17	229
D	189	297	238	321	811	75	246	2 177
GR	10	22	10	-	80	-	1	123
E	21	170	-	50	176	-	10	427
F	52	322	30	69	452	-	50	975
IRL	-	32	-	-	90	-	20	142
I	-	84	12	18	188	-	-	302
L	-	40	-	-	-	-	60	100
NL	25	31	-	-	503	-	30	589
P	-	18	10	16	56	-	4	104
UK	59	62	-	123	1 110	40	68	1 462
AUT	104	30	-	108	67	-	15	324
S	49	100	-	16	68	-	92	325
FI	22	86	30	45	33	-	133	349
Third countries	15	96	2	50	628	4	21	816
Mixed groups	232	231	-	37	446	80	9	1 035
TOTAL	831	1 631	382	871	5 158	264	837	9 974

1 The last line under this heading entitled 'Mixed groups' also includes the total number of judges from all the Member States which participated in meetings and judicial study visits organized by the Court of Justice. In 1995 the following took part: Belgium: 10; Denmark: 8; Germany: 24; Greece: 7; Spain: 24; France: 24; Ireland: 4; Italy: 23; Luxembourg: 3; Netherlands: 8; Austria: 8; Portugal: 8; Finland: 8; Sweden: 9; United Kingdom: 24.

2 Other than teachers accompanying groups of students.

Study Visit to the Court of Justice and the Court of First Instance in 1995

(Number of groups)(*continued*)

	National judiciary[1]	Lawyers, legal advisers, trainees	Community law lecturers, teachers,[2]	Diplomats, parlementarians, political groups, national civil servants	Students, trainees, EC/EP	Members of professional associations	Other	TOTAL
B	-	2	-	-	12	2	2	18
DK	2	-	1	1	2	-	2	8
D	8	6	6	15	29	3	7	74
GR	1	4	1	-	3	-	1	10
E	1	11	-	2	6	-	2	22
F	4	5	1	6	21	-	2	39
IRL	-	1	-	-	3	-	1	5
I	-	8	1	2	10	-	-	21
L	-	1	-	-	-	-	3	4
NL	1	2	-	-	16	-	1	20
P	-	2	2	1	5	-	2	12
UK	3	4	-	3	37	1	9	57
AUT	4	10	-	5	2	-	2	23
S	1	6	-	4	3	-	5	19
FI	1	7	1	6	4	-	2	21
Third countries	7	10	3	12	32	1	1	66
Mixed Groups	3	6	-	3	12	3	1	28
TOTAL	36	85	16	60	197	10	43	447

1 The last line under this heading, entitled 'Mixed Groups' includes, among others the judicial meetings and study visits.

2 Other than teachers accompanying student groups.

Formal sittings

In 1995 the Court of Justice held nine formal sittings:

18 January 1995	Formal sitting on the occasion of the Accession to the European Union of Austria, Finland and Sweden. Appointment of Antonio M. La Pergola as Advocate General at the Court of Justice. Entry into office at the Court of Justice of Peter Jann, Hans Ragnemalm, Leif Sévon, Nial Fennelly, Dámaso Ruiz-Jarabo Colomer. Entry into office at the Court of First Instance of Virpi Tiili, Pernilla Lindh and Josef Azizi
24 January 1995	Formal sitting on the occasion of the Accession to the European Union of Austria, Finland and Sweden. Entry into office at the European Commission of Jacques Santer, Anita Gradin, Edith Cresson, Ritt Bjerregaard, Monika Wulf-Mathies, Neil Kinnock, Mario Monti, Franz Fischler, Emma Bonino, Yves-Thibault de Silguy, Erkki Liikanen and Christos Papoutsis
8 March 1995	Formal sitting on the occasion of the Accession to the European Union of Austria, Finland and Sweden. Entry into office at the Court of Auditors of Jan O. Karlsson, Hubert Weber and Aunus Olavi Salmi
15 March 1995	Formal sitting in memory of Judge Aindrias O'Keeffe
12 July 1995	Formal sitting on the occasion of the entry into office at the Court of Auditors of Jørgen Mohr
13 September 1995	Formal sitting in memory of Judge René Joliet
18 September 1995	Formal sitting on the occasion of the entry into office as Judge at the Court of Justice of Melchior Wathelet and as Judges at the Court of First Instance of André Potocki and Rui Moura-Ramos
27 September 1995	Formal sitting on the occasion of the swearing-in of Jacob Söderman as European Ombudsman

27 November 1995	Formal sitting in memory of Advocate General Henry Mayras

The addresses given at those sittings are set out in the section which follows.

Formal sitting of the Court of Justice of 18 January 1995

on the occasion of the swearing-in of the new Members of the Court of Justice and of the Court of First Instance

Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the appointment of Antonio M. La Pergola as Advocate General at the Court of Justice and of the entry into office of Peter Jann, Hans Ragnemalm and Leif Sevón as Judges at the Court of Justice, and of Nial Fennelly and Dámaso Ruiz-Jarabo Colomer as Advocates General, and of the entry into office of Virpi Tiili, Pernilla Lindh and Josef Azizi as Judges at the Court of First Instance

Presidents, Ministers, Your Excellencies, Dear Colleagues, Ladies and Gentlemen,

In opening this formal sitting, allow me first of all to welcome you cordially on behalf of the Court of Justice and of the Court of First Instance and to express our pleasure at the presence of such eminent personalities at a time when we are about to welcome the new Members of the two Courts.

Mr Registrar I call upon you to read out the Decision of 1 and 18 January 1995 of the Governments of the Member States.

Thank you, Mr Registrar.

Antonio La Pergola, who has been appointed as Advocate General, already took the oath before the Court of Justice as Judge on 6 October 1994. Allow me, Mr La Pergola, publicly to express the Court's recognition for your willingness to assume a role which is in the best interests of the institution and of the Community.

Before asking the new Members to take the oath provided for in the Statute, I should like to underscore the significance of this moment for the Court of Justice and for the Court of First Instance, whose composition will today undergo a profound change.

This event should be seen first and foremost in the context of the latest stage in the history of the Community, initiated by its fourth enlargement. In a world and a continent — Europe — threatened by many uncertainties, the incorporation of the Austrian, Finnish and Swedish peoples in the European Union is a harbinger of hope. I am certain that the new Members of the Court of Justice and of the Court of First Instance who come from the new Member States harbour a deep sense of personal involvement in an historic event, which I myself experienced when I took up my duties at the Court nine years ago as a result of the previous enlargement of the Community.

This time, however, the enlargement of the Community also entails the appointment to the Court of two Advocates General who are not from the new Member States. They undoubtedly share with their other recently appointed colleagues the feeling that a new stage in their lives is about to begin, in the service of the law within the Community judicature.

The Court is entrusted by the Treaty with the task of ensuring compliance with the law. The successful accomplishment of that task depends to a crucial extent on the qualities of those who at any particular moment are Members of the Court of Justice and of the Court of First Instance.

In that regard we can count on the outstanding talents of the new Members of the Court of Justice and of the Court of First Instance, who will take the oath today, and whose abilities inspire the highest confidence in their forthcoming contribution to ensuring compliance with the law within the European Union. Let me briefly refer to some of their qualities.

Mr Jann

I turn to you first, Mr Jann, on your appointment as Judge at the Court of Justice. You have acquired a wealth of experience in the service of the law in several institutions of your country, Austria. Amongst other responsibilities, you have been a judge, you have occupied various posts in the Federal Ministry of Justice, you have represented the Austrian Government before the European Commission on Human Rights and you have been Secretary of the Austrian Parliament's Justice Committee. Finally, you bring your lengthy experience as a judge at the world's oldest constitutional court, which gave effect to the model conceived by Hans Kelsen.

Mr Ragnemalm

Mr Ragenmalm, you have also been appointed as Judge at the Court of Justice, and likewise have a broad range of experience behind you in the field of law. First as Professor of Public and Administrative Law at the Universities of Stockholm and Lund, then as Parliamentary Ombudsman for Judicial Matters and Civil Administration, and finally as a judge of the Swedish Supreme Administrative Court, of which you were a member until your appointment here.

Mr Sevón

On your appointment as Judge at the Court of Justice, Mr Sevón, you will not be surprised to hear how delighted we are to welcome amongst us a former President of the Court of the European Free Trade Association. You bring considerable professional experience acquired at international level and in international institutions. In Finland, you have been a university lecturer, adviser, and then Director General of the Legislative Department in the Ministry of Justice, judge and adviser in the Ministry of Foreign Affairs. You have represented your country in several international organizations and conferences. Finally, as judge and President of the EFTA Court, you have already had occasion to ensure compliance with the law within the legal system of the European Economic Area, which is closely related to the Community legal order.

Mr Fennelly

Appointed as Advocate General, Mr Fennelly, you arrive at the Court as one who has on many occasions pleaded before it on behalf of Ireland and of the Commission in cases of particular importance. You bring your experience as a barrister, as Chairman of the Legal Aid Board and as Chairman of the Bar Council of Ireland, and we shall no doubt benefit from your training as both a lawyer and an economist.

Mr Ruiz-Jarabo Colomer

I now turn to my compatriot, Mr Ruiz-Jarabo Colomer. You are no stranger in this forum, since the Court has known you since the time, relatively brief though fruitful, in which you made your contribution here as legal secretary. Apart from your extensive knowledge of Community law, as evidenced in various publications, you bring to the Court the in-depth experience acquired as a judge, and then as a member of Spain's General Council of the Judiciary, where you performed for over six years the delicate and important function of Head of the President's Private Office. Last but not least, you bring your university

experience as associate professor of public law in addition to your wealth of experience as a judge.

I now turn to the new judges of the Court of First Instance.

Ms Tiili

Ms Tiili, you are widely experienced in the law, especially in the field of economic law, and you bring to the Court of First Instance, in particular, your in-depth knowledge of the economic machinery of integration. You have been associate professor of private law, in particular in the fields of competition law, commercial law, industrial property and consumer protection. Amongst the senior posts you have held, you have been Director of the Finnish Chamber of Commerce, President of the Industrial Property Association, Director General of the National Consumer Administration, and member of the Board for Competition and of your country's GATT and EFTA delegations.

Ms Lindh

Ms Lindh, you have pursued your judicial career as State attorney and as judge, gaining legal experience in external administration, particularly in the economic sector. You have worked in the legal secretariat of the Ministry of Trade and in the Department of Trade at the Ministry of Foreign Affairs, where you occupied, in particular, the post of Under Secretary for Legal Affairs. In that capacity, you were responsible for conducting negotiations on institutional matters concerning the European Economic Area and for its incorporation in the Swedish legal system. You were also responsible for bringing the Swedish legal system into line with Community law with a view to Sweden's accession to the Communities and for cases brought before the EFTA Court and the supervisory authority.

Mr Azizi

Your contribution to the Court of First Instance, Mr Azizi, consists of your university training in law, social sciences and economics and your wide-ranging professional experience. You pursued your career, first at university as reader, assistant lecturer and lecturer and then in the administration, particularly in the Federal Ministry of Trade and Industry and in the Federal Chancellery, where you dealt with constitutional matters, international relations and legal issues of European integration and international commercial law. Finally, you have represented Austria on the Council of Europe's European Committee on Legal Cooperation and you have taken part in several international conferences and negotiations concerning, in particular, the European Economic Area and Austria's integration in the European Community.

Dear, newly arrived colleagues at the Court of Justice and the Court of First Instance, I would like to conclude these words of welcome by expressing my great pleasure, on behalf of all the present Members of the Court of Justice and of the Court of First Instance, in greeting you and in wishing you every success in the performance of your new duties.

I would now ask you to take the oath, as provided for in Articles 2, 8 and 44 of the Statute of the Court.

The Court takes formal note of the solemn declarations made by its new Members.

Formal sitting of the Court of Justice of 24 January 1995

on the occasion of the swearing-in of the new Members of the Commission

— Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the entry into office of Mr Santer, Ms Gradin, Ms Cresson, Ms Bjerregaard, Ms Wulf-Mathies, Mr Kinnock, Mr Monti, Mr Fischler, Ms Bonino, Mr de Silguy, Mr Liikanen and Mr Papoutsis . . . . p. 109

— Address by J. Santer, President of the Commission . . . . . p. 111

Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the entry into office of Mr Santer, Ms Gradin, Ms Cresson, Ms Bjerregaard, Ms Wulf-Mathies, Mr Kinnock, Mr Monti, Mr Fischler, Ms Bonino, Mr de Silguy, Mr Liikanen and Mr Papoutsis

Mr President, Members of the Commission, Your Excellencies, Ladies and Gentlemen,

The entry into office of a new Commission, always a political event of the first order, takes on a particular dimension this time. First of all, because this is the first Commission appointed under the conditions laid down in the second paragraph of Article 58 of the Treaty establishing the European Community, as amended by the Treaty on European Union. Secondly, on account of the scale of renewal of its composition, involving the President and the majority of the Members — it now includes Members holding the nationality of the States which have just acceded to the European Union. Finally, on account of the circumstances prevailing at the commencement of the new Commission's mandate.

Your term of office is about to start following an historic event: the fourth enlargement of the Community. The will of the Austrian, Finnish and Swedish peoples to join the Community has resulted in a European Union of 15 States which has reaffirmed its will to bring together the peoples comprising it but whose future is at the same time an uncertain one.

Your term of office, which runs until the year 2000, coincides with a period that will be decisive for the political and economic future of the European Union.

This will be a period in which, apart from safeguarding and deepening the acquis communautaire, the political aims of the European Union will have to be defined and reaffirmed, the common external and security policy will have to be developed and the Economic and Monetary Union referred to in the Treaty on European Union will have to be implemented. In that regard, the Inter-Governmental Conference set for 1996 is, in a way, an appointment with history.

Admittedly, the Commission cannot dictate that process but, as the institution entrusted by the Treaty with the task of embodying the common European interest, your role in that process will be fundamental. The personality of its President and of its Members provide grounds for optimism that the Commission will be able to take up the major challenges it faces. Your professional

experience and the responsibilities of the highest order entrusted to you nationally and, in some cases, at European and international level, demonstrate that you have been chosen on the strength of your abilities, as provided for in the Treaty.

Finally, the Commission has as its President a personality whose political and human qualities we, the Members of the Court, are specially qualified to appreciate, having had the pleasure of knowing Mr Santer for many years and of enjoying his hospitality as Prime Minister of our institution's host country.

Before calling upon those of you who have just been appointed for the first time to make the solemn declaration, I should like to emphasize the importance of this act.

The Treaty provides that the Members of the Commission, when entering upon their duties, are to give a solemn undertaking to respect the obligations arising from their term of office.

The fact that, according to well-established practice, that solemn undertaking is given before the Court of Justice symbolizes the concern to observe the law which lies at the very roots of the European Community.

Amongst the obligations which you will undertake to respect, allow me to single out the obligation to be completely independent in the performance of your duties, in the general interest of the Community, an obligation which is underlined in the Treaties not only so far as concerns the Members of the Commission, but also as regards the duty of the Member States to respect that independence.

Independence in the performance of our respective duties is a feature common to both the Commission and the Court of Justice. Perhaps that is the reason for the criticism voiced at times of what is seen to be an alliance or complicity between the two institutions. But there is no alliance or complicity. Quite simply, the Commission's independent pursuit, as the body with political responsibility, of the general interest of the Community and our independent quest, as judges, for objectivity and justice may at times lead to a degree of convergence in our approach to the interpretation of Community law, whose application it is for the Commission to secure and whose observance it is for the Court to ensure.

In wishing you every success, on behalf of the Court and all its Members, in the performance of your duties, I now ask the President and the new Members of the Commission to undertake, solemnly and in public, to respect the obligations arising from their term of office.

Address by J. Santer, President of the Commission

Presidents, Judges, Advocates General, Your Excellencies, Ladies and Gentlemen,

The Members of the Commission over which I have the honour to preside have just made a solemn declaration before you, as provided for in the Treaty.

The last stage in the procedure before the institution which, according to Article 164 of the Treaty, is to 'ensure that in the interpretation and application of this Treaty the law is observed', is pregnant with meaning.

For the first time in the history of the Community, the Commission of the European Union has been approved by the European Parliament, an act which enhances its democratic legitimacy.

Europe needs solid institutions, close to its citizens and ready to work in their interests.

My colleagues and I wish to direct our efforts to ensuring that this will be a strong Commission in the service of the common good. That, moreover, is our duty and it is also our will.

Today we have solemnly undertaken before the Court to be completely independent in the performance of our duties in the general interest of the Community.

I should like to underline the importance of this undertaking which serves as a reminder to my colleagues and myself, were any reminder necessary, of our duty of independence, but which at the same time emphasizes the fundamental role assigned to the Court in the institutional structure of the European Union.

It is thanks to the contribution made by the Court in its decisions that the internal market has gradually been consolidated, common policies have been furthered and the Community has asserted its external identity. The Court's major judgments have marked out the path ahead and constitute a framework for the Commission's action.

For the Commission, as guardian of the Treaties, bears the heavy burden, judiciously overseen by the Court, of ensuring compliance with Community law by the Member States and by the protagonists of economic and social life.

However, nothing can ever be taken for granted. The temptation for Member States to resolve problems by resorting to unilateral measures contrary to the Community rules, or by resorting to discriminatory measures, is always present.

The Commission's task is to ensure that Community law is correctly and uniformly applied in the Union. We are ready to assume our responsibilities and, where necessary, ask the Court, in accordance with the new Article 171 of the Treaty, to impose penalties on Member States which fail to comply with its judgments.

The Treaty of Maastricht has endowed what is now the European Union with new ambitions and the accession of three new Member States has enriched our diversity, including that of our legal traditions.

We face serious challenges. As I emphasized in my speech before the Parliament on taking up office, we need a Europe which is more competitive and better able to create jobs, with a single currency, and which at the same time takes a strong and responsible attitude in the international arena.

This can only be achieved by means of institutions which are effective, democratic and above all, closer to the citizen.

The 1996 Inter-Governmental Conference will enable us to give the Union an appropriate institutional framework to meet those challenges.

We must not forget, however, as you have rightly emphasized, that the Community is first and foremost a Community governed by the rule of law. We all know the famous question which Stalin asked Pius XII: 'How many divisions does the Vatican have?' Although the European Union does not for the time being have its own armed forces, it does have the force of law and, so far, the Commission and the judicial institutions have made every effort to ensure that the law is complied with.

May this close cooperation continue in the years to come, in the remarkable collective venture of European integration.

Formal sitting of the Court of Justice of 8 March 1995

on the occasion of the swearing-in of the new Members of the Court of Auditors

— Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the entry into office of Mr Karlsson, Mr Weber and Mr Salmi . . . . . p. 115

— Address by M.A.J. Middelhoek, President of the Court of Auditors . . . . . p. 117

Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the entry into office of Mr Karlsson, Mr Weber and Mr Salmi

Presidents, Ministers, Your Excellencies, Dear Colleagues, Ladies and Gentlemen,

We are gathered together here today for the third formal sitting following the fourth enlargement of the Community. Now that the new Members of the Court of Justice and the Court of First Instance and those of the Commission have taken the oath, the swearing-in of the new Members of the Court of Auditors is a sign that the Community institutions are ready to take up the challenge of enlargement.

There is no need for me to repeat that this is a historic moment.

However, I should like to emphasize the fact that, traditionally, the new Members of the Court of Auditors give the solemn undertaking referred to in Article 188B(5) of the Treaty before the Court of Justice. Personally, I consider that to be one of the salient features of the rule of law, which is the cement holding the Community together, this 'Community governed by the rule of law', to use a well-known expression.

As my predecessor, Ole Due, pointed out when the Members of the Court of Auditors last took the oath, the Treaty of Maastricht merely gave formal expression to a state of affairs which already existed in practice by expressly raising the Court of Auditors to the rank of a Community institution. A body which is so conscientious in ensuring that the Community budget is properly implemented is entitled to that status.

It is impossible to ignore the significance which the Court of Auditors has acquired over the years. It is today the exact counterpart, at Community level, of the national courts of auditors, whose reputation in the Member States is of the highest.

As a result of the size of the Community budget, there have inevitably been cases in which the rules of proper administration have not been applied with the requisite orthodoxy, at times on account of attempts by certain traders to take undue advantage of the Community's bounty.

The reports published by the Court of Auditors regularly bring to our attention improper practices in the management of Community funds.

It would be simplistic to believe that the disclosure of those facts undermines the cause of the Community. If anything, given the stir they arouse and their exemplary character, those reports prevent the practices they condemn from being pursued, which would be detrimental not only to the operation of the Community but also to its image.

As a lawyer, I wish to single out another aspect of this Community governed by the rule of law, as reflected in those reports: the opportunity for the relevant institution to submit its observations, which are published with the report, constitutes the application of the *audi alteram partem* rule, a guarantee to which we attach considerable importance in this forum.

As new Members of the Court of Auditors, you bring to your institution the significant and wide-ranging professional experience you have acquired: let me single out, in your brilliant careers, as being particularly close to the field of activity to which you will devote yourselves, the functions performed within a national court of auditors, the high-level responsibilities exercised in a Ministry of Finance and finally the conduct of audits while in the employ of a prestigious private firm.

Allow me, on behalf of the Court of Justice, to wish you every success in the performance of your new duties.

I now call upon you to give the solemn undertaking to act independently and with integrity and discretion.

Address by M.A.J. Middelhoek, President of the Court of Auditors

Mr President of the Court, Members of the Court, Your Excellencies, Ladies and Gentlemen,

The European Court of Auditors has just had the great pleasure of welcoming the Members from the three States which have recently acceded to the European Union. On behalf of the Court of Auditors, I should like to congratulate them and wish them a warm welcome. We are convinced that the fresh look they will take at the functioning of the Union will constitute a valuable contribution to the performance of the Court of Auditor's tasks.

The enlargement of the Union and the prospects for future expansion have prompted discussion as to the number of Members which each institution should have.

That discussion is far from over. For my part, all I can say is that enlargement has not created any problems for the Court of Auditors because the increase in the number of Members was accompanied by an extension of the institution's tasks.

The entry into force at the end of 1993 of the Treaty of Maastricht, the increase in the Community budget and the new Community policies also conducted in Central and Eastern Europe and in the Republics of the former Soviet Union have led to a considerable increase in the Court of Auditor's workload.

The Court of Auditors is therefore only too happy to see its potential for action reinforced by the broad experience in public finances acquired by our three new colleagues and I am certain that, composed of 15 Members, it will be able to play in full — particularly in qualitative terms — the role entrusted to it by the Treaties.

Furthermore, as the procedure for appointing Members of the Court of Auditors is more protracted than that for designating the Members of the other Community institutions, our new colleagues have been appointed by the Council with effect from 1 March, that is to say, two months after the commencement of their counterparts' term of office. That delay creates a slight problem for the Court of Auditors because their arrival coincides with the busiest time of the year, namely the preparation of the 1994 annual report and the Statement of Assurance concerning the reliability of the accounts and the legality and regularity of the

underlying transactions, which the Court will have to submit for the first time this year in the autumn.

The Treaties underline the independence of the Court of Auditors, hence its duty to lay emphasis on the need for the construction of Europe to be endowed with the means to safeguard the healthy management of public finances in the Community. It cannot be overemphasized that the principle of subsidiarity is inapplicable in this area, since once the appropriations are entered under the Community budget, it is the Commission — and the Commission alone — which is responsible, under Article 205 of the Treaty, for implementing the budget. It is therefore strictly at that level — the Community level — that the use made of taxpayers' money must be properly and reliably accounted for. If it were otherwise, the Community's entire procedure of democratic control would become illusory.

In his address to the European Parliament on taking up office, the President of the Commission referred to the need to 'improve the Commission's budgetary and administrative culture'. If it were to come about — and for my part I am convinced that it will be possible to pursue this approach together with the Commission — this new state of mind should also induce those in positions of responsibility to discharge that responsibility without delay and to take all appropriate steps rather than attempt, often in vain, to justify that which cannot be justified.

A constructive approach of that nature should also make it easier to identify and to remedy any weaknesses in management systems, of the kind which may lead to irregularities or fraud. It is necessary to fulfil the expectations of, and to answer the questions raised by, European public opinion.

In that connection, it is worth bearing in mind that the Court of Auditors has just communicated to all the institutions the observations which it sent to the Council concerning the Proposal for a Council regulation (EC, Euratom) on the protection of the Communities' financial interests and the Proposal for a Council decision establishing a convention to that end. Those proposals, as you know, are designed to make it easier to protect the Communities' financial interests by the introduction of penalties. In that area, the Court of Auditor's sole concern is that such legislation should make a genuine contribution to the solution of problems, that is to say, that such legislation should achieve its objectives. In that regard, however, the first indications concerning the interpretation of the Commission's proposals give cause for concern.

Finally, Mr President, Members of the Court, I should like to highlight the fact that, owing to the institutional balance and the system established by Community

law, the Court of Justice, the Court of First Instance and the Court of Auditors ('the other Court in Luxembourg') must work together in affording the best possible protection to the financial interests of the Communities. It gives me great pleasure to underline the quality of that cooperation and it seems to me that, whatever uncertainties the future may hold, the citizens of Europe can only continue to benefit from the fact that we are so close — in every sense of the word — to one another.

Thank you very much.

Formal sitting of the Court of Justice of 15 March 1995

Funeral oration by G.C. Rodríguez Iglesias, President of the Court of Justice, in memory of Judge Aindrias O'Keeffe

Ladies and Gentlemen,

It is with great sadness that we learned of the death of Aindrias O'Keeffe in Dublin on 29 December of last year.

Aindrias O'Keeffe was a Judge at the Court of Justice from 1974 to 1985, and I did not therefore have the privilege of working alongside him.

Nevertheless, I shall retain of our all too brief encounters the memory of an affable, intelligent and humane being, whose legal knowledge was vast and whose modesty, pragmatism and attention to detail were praiseworthy.

His career was as rich and varied as his personality.

After qualifying in Celtic Studies, he obtained a law degree in 1936 at University College Dublin.

After being called to the Bar, he became Senior Counsel in 1951 and Bencher of the Kings Inns in 1954.

In 1954 he held the post of Attorney-General for six months, and occupied that post again from 1957 to 1965.

His judicial experience was also considerable: he was appointed judge of the Supreme Court in 1965 and became President of the High Court in 1966.

However, there was also an important international side to his career.

He represented the Irish Government on numerous occasions in international courts; the famous *Lawless* v *Ireland* case before the European Court of Human Rights springs to mind, as does the case relating to the expenses of the United Nations in the Congo and the Middle East which came before the International Court of Justice.

He also took part in the United Nations' seminars on human rights in Vienna in 1960, in Stockholm in 1962 and in Warsaw in 1963.

Finally, he led the Irish delegation at the United Nations Conference on the Law of the Sea in Geneva in 1960 and the International Conference on the International Sale of Goods at The Hague in 1964.

He was appointed to the Court of Justice at the end of 1974. His predecessor, Judge O'Dalaigh, had just become President of Ireland.

In the ten years which he spent at the Court, Aindrias O'Keeffe was Judge-Rapporteur in an exceptional number of cases — almost 200.

Those amongst us who were contemporaries of his at the Court will retain a fond memory of his charming personality.

For my part, I should like to single out one of the attributes of Aindrias O'Keeffe to which I have already referred: his extraordinary modesty.

By way of illustration, allow me to quote an extract from the address which he gave on the occasion of his retirement from office.

Speaking of his early days at the Court, he said 'the first thing that I very quickly discovered was that years of experience as a national judge did not in themselves suffice to equip me to discharge the functions of a judge of the Court of Justice. I had only a very vague knowledge of the Treaties and of Community law. Moreover my knowledge of French was slight. I was like a new-born baby surrounded by adults'.

Today one cannot fail to be disconcerted by such humility, which reveals Aindrias O'Keeffe's nobility of soul.

Madam, allow me, on behalf of the Court, to express our heartfelt condolences.

I now ask you to stand with me and observe a minute's silence in memory of a great jurist.

Thank you very much.

The sitting is now closed.

Formal sitting of the Court of Justice of 12 July 1995

on the occasion of the swearing-in of a new Member of the Court of Auditors

Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the entry into office of Mr J. Mohr

Today we are gathered together to bear witness to the solemn undertaking given by a new Member of the Court of Auditors, in accordance with Article 188b(5) of the Treaty.

Before calling upon Mr Mohr to make the declaration required of him, I should like to emphasize the importance of this act. As I already said on 8 March of this year, on the occasion of the entry into office of some of your colleagues, I regard the solemn undertaking given by Members of the Court of Auditors before the Court of Justice as a salient feature of the rule of law, which is the cement holding together this 'Community governed by the rule of law'.

As a Community institution, the Court of Auditors performs the crucial task of ensuring that the Community budget is properly implemented. The submission of reports at regular intervals by the Court of Auditors constitutes an essential element of the system of mutual checks and balances inherent in the democratic principles prevailing in the European Union. The Treaty on European Union, moreover, entrusted a new task to the Court of Auditors, whose importance is beyond dispute, namely providing the Statement of Assurance concerning the reliability of the accounts and the legality and regularity of the underlying transactions.

The effectiveness and success of the Court of Auditors in the exercise of its vital institutional responsibilities depend to a decisive extent on the individual capacities of each of its Members. That is why the Treaty provides that the Members of the Court of Auditors are to be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office.

Mr Mohr, as a new Member of the Court of Auditors you have an impressive national and international track record which reflects your career as an auditor, and in particular as Denmark's general auditor, a post which you have occupied since 1985.

Allow me, on behalf of the Court of Justice, to wish you every success in the performance of your new duties.

I now call upon you to give the solemn undertaking to act independently, and with integrity and discretion.

Formal sitting of the Court of Justice of 13 September 1995

Funeral oration by G.C. Rodríguez Iglesias, President of the Court of Justice, in memory of Judge René Joliet

Your Excellencies, Ladies and Gentlemen,

It is particularly sad to have to pay tribute to the memory of a friend and colleague with whom we hoped to carry on working for a long time to come.

Alas, our colleague René Joliet passed away on 15 July of this year, at the age of 57, after eight months in which he showed great courage in his struggle against an implacable illness. The Court of Justice has thus lost one of its most active Members.

René Joliet acquired his basic legal training at the University of Liège, where in 1960 he gained the title of Doctor of Law. Engaged in research and postgraduate studies, he paid several visits to Germany and the United States, in particular to Northwestern University, Chicago, and to the Bundeskartellamt, Berlin, where he completed a traineeship which was recalled when a delegation from the Court of Justice, of which he formed part, visited that institution in 1987.

His training brought him into close contact with the Anglo-American world and the German-speaking world, with which he maintained particularly intense personal and intellectual links throughout his life. It probably contributed to the development of his personality, which was clearly open to the outside world, but it was probably also the result of a choice dictated by an intellectual and human attitude steeped in universal values.

René Joliet's career also began at the University of Liège, where he had been a professor since 1974, but he was active in other centres of learning as well, such as the University of Nancy, Amsterdam University's Europa Institute, the University of Louvain-la-Neuve, Northwestern University of Chicago, King's College London and the College of Europe in Bruges.

In 1984 René Joliet was appointed as a Judge at the Court of Justice. He took up his duties on 10 April of that year and performed them in exemplary fashion to the end of his days, to the limits of his endurance.

The major areas in which René Joliet was engaged in teaching and research were competition law, intellectual property law and the institutional law of the European Communities. He left indelible traces of his profound and fruitful labours not only in numerous publications in several languages but also in the minds of his students and of those who had the privilege of having intellectual contact with him in an academic, professional or judicial context.

The process whereby the European Community and its legal order gained a place at the heart of René Joliet's activity as a lawyer was a gradual one. A comparison could be drawn between the development of that activity and the Schumann Plan, in the sense that it was from an economic premiss — economic law, to be more precise — that René Joliet acquired a growing interest in, and attachment to, the construction of the Community and its legal order.

To his way of thinking, however, Europe was not an isolated world closed in on itself. Instead, Europe in his conception was meant to be open to the outside world, even a stage in the development of a universal ideal.

Although in many ways an idealist, René Joliet was more attached to practical reality than to abstract conceptions. As a professor and as a judge, he always based his theoretical constructs on specific examples that could be verified and he always expected others — his students, his assistants and his colleagues, in particular his colleagues at the Court of Justice — to meet the same exacting standards as he imposed on himself.

His exacting standards and critical mind did not make him an easy colleague. However, his integrity and upright conduct gained him not only the respect but also the affection of his colleagues and of all those who worked with him.

I should like to emphasize René Joliet's tremendous devotion in carrying on his duties as a judge. In the many cases in which he was Judge-Rapporteur, he was always able to combine an in-depth study of the file with a clear presentation of the problems raised and his personal opinion. To him, clarity of thought for the benefit of his colleagues was always a point of honour.

In cases in which he was not Judge-Rapporteur, the firmness of his convictions, but above all the cogency of his arguments, enabled him to exert considerable influence.

It is indisputable that his presence at the Court of Justice during the last 11 years had a decisive impact on the case-law of that period.

His last large-scale contribution to the Court's activity was his excellent work as Rapporteur in Opinion 1/94, which was concerned with GATT, delivered on 15 November of last year. It is thanks to his efforts that the Court was able to deliver that opinion within the exceptionally short period that it had set itself, in view of its urgency.

It was precisely at the time when that opinion was given that the serious illness that was to carry him off was diagnosed, an illness whose initial symptoms we had naively confused with the mere effects of overwork.

Thereafter, he fought his illness with formidable courage, without neglecting in any way the cases pending before the Court.

René Joliet deserved to win his battle against disease, to rejoin us and to continue to give us the benefit of his remarkable contribution.

But he has bequeathed to us the professional and human example that he set, which is of immense value, and the privilege of having had him as a colleague and friend.

I now ask you to observe a minute's silence as a tribute to his memory.

Formal sitting of the Court of Justice of 18 September 1995

on the occasion of the entry into office of Melchior Wathelet, as Judge at the Court of Justice, and of André Potocki and Rui Moura-Ramos, as Judges at the Court of First Instance

— Address by G.C. Rodríguez Iglesias, President of the Court of Justice . . . . . p. 131

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Address by G.C. Rodríguez Iglesias, President of the Court of Justice

Your Excellencies, Ladies and Gentlemen,

In opening this formal sitting, allow me to begin by welcoming you and expressing on behalf of the Court of Justice and the Court of First Instance our pleasure at the presence of such eminent personalities.

Mr Registrar, I call upon you to read out the decision of the representatives of the Governments of the Member States appointing a judge to the Court of Justice.

* * *

Thank you Mr Registrar.

Before asking you to take the oath, as provided for by the Statute, I should like to welcome you cordially, Mr Wathelet, to the Court of Justice, where you will contribute the wealth and diversity of your experience.

You embarked on your academic career at the University of Liège, where you obtained a degree in law and a degree in economics. You pursued your studies in the United States, where you obtained a Master of Laws at Harvard University.

You then engaged in research and teaching, particularly in the field of European economic law. It is only proper to recall that you also spent part of that time with your predecessor at the Court of Justice, the late René Joliet.

You are a lecturer at the University of Liège and professor in the Faculty of Law at the Catholic University of Louvain-la-Neuve.

However, you are best known for your activity in politics where, from a very early age, you have borne heavy responsibilities. Let me point out *inter alia* that since 1977 you have been a member of the Chamber of Representatives and a local councillor and that, since 1980, you have performed increasingly important functions as a Member of the Government, in particular as Minister-President of the Walloon Region, Minister of Justice, Minister of National Defence and Deputy Prime Minister.

Allow me, on behalf of all my colleagues and in my own name, to express our pleasure in welcoming you and to wish you every success in the performance of your new duties.

I should now like to ask you to take the oath, as provided for in Article 2 of the Statute of the Court.

* * *

The Court takes formal note of your undertaking.

Mr Registrar, I call upon you to read out the decisions of the representatives of the Governments of the Member States appointing judges to the Court of First Instance.

* * *

Thank you Mr Registrar.

* * *

Six years have already elapsed since the establishment of the Court of First Instance. Today, we are witnessing the departure of two of its founder Members, if I may express myself in those terms. Allow me to join in the tribute that will be paid to them in a moment by recalling, very briefly, the eminent role which they have played.

Mr Biancarelli, who is unwell, is unfortunately unable to be with us today. It is worth remembering that not only did he serve the Court of First Instance as Judge for six years but that, well before that Court was set up, he contributed significantly to its conception as a legal secretary at the Court of Justice.

As for you, Mr President, dear José Luís, you have presided over the Court of First Instance since its inception. Leaving aside my personal feelings, based on the link we forged since our arrival at the Court of Justice together in 1986, let me confine myself at this juncture to thanking you for the quality of our relationship, based on cooperation, and to acknowledging on behalf of the Court of Justice the credit due to you for the important work you have accomplished.

Mr Vesterdorf, President of Chamber, is better placed than I am to give some account of the scale of your achievement.

Mr Vesterdorf, you have the floor. (see p. 135)

* * *

I now give the floor to Mr Cruz Vilaça. (see p. 137)

* * *

Before asking the new Members of the Court of First Instance to take the oath, I should like to welcome Mr Moura-Ramos and Mr Potocki to our institution in the warmest possible terms: their qualifications and experience foreshadow a remarkable contribution on their part to the work of the Court of First Instance.

Mr Potocki, your professional track record is essentially linked to the administration of justice. You have performed a variety of judicial functions, first as a single judge, then as member of collegiate courts including, most recently, the Paris Court of Appeal.

But you have also been Secretary-General of the highest French courts. You are therefore aware that the administration of justice is not a disembodied function but must incorporate certain aspects of public management.

Furthermore, you have also had occasion to perceive judicial problems from a different angle, that of the Ministry of Justice, in which you set up and directed for three years the European and International Affairs Service.

Finally, you also found the time to teach law, in particular at the École Nationale de la Magistrature and at the University of Paris (Nanterre), in your capacity as Associate Professor of European law.

As for you, Mr Moura-Ramos, you are first and foremost a professor of law. You pursued your professional career, in particular, at the prestigious University of Coimbra, where you acquired your basic legal training, where you were made a Doctor of Law and where you carried on most of your formidable teaching activity and engaged in research, particularly in the field of private international law and European Community law.

Your academic career has also transcended Portugal's borders. I will confine myself to recalling your activities at the Sorbonne, where you were engaged in research, and at the Hague Academy of International Law, where you taught, without referring to the many international conferences and seminars in which you took part.

Your scientific prestige has just been confirmed, once again, by your election to the Institute of International Law.

You also have a wealth of experience in the practical dimension of the law. In particular, you participated as an expert in various kinds of legislative work at both national and international level, for instance in the Hague Conference on Private International Law and the United Nations Commission for International Trade Law. You have also been a member of various national and international arbitration tribunals and you have represented the Portuguese Government in proceedings before the European Court of Human Rights.

The Court of First Instance can therefore take pride in the attributes of its new Members.

In wishing you every success in the performance of your new duties, Mr Potocki and Mr Moura Ramos, I now ask you to take the oath, as provided for in Articles 2 and 44 of the Statute.

Mr Potocki would you be so kind

...

The Court takes formal note of your undertaking.

Mr Moura-Ramos

...

The Court takes formal note of your undertaking.

Address by Bo Vesterdorf, Judge at the Court of First Instance, on the occasion of the departure from office of J.L. da Cruz Vilaça, President of the Court of First Instance

Mr President, Members of the Court, Your Excellencies, Dear Colleagues, Ladies and Gentlemen,

The first stage in the life of the Court of First Instance is coming to an end today, as it bids farewell to its first President. For us, therefore, this moment is of the highest significance.

To act as President of the Court, and especially a court like ours, composed of judges from 15 different States, is undoubtedly a difficult task. Yet the task that faced Mr Vilaça was harder still.

He had to direct and preside over the establishment of an entirely novel court which, moreover, had to be grafted onto an existing institution. That task was not an easy one but I am certain you will agree with me that Mr Vilaça was able to accomplish it, with diplomacy and flexibility, in the best possible fashion. Mr Vilaça took on the presidency of the Court of First Instance so successfully that his name became a byword for that court in all legal circles.

Dear José Luís, your departure after six years at the helm can only leave us as a crew bereft of its captain. In the first few weeks after your departure, we will probably muddle through but, as is usually the case in situations of this kind, someone will take over your watch and fortunately — this comes as no surprise — you cleared the decks before you went. Over the last six years, you have been able to organize and preside over the Court of First Instance so effectively and authoritatively that now, with the initial running-in period over, it can safely be said that the Court is fulfilling its role as a Community Court of First Instance within the Court of Justice.

The national governments' choice of you, Mr Vilaça as first President of the Court of First Instance was the right one at the time, as has been largely demonstrated in practice by the manner in which you carried out your duties. That was fully confirmed by your colleagues at the Court of First Instance when you were re-elected as President three years ago. The lustre of an already impressive career as professor of law, Advocate General at the Court of Justice, Secretary of State, author of numerous legal articles, to mention only some your activities, is now enhanced by the additional title of President of the Court of First Instance from 1989 to 1995.

a vivid recollection not only of our sittings, deliberations and plenary sessions — in others words, of the discussions which enlivened our daily existence at the Court of First Instance — but also of our friendship and of our moments of leisure together.

Although he cannot be with us today, I now turn in particular to Jacques Biancarelli, President of Chamber, whose departure coincides with my own. Dear Jacques, we all knew that as a result of your appointment as Judge at the Court of First Instance six years ago, we would be joined by a sophisticated lawyer and a great connoisseur of Community law. Your experience at the Court of Justice — the years you spent at the side of Judge Galmot — had already earned you the respect of legal circles in the Community.

Your exacting and methodical legal mind, trained in France's outstanding schools of law and administration, undoubtedly benefited from the years in which you pursued a brilliant career in the service of the French Conseil d'État, that supreme court which has given our institution so many distinguished Members.

Jacque Biancarelli's presence at the Court of First Instance was characterized by his belief in the value of the rule of law and the importance of legal certainty, by his concern strictly to review the legality of measures taken by the institutions in keeping with the principle of effective judicial protection. His astonishing capacity for work, his careful and detailed study of the files — whether of those he was dealing with in his capacity as Judge-Rapporteur or of all the cases which came before the Chambers in which he sat — have made a contribution to the Court of First Instance which is of the highest order.

But let me also emphasize his unwavering European commitment and the depth of his belief in the defence of fundamental human values.

The strength of his conviction always came to the fore in our discussions and deliberations at the Court of First Instance, so that those who disagreed with him never had an easy ride.

In short, Jacques Biancarelli's participation in the work of the Court of First Instance, even though he only held office for a single term, has left its mark, as regards both substance and form, on the case-law of the Court.

Dear Jacques, we wish you a speedy recovery. We also wish you, as well as your wife and your family, who are with us today, every success in the new chapter of your life which is about to open. In any event, allow me to express the hope that the Community order and the European project will continue to enjoy your support.

Your Excellencies, Ladies and Gentlemen,

The Court of First Instance came into existence at a time when Europe entered a period of profound change, with the fall of the Berlin Wall and the democratization of the countries of Eastern Europe. Europe is forever in search of new ways in which to balance the scales. The Treaty of Maastricht, which has in the meantime been signed and has entered into force, has not provided all the answers to the fresh challenges facing the European Union. However, they will undoubtedly surface in the Inter-Governmental Conference that will soon be under way.

Experience has shown that the construction of Europe and the solid structure of the Community are founded on three fundamental pillars: a clear political will, shared by the peoples of Europe, action undertaken by statesmen who are capable of embodying that will and giving effect to it, and the efficient operation of common institutions, which are strong and enjoy respect, responsible for achieving the tasks entrusted to them by the Treaties. Allow me to express the hope that the Inter-Governmental Conference will succeed in creating the conditions allowing the personality of the European Union to assert itself in the world and that its institutions will be able to act effectively in the new Europe, in keeping with the fundamental achievements which the Court of Justice and the Court of First Instance have helped to consolidate in their decisions and in strengthening the machinery for protecting the fundamental rights and freedoms of the citizen.

That, I believe, is the frame of mind in which the two Courts communicated their thoughts to the Inter-Governmental Conference. Moreover, it is that same mind-set which has guided us over the last six years since the inception of the Court of First Instance.

Our general line of approach was designed to reconcile the high standard of judicial review with the flexibility of procedural rules and the permanent capacity to adjust to the growing number and diversity of disputes. At the same time it was necessary to avoid the risk that the multiple formations in which the Court sits might undermine the consistency of the case-law. The results so far are of course open not only to review by the Court of Justice on appeal but also to the judgment and criticism of individuals and legal circles, although personally I feel that we have adhered to the approach that we set ourselves and used our best endeavours to achieve the programme that we set forth on taking up office.

In the future, however, the Community judicature will be confronted with challenges of even greater magnitude. Whilst retaining an open mind with regard to different solutions for strengthening the conditions in which justice is

administered swiftly and effectively, it is essential in my view to preserve the stability of the judicial structure of the Community and its institutional cohesion. So far as concerns the Court of First Instance, it will henceforth be for my colleagues to take up that challenge, in the knowledge that the experience acquired by the Court throughout the last in some respects trying, though gratifying, six years and the team spirit that its Members have been able to create amongst themselves will stand them in good stead.

Following my own departure and that of Jacques Biancarelli, it will be for André Potocki and Rui de Moura-Ramos to take over from us. The confidence placed in them by the Governments of the Member States strikes me as wholly justified and I am certain they will make a remarkable contribution to the Court of First Instance.

On behalf of all my colleagues at the Court of First Instance and in my own name I should like to wish you both every success in the exercise of your duties.

In particular to you, my dear old friend Rui de Moura-Ramos, I should like to express my deep satisfaction at seeing you occupy the same place on the bench that was mine for six years. I could not have wished for a better Portuguese judge at the Court of First Instance.

I am moved at the thought of another very dear friend, René Joliet, whom we have so recently lost. Allow me, Mr President, to associate my wishes and those of the Court of First Instance to those which you have addressed to his successor, Melchior Wathelet.

The time has therefore come for me to bid farewell to the Community judicature which I have had the honour to serve for almost nine years. I cannot help associating in my mind the period — almost three years — in which I had the privilege of serving the Court of Justice as Advocate General with that which I had the good fortune to spend at the Court of First Instance.

Those were years spent in Luxembourg, this beautiful and hospitable country, in which the heart of Europe beats so strongly.

I have already had occasion to express my feelings for the Grand Duchy to the Prime Minister and Members of the Luxembourg Government.

Today I should like — through the Marshall of the Grand Ducal household — to express to their Royal Highnesses the Grand Duke and Grand Duchess, as well as to the Grand Ducal family, my deepest respect and my gratitude for the interest

they have taken in the Court of First Instance and for the courtesy they have shown to my wife and myself.

I should also like to welcome the Portuguese Government's representative, my friend Dr Victor Martins, Secretary of State for European Affairs. His presence here today is highly significant in that it reflects the Portuguese Government's unswerving commitment to the Community, visibly associating it with an occasion that is laden with significance for the life of the Community's judicial institution.

I would also like to thank the Ambassadors for attending; they include some very dear friends with whom I have been able to establish a fruitful relationship which — I believe — has contributed to greater understanding in the States which they represent for the work of the Court of First Instance.

I should also like to extend my special greetings to the representatives of the other institutions of the European Union, in particular those which are established in Luxembourg. Personally, I hold them in the highest esteem and greatly appreciated the excellent climate of cooperation and cordiality which was a feature of our relationship.

Finally, I turn to all those who work within the institution in order to thank them in the warmest possible terms. In this 'common home', all those who provide assistance to the Court of Justice are, in one way or another, directly or indirectly assisting the Court of First Instance.

To the Registrar of the Court of Justice, Roger Grass, I wish to express my gratitude for his cooperation, which was of the highest order throughout the period in which we established very close professional as well as personal links. The quality of that relationship, I am convinced, largely contributed to mitigating the difficulties and resolving the problems inherent in the functioning of an administrative structure which is in some respects highly original — not to say unusual — and is characterized, moreover, by a chronic inadequacy of resources in relation to its needs.

However, the miracle of multiplying the material and human resources available could not have been worked without the skill and devotion of the Deputy Registrar responsible for administration, the directors, the heads of division and heads of service, and all the officials and other employees who, throughout that period, made their own contribution to the institution.

The manner in which they all perform their duties is an essential back-up to the administration of justice in the Community and contributes at the highest level to the dignity of the European public service.

Against that background, I should like to express my sympathy for the Staff Committee, actively engaged in the task of representing the institution's employees. I would like the Committee's current President, Mr Guy Lequime, to know how much I appreciated the exemplary nature of our relationship.

I now turn, in particular, to all those who are directly involved in the work of the Court of First Instance, starting with the staff of the Registry and including, in particular, those who took part in the delicate process of setting up the Court. Regrettably, I cannot mention them all by name but I should like to express publicly, in the warmest possible terms, my deepest gratitude and that of the Court of First Instance for the extraordinary devotion and sense of duty which they have always shown, at times under extremely difficult working conditions.

I must say that they had a 'great helmsman' in the person of Hans Jung, the Registrar. Hans has been a friend, a daily companion at the Court of First Instance and, on account of his professional and human qualities, an associate whom I shall sorely miss now that our ways are about to part.

The Court of First Instance has also had at its disposal, within the judges' chambers, outstanding members of staff — legal secretaries, assistants and secretaries — who have underpinned its judicial activity. I would like to thank them very warmly indeed for their efforts, their devotion and their valuable contribution to our work as a whole.

However, the Court's 'inner circle' also includes the reader of judgments, a unit whose permanent feature is Evelyne Tichadou — her discreet, efficient and competent intervention has helped to improve the quality of the Court's judgments and orders.

Far be it from me to overlook the contribution made by another group of devoted staff members, namely the ushers and chauffeurs in the service of the Court of First Instance. Far too few in number, given the scale of the Court's needs, they did their utmost to be in attendance whenever their services were required. Without wishing to overlook the others, I should like to thank in particular my chauffeur, who drove me around safely yet briskly, throughout my terms of office, namely Mr Daniel Lopes whose availability was equalled only by his sense of humour.

Last but by no means least, I would like to thank my personal staff. To my legal secretaries — Luís Miguel Pais Antunes, Nuno Piçarra, Carlos Pinto Correia and Margarida Afonso — and to those who worked for me in the same capacity, such as Walter Mölls, as well as to my indefatigable and irreplaceable assistant, Maria

Antonieta Tavares, and my secretaries Gillian Byrne and Silvana Merino, I should like to express my gratitude not only for the exceptionally high standard of their work but also for their devotion at all times, their loyalty and their friendship which transformed my chambers into a small and efficient working community.

Your Excellencies, Ladies and Gentlemen,

The occasion on which the Members of the Court of First Instance wear their robes for the first time at a formal sitting is a happy event. It also coincides with the occasion on which I am wearing it for the last time.

Departure, a mere figure of speech until yesterday, is a matter of fact today. As the poet said, we must prepare ourselves for the future as if for a difficult exam. I believe that both the Court of First Instance and I have followed the poet's injunction.

Formal sitting of the Court of Justice of 27 September 1995

on the occasion of the entry into office of the European Ombudsman

— Address by G.C. Rodríguez Iglesias, President of the Court of Justice, on the occasion of the formal undertaking given by Mr Söderman . . . . . p. 147

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Address by G.C. Rodríguez Iglesias, President of the Court of Justice on the occasion of the solemn undertaking given by Mr Söderman [1]

Your Excellencies, Ladies and Gentlemen,

We are gathered here today for an occasion which I have no hesitation in describing as historic: the entry into office of the first European Ombudsman at a formal sitting where he will publicly undertake to perform the duties of his office.

I would have liked to pay tribute to the personality designated to occupy this senior post by expressing myself in Swedish or Finnish. Unfortunately, I am unable to do so and I will therefore use my own language which you, Mr Söderman, have mastered admirably.

The new Article 138E of the Treaty establishing the European Community provides for the appointment of a European Ombudsman, thereby creating a new means of exercising control over the Community institutions.

In addition to political control by the Parliament, judicial review by the Court of Justice and the Court of First Instance and supervision of financial management by the Court of Auditors, there must be a fourth means of control, that exercised by the Ombudsman who, moreover, is closely linked to the European Parliament.

The creation of this new means of control, the precedents and inspiration for which are to be found in a number of similar institutions which have appeared in various Member States, based on the experience of the Ombudsman in Sweden and other Scandinavian countries, will no doubt improve the institutional structure of the European Community.

I wish to emphasize that this is one of the most important measures provided for in the Treaty on European Union in an attempt to bring the European project closer to the citizen. Moreover, the right to submit a complaint to the Ombudsman has been envisaged as one of the basic elements of European citizenship.

1 Translation of the Spanish original.

That said, it is only right that access to the Ombudsman has not been restricted to citizens of the European Union, but is also open to any natural or legal person residing or having its registered office in a Member State.

The specific purpose of the supervisory role entrusted to the Ombudsman is to help uncover and remedy instances of maladministration on the part of the Community institutions or bodies in the course of their activities.

To that end, the Ombudsman has been given broad powers to conduct any enquiries which he considers justified, either on his own initiative or on the basis of complaints submitted to him by citizens directly or through a Member of the European Parliament.

It is important in my view to emphasize that the obligation to cooperate with the Ombudsman in order to provide him with the information he seeks for the conduct of his enquiries rests not only on the Community institutions but on the authorities of the Member States as well.

The powers of the Ombudsman are carefully distinguished from those of the judicial authorities and his decisions are not binding. However, I am certain that his reports to the European Parliament and to the institutions concerned, like his recommendations, will have a decisive influence on the quality of administration in the Community.

It is equally important, in my view, to highlight the possibility, referred to in Article 5 of the Decision on the Statute of the European Ombudsman, of cooperation with authorities of the same type in certain Member States. The fact that those authorities are represented here today inspires the highest confidence in the effectiveness of that cooperation.

As is the case with every newly-created post, the decisions, the practices and, ultimately, the personality of its first holder will be crucial.

In choosing you, Mr Söderman, from amongst a number of other very prestigious candidates, the European Parliament undoubtedly took account of your impressive personal and professional track record, which marks you out as a personality with the requisite experience and ability to carry out the duties of Ombudsman.

Allow me to recall just a few of the senior responsibilities entrusted to you at both national and international level: you have represented Finland on the Executive Council of the International Labour Organization, you have been President of the International Commission on Chile, Member of Parliament and Chairman of various Parliamentary Committees, Governor of the Province of Uusimaa, and

Minister of Justice, Social Affairs and Health. Above all, I must lay emphasis on the duties of Parliamentary Ombudsman which you have exercised since 1989. Moreover, you have devoted a number of conferences and publications to the study and clarification of that institution and of its workings from both a national and a comparative perspective.

In discharging those senior responsibilities, you have acquired, at home and abroad, the reputation of a man who is cultured, experienced and efficient — but also one who is straightforward, accessible and fair.

Mr Ombudsman, the citizens of Europe wish and expect the European Union to be increasingly democratic and transparent, closer to them, more open to their enquiries, more attentive to their concerns and more sensitive to their problems. I am certain that you will make an enormous contribution to the achievement of those goals.

The Members of the Court of Justice wish you every success in accomplishing the important task which has been entrusted to you.

I now call upon you to give the solemn undertaking referred to in Article 9(2) of the Decision on the Statute of the European Ombudsman.

Address by Mr Söderman [1]

Mr President of the Court, Members of the Court, Fellow Ombudsmen of the Member States of the European Union, Chairmen of national committees on petitions, Ladies and Gentlemen,

It is a great honour for me to take the floor before such a distinguished audience gathered here today on a formal occasion concerning a new institution created to serve the peoples of Europe.

I should like to begin by thanking the President of the Court of Justice for his kind words of welcome, and for wishing me every success in this task which, as he wisely emphasized, has as its purpose to enhance in the citizens of Europe a feeling of belonging to an ever-closer union in which there is increasing solidarity in every sphere.

The President has also referred to the Ombudsman's function, which is laden with symbolism. When a country creates this institution, the aim is to strengthen and promote democracy and the rule of law. Spain appointed an Ombudsman following the successful establishment of democracy almost 20 years ago, as a number of Latin American and Central or East European countries have recently done. But what prompted the European Union to do so, given that the activities of the Community and the Union have always been conducted in compliance with legal rules? Moreover, the citizens of the Union already had the right to submit petitions to Parliament, which invariably responded promptly.

The post of European Ombudsman was created in order to foster the idea of European citizenship by attempting to enhance relations between the citizen and the administration in Europe. In other words, the Ombudsman's fundamental role will be to assist the citizens and communities of Europe in exercising their rights. He will thus be in a position to enhance the quality of the services provided by the European administration at the level of the individual, even though he will have to operate within a legal framework.

Sceptics will not fail to wonder whether this is feasible, whether the Ombudsman has sufficient power when his profile is less distinct than that of the classical Ombudsman, an institution the creation of which can be traced back to Sweden in 1809. Equally, they will wonder whether his brief is not too narrow since he

1 Translation of the Spanish original.

is only empowered to keep a watchful eye over any shortcomings on the part of the administration of the institutions and bodies of the European Community.

I am certain that the powers and brief of the European Ombudsman, which are modelled in part on those of the French Ombudsman, the United Kingdom's Parliamentary Commissioner and their Nordic counterparts, endow him with adequate means to accomplish his assignment successfully. After all, his major task will be to persuade and argue in favour of reasonable solutions.

Of course, that task will have to be accomplished within the limits set by the law and the rules applicable to the administration, which have by and large been laid down by the Court of Justice itself in the many cases brought before it. It is the solutions adopted by the Court of Justice which will have to guide the Ombudsman in his work and on which he will draw in practice.

The Ombudsman will also be able to establish useful links with the European Parliament's Committee on Petitions and with each Member State's Ombudsman and Committee on Petitions, which already play an important role in this area. Cooperation between the European Ombudsman and those institutions cannot fail to promote the proper application of European law at every level within the Union.

There has been much talk of the importance attaching to the independence of the European Ombudsman. In my view, independence is above all an attitude of mind reflecting the integrity that the Ombudsman must show in the performance of his duties. When the Latin American writer Carlos Fuentes received the Principe de Asturias prize last year, he delivered a speech entitled 'El abrazo de las culturas' in which, to illustrate his thoughts, he drew on Greek philosophy — the cradle of Western culture. Referring to Pindar, he recalled three of the latter's precepts:

'Do not worship power,
do not loathe your enemy
and do not despise those who suffer.'

Thank you for your attention.

Formal sitting of the Court of Justice of 27 November 1995

in memory of Advocate General Mayras

Funeral oration by G.C. Rodríguez Iglesias, President of the Court of Justice

Your Excellencies, Ladies and Gentlemen,

We are gathered here today in order to pay tribute to Henri Mayras, Advocate General at the Court of Justice from March 1972 to March 1981.

As Montaigne wrote 'Every day brings death closer, and on the last day we reach our destination'. Henri Mayras' last day was 9 July 1995.

None of the Members holding office today had the privilege of working with him at the Court.

On his departure, however, every judge, every advocate general, always bequeaths something of himself, both to those he is leaving behind and to his successors. The Court cultivates a sense of tradition. Its collective memory is that of the law forged over several decades and of the jurists who have contributed to the common achievement.

In his nine years at the Court, Henri Mayras undoubtedly left on this common achievement an indelible trace of his passage.

Born just after the First World War, he was only 20 when the military operations of the Second World War began to spread a cloak of desolation over Europe.

If the chapter devoted to a man's youth could be entitled 'Between two wars', history can already be seen as placing a heavy burden on his conception of the future of humanity in general and of sovereign States in particular. When, moreover, the action taken by European States overseas was largely in furtherance of colonial aims, in conflict with the rights and aspirations of the native peoples concerned, it is easy to see why this man felt drawn towards projects and solutions capable of healing the wounds of the past and protecting future generations.

One of the hallmarks of Mr Mayras' career, entirely devoted to the public service, was his active involvement in the implementation of solutions inspired by those objectives, at first in the aftermath of colonialism and then in connection with the European project.

His higher education was wide-ranging, covering the law, political science and political economy. He obtained his law degree in 1941, graduated in public law and political economy in 1942 and, in the same year, was awarded a degree by the École Libre de Sciences Politiques.

On passing the competition for entrance to the Conseil d'État, he was admitted to France's supreme court at the age of 26, as Auditeur.

His first appointment on the international stage came in 1949. For four years, he represented the French Government on the Franco-Moroccan Reconciliation Commission. At the same time, he also acted as Rapporteur to the Conseil Supérieur de la Sécurité Sociale.

At the age of only 32, he was called upon to act as technical adviser in the Cabinet of the Garde des Sceaux (Keeper of the Seals).

Before long, he was again drawn to Moroccan affairs. In 1953 he was seconded to the post of legal adviser in France's Moroccan Protectorate. He was then directly involved in the very difficult period which led to the achievement of independence by Morocco. During his secondment, Mr Mayras was appointed Maître des Requêtes in the French Conseil d'État.

When, at the beginning of 1956, Morocco had actually become an independent State, he became legal adviser in the French Embassy there. In that capacity, he took part in all the negotiations which led to the conclusion of the Franco-Moroccan Conventions on technical and administrative cooperation, judicial cooperation and cultural matters.

On 1 October 1958, with that unique experience behind him, he returned to Metropolitan France and the Conseil d'État where he acted as Commissaire du Gouvernement in the Legal Affairs section.

Three years later to the day, he was seconded to Morocco as President of the Administrative Chamber of that country's Supreme Court.

His third Moroccan tour of duty constitutes a striking illustration of the confidence and respect which Mr Mayras' ability and personality must have inspired at the highest level in the newly-independent State. A national of the

former colonial power, he had been called upon to exercise judicial power, no less, within a supreme court, to review and if necessary to condemn the acts of the public authorities themselves.

That tour of duty lasted almost three years, until he was appointed Director of the Judicial Services Department in the French Ministry of Justice.

He performed that important function for more than seven years, until his appointment as Conseiller d'État en Service Ordinaire, only a few weeks before he was appointed to the Court of Justice.

As was the case with a number of other colleagues, Mr Mayras learned about the Court without first specializing in the field of Community law.

Owing, however, to his ability to assimilate new concepts at once, to his capacity for identifying the salient features even of highly technical cases and to his excellent memory, he was rapidly able to master the subject and submit opinions combining sophisticated analysis, a masterly style, a feeling for words and the gift of conciseness.

After detailed study of the relevant case-law, Mr Mayras, a man of the highest intellectual integrity, would put forward such solutions as could be envisaged, and would go on to develop the one he preferred with persuasive force, against the ever-present background of European integration.

He was credited by all who knew him with great independence of mind.

He took a lasting interest in certain areas of Community law, in particular the free movement of workers, social security for migrant workers and freedom of establishment. His name will remain associated, in particular, with the judgments in *Sotgiu*, *Van Duyn* and *Reyners*.

He never faltered in his activity, delivering opinions in almost 180 cases. His occasional health problems did not prevent him from pursuing the task which he had set himself. Perhaps they prompted him, however, to leave the Court sooner than he would have wished, at the beginning of 1981.

Finally, let me add that Mr Mayras, irrespective of his professional attributes, will be remembered in this institution for his courtesy, affability, friendliness and generosity, which placed all those who met him at ease. I myself had occasion to appreciate those qualities when I had the pleasure of his company at a dinner with former Members shortly after my arrival at the Court.

Mrs Mayras, allow me to express our deepest condolences, to you and to your family.

I now ask you to stand in silence for some minutes in memory of a man who preceded us along the path leading to the construction of Europe.

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Annexe I

A — PROCEEDINGS OF THE COURT OF JUSTICE

I – Synopsis of the judgments delivered by the Court of Justice in 1995

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Case	Date	Parties	Subject-matter
		Agriculture	
C-93/94	17. 1. 1995	Commission v Netherlands	Failure to fulfil obligations — Council Directive 90/667/EEC — Failure to transpose within the prescribed period
C-351/93, C-352/93 and C-353/93	19. 1. 1995	Fitmay Limited & Others v Minister van Landbouw, Natuurbeheer en Visserij	Common organization of the market in products processed from fruit and vegetables — Import into the Community of dried grapes and Morello cherries — Countervailing charge if the minimum import price is not respected — Determination of the actual import price — Extent of the powers of the authorities of the Member States
C-66/94	19. 1. 1995	Commission v Belgium	Failure to fulfil obligations — Failure to transpose a directive
C-54/94 and C-74/94	23. 2. 1995	Ulderico Cacchiarelli & Others	Council Directives 76/895/EEC and 90/642/EEC — Maximum permissible levels of pesticide residues on or in potatoes
C-315/93	6. 4. 1995	Flip CV and O. Verdegem NV v Belgian State	Control of classical swine fever — Compensation for owners whose pigs have been slaughtered
C-19/94	4. 5. 1995	SA des Sucreries de Fontaine-le-Dun — Bolbec — Auffay (SAFBA) v Ministre du Budget	Common organization of the markets in the sugar sector — System for offsetting storage costs — Chargeable event for storage levy
C-389/93	8. 6. 1995	Anton Dürbeck GmbH v Bundesamt für Ernährung und Forstwirtschaft	Bananas — Import arrangements — Category of new operators
C-456/93	29. 6. 1995	Zentrale zur Bekämpfung unlauteren Wettbewerbs eV v Privatkellerei Franz Wilhelm Langguth Erben GmbH & Co. KG	Description of wines — Repetition on the label of the terms 'Kabinett', 'Spätlese', 'Auslese' and 'Weissherbst' as parts of a brand name

Case	Date	Parties	Subject-matter
C-56/94	29. 6. 1995	SCAC Srl v Associazione dei Produttori Ortofrutticoli (ASIPO)	Common organization of the markets — Processed tomato products — Limit to the granting of production aid — Determination of quotas — Validity of Regulation (EEC) No 668/93
C-46/94	5. 7. 1995	Michèle Voisine	Description of wines — Definition of 'labelling' — Affixing of decoration unconnected with the wine marketed
C-12/94	11. 8. 1995	Uelzena Milchwerke eG v Willi Antpöhler GmbH & Co. KG	Reference for a preliminary ruling — Article 4 of Commission Regulation (EEC) No 570/88 — Aid for cream, butter and concentrated butter — Conditions governing the grant of aid — Composition of the product
C-1/94	11. 8. 1995	Cavarzere Produzioni Industriali SpA and Others v Ministero dell'Agricoltura e delle Foreste and Others	Common organization of the markets — Sugar quotas — Transfers between undertakings
C-49/94	14. 9. 1995	Ireland v Commission	Clearance of EAGGF accounts — 1990
C-104/94	12. 10. 1995	Cereol Italia Srl v Azienda Agricola Castello Sas	System of aid for soya production — Penalty for inaccurate information in the cultivation contract
C-257/94	12. 10. 1995	Commission v Italy	Failure to fulfil obligations — Directive 91/685/EEC — Failure to transpose
C-478/93	17. 10. 1995	Netherlands v Commission	Bananas — Import system — Category A and Category B operators
C-44/94	17. 10. 1995	The Queen v Minister of Agriculture, Fisheries and Food, ex parte National Federation of Fishermen's Organizations & Others, Federation of Highlands and Islands Fishermen & Others	Common fisheries policy — Multiannual guidance programmes — Limitation of the number of days at sea

Case	Date	Parties	Subject-matter
C-128/94	19. 10. 1995	Hans Hönig v Stadt Stockach	Directive 88/166/EEC — Minimum standards for the protection of laying hens kept in battery cages
C-38/94	9. 11. 1995	The Queen v Minister of Agriculture, Fisheries and Food, ex parte Country Landowners Association	Common organization of the markets in sheepmeat and goatmeat and in beef and veal — Grant of transferable premium rights to producers — Compensation for landowners
C-196/94	16. 11. 1995	Catherine Schiltz-Thilmann v Ministre de l'Agriculture	Preliminary reference — Interpretation of Article 5c of Regulation (EEC) No 804/68 of the Council of 27 June 1968 on the common organization of the market in milk and milk products — Additional levy — Reference quantity — Exceeded
C-285/93	23. 11. 1995	Dominikanerinnen-Kloster Altenhohenau v Hauptzollamt Rosenheim	Additional levy on milk — Reference quantity for direct sales
C-476/93 P	23. 11. 1995	Nutral SpA v Commission	Appeal — Action for annulment of measures — Admissibility
C-118/95	30. 11. 1995	Commission v Italy	Failure to fulfil obligations — Directives 92/33/EEC and 92/34/EEC — Failure to transpose
C-52/95	7. 12. 1995	Commission v France	Failure to fulfil obligations — Anchovy catch quotas — Control measures — Obligations of the Member States
C-319/93, C-40/94 and C-224/94	12. 12. 1995	Hendrik Evert Dijkstra and Others v Friesland (Frico Domo) Coöperatie BA and Others	Competition — Statutes of dairy cooperative associations — Fee payable on withdrawal or expulsion — Interpretation of Article 2 of Regulation No 26

Case	Date	Parties	Subject-matter
C-399/93	12. 12. 1995	H.G. Oude Luttikhuis and Others v Verenigde Coöperatieve Melkindustrie Coberco BA	Competition — Statutes of dairy cooperative associations — Fee payable on withdrawal or expulsion — Article 85 of the Treaty and Regulation No 26
C-132/94	14. 12. 1995	Commission v Ireland	Failure to fulfil obligations — Directive 90/675/EEC — Veterinary checks — Failure to transpose
C-138/94	14. 12. 1995	Commission v Ireland	Failure to fulfil obligations — Directive 91/496/EEC — Veterinary checks — Failure to transpose
C-161/94	14. 12. 1995	Commission v Ireland	Failure to fulfil obligations — Directive 90/425/EEC — Veterinary checks — Failure to transpose
C-162/94	14. 12. 1995	Commission v Ireland	Failure to fulfil obligations — Directive 89/662/EEC — Veterinary checks — Failure to transpose
C-17/95	14. 12. 1995	Commission v France	Failure to fulfil obligations — Directives 91/67/EEC, 91/628/EEC and 92/35/EEC — Failure to transpose

Approximation of laws

C-218/94	4. 5. 1995	Commission v Belgium	Failure to fulfil obligations — Directive 91/263/EEC — Failure to transpose
C-182/94	1. 6. 1995	Commission v Italy	Failure to fulfil obligations — Failure to transpose Council Directives 89/392/EEC and 91/368/EEC
C-220/94	15. 6. 1995	Commission v Luxembourg	Failure to fulfil obligations — Directive 92/44/EEC — Telecommunications — Open network provision for leased lines

Case	Date	Parties	Subject-matter
C-259/94	6. 7. 1995	Commission v Greece	Failure to fulfil obligations — Directive 92/44/EEC — Telecommunications — Open network provision to leased lines
C-350/92	13. 7. 1995	Spain v Council	Action for annulment — Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products
C-240/94	11. 8. 1995	Commission v Ireland	Failure to fulfil obligations — Non-transposition of Directives 89/336/EEC and 92/31/EEC — Electromagnetic compatibility
C-260/94	11. 8. 1995	Commission v Greece	Failure to fulfil obligations — Directive 91/263/EEC — Failure to transpose
C-440/93	5. 10. 1995	The Queen v Licensing Authority of the Department of Health, Norgine Ltd, ex parte Scotia Pharmaceuticals Ltd	Medicinal product — Placing on the market — Abridged procedure

Commercial policy

C-70/94	17. 10. 1995	Fritz Werner Industrie-Ausrüstungen GmbH v Federal Republic of Germany	Common commercial policy — Export of dual-use goods
C-83/94	17. 10. 1995	Peter Leifer and Others	Common commercial policy —Export of dual-use goods

Company law

C-359/93	24. 1. 1995	Commission v Netherlands	Tender notices for public supply contracts — Review procedure — Notification — Technical specifications

Case	Date	Parties	Subject-matter
C-79/94	4. 5. 1995	Commission v Greece	Failure to fulfil obligations — Directive 77/62/EEC — Framework agreement for the exclusive supply of dressing material for use in Greek hospitals and by the Greek Army
C-57/94	18. 5. 1995	Commission v Italy	Failure to fulfil obligations — Public procurement — Failure to publish a notice of invitation to tender
C-433/93	11. 8. 1995	Commission v Germany	Failure to fulfil obligations — Public works and public supply contracts
C-143/94	26. 10. 1995	Furlanis Costruzioni Generali SpA v Azienda Nazionale Autonoma Strade (ANAS)	Council Directives 71/305/EEC and 89/440/EEC — Public procurement — Abnormally low tenders in relation to the transaction
C-426/93	9. 11. 1995	Germany v Council	Action for annulment — Regulation (EEC) No 2186/93 on Community coordination in drawing up business registers for statistical purposes — Legal basis — Principle of proportionality

Competition

C-360/92 P	17. 1. 1995	The Publishers Association v Commission	Appeal — Net price system for books — Rejection of an application for exemption under Article 85(3) — Indispensability of restrictions on competition
C-412/93	9. 2. 1995	Société d'Importation Édouard Leclerc-Siplec v TF1 Publicité SA and M6 Publicité SA	Televised advertising — Free movement of goods and services
C-241/91 P and C-242/91 P	6. 4. 1995	Radio Telefis Eireann (RTE) and Independent Television Publications Ltd (ITP) v Commission	Abuse of a dominant position — Copyright

Case	Date	Parties	Subject-matter
C-310/93 P	6. 4. 1995	BPB Industries plc and British Gypsum Ltd v Commission	Abuse of a dominant position — Exclusive purchase contract — Loyalty payments — Effect on trade between Member States — Attributability of the infringement
C-96/94	5. 10. 1995	Centro Servizi Spediporto Srl v Spedizioni Marittima del Golfo Srl	Road transport — Tariffs — State legislation
C-140/94 to C-142/94	17. 10. 1995	DIP SpA and Others v Comune di Bassano del Grappa and Others	Regulation of trade — Licences to open shops
C-19/93 P	19. 10. 1995	Rendo NV and Others v Commission	Agreement impeding imports and exports of electricity — Commission decision — Partial abstention from ruling on the compatibility of the agreement with Article 85(1) of the Treaty
C-70/93	24. 10. 1995	Bayerische Motorenwerke AG v ALD Auto-Leasing D GmbH	Selective distribution system — Motor vehicles — Refusal to supply — Territorial protection — Interpretation of Article 85(1) of the EEC Treaty and Regulation (EEC) No 123/85
C-266/93	24. 10. 1995	Bundeskartellamt v Volkswagen AG and VAG Leasing GmbH	Leasing in the motor vehicles sector — Dealers acting as agents exclusively for the manufacturer's subsidiary primarily engaged in leasing — Interpretation of Article 85(1) of the EEC Treaty and of Regulation (EEC) No 123/85
C-91/94	9. 11. 1995	Thierry Tranchant and Others	Commission Directive 88/301/EEC — Independence of bodies responsible for monitoring the application of technical specifications — Test laboratories
C-244/94	16. 11. 1995	Fédération Française des Sociétés d'Assurance and Others v Ministère de l'Agriculture et de la Pêche	Article 85 et seq. of EC Treaty — Concept of an 'undertaking' — Organization managing an optional supplementary social security system

Case	Date	Parties	Subject-matter
C-430/93 and C-431/93	14. 12. 1995	Jeroen van Schijndel and Others v Stichting Pensioenfonds voor Fysiotherapeuten	Treatment of an occupational pension fund as an undertaking — Compulsory membership of an occupational pension scheme — Compatibility with the competition rules — Whether a point of Community law may be raised for the first time in cassation, thereby altering the subject-matter of the proceedings and entailing examination of the facts

Convention on Jurisdiction

C-68/93	7. 3. 1995	Fiona Shevill and Others v Presse Alliance SA	Brussels Convention — Article 5(3) — Place where the harmful event occurred — Libel by a newspaper article
C-346/93	28. 3. 1995	Kleinwort Benson Ltd v City of Glasgow District Council	Brussels Convention — National legislation modelled on it — Interpretation — Question submitted for a preliminary ruling — Lack of jurisdiction of the Court
C-439/93	6. 4. 1995	Lloyd's Register of Shipping v Société Campenon Bernard	Brussels Convention — Article 5(5) — Dispute arising out of the operations of a branch
C-341/93	13. 7. 1995	Danvaern Production A/S v Schuhfabriken Otterbeck GmbH & Co.	Brussels Convention — Special jurisdiction — Article 6(3) — Counterclaim — Set-off
C-474/93	13. 7. 1995	Hengst Import BV v Anna Maria Campese	Brussels Convention — Article 27(2) — Concept of document instituting the proceedings or equivalent document
C-432/93	11. 8. 1995	Société d'Informatique Service Réalisation Organisation (SISRO) v Ampersand Software BV	Brussels Convention — Articles 36, 37 and 38 — Enforcement — Judgment given on an appeal against authorization of enforcement — Appeal on a point of law — Stay of proceedings

Case	Date	Parties	Subject-matter
C-364/93	19. 9. 1995	Antonio Marinari v Lloyds Bank plc and Others	Brussels Convention — Article 5(3) — Place where the harmful event occurred

EAEC

C-135/94	29. 6. 1995	Commission v Italy	Failure to fulfil obligations — Directive 89/618/Euratom — Admissibility

Environment and consumers

C-422/92	10. 5. 1995	Commission v Germany	Failure to fulfil obligations — Transposition of the directives on waste, toxic and dangerous waste and the transfrontier shipment of hazardous waste
C-170/94	29. 6. 1995	Commission v Greece	Failure to fulfil obligations — Non-transposition of Directives 90/219/EEC and 90/220/EEC — Genetically modified organisms
C-156/93	13. 7. 1995	Parliament v Commission	Legislation on organic production of agricultural products — Respective powers of the Council and the Commission — Prerogatives of the Parliament
C-431/92	11. 8. 1995	Commission v Germany	Failure to fulfil obligations — Failure by public authorities to apply a directive which has not yet been transposed — Council Directive 85/337/EEC — Assessment of the effects of projects on the environment — Großkrotzenburg thermal power station — Consent for the construction of a new block

Case	Date	Parties	Subject-matter
C-85/94	12. 10. 1995	Groupement des Producteurs, Importateurs et Agents Généraux d'Eaux Minérales Étrangères, VZW (Piageme) and Others v Peeters NV	Consumer protection — Labelling of mineral waters — Language
C-236/94	12. 10. 1995	Commission v Belgium	Failure to fulfil obligations Directive 91/339/EEC — Non-transposition

External relations

C-334/93	23. 2. 1995	Bonapharma Arzneimittel GmbH v Hauptzollamt Krefeld	EEC-Austria free-trade agreement — Concept of originating product — Protocol No 3 — Methods of administrative cooperation — EUR.1 certificate
C-417/93	10. 5. 1995	Parliament v Council	Technical assistance to the independent States of the former Soviet Union and to Mongolia — Consultation of the Parliament
C-434/93	6. 6. 1995	Ahmet Bozkurt v Staatssecretaris van Justitie	Association Agreement between the EEC and Turkey — Decision of the Association Council — Freedom of movement for workers — International lorry-driver — Permanent incapacity for work — Right to remain

Case	Date	Parties	Subject-matter
C-469/93	12. 12. 1995	Amministrazione delle Finanze dello Stato v Chiquita Italia SpA	Direct effect of provisions of the GATT and the Lomé Conventions — Internal taxation

Free movement of capital

C-484/93	14. 11. 1995	Peter Svensson and Others v Ministre du Logement et de l'Urbanisme	Freedom to provide services — Interest rate subsidy on building loans — Loan by a credit institution not approved in the Member State granting the subsidy
C-163/94, C-165/94 and C-250/94	14. 12. 1995	Lucas Emilio Sanz de Lera and Others	Capital movements — Non-member countries — National authorization for the transfer of banknotes

Free movement of goods

C-358/93 and C-416/93	23. 2. 1995	Aldo Bordessa and Others	Council Directive 88/361/EEC — National authorization for the transfer of money in the form of banknotes
C-324/93	28. 3. 1995	The Queen v The Secretary of State for the Home Department, ex parte Evans Medical Ltd and Macfarlan Smith Ltd	Importation of a narcotic drug (diamorphine)
C-459/93	1. 6. 1995	Hauptzollamt Hamburg-St. Annen v Thyssen Haniel Logistic GmbH	Common Customs Tariff — Council Regulation (EEC) No 3618/86 — Tariff headings 21.07 and 30.03 — Mixtures of amino acids used for the preparation of infusion solutions
C-467/93	1. 6. 1995	Hauptzollamt München-West v Analog Devices GmbH	Common Customs Tariff — Suspension of duties — Analog-to-digital converters for the calculation of the average value of variable wave-forms
C-391/92	29. 6. 1995	Commission v Greece	Processed milk for infants — Prohibition on marketing other than by pharmacies

Case	Date	Parties	Subject-matter
C-437/93	29. 6. 1995	Hauptzollamt Heilbronn v Temic Telefunken Microelectronic GmbH	Customs inward processing relief arrangements — Discharge of the relief arrangements by the placing of goods under the system of processing under customs control — Quantitative limits
C-470/93	6. 7. 1995	Verein gegen Unwesen in Handel und Gewerbe Köln e.V. v Mars GmbH	Measures having an effect equivalent to quantitative restrictions — Presentation of a product likely to restrict freedom to fix retail prices and mislead the consumer
C-16/94	11. 8. 1995	Edouard Dubois et Fils SA and Others v Garonor Exploitation SA	Transit charge payable under a private contract — Charge having equivalent effect
C-63/94	11. 8. 1995	Groupement National des Négociants en Pommes de Terre de Belgique v ITM Belgium SA and Vocarex SA	Prohibition of sales yielding very low profit margins
C-485/93 and C-486/93	14. 9. 1995	Maria Simitzi v Municipality of Kos	Tax regime of the Dodecanese — Charge having an effect equivalent to a customs duty — Temporal effects of a preliminary ruling
C-125/94	5. 10. 1995	Aprile Srl, in liquidation v Amministrazione delle Finanze dello Stato	Charges having equivalent effect — Prohibition — Whether applicable to trade with non-member countries
C-59/94 and C-64/94	17. 10. 1995	Ministre des Finances v Société Pardo & Fils and Others	Common Customs Tariff — Tariff headings — Beverages — Preparations of wines of fresh grapes — Sangria
C-36/94	26. 10. 1995	Siesse — Soluçoes Integrais em Sistema Software e Aplicaçoes Lda v Director da Alfândega de Alcântara	Release of goods for free circulation — Failure to comply with the time-limits for assignment to a customs-approved treatment or use — Imposition of a levy

Case	Date	Parties	Subject-matter
C-51/94	26. 10. 1995	Commission v Germany	Labelling and presentation of foodstuffs — Article 30 of the EC Treaty and Directive 79/112/EEC — Reference in the trade description to a substance included in the list of ingredients
C-134/94	30. 11. 1995	Esso Española SA v Comunidad Autónoma de Canarias	Petroleum products — Obligation to supply a particular area
C-17/94	7. 12. 1995	Denis Gervais and Others	Artificial insemination of animals of the bovine species — Territorial monopoly — Restrictions on activities of veterinary surgeons
C-45/95	7. 12. 1995	Cámara de Comercio, Industria y Navegación de Ceuta v Ayuntamiento de Ceuta	Act of Accession of the Kingdom of Spain — Provisions applicable to Ceuta and Melilla — Charge having an effect equivalent to a customs duty
C-387/93	14. 12. 1995	Giorgio Domingo Banchero	Articles 5, 30, 37, 85, 86, 90, 92 and 95 of the EEC Treaty
C-267/94	14. 12. 1995	France v Commission	Residues of starch manufacture — Corn gluten feed — Customs classification
C-106/94 and C-139/94	14. 12. 1995	Patrick Colin and Others	Refund for use of sugar in the manufacture of certain chemical products — Throat pastilles — Tonic beverages — Tariff classification

Freedom of movement for persons

C-279/93	14. 2. 1995	Finanzamt Köln-Altstadt v Roland Schumacker	Article 48 of the EEC Treaty — Principle of equal treatment — Taxation of the income of non-residents
C-425/93	16. 2. 1995	Calle Grenzhop Andresen GmbH & Co. KG v Allgemeine Ortskrankenkasse für den Kreis Schleswig-Flensburg	Social security for migrant workers — Determination of the legislation applicable

Case	Date	Parties	Subject-matter
C-29/94 and C-35/94	16. 2. 1995	Jean-Louis Aubertin and Others	Hairdressers — Council Directive 82/489/EEC
C-365/93	23. 3. 1995	Commission v Greece	Failure to fulfil obligations — Directive 89/48/EEC — Recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration
C-103/94	5. 4. 1995	Zoulika Krid v Caisse Nationale d'Assurance Vieillesse des Travailleurs Salariés (CNAVTS)	EEC-Algeria Cooperation Agreement — Article 39(1) — Direct effect — Principle of non-discrimination — Scope — Widow of Algerian worker who had been employed in a Member State — Supplementary allowance from the National Solidarity Fund
C-325/93	6. 4. 1995	Union Nationale des Mutualités Socialistes v Aldo Del Grosso	Cumulation of benefits — Interpretation of Regulation (EEC) No 1408/71
C-147/94	6. 4. 1995	Commission v Spain	Failure to fulfil obligations — Failure to transpose a directive
C-7/94	4. 5. 1995	Landesamt für Ausbildungsförderung Nordrhein-Westfalen v Lubor Gaal	Regulation (EEC) No 1612/68 — Article 12 — Definition of child
C-384/93	10. 5. 1995	Alpine Investments BV v Minister van Financiën	Freedom to provide services — Article 59 of the EEC Treaty — Prohibition of cold calling by telephone for financial services
C-327/92	18. 5. 1995	Rheinhold & Mahla NV v Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid	Social security — Duty of a main contractor to pay contributions not paid by a defaulting subcontractor
C-40/93	1. 6. 1995	Commission v Italy	Failure to fulfil obligations — Directives 78/686/EEC and 78/687/EEC
C-123/94	1. 6. 1995	Commission v Greece	Freedom of movement for workers — Equal treatment — Recruitment of foreigners by private language schools

Case	Date	Parties	Subject-matter
C-451/93	8. 6. 1995	Claudine Delavant v Allgemeine Ortskrankenkasse für das Saarland	Social security for migrant workers — Council Regulation No 1408/71 — Worker residing in a Member State other than the competent State — Benefits in kind for members of the worker's family in the State of residence
C-422/93 to C-424/93	15. 6. 1995	Teresa Zabala Erasun and Others v Instituto Nacional de Empleo	Preliminary references — Conditions under which court of reference should maintain its reference — Scope of the Court's jurisdiction
C-109/94, C-207/94 and C-225/94	29. 6. 1995	Commission v Greece	Failure to fulfil obligations — Directives 90/618/EEC, 88/357/EEC and 90/619/EEC — Non-transposition — Insurance
C-454/93	29. 6. 1995	Rijksdienst voor Arbeidsvoorziening v Joop van Gestel	Social security for migrant workers — Designation of the competent State in accordance with Article 17 of Regulation (EEC) No 1408/71 — Residence and employment in a Member State other than the competent State — Unemployment benefits provided pursuant to Article 71(1)(b)(ii)
C-391/93	13. 7. 1995	Umberto Perrotta v Allgemeine Ortskrankenkasse München	Social security — Unemployed person authorized to stay in a Member State other than the competent Member State — Grant of sickness benefits — Extension of the period of stay
C-216/94	13. 7. 1995	Commission v Belgium	Failure to fulfil obligations — Directive 89/48/EEC — Recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration
C-80/94	11. 8. 1995	G.H.E.J. Wielockx v Inspecteur der Directe Belastingen	Article 52 of the EC Treaty —Requirement of equal treatment — Tax on non-residents' income

Case	Date	Parties	Subject-matter
C-98/94	11. 8. 1995	Christel Schmidt v Rijksdienst voor Pensioenen	Regulation (EEC) No 1408/71 Social security — National rules against overlapping — Benefits of the same kind
C-321/93	5. 10. 1995	José Imbernon Martínez v Bundesanstalt für Arbeit	Social security — Family allowances — Residence on the national territory
C-242/94	12. 10. 1995	Commission v Spain	Failure to fulfil obligations — Directive 90/619/EEC — Failure to transpose
C-227/94	17. 10. 1995	E. Olivieri-Coenen v Bestuur van de Nieuwe Algemene Bedrijfs-vereniging	Social security — Incapacity for work — Contract of employment subject to private law — Employment subject to a scheme for civil servants — Article 4(4) of Regulation (EEC) No 1408/71 — Point 4(a) of the section on the Netherlands contained in Annex V to Regulation (EEC) No 1408/71
C-111/94	19. 10. 1995	Job Centre Coop. arl	National legislation prohibiting private undertakings from providing job placement for workers — Lack of jurisdiction of the Court
C-481/93	26. 10. 1995	R. Moscato v Bestuur van de Nieuwe Algemene Bedrijfsvereniging	Social security — Invalidity — Legislation applicable — Type A legislation — Pre-existing state of health
C-482/93	26. 10. 1995	S.E. Klaus v Bestuur van de Nieuwe Algemene Bedrijfsvereniging	Social security — Sickness — Pre-existing state of health — Aggregation of insurance periods
C-475/93	9. 11. 1995	Jean-Louis Thévenon and Others v Landes-versicherungsanstalt Rheinland-Pfalz	Social security — Article 6 of Regulation (EEC) No 1408/71 — Replacement by Regulation (EEC) No 1408/71 of social security conventions concluded between Member States
C-152/94	16. 11. 1995	Openbaar Ministerie v Geert van Buynder	Freedom of establishment — Veterinary surgeons — Purely internal situation

Case	Date	Parties	Subject-matter
C-443/93	22. 11. 1995	Ioannis Vougioukas v Idryma Koinonikon Asfalisseon (IKA)	Interpretation and validity of Article 4(4) of Regulation (EEC) No 1408/71 and interpretation of Articles 48 and 51 of the Treaty — Special schemes for civil servants — Greek doctor employed in a German hospital
C-394/93	23. 11. 1995	Gabriel Alonso-Pérez v Bundesanstalt für Arbeit	Social security for workers moving within the Community — Family benefits — Member State limiting the retroactive effect of an application for family benefits
C-55/94	30. 11. 1995	Reinhard Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano	Directive 77/249/EEC — Freedom to provide services — Lawyers — Possibility of opening chambers — Articles 52 and 59 of the EC Treaty
C-175/94	30. 11. 1995	The Queen v Secretary of State for the Home Department, ex parte John Gallagher	Derogations — Decisions concerning the control of foreign nationals — Decision ordering expulsion — Prior opinion of the competent authority
C-415/93	15. 12. 1995	Union Royale Belge des Sociétés de Football Association ASBL and Others v Jean-Marc Bosman and Others	Freedom of movement for workers — Competition rules applicable to undertakings — Professional footballers — Sporting rules on the transfer of players — Nationality clauses

Law governing the institutions

C-130/91 REV	7. 3. 1995	ISAE/VP (Instituto Social de Apoio ao Emprego e à Valorização Profissional) and Others v Commission	Application for revision — Manifest inadmissibility
C-65/93	30. 3. 1995	Parliament v Council	Article 43 of the EEC Treaty — Obligation to consult the Parliament

Case	Date	Parties	Subject-matter
C-299/93	6. 4. 1995	Ernst Bauer v Commission	Arbitration clause — Residential tenancy agreement — Determination of the rent — Termination — Compensation for damage
C-42/94	1. 6. 1995	Heidemij Advies BV v Parliament	Article 181 of the EEC Treaty — Arbitration clause — Extension of the European Parliament in Brussels — Unilateral termination by the European Parliament of the contract for services — Claim for damages by the contractor
C-21/94	5. 7. 1995	Parliament v Council	Directive 93/89/EEC on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures — Reconsultation of the European Parliament
C-465/93	9. 11. 1995	Atlanta Fruchthandelsgesellschaft mbH and Others v Bundesamt für Ernährung und Forstwirtschaft	Regulation — Reference for a preliminary ruling — Assessment of validity — National court — Interim relief
C-466/93	9. 11. 1995	Atlanta Fruchthandelsgesellschaft mbH and Others v Bundesamt für Ernährung und Forstwirtschaft	Bananas — Common organization of the market — Import regime — Assessment of validity
C-41/95	7. 12. 1995	Council v Parliament	Budget of the Communities

Case	Date	Parties	Subject-matter
C-312/93	14. 12. 1995	Peterbroeck, Van Campenhout & Cie SCS v Belgian State	Power of a national court to consider of its own motion the question whether national law is compatible with Community law

Social policy

C-400/93	31. 5. 1995	Specialarbejderforbundet i Danmark v Dansk Industri, originally Industriens Arbejdsgivere, acting for Royal Copenhagen A/S	Equal pay for men and women
C-116/94	13. 7. 1995	Jennifer Meyers v Adjudication Officer	Equal treatment for men and women — Directive 76/207/EEC — Conditions governing access to employment — Working conditions — Family credit
C-92/94	11. 8. 1995	Secretary of State for Social Security and Others v Rose Graham and Others	Equality between men and women — Invalidity benefits — Link with pensionable age
C-48/94	19. 9. 1995	Ledernes Hovedorganisation, acting on behalf of Ole Rygaard v Dansk Arbejdsgiver-forening, acting on behalf of Strø Mølle Akustik A/S	Interpretation of Article 1(1) of Directive 77/187/EEC — Transfer of an undertaking — Contract between two contractors for the completion of works made with the consent of the awarder of the main building contract
C-450/93	17. 10. 1995	Eckhard Kalanke v Freie Hansestadt Bremen	Equal treatment for men and women — Directive 76/207/EEC — Article 2(4) — Promotion — Equally qualified candidates of different sexes — Priority given to women

Case	Date	Parties	Subject-matter
C-137/94	19. 10. 1995	The Queen v Secretary of State for Health, ex parte Cyril Richardson	Equal treatment for men and women — Exemption from prescription charges — Scope of Directive 79/7/EEC — Link with pensionable age — Temporal effects of judgment
C-151/94	26. 10. 1995	Commission v Luxembourg	Article 48 of the EC Treaty — Equal treatment — Taxation of income of temporary residents — Repayment of excess tax
C-479/93	9. 11. 1995	Andrea Francovich v Italy	Protection of employees in the event of the insolvency of their employer — Directive 80/987/EEC — Scope — Employees whose employer is not subject to procedures to satisfy collectively the claims of creditors
C-449/93	7. 12. 1995	Rockfon A/S v Specialarbejderforbundet i Danmark	Collective redundancies — Article 1 of Directive 75/129/EEC — Definition of 'establishment' — Company forming part of a group
C-472/93	7. 12. 1995	Luigi Spano and Others v Fiat Geotech Spa and Others	Safeguarding of employees' rights in the event of transfers of undertakings
C-317/93	14. 12. 1995	Inge Nolte v Landesversicherungsanstalt Hannover	Equal treatment for men and women in matters of social security — Article 4(1) of Directive 79/7/EEC — Exclusion of minor employment from compulsory invalidity and old-age insurance
C-444/93	14. 12. 1995	Ursula Megner and Others v Innungskrankenkasse Vorderpfalz, now Innungskrankenkasse Rheinhessen-Pfalz	Equal treatment for men and women in matters of social security — Article 4(1) of Directive 79/7/EEC — Minor and short-term employment — Exclusion from compulsory old-age insurance and sickness insurance and from the obligation to pay unemployment insurance contributions

Case	Date	Parties	Subject-matter
		Staff cases	
C-119/94 P	1. 6. 1995	Dimitrios Coussios v Commission	Appeal — Official — Failure to give reasons for a decision rejecting a candidature — Award of compensation — Waiver of rights under the Staff Regulations
C-43/94 P	11. 8. 1995	Parliament v Philippe Vienne	Official — Daily subsistence allowance — Cumulative benefits
C-448/93 P	11. 8. 1995	Commission v Muireann Noonan	Appeal — Official — Admissibility of an action challenging a decision of a selection board applying the conditions laid down in a competition notice the lawfulness of which is contested
C-396/93 P	14. 9. 1995	Helmut Henrichs v Commission	Appeal — Article 4(4) and (6) of Regulation (Euratom, ECSC, EEC) No 2274/87 — Determination of the allowance provided for in Article 4(1) — Exclusion from the Joint Sickness Insurance Scheme for Officials of the European Communities
		State aid	
C-349/93	23. 2. 1995	Commission v Italy	Commission decision ordering recovery — Non-implementation
C-348/93	4. 4. 1995	Commission v Italy	Failure to fulfil obligations — State aid incompatible with the common market — Recovery — Public holding company
C-350/93	4. 4. 1995	Commission v Italy	Failure to fulfil obligations — State aid incompatible with the common market — Recovery — Public holding company

Case	Date	Parties	Subject-matter
C-135/93	29. 6. 1995	Spain v Commission	Action for annulment — Act adopted on the basis of Article 93(1) of the EEC Treaty — Extension — Admissibility

Taxation

C-345/93	9. 3. 1995	Fazenda Pública and Others v Américo João Nunes Tadeu	Motor vehicle tax — Internal taxation — Discrimination
C-4/94	6. 4. 1995	BLP Group Plc v Commissioners of Customs & Excise	Value added tax — Interpretation of Article 2 of Directive 67/227/EEC and Article 17(2) of Directive 77/388/EEC — Deduction of input tax on goods or services relating to exempt transactions
C-62/93	6. 7. 1995	BP Supergas Anonimos Etairia Geniki Emporiki-Viomichaniki kai Antiprossopeion v Greek State	Interpretation of Articles 11, 17 and 27 of the Sixth VAT Directive — Greek system for the taxation of petroleum products — Taxable amount — Right to deduct — Exemption
C-453/93	11. 8. 1995	W. Bulthuis-Griffioen v Inspecteur der Omzetbelasting	Common system of value added tax — Sixth VAT Directive — Exemption — Services of a social nature performed by a private person — Exclusion
C-367/93 to C-377/93	11. 8. 1995	F.G. Roders BV and Others v Inspecteur der Invoerrechten en Accijnzen	Excise duties on wine — Discriminatory internal taxation — Benelux system
C-291/92	4. 10. 1995	Finanzamt Uelzen v Dieter Armbrecht	VAT — Taxable transactions
C-144/94	26. 10. 1995	Ufficio IVA di Trapani v Italittica SpA	Sixth VAT Directive — Interpretation of Article 10(2) — Chargeable event — Scope of the derogation granted to the Member States

Case	Date	Parties	Subject-matter
C-113/94	30. 11. 1995	Elisabeth Jacquier, née Casarin v Directeur Général des Impôts	Article 95 of the Treaty — Differential tax on motor vehicles
C-16/95	14. 12. 1995	Commission v Spain	Failure to fulfil obligations not contested — Delay in the refund of VAT to taxable persons not established in the territory of the country

Transport

C-414/93	1. 6. 1995	F.D. Teirlinck v Minister van Verkeer en Waterstaat	Structural improvements in inland waterway transport — Scrapping premiums — Available financial resources — Scrapping Fund — Separate accounts — Budget
C-235/94	9. 11. 1995	Alan Geoffrey Bird	Social legislation relating to road transport — Exceptions for reasons of safety

II — Synopsis of the other decisions of the Court of Justice which appeared in the 'Proceedings' in 1995

Case	Date	Parties	Subject-matter
Opinion 2/92	24. 3. 1995	Third Revised Decision on national treatment of the Council of the OECD	Competence of the Community or one of its institutions to participate in the Third Revised Decision of the OECD on national treatment
C-266/94	11. 7. 1995	Commission v Spain	Failure to fulfil obligations — Directive 92/44/EEC — Reasoned opinion — Failure to take into account observations submitted by a State in response to a formal notice — Inadmissibility
C-149/95 P (R)	19. 7. 1995	Commission v Atlantic Container Line AB, and Others	Appeal — Order of the President of the Court of First Instance on an application for interim measures — Competition — Through-intermodal transport
Opinion 3/94	13. 12. 1995	Opinion pursuant to Article 228(6) of the EC Treaty	GATT — WTO — Framework Agreement on Bananas
C-307/95	21. 12. 1995	Max Mara Fashion Group Srl v Ufficio del Registro di Reggio Emilia	Reference for a preliminary ruling — Inadmissibility

III — Statistical information *

General proceedings of the Court

Table 1: General proceedings in 1995

Cases decided

Table 2: Nature of proceedings
Table 3: Judgments, opinions, orders
Table 4: Means by which terminated
Table 5: Bench hearing case
Table 6: Basis of the action
Table 7: Subject-matter of the action

Length of proceedings

Table 8: Nature of proceedings
Figure I: Duration of judgments and orders in references for a preliminary ruling
Figure II: Duration of judgments and orders in direct actions
Figure III: Duration of judgments and orders in appeals

New cases

Table 9: Nature of proceedings
Table 10: Type of action
Table 11: Subject-matter of the action
Table 12: Actions for failure to fulfil obligations
Table 13: Basis of the action

A new computer-based system for the management of cases before the Court has resulted in a change in the presentation of the statistics appearing in this Annual Report. This means that for certain tables and graphics comparison with previous years' statistics is not possible.

Cases pending

Table 14:	Nature of proceedings
Table 15:	Bench hearing case

General trend in the work of the Court until 31 December 1995

Table 16:	New cases and judgments
Table 17:	New references for a preliminary ruling (by Member State per year)
Table 18:	New references for a preliminary ruling (by Member State and by court or tribunal)

General proceedings of the Court

Table 1: General proceedings in 1995 [1]

Completed cases	250	(289)
New cases	415	
Cases pending	508	(620)

Cases decided

Table 2: Nature of proceedings

References for a preliminary ruling	130	(162)
Direct actions	91	(96)
Appeals	18	(20)
Opinions/Deliberations	2	(2)
Special forms of procedure [2]	9	(9)
Total	250	(289)

1 A new computer-based system for the management of cases before the Court has resulted in a change in the presentation of the statistics appearing in this Annual Report. This means that for certain tables and graphics comparison with previous years' statistics is not possible.

2 The following are considered to be 'special forms of procedure': taxation of costs (Article 74 of the Rules of Procedure); legal aid (Article 76 of the Rules of Procedure); objection lodged against judgment (Article 94 of the Rules of Procedure); third party proceedings (Article 97 of the Rules of Procedure), interpretation of a judgment (Article 102 of the Rules of Procedure); revision of a judgment (Article 98 of the Rules of Procedure).

Table 3: Judgments, opinions, orders [1]

Nature of proceedings	Judg-ments	Non-interlocutory orders [2]	Interlocutory orders	Other orders [3]	Opinions/ Deliberations	Total
References for a preliminary ruling	110	3	–	17	–	130
Direct actions	52	1	–	38	–	91
Appeals	9	9	2	–	–	20
Subtotal	171	13	2	55	–	241
Opinions/ Deliberations	–	–	–	–	2	2
Special forms of procedure	1	6	–	2	–	9
Subtotal	1	6	–	2	2	11
TOTAL	172	19	2	57	2	252

1 Net figures.

2 Orders terminating proceedings by judicial determination (inadmissibility, manifest inadmissibility).

3 Orders terminating the case by removal from the Register, declaration that the case will not proceed to judgment, or referral to the Court of First Instance.

Table 4: Means by which terminated

Form of decision	Direct actions		References for a preliminary ruling		Appeals		Special forms of procedure		Total	
Judgments										
Action founded	36	(38)							36	(38)
Action partly founded	5	(5)							5	(5)
Action unfounded	11	(11)			7	(8)			18	(19)
Action inadmissible							1	(1)	1	(1)
Partial annulment and referred back					1	(1)			1	(1)
Annulment and not referred back					1	(1)			1	(1)
Other			110	(142)					110	(142)
Total judgments	52	(54)	110	(142)	9	(10)	1	(1)	172	(207)
Orders										
Action partly founded							5	(5)	5	(5)
Action unfounded					2	(2)	1	(1)	3	(3)
Inadmissibility	1	(1)							1	(1)
Manifest inadmissibility			3	(3)					3	(3)
Appeal manifestly inadmissible					2	(2)			2	(2)
Appeal manifestly unfounded					5	(6)			5	(6)
Subtotal	1	(1)	3	(3)	9	(10)	6	(6)	19	(20)
Removal from the Register	36	(39)	17	(17)					53	(56)
No need to give a decision							2	(2)	2	(2)
Referred back to the Court of First Instance	2	(2)							2	(2)
Subtotal	38	(41)	17	(17)			2	(2)	57	(60)
Total orders	39	(42)	20	(20)	9	(10)	8	(8)	76	(80)
Opinions									2	(2)
TOTAL	91	(96)	130	(162)	18	(20)	9	(9)	250	(289)

Table 5: Bench hearing case

Bench hearing case	Judgments		Orders [1]		Total	
Full Court	23	(25)	6	(6)	29	(31)
Small plenum	36	(41)	–	–	36	(41)
Chambers	113	(141)	11	(12)	124	(153)
President			2	(2)	2	(2)
Total	172 [2]	(207)	19	(20)	191	(227)

Table 6: Basis of the action

Basis of the action	Judgments/Opinions		Orders [3]		Total	
Article 169 of the EC Treaty	38	(40)	1	(1)	39	(41)
Article 173 of the EC Treaty	11	(11)	–	(–)	11	(11)
Article 177 of the EC Treaty	103	(135)	3	(3)	106	(138)
Article 181 of the EC Treaty	2	(2)	–	–	2	(2)
Article 228 of the EC Treaty	2	2	–	–	2	(2)
Article 1 of the 1971 Protocol	7	(7)	–	–	7	(7)
Article 49 of the EC Statute	9	(10)	7	(8)	15	(17)
Article 50 of the EC Statute	–	–	2	(2)	2	(2)
Total EC Treaty	172	(207)	13	(14)	185	(221)
Article 141 of the EAEC Treaty	1	(1)	–	–	1	(1)
Total EAEC Treaty	1	(1)	–	–	1	(1)
TOTAL	173	(208)	13	(14)	186	(222)
Article 74 of the Rules of Procedure	–	–	5	(5)	5	(5)
Article 76 of the Rules of Procedure	–	–	1	(1)	1	(1)
Article 98 of the Rules of Procedure	1	(1)	–	–	1	(1)
OVERALL TOTAL	174	(209)	19	(20)	193	(229)

1 Orders terminating proceedings by judicial determination (other than those removing cases from the Register, not to proceed to judgment or referring cases back to the Court of First Instance).

2 Not including Opinions of the Court.

3 Orders terminating the case (other than by removal from the Register, declaration that the case will not proceed to judgment or referral back to the Court of First Instance).

Table 7: Subject-matter of the action

Subject-matter of the action	Judgments/Opinions		Orders [1]		Total	
Agriculture	29	(32)	2	(2)	31	(34)
State aid	3	(3)	–	–	3	(3)
Budget	1	(1)	–	–	1	(1)
Competition	12	(18)	6	(6)	18	(24)
Brussels Convention	7	(7)	–	–	7	(7)
Institutional measures	–	–	2	(2)	2	(2)
Social measures	9	(9)	–	–	9	(9)
Right of establishment	9	(15)	–	(–)	9	(15)
Environment	3	(3)	–	–	3	(3)
Taxation	9	(19)	1	(1)	10	(20)
European Social Fund	1	(1)	–	–	1	(1)
Free movement of capital	3	(6)	–	–	3	(6)
Free movement of goods	10	(10)	2	(2)	12	(12)
Free movement of services	4	(6)	–	–	4	(6)
Freedom of movement for workers	8	(8)	–	–	8	(8)
EC public procurement contracts	1	(1)	–	–	1	(1)
Commercial policy	5 [2]	(5)	–	–	5	(5)
Fisheries policy	2	(2)	2	(3)	4	(5)
Approximation of laws	17	(17)	1	(1)	18	(18)
External relations	2 [3]	(2)	–	–	2	(2)
Social security for migrant workers	18	(20)	–	–	18	(20)
Staff Regulations	5	(5)	3	(3)	8	(8)
Common Customs Tariff	5	(7)	–	–	5	(7)
Transport	4	(4)	–	–	4	(4)
Customs Union	6	(7)	–	–	6	(7)
Total	173	(208)	19	(20)	192	(228)
EAEC Treaty	1	(1)	–	–	1	(1)
OVERALL TOTAL	174	(209)	19	(20)	193	(229)

1 Orders terminating the case (other than by removal from the Register, declaration that the case will not proceed to judgment or referral to the Court of First Instance).

2 Including one Opinion of the Court.

3 Including one Opinion of the Court.

Length of procedures [1]

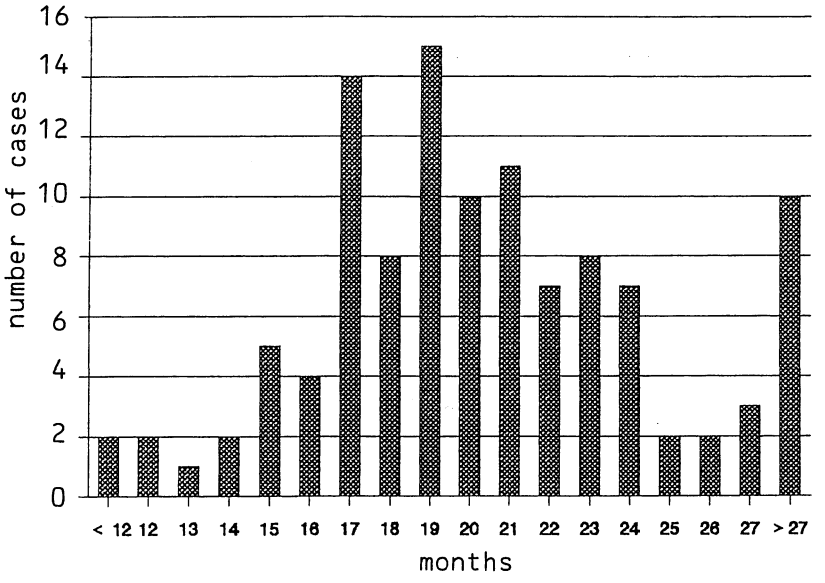
Table 8: Nature of proceedings
(Decisions by way of judgments and orders [2])

References for a preliminary ruling	20.5
Direct actions	17.1
Appeals	18.5

1 In this table and the graphics which follow, the length of proceedings is expressed in months and decimal months.

2 Orders other than orders terminating a case by removal from the Register, declaration that the case will not proceed to judgment or referral to the Court of First Instance.

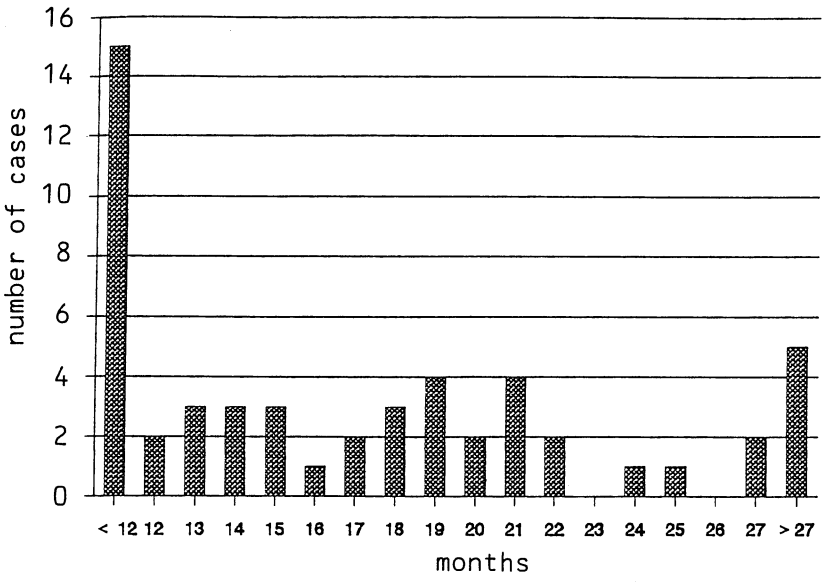
Figure I: Duration of judgments and orders [1] in references for a preliminary ruling



Cases/Months	< 12	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	> 27
References for a preliminary ruling	2	2	1	2	5	4	14	8	15	10	11	7	8	7	2	2	3	10

[1] Orders other than orders disposing of a case by removal from the Register, not to proceed to judgment or referring a case back to the Court of First Instance.

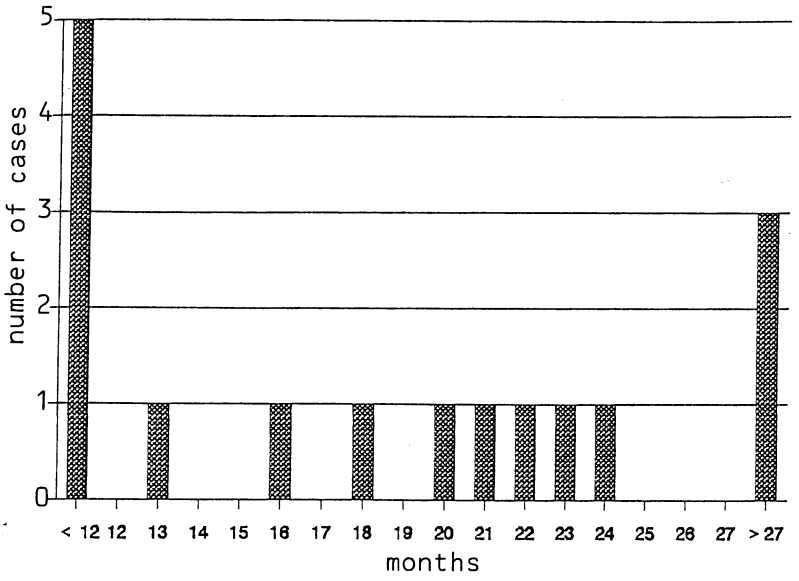
Figure II: Duration of judgments and orders [1] in direct actions



Cases/ Months	< 12	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	> 27
Direct actions	15	2	3	3	3	1	2	3	4	2	4	2	0	1	1	0	2	5

[1] Orders other than orders disposing of a case by removal from the Register, not to proceed to judgment or referring a case back to the Court of First Instance.

Figure III: Duration of judgments and orders [1] in appeals



Cases/ Months	< 12	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	> 27
Appeals	5	0	1	0	0	1	0	1	0	1	1	1	1	1	0	0	0	3

[1] Orders other than orders disposing of a case by removal from the Register, not to proceed to judgment or referring a case back to the Court of First Instance.

New cases [1]

Table 9: Nature of proceedings

References for a preliminary ruling	251
Direct actions	109
Appeals	48
Opinions/Deliberations	–
Special forms of procedure	7
Total	415

Table 10: Type of action

References for a preliminary ruling		251
Direct actions		109
of which:		
– For annulment of measures	34	
– For failure to act	1	
– For damages	–	
– For failure to fulfil obligations	73	
– On arbitration clauses	1	
Appeals		48
Opinions/Deliberations		–
Total		408
Special forms of procedure of which:		7
– Legal aid	1	
– Taxation of costs	5	
– Revision of a judgment	1	
– Application for a garnishee order	–	
Total		415
Applications for interim measures		3

[1] Gross figures.

Table 11: Subject-matter of the action [1]

Subject-matter of the action	Direct actions	References for a preliminary ruling	Appeals	Total	Special forms of procedure
Accession of new Member States	1	12	–	13	–
Agriculture	37	23	4	64	–
State aid	6	2	4	12	–
Overseas countries and territories	–	–	1	1	–
Competition	3	5	16	24	–
Brussels Convention	–	9	–	9	–
Company law	11	2	1	14	–
Law governing the institutions	4	3	2	9	2
Environment and consumers	17	26	1	44	–
Taxation	4	27	–	31	–
Free movement of capital	–	1	–	1	–
Free movement of goods	2	60	–	62	–
Freedom of movement for persons	8	34	–	42	–
Commercial policy		2	2	4	–
Regional policy	1	–	1	2	–
Social policy	1	22	2	25	–
Principles of Community law	–	4	–	4	–
Approximation of laws	6	5	–	11	–
External relations	1	9	3	13	–
Own resources of the European Communities	–	1	–	1	–
Staff Regulations	1	–	1	2	–
Transport	–	4	–	4	–
Total EC Treaty	103	251	38	392	2
Supply	–	–	1	1	–
Protection of the general public	1	–	–	1	–
Total EAEC Treaty	1	–	1	2	–
Iron and Steel	3	–	–	3	–
Total ECSC Treaty	3	–	–	3	–
Budget of the European Communities	1	–	–	1	–
Law governing the institutions	1	–	–	1	4
Procedure	–	–	–	–	1
Staff Regulations	–	–	9	9	–
Total	2	–	9	11	5
OVERALL TOTAL	109	251	48	408	7

[1] Taking no account of applications for interim measures (3).

Table 12: Actions for failure to fulfil obligations [1]

Brought against	1995	from 1953 to 1995
Belgium	6	142
Denmark	–	20
Germany	10	69
Greece	12	83
Spain	7[2]	18
France	6	120
Ireland	6	46
Italy	17	276
Luxembourg	3	52
Netherlands	–	41
Austria	–	–
Portugal	4	6
Finland	–	–
Sweden	–	–
United Kingdom	2	34
Total	73	904

1 Articles 169, 170, 171 of the EC Treaty, and Articles 141, 142, 143 of the EAEC Treaty.

2 Including one action under Article 170 of the EC Treaty, brought by the Kingdom of Belgium.

Table 13: Basis of the action

Basis of the action	1995
Article 169 of the EC Treaty	71
Article 170 of the EC Treaty	1
Article 171 of the EC Treaty	–
Article 173 of the EC Treaty	30
Article 175 of the EC Treaty	1
Article 177 of the EC Treaty	242
Article 178 of the EC Treaty	–
Article 181 of the EC Treaty	1
Article 225 of the EC Treaty	–
Article 228 of the EC Treaty	–
Article 1 of the 1971 Protocol	9
Article 49 of the EC Statute	41
Article 50 of the EC Statute	2
Total EC Treaty	398
Article 33 of the ECSC Treaty	3
Article 38 of the ECSC Treaty	1
Article 41 of the ECSC Treaty	–
Article 49 of the ECSC Treaty	4
Total ECSC Treaty	8
Article 141 of the EAEC Treaty	1
Article 50 EAEC Statute	1
Total EAEC Treaty	2
Total	408
Article 74 of the Rules of Procedure	5
Article 76 of the Rules of Procedure	1
Article 98 of the Rules of Procedure	1
Protocol on Privileges and Immunities	–
Total special forms of procedure	7
OVERALL TOTAL	415

Table 14: Nature of proceedings

References for a preliminary ruling	299	(406)
Direct actions	148	(153)
Appeals	58	(58)
Special forms of procedure	3	(3)
Opinions/Deliberations	–	–
Total	508	(620)

Table 15: Bench hearing case

Bench hearing case	Direct actions		References for a preliminary ruling		Appeals		Other procedures [1]		Total	
Grand plenum	115	(117)	216	(284)	55	(55)	2	(2)	388	(458)
Small plenum	9	(9)	21	(26)					30	(35)
Subtotal	124	(126)	237	(310)	55	(55)	2	(2)	418	(493)
First chamber			8	(17)	1	(1)			9	(18)
Second chamber	1	(1)	3	(3)					4	(4)
Third chamber			6	(6)			1	(1)	7	(7)
Fourth chamber			5	(5)					5	(5)
Fifth chamber	11	(12)	19	(40)	1	(1)			31	(53)
Sixth chamber	12	(14)	21	(25)	1	(1)			34	(40)
Subtotal	24	(27)	62	(96)	3	(3)	1	(1)	90	(127)
TOTAL	148	(153)	299	(406)	58	(58)	3	(3)	508	(620)

[1] Including special forms of procedure and opinions of the Court.

General trend in the work of the Court until 31 December 1995

Table 16: New cases and judgments

Year	New cases [1]					Judgments [2]
	Direct actions [3]	References for a preliminary ruling	Appeals	Total	Applications for interim measures	
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	17
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	1216	106		1322	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 [4]	222	141	16	379	12	193
1991	142	186	14	342	9	204
1992	253	162	25	440	4	210
1993	265	204	17	486	13	203
1994	128	203	13	344	4	188
1995	109	251	48	408	3	172
Total	5775 [5]	3144	133	9052	306	4072

1 Gross figures; special forms of procedure are not included.

2 Net figures.

3 Including Opinions of the Court.

4 Since 1990 staff cases have been brought before the Court of First Instance.

5 Of which, 2 388 are staff cases until 31 December 1989.

Table 17: New references for a preliminary ruling [1]
(by Member State per year)

Year	B	DK	D	GR	E	F	IRL	I	L	NL	AUT	P	SF	SV	UK	Total
1961	–		–			–		–	–	1						1
1962	–		–			–		–	–	5						5
1963	–		–			–		–	1	5						6
1964	–		–			–		2	–	4						6
1965	–		4			2		–	–	1						7
1966	–		–			–		–	–	1						1
1967	5		11			3		–	1	3						23
1968	1		4			1		1	–	2						9
1969	4		11			1		–	1	–						17
1970	4		21			2		2	–	3						32
1971	1		28			5		5	1	6						37
1972	5		20			1		4	–	10						40
1973	8	–	37			4	–	5	1	6					–	61
1974	5	–	15			6	–	5	–	7					1	39
1975	7	1	26			15	–	14	1	4					1	69
1976	11	–	28			8	1	12	–	14					1	75
1977	16	1	30			14	2	7	–	9					5	84
1978	7	3	46			12	1	11	–	38					5	123
1979	13	1	33			18	2	19	1	11					8	106
1980	14	2	24			14	3	19	–	17					6	99
1981	12	1	41	–		17	–	12	4	17					5	109
1982	10	1	36	–		39	–	18	–	21					4	129
1983	9	4	36	–		15	2	7	–	19					6	98
1984	13	2	38	–		34	1	10	–	22					9	129
1985	13	–	40	–		45	2	11	6	14					8	139
1986	13	4	18	2	1	19	4	5	1	16		–			8	91
1987	15	5	32	17	1	36	2	5	3	19		–			9	144
1988	30	4	34	–	1	38	–	28	2	26		–			16	179
1989	13	2	47	2	2	28	1	10	1	18		1			14	139
1990	17	5	34	2	6	21	4	25	4	9		2			12	141
1991	19	2	54	3	5	29	2	36	2	17		3			14	186
1992	16	3	62	1	5	15	–	22	1	18		1			18	162
1993	22	7	57	5	7	22	1	24	1	43		3			12	204
1994	19	4	44	–	13	36	2	46	1	13		1			24	203
1995	14	8	51	10	10	43	3	58	2	19	2	5	–	6	20	251
Total	336	60	952	42	51	544	33	423	35	438	2	16	–	6	206	3144

[1] Articles 177 of the EC Treaty, 41 of the ECSC Treaty, 150 of the EAEC Treaty, 1971 Protocol.

Table 18: New references for a preliminary ruling [1] (by Member State and by court or tribunal)

Belgium		
Cour de cassation		38
Conseil d'État		14
Other courts or tribunals		284
	Total	336
Denmark		
Højesteret		11
Other courts or tribunals		49
	Total	60
Germany		
Bundesgerichtshof		55
Bundesarbeitsgericht		4
Bundesverwaltungsgericht		38
Bundesfinanzhof		145
Bundessozialgericht		44
Other courts or tribunals		666
	Total	952
Greece		
Simvoulio tis Epikratias		5
Other courts or tribunals		37
	Total	42
Spain		
Tribunal Supremo		1
Tribunales Superiores de Justicia		16
Audiencia Nacional		1
Juzgado Central de lo Penal		7
Other courts or tribunals		26
	Total	51
France		
Cour de cassation		54
Conseil d'État		12
Other courts or tribunals		478
	Total	544
Ireland		
Supreme Court		8
High Court		15
Other courts or tribunals		10
	Total	33
Italy		
Corte suprema di Cassazione		59
Consiglio di Stato		7
Other courts or tribunals		357
	Total	423
Luxembourg		
Cour supérieure de justice		9
Conseil d'État		13
Other courts or tribunals		13
	Total	35
Netherlands		
Raad van State		22
Hoge Raad		75
Centrale Raad van Beroep		36
College van Beroep voor het Bedrijfsleven		93
Tariefcommissie		33
Other courts or tribunals		179
	Total	438
Austria		
Other courts or tribunals		2
	Total	2
Portugal		
Supremo Tribunal Administrativo		6
Other courts or tribunals		10
	Total	16
Finland		
Sweden		
Other courts or tribunals		6
	Total	6
United Kingdom		
House of Lords		17
Court of Appeal		3
Other courts or tribunals		186
	Total	206
OVERALL TOTAL		3144

[1] Article 177 of the EC Treaty, Article 41 of the ECSC Treaty, Article 150 EAEC Treaty, 1971 Protocol.

B – PROCEEDINGS OF THE COURT OF FIRST INSTANCE

I – Synopsis of judgments delivered by the Court of First Instance in 1995

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Case	Date	Parties	Subject-matter
		Agriculture	
T-472/93	21. 2. 1995	Campo Ebro Industrial, SA, Levantina Agrícola Industrial, SA, Cerestar Ibérica, SA v Council	Action for annulment — Regulation — Alignment of the price of sugar in Spain with the common price — No compensation for producers of isoglucose — Admissibility — Action for damages — Legislative measure involving choices of economic policy
T-514/93	15. 3. 1995	Cobrecaf SA and Others v Commission	Fisheries — Community financial assistance for the construction of fishing vessels — Regulation (EEC) No 4028/86 — Admissibility — Confirmatory decision — Action for damages
T-478/93	18. 5. 1995	Wafer Zoo Srl v Commission	Common Agricultural Policy — Council Regulation (EEC) No 866/90 on improving the processing and marketing conditions for agricultural products — Commission Decision 90/342/EEC on the selection criteria to be adopted for investments eligible for Community assistance — Decision of the Commission rejecting a financing project — Action for annulment and damages
T-466/93, T-469/93, T-473/93, T-474/93 and T-477/93	13. 7. 1995	Thomas O'Dwyer and Others v Council	Common organization of the market in milk and milk products — Milk quotas — Additional levy — Reduction of reference quantities without compensation — Claim for damages

Case	Date	Parties	Subject-matter
T-481/93 and T-484/93	13. 12. 1995	Vereniging van Exporteurs in Levende Varkens and Others v Commission	Live pigs — Commission Decisions 93/128/EEC and 93/177/EEC concerning certain protection measures, with regard to swine vesicular disease, in the Netherlands and Italy — Actions for annulment — Actions for compensation

Commercial policy

T-163/94 and T-165/94	2. 5. 1995	NTN Corporation and Others v Council	Anti-dumping duty on ball-bearings — Review — Regulation modifying a definitive anti-dumping duty — Determination of the injury
T-169/94	27. 6. 1995	PIA HiFi Vertriebs GmbH v Commission	Anti-dumping duties — Application for the annulment of a decision on applications for reimbursement
T-166/94	14. 7. 1995	Koyo Seiko Co. Ltd v Council	Anti-dumping — Injury
T-571/93	14. 9. 1995	Lefebvre Frères et Soeurs and Others v Commission	Agriculture — Bananas — Action for damages — Delay in submitting a proposal for a regulation establishing the common organization of the market — Validity of decisions of the Commission based on Article 115 of the EC Treaty
T-480/93 and T-483/93	14. 9. 1995	Antillean Rice Mills NV and Others v Commission	Association of the overseas countries and territories — Safeguard measure — Action for annulment — Admissibility
T-171/94	14. 9. 1995	Descom Scales Manufacturing Co. Ltd v Council	Anti-dumping — Construction of the export price — Comparison between normal value and export price — Rights of the defence — Regulation No 2423/88

Case	Date	Parties	Subject-matter
T-167/94	18. 9. 1995	Detlef Nölle v Council	Action to establish non-contractual liability — Admissibility — Basic anti-dumping Regulation No 2423/88 — Breach — Anti-dumping Regulation No 725/89 — Invalidity — Liability by reason of legislative measures — Principle of care — Rights of the defence — Sufficiently serious breach
T-168/94	18. 9. 1995	Blackspur DIY Ltd v Council	Action for damages — Non-contractual liability of the Community — Causal link — Anti-dumping duties — Basic Regulation No 2423/88
T-164/94	28. 9. 1995	Ferchimex SA v Council	Anti-dumping duty on potash — Determination of normal value — Injury — Right to a fair hearing

Competition

T-102/92	12. 1. 1995	Viho Europe BV v Commission	Complaint — Rejection — Agreements, decisions and concerted practices — Groups of companies — Article 85(1) of the Treaty
T-74/92	24. 1. 1995	Ladbroke Racing (Deutschland) GmbH v Commission	Actions for failure to act and annulment — Articles 85 and 86 of the Treaty — Investigation of a complaint
T-114/92	24. 1. 1995	Bureau Européen des Médias de l'Industrie Musicale (BEMIM) v Commission	Copyright — Regulation No 17 — Rejection of a complaint — Obligations concerning the investigation of complaints — Community interest
T-5/93	24. 1. 1995	Roger Tremblay and Others v Commission	Copyright — Regulation No 17 — Rejection of a complaint — Obligations concerning the investigation of complaints — Community interest

Case	Date	Parties	Subject-matter
T-29/92	21. 2. 1995	Vereniging van Samenwerkende Prijsregelende Organisaties in de Bouwnijverheid (SPO) and Others v Commission	Non-existent measure — Decisions of associations of undertakings — Complex rules and regulations — Infringement — Effect on trade between Member States — Exemption — Fines
T-34/93	8. 3. 1995	Société Générale v Commission	Decision requiring information pursuant to Article 11(5) of Regulation No 17 — Statement of reasons — Rights of the defence
T-141/89	6. 4. 1995	Tréfileurope Sales SARL v Commission	Infringement of Article 85 of the EEC Treaty
T-142/89	6. 4. 1995	Usines Gustave Boël SA v Commission	Infringement of Article 85 of the EEC Treaty
T-143/89	6. 4. 1995	Ferriere Nord SpA v Commission	Infringement of Article 85 of the EEC Treaty
T-144/89	6. 4. 1995	Cockerill Sambre v Commission	Infringement of Article 85 of the EEC Treaty
T-145/89	6. 4. 1995	Baustahlgewebe GmbH v Commission	Infringement of Article 85 of the EEC Treaty
T-147/89	6. 4. 1995	Société Métallurgique de Normandie v Commission	Infringement of Article 85 of the EEC Treaty
T-148/89	6. 4. 1995	Tréfilunion SA v Commission	Infringement of Article 85 of the EEC Treaty
T-149/89	6. 4. 1995	Sotralentz SA v Commission	Infringement of Article 85 of the EEC Treaty
T-150/89	6. 4. 1995	G.B. Martinelli v Commission	Infringement of Article 85 of the EEC Treaty
T-151/89	6. 4. 1995	Société des Trellis et Panneaux Soudés SA v Commission	Infringement of Article 85 of the EEC Treaty
T-152/89	6. 4. 1995	ILRO SpA v Commission	Infringement of Article 85 of the EEC Treaty

Case	Date	Parties	Subject-matter
T-80/89, T-81/89, T-83/89, T-87/89, T-88/89, T-90/89, T-93/89, T-95/89, T-97/89, T-99/89 to T-101/89, T-103/89, T-105/89, T-107/89 and T-112/89	6. 4. 1995	BASF AG and Others v Commission	Procedure — Competence — Commission's rules of procedure
T-96/92	27. 4. 1995	Comité Central d'Entreprise de la Société Générale des Grandes Sources and Others v Commission	Regulation No 4064/89 — Decision declaring a concentration compatible with the common market — Action for annulment — Admissibility — Trade unions and works councils — Sufficient interest giving the recognized representatives of the employees the right to submit their observations, upon application, in the administrative procedure — Acts of direct and individual concern to them
T-12/93	27. 4. 1995	Comité Central d'Entreprise de la Société Anonyme Vittel and Others v Commission	Regulation No 4064/89 — Decision declaring a concentration compatible with the common market — Action for annulment — Admissibility — Trade unions and works councils — Act of direct and individual concern to them — Sufficient interest giving the recognized representatives of the employees the right to submit their observations, upon application in the administrative procedure

Case	Date	Parties	Subject-matter
T-14/93	6. 6. 1995	Union Internationale des Chemins de Fer v Commission	Transport by rail — Legal basis for a decision — Regulation No 1017/68 — Travel agents — Sale of international tickets
T-7/93	8. 6. 1995	Langnese-Iglo GmbH v Commission	Exclusive purchasing agreements for ice-cream — Relevant market — Possible barriers to entry to the market by third parties — Trade between Member States — Comfort letter — Block exemption — Lawfulness of withdrawal of the exemption — Prohibition on concluding exclusive agreements in the future
T-9/93	8. 6. 1995	Schöller Lebensmittel GmbH & Co. KG v Commission	Exclusive purchasing agreements for ice-cream — Relevant market — Possible barriers to entry to the market by third parties — Comfort letter — Negative clearance — Duration of agreements — Block exemption — Prohibition on concluding exclusive dealing agreements in the future
T-186/94	27. 6. 1995	Guérin Automobiles v Commission	Complaint — Notification under Article 6 of Regulation No 99/63/EEC — Action for failure to act — Action for annulment
T-30/91	29. 6. 1995	Solvay SA v Commission	Concerted practice — Presumption of innocence — Administrative procedure — Rights of the defence — Equality of arms — Access to the file
T-31/91	29. 6. 1995	Solvay SA v Commission	Agreement to share the market — Commission's rules of procedure — Authentication of a decision adopted by the college of Commissioners

Case	Date	Parties	Subject-matter
T-32/91	29. 6. 1995	Solvay SA v Commission	Abuse of a dominant position — Commission's rules of procedure — Authentication of a decision adopted by the college of Commissioners
T-36/91	29. 6. 1995	Imperial Chemical Industries plc v Commission	Concerted practice — Presumption of innocence — Administrative procedure — Rights of the defence — Equality of arms — Access to the file
T-37/91	29. 6. 1995	Imperial Chemical Industries plc v Commission	Abuse of a dominant position — Administrative procedure — Rights of the defence — Equality of arms — Access to the file — Commission's rules of procedure — Authentication of a decision adopted by the college of Commissioners
T-548/93	18. 9. 1995	Ladbroke Racing Ltd v Commission	Articles 85 and 86 of the Treaty — Taking of bets on horse-races — Exclusive rights of a national grouping of undertakings — Agreements and concerted practices — Abuse of a dominant position — Article 90 of the Treaty — Lack of Community interest — Past infringements of the competition rules

Case	Date	Parties	Subject-matter
		EAEC	
T-458/93 and T-523/93	15. 9. 1995	Empresa Nacional de Urânio SA (ENU) v Commission	Action for annulment — Supply — Right of option and exclusive right of the Euratom Supply Agency to conclude contracts for the supply of ores, source materials and special fissile materials — Balancing of supply and demand — Infringement of the rules of the Treaty — Community preference — None — Commission instruction to the Supply Agency — Principles of good faith and legitimate expectation — Non-contractual liability
		Energy policy	
T-109/94	13. 12. 1995	Windpark Groothusen GmbH & Co. Betriebs KG v Commission	Financial support in the energy sector — Thermie programme — Obligation to state reasons — Opinion of the committee — Right to a hearing — Discretion
		External relations	
T-493/93	8. 3. 1995	Hansa-Fisch GmbH v Commission	Fisheries — EEC-Morocco Agreement — Issue of licences — Acts of Accession of Spain and Portugal — Relative stability — Legitimate expectations

Case	Date	Parties	Subject-matter
T-572/93	6. 7. 1995	Odigitria AAE v Council and Commission	Non-contractual liability — Omission of the Commission — Causal link — Applicant's fault — Duty to provide diplomatic protection
T-185/94	26. 10. 1995	Geotronics SA v Commission	PHARE Programme — Restricted invitation to tender — Action for annulment — Admissibility — EEA Agreement — Action for damages

Free movement of goods

T-346/94	9. 11. 1995	France-Aviation v Commission	Repayment of customs duty — *Audi alteram partem* — Special situation

Law governing the institutions

T-275/94	14. 7. 1995	Groupement des cartes bancaires 'CB' v Commission	Competition — Fine — Default interest — Application of payments
T-194/94	19. 10. 1995	John Carvel and Guardian Newspapers Ltd v Council	Transparency — Access to information — Council Decision refusing access to documents relating to its deliberations — Interpretation of Article 4(2) of Decision 92/731/EC
T-85/94 (122)	13. 12. 1995	Commission v Eugénio Branco Lda	European Social Fund — Reduction in financial assistance initially granted — Statement of reasons — Proceedings seeking to have a default judgment set aside

Case	Date	Parties	Subject-matter
		Social policy	
T-85/94	12. 1. 1995	Eugénio Branco Lda v Commission	European Social Fund — Action for the annulment of a decision reducing financial assistance initially granted — Statement of reasons — Default proceedings
T-432/93 to T-434/93	7. 3. 1995	Socurte — Sociedade de Curtumes a Sul do Tejo, Lda and Others v Commission	European Social Fund — Decision reducing the amount of financial assistance — Action for annulment — Non-existence — Admissibility — Breach of an essential procedural requirement
		Staff cases	
T-90/91 and T-62/92	26. 1. 1995	Henri de Compte v Parliament	Withdrawal of a decision recognizing an occupation illness — Adoption of a subsequent decision refusing to recognize the occupational illness — Annulment
T-527/93	26. 1. 1995	O v Commission	Action for annulment — Decision suspending payment of remuneration under Article 60 of the Staff Regulations
T-60/94	26. 1. 1995	Myriam Pierrat v Court of Justice	Temporary staff — Recruitment of readers of judgments — Selection procedure — Rejection of a candidature — Duty to state the reasons
T-549/93	26. 1. 1995	D v Commission	Disciplinary procedure — Disciplinary Board — Investigation — Sexual harassment

Case	Date	Parties	Subject-matter
T-106/92	2. 2. 1995	Erik Dan Frederiksen v Parliament	Temporary occupation of a post — Legality — Breach of Article 176 of the Treaty — Misuse of powers
T-506/93	21. 2. 1995	Andrew Macrae Moat v Commission	Promotion — Consultation of staff reports — Complaint — Failure to give a reasoned reply — Action for annulment — Admissibility — Compensation for damage
T-535/93	23. 2. 1995	F v Council	Recruitment — Refusal to recruit on account of lack of physical fitness — Rights of the defence — Manifest error of assessment
T-43/93	22. 3. 1995	Sylviane Dachy, Loris and Fabio Lo Giudice v Parliament	Expatriation allowance — Services provided for an international organization
T-586/93	22. 3. 1995	Petros Kotzonis v Economic and Social Committee	Recruitment procedure — Statement of reasons — Misuse of powers — Transfer from the Language Service to Category A — Articles 7, 25, 27, 29 and 45 of the Staff Regulations
T-12/94	28. 3. 1995	Frédéric Daffix v Commission	Removal from post — Reasoning
T-497/93	29. 3. 1995	Anne Hogan v Court of Justice	Deduction from remuneration — Protocol on the Privileges and Immunities of the European Communities
T-10/94	17. 5. 1995	Achim Kratz v Commission	Notice of vacancy — Level of the post to be filled — Set by the appointing authority after consulting the Advisory Committee on Appointments - Rejection of candidatures
T-16/94	17. 5. 1995	Dimitrios Benecos v Commission	Notice of vacancy — Level of the post to be filled — Rejection of candidatures — Statement of reasons

Case	Date	Parties	Subject-matter
T-241/94	17. 5. 1995	Friedrich Nagel v Commission	Annual leave — Travel expenses — Excess luggage charge
T-556/93	30. 5. 1995	Monique Saby v Commission	Accident and occupational disease — Reopening of the file on accidents and full reimbursement of medical expenses
T-289/94	30. 5. 1995	Angelo Innamorati v Parliament	Competition — Rejection of candidature — Statement of reasons for a decision of the selection board in an open competition
T-496/93	8. 6. 1995	Alain-Pierre Allo v Commission	Appointment — Appointing Authority's discretion — Interests of the service — Reasons — Lack of staff report — Effect on procedure — Procedure for filling middle management posts — Rights of the defence
T-583/93	8. 6. 1995	P v Commission	Decision of compulsory reassignment entailing in particular the loss of the indemnity provided for in Article 56(a) of the Staff Regulations — Obligation to give reasons
T-61/92	14. 6. 1995	Henri de Compte v Parliament	Action for annulment — Decision of the President of the European Parliament granting a qualified discharge to the accounting officers — Suspension of payment of the accounting officer's credit balance
T-36/93	6. 7. 1995	Girish Ojha v Commission	Posting outwith the Community — Posting back to the Commission — Action for annulment — Compensation for non-material damage

Case	Date	Parties	Subject-matter
T-44/93	13. 7. 1995	Monique Saby v Commission	Action for damages — Admissibility — Proper conduct of the pre-litigation procedure — Duty to provide assistance — Duty to have regard for the welfare of officials — Principle of the protection of legitimate expectations
T-545/93	13. 7. 1995	Heinz Kschwendt v Commission	Dependent child allowance — Education allowance — Medical expenses — Recovery of overpayment
T-557/93	13. 7. 1995	Lars Bo Rasmussen v Commission	Reports procedure — Staff report — Delay in drawing up — Promotion — Improper conduct of the procedure
T-176/94	13. 7. 1995	K v Commission	European Convention for the Protection of Human Rights and Fundamental Freedoms — Complaint — Right to privacy
T-291/94	14. 7. 1995	Zudella Patricia Pimley-Smith v Commission	Competition — Decision of a board failing a candidate at the oral test — Scope of the duty to state reasons — Scope of review by the Court in the absence of an infringement of procedural rules
T-276/94	13. 9. 1995	Adam Buick v Commission	Leave of absence — Reinstatement
T-17/95	5. 10. 1995	Spyridoulia Alexopoulou v Commission	Grading — Article 31(2) of the Staff Regulations
T-39/93 and T-553/93	11. 10. 1995	Michael Baltsavias v Commission	Personal file — Duty to provide assistance — Non-material damage
T-562/93	19. 10. 1995	Dieter Obst v Commission	Recruitment procedure — Act adversely affecting an official — Article 45 of the Staff Regulations — Vacancy notice — Misuse of powers — Statement of reasons — Compensation for damage

Case	Date	Parties	Subject-matter
T-64/94	23. 11. 1995	Dimitrios Benecos v Commission	Occupational disease — Partial permanent invalidity — Principle of good management and sound administration — Duty to provide assistance — Misuse of powers — Action for damages
T-507/93	30. 11. 1995	Paulo Branco v Court of Auditors	List of officials eligible for promotion — Transfer to another institution — Act adversely affecting an official — Interest in bringing proceedings — Claim for damages — Inadmissibility
T-544/93 and T-566/93	7. 12. 1995	Giovanni Battista Abello and Others v Commission	Pay-slips — Weightings — Council Regulations Nos 3761/92, 3765/92 and 3766/92 — Plea of illegality
T-285/94	14. 12. 1995	Fred Pfloeschner v Commission	Pensions — Weighting for Switzerland — Former official of Swiss nationality — Plea alleging illegality of Regulation 2175/88
T-72/94	14. 12. 1995	Komninos Diamantaras v Commission	Expatriation allowance — Lack of habitual residence in the Member State to which the official is posted — Staff Regulations, Annex VII, Article 4(1)(a)

State aid

T-435/93	27. 4. 1995	Association of Sorbitol Producers within the EC (ASPEC) and Others v Commission	Admissibility — Non-existence — Habilitation — Prior decision authorizing a general scheme of aid
T-442/93	27. 4. 1995	Association des Amidonneries de Céréales de la CEE (AAC) and Others v Commission	Admissibility — Non-existence — Prior decision authorizing a general scheme of aid

Case	Date	Parties	Subject-matter
T-443/93	27. 4. 1995	Casillo Grani snc v Commission	Applicant declared bankrupt — Interest in bringing the proceedings — No need to give a decision
T-459/93	8. 6. 1995	Siemens SA v Commission	General aid — Recovery — Interest — Admissibility of the application for leave to intervene
T-447/93, T-448/93 and T-449/93	6. 7. 1995	Associazione Italiana Tecnico Economica del Cemento and Others v Commission	Remedying of a serious disturbance in the economy of a Member State — Authorization of a general scheme — Conditional on notification of individual cases — Examination of the Community context in relation to individual cases — Economic assessment
T-244/93 and T-486/93	13. 9. 1995	TWD Textilwerke Deggendorf GmbH v Commission	Commission decisions suspending payment of certain aids until previous unlawful aids have been repaid
T-49/93	18. 9. 1995	Société Internationale de Diffusion et d'Édition (SIDE) v Commission	Articles 92 and 93 — Action for annulment — Aid for exports of books
T-471/93	18. 9. 1995	Tiercé Ladbroke SA v Commission	Competition — Levy on bets taken on horse-races — Transfer of resources to an undertaking established in another Member State
T-95/94	28. 9. 1995	Chambre Syndicale Nationale des Entreprises de Transport de Fonds et Valeurs (Sytraval) and Brink's France SARL v Commission	Complaint by a competitor — Failure to initiate the investigation procedure — Right to a fair hearing — Action for annulment

II — Synopsis of the other decisions of the Court of First Instance which appeared in the Proceedings in 1995

Case	Date	Parties	Subject-matter
T-308/94 R	17. 2. 1995	Cascades SA v Commission	Competition — Payment of a fine — Bank guarantee — Application for interim measures
T-2/95 R	24. 2. 1995	Industrie des Poudres Sphériques v Council	Dumping — Definitive duties — Calcium metal — Suspension of operation
T-395/94 R	10. 3. 1995	Atlantic Container Line AB and Others v Commission	Competition — Maritime transport — Application for interim measures — Suspension of operation of a measure — Intervention — Confidentiality
T-79/95 R and T-80/95 R	12. 5. 1995	Société Nationale des Chemins de Fer Français (SNCF) and British Railways Board (BR) v Commission	Competition — Article 85 of the EC Treaty — Article 53 of the EEA Agreement — Rail transport — Suspension of operation of a measure — Interim relief
T-107/94	19. 6. 1995	Christina Kik v Council and Commission	Regulation (EC) No 40/94 on the Community trade mark — Languages — Manifest inadmissibility of the action
T-203/95 R	12. 12. 1995	Bernard Connolly v Commission	Staff case — Procedure for interim relief — Commencement of disciplinary proceedings — Application for interim measures prohibiting the defendant institution and its officials from communicating information to the press about the disciplinary proceedings and about the personality, opinion and health of the official concerned

III – Statistical information

Summary of the proceedings of the Court of First Instance in 1993, 1994 and 1995

Table 1: General proceedings of the Court, 1993, 1994 and 1995
Table 2: New cases in 1993, 1994 and 1995
Table 3: Cases decided in 1993, 1994 and 1995
Table 4: Pending cases on 31 December each year

New cases in 1993, 1994 and 1995

Table 5: Type of action
Table 6: Basis of the action

Cases decided in 1995

Table 7: Means by which terminated
Table 8: Basis of the action

Miscellaneous

Table 9: General trend
Table 10: Results of appeals from 1 January to 31 December 1995 (judgments and orders)

Table 1: General proceedings of the Court, 1993, 1994 and 1995 [1]

	1993		1994		1995	
New cases	596		409		253	
Cases dealt with	97	(106)	412	(442)	198	(265)
Pending cases	636	(657)	433	(628)	427	(616)

Table 2: New cases in 1993, 1994 and 1995 [2] [3]

Nature of proceedings	1993	1994	1995
Direct actions	506	316	165
Staff cases	83	81	79
Special forms of procedure	7	12	9
Total	596	409	253

1 In the tables which follow, the figures in brackets (gross figure) represent the total number of cases, *without* account being taken of cases joined on grounds of similarity (one case number = one case). The *net figure* represents the number of cases after *account has been taken* of those joined on grounds of similarity (one series of joined cases = one case).

2 In this table and those on the following pages, 'direct actions' refer to actions brought by natural and legal persons other than cases brought by officials of the European Communities.

3 The following are considered to be 'special forms of procedure' (in this and the following tables): objections lodged against, and applications to set aside, a judgment (Art. 38 EEC Statute; Art. 122 CFI Rules of Procedure); third party proceedings (Art. 39 EEC Statute; Art 123 CFI Rules of Procedure); revision of a judgment (Art. 41 EEC Statute; Art. 125 CFI Rules of Procedure); interpretation of a judgment (Art. 40 EEC Statute; Art. 129 CFI Rules of Procedure); legal aid (Art. 76 CJ Rules of Procedure; Art. 94 CFI Rules of Procedure); taxation of costs (Art. 74 CJ Rules of Procedure; Art. 92 CFI Rules of Procedure).

Table 3: Cases decided in 1993, 1994 and 1995

Nature of proceedings	1993		1994		1995	
Direct actions	19	(20)	339	(358)	125	(186)
Staff cases	72	(79)	67	(78)	62	(64)
Special forms of procedure	6	(7)	6	(6)	11	(15)
Total	97	(106)	412	(442)	198	(265)

Table 4: Pending cases on 31 December each year

Nature of proceedings	1993		1994		1995	
Direction action	537	(554)[1]	321	(512) [2]	305	(491) [3]
Staff cases	95	(99)	103	(106)	118	(121)
Special forms of procedure	4	(4)	9	(10)	4	(4)
Total	636	(657)	433	(628)	427	(616)

[1] Of which 395 cases concerned milk quotas.

[2] Of which 258 cases concerned milk quotas.

[3] Of which 231 cases concerned milk quotas.

Table 5: Type of action

Type of action	1993	1994	1995
Action for annulment of measures	94	135	120
Action for failure to act	3	7	9
Action for damages	409	174	36
Staff cases	83	81	79
Total	589 [1]	397 [2]	244 [3]
Special forms of procedure			
Legal aid	1	4	1
Taxation of costs	4	6	7
Interpretation or review of a judgment	2	2	
Objection to a judgment	-	-	1
Total	7	12	9
OVERALL TOTAL	596	409	253

[1] Of which 395 cases concerned milk quotas.

[2] Of which 173 cases concerned milk quotas.

[3] Of which 32 cases concerned milk quotas.

Table 6: Basis of the action

Basis of the action	1993	1994	1995
Article 173 of the EC Treaty	93	120	116
Article 175 of the EC Treaty	3	4	9
Article 178 of the EC Treaty	408	174	36
Total EC Treaty	504	298	161
Article 33 of the ECSC Treaty	-	14	3
Article 35 of the ECSC Treaty	-	2	-
Total ECSC Treaty	-	16	3
Article 146 of the EAEC Treaty	1	1	1
Article 148 of the EAEC Treaty	-	1	-
Article 151 of the EAEC Treaty	1	-	-
Total EAEC Treaty	2	2	1
Staff Regulations	85	82	79
Total	591	398	244
Article 92 of the Rules of Procedure	2	5	7
Article 94 of the Rules of Procedure	1	4	1
Article 122 of the Rules of Procedure	-	-	1
Article 125 of the Rules of Procedure	–	2	-
Article 129 of the Rules of Procedure	2	–	-
Total special forms of procedure	5	11	9
OVERALL TOTAL	596	409	253

Table 7: Means by which terminated

Means by which terminated	Direct actions		Staff cases		Special forms of procedure		Total	
Judgments								
Action inadmissible	2	(2)	1	(1)			3	(3)
No need to give a decision	2	(2)					2	(2)
Action unfounded	30	(37)	16	(18)	1	(1)	47	(56)
Action partly founded	19	(38)	6	(7)			25	(45)
Action well founded	10	(12)	10	(10)			20	(22)
Interlocutory proceedings			1	-			1	
Total judgments	63	(91)	34	(36)	1	(1)	98	(128)
Orders								
Removal from the Register	45	(76)	18	(18)			63	(94)
Action inadmissible	13	(15)	7	(7)	2	(3)	22	(25)
Lack of jurisdiction	1	(1)					1	(1)
No need to give a decision			3	(3)			3	(3)
Action well founded					2	(2)	2	(2)
Action partly founded					4	(4)	4	(4)
Action unfounded					2	(5)	2	(5)
Declining jurisdiction	3	(3)					3	(3)
Total orders	62	(95)	28	(28)	10	(14)	100	(137)
Total	125	(186)	62	(64)	11	(15)	198	(265)

Table 8: Basis of the action

Basis of the action	Judgments		Orders		Total	
Article 173 of the EC Treaty	56	(83)	27	(27)	83	(110)
Article 175 of the EC Treaty	2	(2)	1	(1)	3	(3)
Article 178 of the EC Treaty	4	(4)	33	(66)	37	(70)
Total EC Treaty	62	(89)	61	(94)	123	(183)
Article 35 of the ECSC Treaty			1	(1)	1	(1)
Total ECSC Treaty			1	(1)	1	(1)
Article 146 of the EAEC Treaty	0	(1)			0	(1)
Article 151 of the EAEC Treaty	1	(1)			1	(1)
Total EAEC Treaty	1	(2)			1	(2)
Staff Regulations	34	(36)	28	(28)	62	(64)
Total	97	(127)	90	(123)	187	(250)
Article 92 of the Rules of Procedure			6	(9)	6	(9)
Article 94 of the Rules of Procedure			2	(2)	2	(2)
Article 122 of the Rules of Procedure	1	(1)			1	(1)
Article 125 of the Rules of Procedure			1	(2)	1	(2)
Article 129 of the Rules of Procedure			1	(1)	1	(1)
Total special forms of procedure	1	(1)	10	(14)	11	(15)
OVERALL TOTAL	98	(128)	100	(137)	198	(265)

Table 9: General trend

	1993		1994		1995	
New cases before the Court of First Instance[1]	596		409		253	
Cases pending before the Court of First Instance on 31 December of each year	636	(657)	433	(628)	427	(616)
Cases decided	97	(106)	412	(442)	198	(265)
Judgments delivered	47	(54)	60	(70)	98	(128)
Number of decisions of the Court of First Instance which have been the subject of an appeal [2]	16	*[66]*	13	*[94]*	48	*[131]*

1 Special forms of procedure included.

2 The figures in italics in brackets indicate the total number of decisions which may be the subject of a challenge — judgments, orders on admissibility, interim measures and not to proceed to judgment — in respect of which the deadline for bringing an appeal has expired or against which an appeal has been brought.

Table 10: Results of appeals from 1 January to 31 December 1995
(judgments and orders)

Means by which terminated	Agriculture		Competition		Law governing the institutions		Staff cases		Total	
Unfounded	2	(2)	3	(4)			4	(4)	9	(10)
Appeal manifestly unfounded	2	(3)			2	(2)	1	(1)	5	(6)
Appeal manifestly inadmissible and unfounded							2	(2)	2	(2)
Annulment — not referred back			1	(1)					1	(1)
Partial annulment — referred back			1	(1)					1	(1)
Total appeals decided	4	(5)	5	(6)	2	(2)	7	(7)	18	(20)

C – PROCEEDINGS IN NATIONAL COURTS ON COMMUNITY LAW

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 1994 and 30 June 1995 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.

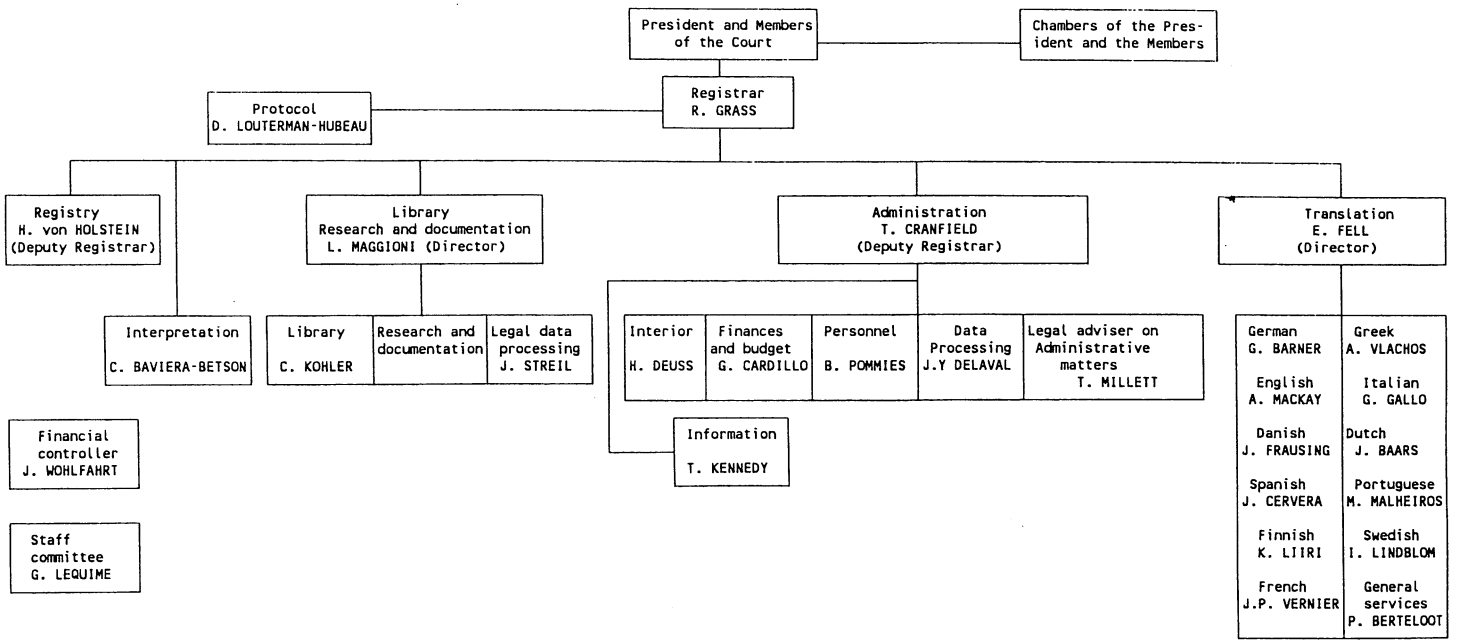
Table showing by Member State judgments delivered on questions of Community law between 1 July 1994 and 30 June 1995

Member State	Decisions on questions of Community law other than those concerning the Brussels Convention	Decisions concerning the Brussels Convention	Total
Belgium	93	26	119
Denmark	14	5	19
Germany	285	20	305
Greece	21	12	33
Spain	104	5	109
France	206	26	232
Ireland	13	3	16
Italy	293	16	309
Luxembourg	3	1	4
Netherlands	224	38	262
Austria	11	-	11
Portugal	5	-	5
Finland	-	-	-
Sweden	5	-	5
United Kingdom	98	11	109
Total	1 375	163	1 538

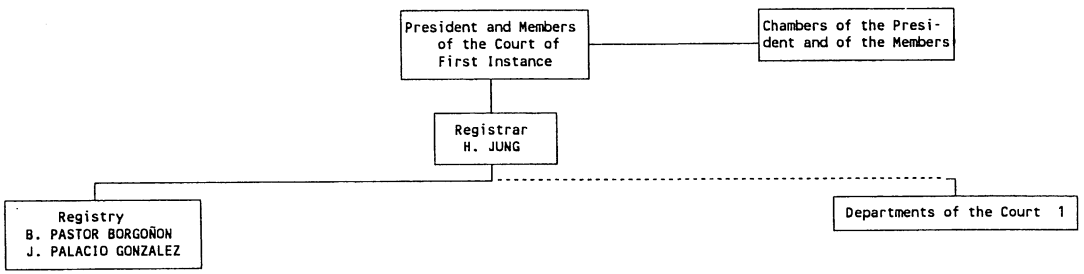
Annexe II

Court of Justice

The Administration: Abridged Organizational Chart



Court of First instance



(1) 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".

Annexe III

Publications and General Information

Text 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 are published in the official Community languages, and are the only authentic source for citations of decisions of the Court of Justice or of the Court of First Instance.

The final volume of the year's Reports contains a chronological table of the cases published, a table of cases classified in numerical order, an alphabetical index of parties, a table of the Community legislation cited, an alphabetical index of subject-matter and, from 1991, a new systematic table containing all of the summaries with their corresponding chains of head-words for the cases reported.

In the Member States and in certain non-member countries, the Reports are on sale at the addresses shown on the last page of this section (price of the 1994 and 1995 Reports: ECU 170 excluding VAT). In other countries, orders should be addressed to the Internal Services Division of the Court of Justice, Publications Section, L-2925 Luxembourg.

2. Reports of European Community Staff Cases

Since 1994 the Reports of European Community Staff Cases (ECR-SC) contains all the judgments of the Court of First Instance in staff cases in the language of the case together with an abstract in one of the official languages, at the subscriber's choice. It also contains summaries of the judgments delivered by the Court of Justice on appeal in this area, the full text of which will, however, continue to be published in the general Reports. Access to the Reports of European Community Staff Cases is facilitated by an index which is also available in all the languages.

In the Member States and in certain non-member countries, the Reports are on sale at the addresses shown on the last page of this section (price: ECU 70, excluding VAT). In other countries, orders should be addressed to the Office for Official Publications of the European Communties, L-2985 Luxembourg. For further

information please contact the Internal Services Division of the Court of Justice, Publications Section, L-2925 Luxembourg.

The cost of subscription to the two abovementioned publications is ECU 205, excluding VAT. For further information please contact the Internal Services Division of the Court of Justice, Publications Section, L-2925 Luxembourg.

3. Judgments of the Court of Justice and the Court of First Instance and Opinions of the Advocates General

Orders for offset copies, subject to availability, may 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 for each document, at present BFR 600 excluding VAT but subject to alteration. 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 may pay a subscription to receive offset copies in one or more of the official Community languages of the texts contained in the Reports of Cases before the Court of Justice and the Court of First Instance, with the exception of the texts appearing only in the Reports of European Community Staff Cases. The annual subscription fee is at present BFR 12 000, excluding VAT.

Other publications

1. Documents from the Registry of the Court of Justice

(a) Selection Instruments relating to the Organization, Jurisdiction and Procedure of the Court

This work contains a selection of the provisions concerning the Court of Justice and the Court of First Instance to be found in the Treaties, in secondary law and in a number of conventions. The 1993 edition has been updated to 30 September 1992. Consultation is facilitated by an index.

The Selected Instruments are available in the official languages (with the exception of Finnish and Swedish) at the price of ECU 13.50, excluding VAT, from the addresses given on the last page of this section.

(b) List of the sittings of the Court

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 from the Internal Services Divisions of the Court of Justice, Publications Section, L-2925 Luxembourg.

2. Publications from the Information Service of the Court of Justice

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

Weekly information, sent to subscribers, on the judicial proceedings of the Court of Justice and the Court of First Instance containing a short summary of judgments and brief notes on opinions delivered by the Advocates General and new cases brought during the previous week. It also records the more important events happening during the daily life of the institution.

The last edition of the year contains statistical information showing a table analysing the judgments and other decisions delivered by the Court of Justice and the Court of First Instance during the course of the year.

(b) Annual Report

Publication giving a synopsis of the work of the Court of Justice and 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, seminars, etc.). This publication contains much statistical information and the texts of addresses delivered at formal sittings of the Court.

For technical reasons, the Report for the period 1992-1994, while maintaining the usual content, was published as a version covering three years under the title 'Report of Proceedings 1992-1994'.

Orders for the documents referred to above, available in all the official languages of the Communities (and in particular, from 1995, also in Finnish and Swedish), must be sent, in writing, to the Information Service of the Court of Justice, L-2925 Luxembourg, stating the language required. That service is free of charge.

3. Publications of the Library Division of the Court

(a) '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 concerning European integration

— Part B: Jurisprudence — International law — Comparative law — National legal systems.

Enquiries concerning these publications should be sent to the Library Division of the Court of Justice, L-2925 Luxembourg.

(b) 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. Since the 1990 edition this Bibliography

has become an official European Communities publication. It contains more than 4 000 bibliographical references with a systematic index of subject-matter and an index of authors.

The annual Bibliography is on sale at the addresses indicated on the last page of this publication at ECU 32, excluding VAT.

4. Publications of the Research and Documentation Division and the Legal Data-Processing Service of the Court

(a) Digest of Case-law relating to the European Communities

The Court of Justice publishes the Digest of Case-law relating to the European Communities, which systematically presents not only its case-law but also selected judgments of courts in the Member States.

The Digest comprises two series, which may be obtained separately, covering the following fields:

A Series: Case-law of the Court of Justice and the Court of First Instance of the European Communities, excluding cases brought by officials and other servants of the European Communities and cases relating to the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters.

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.

The A Series covers the case-law of the Court of Justice of the European Communities from 1977. A consolidated version covering the period 1977 to 1990 will replace the various loose-leaf issues which were published since 1983. The French version is already available and will be followed by German, English, Danish, Italian and Dutch versions. Publications in the other official Community languages is being studied. Price ECU 100, excluding VAT.

In future, the A series will be published every five years in all the official Community languages, the first of which is to cover 1991 to 1995. Annual updates will be available, although initially only in French.

The first issue of the D Series was published in 1981. With the publication of Issue 5 (February 1993) in German, French and Italian (the other language versions will be available during 1996) it covers at present the case-law of the Court of Justice of the European Communities from 1976 to 1991 and the case-law of the courts of the Member States from 1973 to 1990. Price ECU 40, excluding VAT.

(b) Index A-Z

Computer-produced publication containing a numerical list of all the cases brought before the Court of Justice and the Court of First Instance since 1954, an alphabetical list of names of parties, and a list of national courts or tribunals which have referred cases to the Court for a preliminary ruling. The Index A-Z gives details of the publication of the Court's judgments in the Reports of Cases before the Court. This publication is available in French and English and is updated annually. Price: ECU 25, excluding VAT.

(c) Notes — Références des notes de doctrine aux arrêts de la Cour

This publication gives references to legal literature relating to the judgments of the Court of Justice and of the Court of First Instance since their inception. It is updated annually. Price: ECU 15, excluding VAT.

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

(d) Bulletin périodique de jurisprudence

This document assembles, for each quarterly, half-yearly and yearly period, all the summaries of the judgments of the Court of Justice and of the Court of First Instance which will appear in due course in the Reports of Cases before the Court. It is set out in a systematic form identical to that of the Digest, so that it forms a precursor, for any given period, to the Digest and can provide a similar service to the user. It is available in French.

(e) Jurisprudence en matière de fonction publique communautaire

A publication in French containing the decisions of the Court of Justice and of the Court of First Instance in cases brought by officials and other servants of the European Communities, set out in systematic form.

(f) Jurisprudence nationale en matière de droit communautaire

The Court has established a computer data-bank covering the case-law of the courts of the Member States concerning Community law. Using that data-bank, as the work of analysis and coding progresses, it is possible to print out, in French, lists of the judgments it contains (with keywords indicating their tenor), either by Member State or by subject-matter.

Enquiries concerning these publications should be sent to the Research and Documentation Division of the Court of Justice, L-2925 Luxembourg.

CELEX

The computerized Community law documentation system CELEX (*Comunitatis Europae Lex*), which is managed by the Office for Official Publications of the European Communities, the input being provided by the Community institutions, covers legislation, case-law, preparatory acts and Parliamentary questions, together with national measures implementing directives.

As regards case-law, CELEX contains all the judgments and orders of the Court of Justice and the Court of First Instance, with the summaries drawn up for each case. The Opinion of the Advocate General is cited and, from 1987, the entire text of the Opinion is given. Case-law is updated weekly.

The CELEX system is available in the official languages of the Community. Finnish and Swedish bases will be introduced from 1996.

RAPID — OVIDE/EPISTEL

The database RAPID, which is managed by the Spokesman's Service of the Commission of the European Communities, will contain, in the official languages of the Community, the Proceedings of the Court of Justice and the Court of First Instance. The database OVIDE/EPISTEL managed by the European Parliament will contain the French version of the Proceedings of the Court of Justice and the Court of First Instance (see above).

Online versions of CELEX and RAPID are provided by Eurobases, as well as by certain national servers.

Finally, a range of online and CD-ROM products have been produced under licence. For further information, write to: Office for Official Publications of the European Communities, 2 rue Mercier, L-2985 Luxembourg.

The Court's address, telephone, telex and telefax numbers are as follows:

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

European Communities — Court of Justice

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Luxembourg: Office for Official Publications of the European Communities

1997 — 249 p. — 17,6 x 25 cm

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