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EUROPEAN INFORMATION - SIA

PROCEDURE OF THE EUROPEAN COURT OF JUSTICE

LEGISLATIVE MATERIALS AND GUIDELINES

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Court of Justice

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1. Establishing treaties

A. Treaty on European Union

Article 35

1. The Court of Justice of the European Communities shall have jurisdiction, subject to the conditions laid down in this Article, to give preliminary rulings on the validity and interpretation of framework decisions and decisions, on the interpretation of conventions established under this Title(1) and on the validity and interpretation of the measures implementing them.

2. By a declaration(2) made at the time of signature of the Treaty of Amsterdam or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice to give preliminary rulings as specified in paragraph 1.

3. A Member State making a declaration pursuant to paragraph 2 shall specify that either:

(a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment, or

(b) any court or tribunal of that State may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

4. Any Member State, whether or not it has made a declaration pursuant to paragraph 2, shall be entitled to submit statements of case or written observations to the Court in cases which arise under paragraph 1.

5. The Court of Justice shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

6. The Court of Justice shall have jurisdiction to review the legality of framework decisions and decisions in actions brought by a Member State or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The proceedings provided for in this paragraph shall be instituted within two months of the publication of the measure.

7. The Court of Justice shall have jurisdiction to rule on any dispute between Member States regarding the interpretation or the application of acts adopted under Article 34(2) whenever such dispute cannot be settled by the Council within six months of its being referred to the Council by one of its members. The Court shall also have jurisdiction to rule on any dispute between Member States and the Commission regarding the interpretation or the application of conventions established under Article 34(2)(d).

B . Treaty establishing the European Community(3)

Article 7 (ex Article 4)

1. The tasks entrusted to the Community shall be carried out by the following institutions:

-- a European Parliament,

-- a Council,

-- a Commission,

-- a Court of Justice[4]

-- a Court of Auditors.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

2. The Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

Article 68 (ex Article 73p)

1. Article 234 shall apply to this Title[5] under the following circumstances and conditions: where a question on the interpretation of this Title or on the validity or interpretation of acts of the institutions of the Community based on this Title is raised in a case pending before a court or a tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. In any event, the Court of Justice shall not have jurisdiction to rule on any measure or decision taken pursuant to Article 62(1) relating to the maintenance of law and order and the safeguarding of internal security.

3. The Council, the Commission or a Member State may request the Court of Justice to give a ruling on a question of interpretation of this Title or of acts of the institutions of the Community based on this Title. The ruling given by the Court of Justice in response to such a request shall not apply to judgments of courts or tribunals of the Member States which have become res judicata.

Article 88 (ex Article 93)

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the common market having regard to Article 87, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 226 and 227, refer the matter to the Court of Justice direct.

Article 95 (ex Article 100a) *

9. By way of derogation from the procedure laid down in Articles 226 and 227, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article[6].

Article 220 (ex Article 164)*

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 225a in order to exercise, in certain specific areas, the judicial competence laid

down in this Treaty.

Article 221 (ex Article 165)*

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.

Article 222 (ex Article 166)*

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice, require his involvement.

Article 223 (ex Article 167)*

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose inde-pendence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

Retiring Judges and Advocates-General may be reappointed.

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.

*Article 224**

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reap-pointment.

The Judges shall elect the President of the Court of First Instance from among their number for a term of three years. He may be re-elected.

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.

*Article 225**

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 230, 232, 235, 236 and 238, with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 225a.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 234, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

Article 225a *

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the decision establishing the judicial panel provides otherwise, the provisions of this Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels.

Article 226 (ex Article 169)

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

Article 227 (ex Article 170)

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

Article 228 (ex Article 171)

1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

2. If the Commission considers that the Member State concerned has not taken such measures it shall, after giving that State the opportunity to submit its observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgment of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgment within the time-limit laid down by the Commission, the latter may bring the case before the Court of Justice. In so doing it shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 227.

Article 229 (ex Article 172)

Regulations[(7)] adopted jointly by the European Parliament and the Council, and by the Council, pursuant to the provisions of this Treaty, may give the Court of Justice unlimited jurisdiction in regard to the penalties provided for in such regulations.

Article 229a *

Without prejudice to the other provisions of this Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to confer jurisdiction, to the extent that it shall determine, on the Court of Justice in disputes relating to the application of acts adopted on the basis of this Treaty which create Community industrial property rights. The Council shall recommend those provisions to the Member States for adoption in accordance with their respective constitutional requirements.

Article 230 (ex Article 173)*

The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the European Parliament, by the Court of Auditors and by the ECB for the purpose of protecting their prerogatives.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article 231 (ex Article 174)

If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

Article 232 (ex Article 175)

Should the European Parliament, the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

The Court of Justice shall have jurisdiction, under the same conditions, in actions or proceedings brought by the ECB in the areas falling within the latter's field of competence and in actions or proceedings brought against the latter.

Article 233 (ex Article 176)

The institution or institutions whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 288.

This Article shall also apply to the ECB.

Article 234 (ex Article 177)

The Court of Justice shall have jurisdiction to give preliminary rulings concerning[(8)]

(a) the interpretation of this Treaty;

(b) the validity and interpretation of acts of the institutions of the Community and of the ECB;

(c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide[(9)].

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

Article 235 (ex Article 178)

The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of Article 288.

Article 236 (ex Article 179)

The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment[(10)].

Article 237 (ex Article 180)

The Court of Justice shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:[(11)]

(a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article 226;

(b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 230;

(c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 230, and solely on the grounds of non-compliance with the procedure provided for in Article 21(2), (5), (6) and (7) of the Statute of the Bank.

(d) the fulfilment by national central banks of obligations under this Treaty and the Statute of the ESCB. In this connection the powers of the Council of the ECB in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article 226. If the Court of Justice finds that a national central bank has failed to fulfil an obligation under this Treaty, that bank shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

Article 238 (ex Article 181)

The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

Article 239 (ex Article 182)

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to

the subject-matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

Article 240 (ex Article 183)

Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

Article 241 (ex Article 184)

Notwithstanding the expiry of the period laid down in the fifth paragraph of Article 230, any party may, in proceedings in which a regulation adopted jointly by the European Parliament and the Council, or a regulation of the Council, of the Commission, or of the ECB is at issue, plead the grounds specified in the second paragraph of Article 230 in order to invoke before the Court of Justice the inapplicability of that regulation.

Article 242 (ex Article 185)

Actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Article 243 (ex Article 186)

The Court of Justice may in any cases before it prescribe any necessary interim measures.

Article 244 (ex Article 187)

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 256.

Article 245 *

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute, with the exception of Title I.

Article 256 (ex Article 192)[(12)]

Decisions of the Council or of the Commission which impose a pecuniary obligation on persons other than States, shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

Article 288 (ex Article 215)[13]

The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

The preceding paragraph shall apply under the same conditions to damage caused by the ECB or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.[14]

Article 290 *

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously.

Article 292 (ex Article 219)

Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

Article 298 (ex Article 225)

If measures taken in the circumstances referred to in Articles 296 and 297[15] have the effect of distorting the conditions of competition in the common market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in the Treaty.

By way of derogation from the procedure laid down in Articles 226 and 227, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 296 and 297. The Court of Justice shall give its ruling in camera.

Article 300 * (ex Article 228)

6. The European Parliament, the Council, the Commission or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 48 of the Treaty on European Union.

C. Treaty establishing the European Atomic Energy Community[16]

Article 3

1. The tasks entrusted to the Community shall be carried out by the following institutions:

-- a European Parliament,

-- a Council,

-- a Commission,

-- a Court of Justice[17]

-- a Court of Auditors.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

2. The Council and the Commission shall be assisted by an Economic and Social Committee acting in an advisory capacity.

Article 12

Member States, persons or undertakings shall have the right, on application to the Commission, to obtain non-exclusive licences under patents, provisionally protected patent rights, utility models or patent applications owned by the Community, where they are able to make effective use of inventions covered thereby.

Under the same conditions, the Commission shall grant sublicences under patents, provisionally protected patent rights, utility models or patent applications, where the Community holds contractual licences conferring power to do so.

The Commission shall grant such licences or sublicences on terms to be agreed with the licensees and shall furnish all the information required for their use. These terms shall relate in particular to suitable remuneration and, where appropriate, to the right of the licensee to grant sublicences to third parties and to the obligation to treat the information as a trade secret.

Failing agreement on the terms referred to in the third paragraph, the licensees may bring the matter before the Court of Justice so that appropriate terms may be fixed.

Article 18

An Arbitration Committee is hereby established for the purposes provided for in this Section(18) The Council shall appoint the members and lay down the rules of procedure of this Committee, acting on a proposal from the Court of Justice.

An appeal, having suspensory effect, may be brought by the parties before the Court of Justice against a decision of the Arbitration Committee within one month of notification thereof. The Court of Justice shall confine its examination to the formal validity of the decision and to the interpretation of the provisions of this Treaty by the Arbitration Committee.

The final decisions of the Arbitration Committee shall have the force of res judicata between the parties concerned. They shall be enforceable as provided in Article 164.

Article 21

If the proprietor does not propose that the matter be referred to the Arbitration Committee, the Commission may call upon the Member State concerned or its appropriate authorities to grant the licence or cause it to be granted.

If, having heard the proprietor's case, the Member State, or its appropriate authorities, considers that the conditions of Article 17 have not been complied with, it shall notify the Commission of its refusal to grant the licence or to cause it to be granted.

If it refuses to grant the licence or to cause it to be granted, or if, within four months of the date of the request, no information is forthcoming with regard to the granting of the licence, the Commission shall have two months in which to bring the matter before the Court of Justice.

The proprietor must be heard in the proceedings before the Court of Justice.

If the judgment of the Court of Justice establishes that the conditions of Article 17 have been complied with, the Member State concerned, or its appropriate authorities, shall take such measures as enforcement of that judgment may require.

Article 38

The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil.

In cases of urgency, the Commission shall issue a directive requiring the Member State concerned to take, within a period laid down by the Commission, all necessary measures to prevent infringement of the basic standards and to ensure compliance with regulations.

Should the State in question fail to comply with the Commission directive within the period laid down, the Commission or any Member State concerned may forthwith, by way of derogation from Articles 141 and 142, bring the matter before the Court of Justice.

Article 81

The Commission may send inspectors into the territories of Member States. Before sending an inspector on his first assignment in the territory of a Member State, the Commission shall consult the State concerned; such consultation shall suffice to cover all future assignments of this inspector.

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Chapter[(19)], to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials and to ensure compliance with the provisions of Article 77. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.

If the carrying-out of an inspection is opposed, the Commission shall apply to the President of the Court of Justice for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice shall give a decision within three days.

If there is danger in delay, the Commission may itself issue a written order, in the form of a decision, to proceed with the inspection. This order shall be submitted without delay to the President of the Court of Justice for subsequent approval.

After the order or decision has been issued, the authorities of the State concerned shall ensure that the inspectors have access to the places specified in the order or decision.

Article 82

Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 79. They shall report any infringement to the Commission.

The Commission may issue a directive calling upon the Member State concerned to take, by a time-limit set by the Commission, all measures necessary to bring such infringement to an end; it shall inform the Council thereof.

If the Member State does not comply with the Commission directive by the time-limit set, the Commission or any Member State concerned may, in derogation from Articles 141 and 142, refer the matter to the Court of Justice direct.

Article 83

1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Chapter, the Commission may impose sanctions on such persons or undertakings.

These sanctions shall be in order of severity:

(a) a warning;

(b) the withdrawal of special benefits such as financial or technical assistance;

(c) the placing of the undertaking for a period not exceeding four months under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking;

(d) total or partial withdrawal of source materials or special fissile materials.

2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of Member States in accordance with Article 164.

By way of derogation from Article 157, appeals brought before the Court of Justice against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice may, however, on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

Article 103

Member States shall communicate to the Commission draft agreements or contracts with a third State, an international organisation or a national of a third State to the extent that such agreements or contracts concern matters within the purview of this Treaty.

If a draft agreement or contract contains clauses which impede the application of this Treaty, the Commission shall, within one month of receipt of such communication, make its comments known to the State concerned.

The State shall not conclude the proposed agreement or contract until it has satisfied the objections of the Commission or complied with a ruling by the Court of Justice, adjudicating urgently upon an application from the State, on the compatibility of the proposed clauses with the provisions of this Treaty. An application may be made to the Court of Justice at any time after the State has received the comments of the Commission.

Article 104

No person or undertaking concluding or renewing an agreement or contract with a third State, an international organisation or a national of a third State after the entry into force of this Treaty may invoke that agreement or contract in order to evade the obligations imposed by this Treaty.

Each Member State shall take such measures as it considers necessary in order to communicate to the Commission, at the request of the latter, all information relating to agreements or contracts concluded after the entry into force of this Treaty, within the purview thereof, by a person or undertaking with a third State, an international organisation or a national of a third State. The Commission may require such communication only for the purpose of verifying that such agreements or contracts do not contain clauses impeding the implementation of this Treaty.

On application by the Commission, the Court of Justice shall give a ruling on the compatibility of such agreements or contracts with the provisions of this Treaty.

Article 105

The provisions of this Treaty shall not be invoked so as to prevent the implementation of agreements or contracts concluded before its entry into force by a Member State, a person or an undertaking with a third State, an international organisation or a national of a third State where such agreements or contracts have been communicated to the Commission not later than 30 days after the entry into force of this Treaty.

Agreements or contracts concluded between the signature and the entry into force of this Treaty by a person or an undertaking with a third State, an international organisation or a national of a third State shall not, however, be invoked as grounds for failure to implement this Treaty if, in the

opinion of the Court of Justice, ruling on an application from the Commission, one of the decisive reasons on the part of either of the parties in concluding the agreement or contract was an intention to evade the provisions of this Treaty.

Article 136 *

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 140b in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty.

Article 137 *

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.

Article 138 *

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice, require his involvement.

Article 139 *

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

Retiring Judges and Advocates-General may be reappointed.

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.

Article 140 *

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

The members of the Court of First Instance shall be chosen from persons whose independence is

beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the Court of First Instance from among their number for a term of three years. He may be re-elected.

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.

Article 140a *

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 146, 148, 151, 152 and 153 with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 140b.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 150, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

Article 140b *

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the decision establishing the judicial panels provides otherwise, the provisions of this Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels.

Article 141

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

Article 142

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

Article 143

1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

2. If the Commission considers that the Member State concerned has not taken such measures it shall, after giving that State the opportunity to submits its observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgment of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgment within the time-limit laid down by the Commission, the latter may bring the case before the Court of Justice. In so doing it shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 142.

Article 144

The Court of Justice shall have unlimited jurisdiction in:

(a) proceedings instituted under Article 12 to have the appropriate terms fixed for the granting by the Commission of licences or sublicences;

(b) proceedings instituted by persons or undertakings against sanctions imposed on them by the Commission under Article 83.

Article 145

If the Commission considers that a person or undertaking has committed an infringement of this Treaty to which the provisions of Article 83 do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with its national law.

If the State concerned does not comply with such a request within the period laid down by the Commission, the latter may bring an action before the Court of Justice to have the infringement of which the person or undertaking is accused established.

Article 146 *

The Court of Justice shall review the legality of acts of the Council and of the Commission, other than recommendations or opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors for the purpose of protecting its prerogatives.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article 147

If the action is well founded, the Court shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

Article 148

Should the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

Article 149

The institution whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 188.

Article 150

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:(20)

(a) the interpretation of this Treaty;

(b) the validity and interpretation of acts of the institutions of the Community;

(c) the interpretation of the statutes of bodies established by an act of the Council, save where those statutes provide otherwise.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

Article 151

The Court of Justice shall have jurisdiction in disputes relating to the compensation for damage provided for in the second paragraph of Article 188.

Article 152

The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment. (21)

Article 153

The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

Article 154

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject-matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

Article 155

Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

Article 156

Notwithstanding the expiry of the period laid down in the fifth paragraph of Article 146, any party may, in proceedings in which a regulation of the Council or of the Commission is in issue, plead the grounds specified in the second paragraph of Article 146, in order to invoke before the Court of

Justice the inapplicability of that regulation.

Article 157

Save as otherwise provided in this Treaty, actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Article 158

The Court of Justice may in any cases before it prescribe any necessary interim measures.

Article 159

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 164.

Article 160 *

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute, with the exception of Title I.

Article 164

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission, to the Court of Justice and to the Arbitration Committee set up by Article 18.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

Article 188

The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in the Staff Regulations or in the Conditions of Employment applicable to them.

Article 193

Member States undertake not to submit a dispute concerning the interpretation or application of this reaty to any method of settlement other than those provided for therein. (22)

Treaty of Amsterdam (23)

Article 9

1. Without prejudice to the paragraphs following hereinafter, which have as their purpose to retain the essential elements of their provisions, the Convention of 25 March 1957 on certain institutions common to the European Communities and the Treaty of 8 April 1965 establishing a Single Council and a Single Commission of the European Communities, but with the exception of the Protocol referred to in paragraph 5, (24) shall be repealed.

2. The powers conferred on the European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors by the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community shall be exercised by the single institutions under the conditions laid down respectively by the said Treaties and this Article.

4. The European Communities shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks under the conditions set out in the Protocol referred to in paragraph 5. The position shall be the same as regards the European Central Bank, the European Monetary Institute and the European Investment Bank.

Article 11

The provisions of the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community relating to the powers of the Court of Justice of the European Communities and to the exercise of those powers shall apply to the provisions of this Part(25) and to the Protocol on privileges and immunities referred to in Article 9(5).

4. Agreement on the

European Economic Area

(a) Agreement on the European Economic Area (26)

Article 111

1. The Community or an EFTA State may bring a matter under dispute which concerns the interpretation or application of this Agreement before the EEA Joint Committee in accordance with the following provisions.

2. The EEA Joint Committee may settle the dispute. It shall be provided with all information which might be of use in making possible an in-depth examination of the situation, with a view to finding an acceptable solution. To this end, the EEA Joint Committee shall examine all possibilities to maintain the good functioning of the Agreement.

3. If a dispute concerns the interpretation of provisions of this Agreement, which are identical in substance to corresponding rules of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community and to acts adopted in application of these two Treaties and if the dispute has not been settled within three months after it has been brought before the EEA Joint Committee, the Contracting Parties to the dispute may agree to request the Court of Justice of the European Communities to give a ruling on the interpretation of the relevant rules.

If the EEA Joint Committee in such a dispute has not reached an agreement on a solution within six months from the date on which this procedure was initiated or if, by then, the Contracting Parties to the dispute have not decided to ask for a ruling by the Court of Justice of the European Communities, a Contracting Party may, in order to remedy possible imbalances,

-- either take a safeguard measure in accordance with Article 112(2) and following the procedure of Article 113;

-- or apply Article 102 mutatis mutandis.

4. If a dispute concerns the scope or duration of safeguard measures taken in accordance with Article 111(3) or Article 112, or the proportionality of re-balancing measures taken in accordance with Article 114, and if the EEA Joint Committee after three months from the date when the matter has been brought before it has not succeeded to resolve the dispute, any Contracting Party may refer the dispute to arbitration under the procedures laid down in Protocol 33. No question of interpretation of the provisions of this Agreement referred to in paragraph 3 may be dealt with in such procedures. The arbitration award shall be binding on the parties to the dispute.

(b) Protocol 34 (27)

on the possibility for courts and tribunals of EFTA States to request the Court of Justice of the European Communities to decide on the interpretation of EEA rules corresponding to EC rules

Article 1

When a question of interpretation of provisions of the Agreement, which are identical in substance to the provisions of the Treaties establishing the European Communities, as amended or supplemented, or of acts adopted in pursuance thereof, arises in a case pending before a court or tribunal of an EFTA State, the court or tribunal may, if it considers this necessary, ask the Court of Justice of the European Communities to decide on such a question.

Article 2

An EFTA State which intends to make use of this Protocol shall notify the Depositary and the Court of Justice of the European Communities to what extent and according to what modalities the Protocol will apply to its courts and tribunals.(28)

Article 3

The Depositary shall notify the Contracting Parties of any notification under Article 2.

1: Titre VI, Dispositions relatives à la coopération policière et judiciaire en matière pénale.

2: Une information sur l'état des déclarations d'acceptation a été publiée au Journal officiel C 120 du 1.5.1999, p. 24.

3: Signé à Rome le 25 mars 1957.

4: Depuis la convention relative à certaines institutions communes aux Communautés européennes, signée à Rome le 25 mars 1957, il existe une Cour unique, commune aux Communautés.

5: Il s'agit du Titre IV, Visas, asile, immigration et autres politiques liées à la libre circulation des personnes. Voir également l'article 69 relatif aux réserves concernant le Royaume-Uni, l'Irlande et le Danemark.

6: L'article 95, modifié par le traité d'Amsterdam, traite du rapprochement des législations pour

la réalisation des objectifs énoncés à l'article 14 (marché intérieur).

7: Voir les règlements repris (en extraits) ci-après p. 000.

8: Voir également les conventions et protocoles repris (en extraits) ci-dessous p.000, conférant à la Cour une compétence d'interprétation à titre préjudiciel.

9: Voir les statuts de la Commission administrative pour la sécurité sociale des travailleurs migrants instituée par l'article 80 du Règlement (CEE) nE 1408/71 du Conseil. Leur article 14 prévoit l'interprétation par la Cour de justice conformément à l'article 177 (devenu article 234) du traité CE (JO C 61, du 11.3.1982, p. 3).

10: Voir les articles 90 et 91 du statut des fonctionnaires des Communautés européennes (tel que fixé par l'article 2 du règlement (CEE, Euratom, CECA) n1 259/68 du Conseil, du 29 février 1968, JO L 56, p.1); les articles 46 et 73 du régime applicable aux autres agents des Communautés européennes (tel que fixé par l'article 3 du règlement précité); l'article 41 du règlement du personnel de la Banque européenne d'investissement; l'article 44 du règlement (CECA, CEE, Euratom) n1 1859/76 du Conseil, du 29 juin 1976, portant fixation du régime applicable au personnel du Centre européen pour le développement de la formation professionnelle (JO L 214, p.1); l'article 44 du règlement (CECA, CEE, Euratom) n1 1860/76 du Conseil, du 29 juin 1976, portant fixation du régime applicable au personnel de la Fondation européenne pour l'amélioration des conditions de vie et de travail (JO L 214, p.24).

Voir également l'article 36 du protocole (nE3) sur les statuts du Système européen de banques centrales et de la Banque centrale européenne, adoptés à Maastricht le 7 février 1992.

Les articles 90 et 91 du statut des fonctionnaires, applicables par analogie aux agents temporaires et aux agents auxiliaires en vertu des articles 46 et 73 du régime applicable aux autres agents, sont ainsi libellés :

Article 90

"1. Toute personne visée au présent statut peut saisir l'autorité investie du pouvoir de nomination l'invitant à prendre à son égard une décision. L'autorité notifie sa décision motivée à l'intéressé dans un délai de quatre mois à partir du jour de l'introduction de la demande. A l'expiration de ce délai, le défaut de réponse à la demande vaut décision implicite de rejet susceptible de faire l'objet d'une réclamation au sens du paragraphe suivant.

2. Toute personne visée au présent statut peut saisir l'autorité investie du pouvoir de nomination d'une réclamation dirigée contre un acte lui faisant grief, soit que ladite autorité ait pris une décision, soit qu'elle se soit abstenue de prendre une mesure imposée par le statut. La réclamation doit être introduite dans un délai de trois mois. Ce délai court :

- du jour de la publication de l'acte s'il s'agit d'une mesure de caractère général ;

- du jour de la notification de la décision au destinataire et, en tout cas, au plus tard du jour où l'intéressé en a connaissance s'il s'agit d'une mesure de caractère individuel; toutefois, si un acte de caractère individuel est de nature à faire grief à une personne autre que le destinataire, ce délai court à l'égard de ladite personne du jour où elle en a connaissance et, en tout cas, au plus tard du jour de la publication ;

- à compter de la date d'expiration du délai de réponse lorsque la réclamation porte sur une décision implicite de rejet au sens du paragraphe 1.

L'autorité notifie sa décision motivée à l'intéressé dans un délai de quatre mois à partir du jour de l'introduction de la réclamation. A l'expiration de ce délai, le défaut de réponse à la réclamation vaut décision implicite de rejet susceptible de faire l'objet d'un recours au sens de l'article 91.

3. La demande et la réclamation doivent, en ce qui concerne les fonctionnaires, être introduites par la voie hiérarchique, sauf si elles concernent le supérieur hiérarchique direct du fonctionnaire; dans ce cas, elles peuvent être présentées directement à l'autorité immédiatement supérieure."

Article 91

"1. La Cour de justice des Communautés européennes est compétente pour statuer sur tout litige entre les Communautés et l'une des personnes visées au présent statut et portant sur la légalité d'un acte faisant grief à cette personne au sens de l'article 90, paragraphe 2. Dans les litiges de caractère pécuniaire, la Cour de justice a une compétence de pleine juridiction.

2. Un recours à la Cour de justice des Communautés européennes n'est recevable que:

- si l'autorité investie du pouvoir de nomination a été préalablement saisie d'une réclamation au sens de l'article 90, paragraphe 2, et dans le délai y prévu, et

- si cette réclamation a fait l'objet d'une décision explicite ou implicite de rejet.

3. Le recours visé au paragraphe 2 doit être formé dans un délai de trois mois. Ce délai court :

- du jour de la notification de la décision prise en réponse à la réclamation;

- à compter de la date d'expiration du délai de réponse, lorsque le recours porte sur une décision implicite de rejet d'une réclamation présentée en application de l'article 90, paragraphe 2 ; néanmoins, lorsqu'une décision explicite de rejet d'une réclamation intervient après la décision implicite de rejet, mais dans le délai de recours, elle fait à nouveau courir le délai de recours.

4. Par dérogation au paragraphe 2, l'intéressé peut, après avoir introduit auprès de l'autorité investie du pouvoir de nomination une réclamation au sens de l'article 90, paragraphe 2, saisir immédiatement la Cour de justice d'un recours, à la condition qu'à ce recours soit jointe une requête tendant à obtenir le sursis à l'exécution de l'acte attaqué ou des mesures provisoires. Dans ce cas, la procédure au principal devant la Cour de justice est suspendue jusqu'au moment où intervient une décision explicite ou implicite de rejet de la réclamation.

5. Les recours visés au présent article sont instruits et jugés dans les conditions prévues par le règlement de procédure établi par la Cour de justice des Communautés européennes."

11: Voir par ailleurs le protocole sur les statuts de la Banque européenne d'investissement, signé à Rome le 25 mars 1957, dont l'article 29 dispose :"Les litiges entre la Banque, d'une part, et, d'autre part, ses prêteurs, ses emprunteurs ou des tiers sont tranchés par les juridictions nationales compétentes, sous réserve des compétences attribuées à la Cour de justice. La Banque doit élire domicile dans chacun des États membres. Toutefois, elle peut, dans un contrat, procéder à une élection spéciale de domicile ou prévoir une procédure d'arbitrage."

12: L'article 256 est applicable aux décisions adoptées par la Banque centrale européenne, article 110, paragraphe 2, alinéa 4 du traité CE.

13: En ce qui concerne les responsabilités contractuelles et non contractuelle ainsi que la responsabilité personnelle des agents voir également :

- l'article 17 du règlement (CEE) n1 337/75 du Conseil, du 10 février 1975 portant création d'un

Centre européen pour le développement de la formation professionnelle (JO L 39, p.1),

- l'article 21 du règlement (CEE) n1 1365/75 du Conseil, du 26 mai 1975, concernant la création d'une Fondation pour l'amélioration des conditions de vie et de travail (JO L 139, p.1),

- l'article 18 du règlement (CEE) nE 3245/81 du Conseil du 26 octobre 1981, portant création d'une Agence européenne de coopération (JO L 328, p.1)

14: Voir l'article 22 du statut des fonctionnaires (tel que fixé par l'article 2 du règlement (CEE, Euratom, CECA) n1 259/68 du Conseil, du 29 février 1968, JO L 56,p.1).

15: Les cas prévus aux articles 296 et 297 se réfèrent à la protection des intérêts de sécurité des États membres.

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* Article modifié ou inséré par le traité de Nice

Statute of the Court of Justice

March 2008

Statute of the Court of Justice [1]

Article 1

The Court of Justice shall be constituted and shall function in accordance with the provisions of the Treaty on European Union (EU Treaty), of the Treaty establishing the European Community (EC Treaty), of the Treaty establishing the European Atomic Energy Community (EAEC Treaty) and of this Statute.

Title 1

Judges and Advocates General

Article 2

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 3

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting as a full Court, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

Articles 12 to 15 and Article 18 of the Protocol on the privileges and immunities of the European Communities shall apply to the Judges, Advocates General, Registrar

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[1] Protocol on the Statute of the Court of Justice annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community, in accordance with Article 7 of the Treaty of Nice, amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed at Nice on 26 February 2001 (OJ C 80 of 10 March 2001), as amended by Council Decision of 15 July 2003 (OJ L 188 of 26 July 2003, p. 1), by Article 13(2) of the Act concerning the conditions of accession of 16 April 2003 (OJ L 236 of 23 September 2003, p. 37), Council Decisions of 19 and 26 April 2004 (OJ L 132 of 29 April 2004, pp 1 and 5, and OJ L 194 of 2 June 2004, p. 3 (corrigendum)), Council Decision of 2 November 2004 establishing the European Union Civil Service Tribunal (OJ L 333 of 9 November 2004, p. 7 and OJ L 103 of 20 April 2007, p. 54), by Council Decision of 3 October 2005 (OJ L 266 of 11 October 2005, p. 60), by Article 11 of the Act concerning the conditions of accession of 25 April 2005 (OJ L 157 of 21 June 2005, p. 203) and by Council Decision of 20 December 2007 (OJ L 24 of 29 January 2008, p. 42).

and Assistant Rapporteurs of the Court, without prejudice to the provisions relating to immunity from legal proceedings of Judges which are set out in the preceding paragraphs.

Article 4

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

Article 5

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

Article 6

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the Presidents of the European Parliament and of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

Article 7

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

Article 8

The provisions of Articles 2 to 7 shall apply to the Advocates General.

Title II

ORGANISATION

Article 9

When, every three years, the Judges are partially replaced, 14 and 13 Judges shall be replaced alternately.

When, every three years, the Advocates General are partially replaced, four Advocates General shall be replaced on each occasion.

Article 10

The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 11

The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

Article 12

Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

Article 13

On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their

duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 14

The Judges, the Advocates General and the Registrar shall be required to reside at the place where the Court has its seat.

Article 15

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

Article 16

The Court shall form chambers consisting of three and five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The Grand Chamber shall consist of thirteen Judges. It shall be presided over by the President of the Court. The Presidents of the chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

The Court shall sit in a Grand Chamber when a Member State or an institution of the Communities that is party to the proceedings so requests.

The Court shall sit as a full Court where cases are brought before it pursuant to Article 195(2), Article 213(2), Article 216 or Article 247(7) of the EC Treaty or Article 107d(2), Article 126(2), Article 129 or Article 160b(7) of the EAEC Treaty.

Moreover, where it considers that a case before it is of exceptional importance, the Court may decide, after hearing the Advocate General, to refer the case to the full Court.

Article 17

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations.

Decisions of the chambers consisting of either three or five Judges shall be valid only if they are taken by three Judges.

Decisions of the Grand Chamber shall be valid only if nine Judges are sitting.

Decisions of the full Court shall be valid only if fifteen Judges are sitting.

In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure

Article 18

No Judge or Advocate General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the chamber of a Judge of the nationality of that party.

Title III

Procedure

Article 19

The Member States and the institutions of the Communities shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

The States, other than the Member States, which are parties to the Agreement on the European Economic Area and also the EFTA Surveillance Authority referred to in that Agreement shall be represented in same manner.

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the Rules of Procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the Rules of Procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers.

Article 20

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Communities whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers and of the submissions of the Advocate General, as well as the hearing, if any, of witnesses and experts.

Where it considers that the case raises no new point of law, the Court may decide, after hearing the Advocate General, that the case shall be determined without a submission from the Advocate General.

Article 21

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party or names of the parties against whom the application is made, the subject-matter of the dispute, the form of order sought and a brief statement of the pleas in law on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 232 of the EC Treaty and Article 148 of the EAEC Treaty, by documentary evidence of the date on which an institution was, in accordance with those Articles, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of

the party shall not lapse even if such documents are produced after the time-limit for bringing proceedings.

Article 22

A case governed by Article 18 of the EAEC Treaty shall be brought before the Court by an appeal addressed to the Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject-matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

Article 23

In the cases governed by Article 35(1) of the EU Treaty, by Article 234 of the EC Treaty and by Article 150 of the EAEC Treaty, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council or to the European Central Bank if the act the validity or interpretation of which is in dispute originates from one of them, and to the European Parliament and the Council if the act the validity or interpretation of which is in dispute was adopted jointly by those two institutions.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the European Parliament, the Council and the European Central Bank, shall be entitled to submit statements of case or written observations to the Court.

In the cases governed by Article 234 of the EC Treaty, the decision of the national court or tribunal shall, moreover, be notified by the Registrar of the Court to the States, other than the Member States, which are parties to the Agreement on the European Economic Area and also to the EFTA Surveillance Authority referred to in that Agreement which may, within two months of notification, where one of the fields of application of that Agreement is concerned, submit statements of case or written observations to the Court.

Where an agreement relating to a specific subject-matter, concluded by the Council and one or more non-member States provides that those States are to be entitled to submit statements of case or written observations where a court or tribunal of a Member State refers to the Court of Justice for a preliminary ruling a question falling within the scope of the agreement, the decision of the national court or tribunal containing that question shall also be notified to the non-member States concerned. Within two months from such notification, those States may lodge at the Court statements of case or written observations.

Article 23a

The Rules of Procedure may provide for an expedited or accelerated procedure and, for references for a preliminary ruling relating to the area of freedom, security and justice, an urgent procedure.

Those procedures may provide, in respect of the submission of statements of case or written observations, for a shorter period than that provided for by Article 23, and, in derogation from the fourth paragraph of Article 20, for the case to be determined without a submission from the Advocate General.

In addition, the urgent procedure may provide for restriction of the parties and other interested persons mentioned in Article 23, authorised to submit statements of case or written observations and, in cases of extreme urgency, for the written stage of the proceedings to be omitted.

Article 24

The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

Article 25

The Court may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

Article 26

Witnesses may be heard under conditions laid down in the Rules of Procedure.

Article 27

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the Rules of Procedure.

Article 28

Witnesses and experts may be heard on oath taken in the form laid down in the Rules of Procedure or in the manner laid down by the law of the country of the witness or expert.

Article 29

The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the Rules of Procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

Article 30

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

Article 31

The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

Article 32

During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

Article 33

Minutes shall be made of each hearing and signed by the President and the Registrar.

Article 34

The case list shall be established by the President.

Article 35

The deliberations of the Court shall be and shall remain secret.

Article 36

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

Article 37

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

Article 38

The Court shall adjudicate upon costs.

Article 39

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in Article 242 of the EC Treaty and Article 157 of the EAEC Treaty, or to prescribe interim measures in pursuance of Article 243 of the EC Treaty or Article 158 of the EAEC Treaty, or to suspend enforcement in accordance with the fourth paragraph of Article 256 of the EC Treaty or the third paragraph of Article 164 of the EAEC Treaty.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the Rules of Procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

Article 40

Member States and institutions of the Communities may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Communities or between Member States and institutions of the Communities.

Without prejudice to the second paragraph, the States, other than the Member States, which are parties to the Agreement on the European Economic Area, and also the EFTA Surveillance Authority referred to in that Agreement, may intervene in cases before the Court where one of the fields of application of that Agreement is concerned.

An application to intervene shall be limited to supporting the form of order sought by one of the parties.

Article 41

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

Article 42

Member States, institutions of the Communities and any other natural or legal persons may, in cases and under conditions to be determined by the Rules of Procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

Article 43

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Communities establishing an interest therein.

Article 44

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

Article 45

Periods of grace based on considerations of distance shall be determined by the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time-limit if the party concerned proves the existence of unforeseeable circumstances or of force majeure.

Article 46

Proceedings against the Communities in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Communities. In the latter event the proceedings must be instituted within the period of two months provided for in Article 230 of the EC Treaty and Article 146 of the EAEC Treaty; the provisions of the second paragraph of Article 232 of the EC Treaty and the second paragraph of Article 148 of the EAEC Treaty, respectively, shall apply where appropriate.

Title IV

The Court of First Instance of the European Communities

Article 47

Articles 2 to 8, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the Court of First Instance and its members. The oath referred to in Article 2 shall be taken before the Court of Justice and the decisions referred to in Articles 3, 4 and 6 shall be adopted by that Court after hearing the Court of First Instance.

The fourth paragraph of Article 3 and Articles 10, 11 and 14 shall apply to the Registrar of the Court of First Instance mutatis mutandis.

Article 48

The Court of First Instance shall consist of 27 Judges.

Article 49

The members of the Court of First Instance may be called upon to perform the task of an Advocate General.

It shall be the duty of the Advocate General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on certain cases brought before the Court of First Instance in order to assist the Court of First Instance in the performance of its task.

The criteria for selecting such cases, as well as the procedures for designating the Advocates General, shall be laid down in the Rules of Procedure of the Court of First Instance.

A member called upon to perform the task of Advocate General in a case may not take part in the judgment of the case.

Article 50

The Court of First Instance shall sit in chambers of three or five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure. In certain cases governed by the Rules of Procedure, the Court of First Instance may sit as a full court or be constituted by a single Judge.

The Rules of Procedure may also provide that the Court of First Instance may sit in a Grand Chamber in cases and under the conditions specified therein.

Article 51

By way of derogation from the rule laid down in Article 225(1) of the EC Treaty and Article 140a(1) of the EAEC Treaty, jurisdiction shall be reserved to the Court of Justice in the actions referred to in Articles 230 and 232 of the EC Treaty and in Articles 146 and 148 of the EAEC Treaty when they are brought by a Member State:

(a) against an act of or failure to act by the European Parliament or the Council, or by those institutions acting jointly, except for:

– decisions taken by the Council under the third subparagraph of Article 88(2) of the EC Treaty;

– acts of the Council adopted pursuant to a Council regulation concerning measures to protect trade within the meaning of Article 133 of the EC Treaty;

– acts of the Council by which it exercises implementing powers in accordance with the third indent of Article 202 of the EC Treaty;

(b) against an act of or failure to act by the Commission under Article 11a of the EC Treaty.

Jurisdiction shall also be reserved to the Court of Justice in the actions referred to in the same articles when they are brought by an institution of the Communities or the European Central Bank against an act of or failure to act by the European Parliament, the Council, both those institutions acting jointly, the Commission, or brought by an institution of the Communities against an act of or failure to act by the European Central Bank.

Article 52

The President of the Court of Justice and the President of the Court of First Instance shall determine, by common accord, the conditions under which 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. Certain officials or other servants shall be responsible to the Registrar of the Court of First Instance under the authority of the President of the Court of First Instance.

Article 53

The procedure before the Court of First Instance shall be governed by Title III.

Such further and more detailed provisions as may be necessary shall be laid down in its Rules of Procedure. The Rules of Procedure may derogate from the fourth paragraph of Article 40 and from Article 41 in order to take account of the specific features of litigation in the field of intellectual property.

Notwithstanding the fourth paragraph of Article 20, the Advocate General may make his reasoned submissions in writing.

Article 54

Where an application or other procedural document addressed to the Court of First Instance is lodged by mistake with the Registrar of the Court of Justice, it shall be transmitted immediately by that Registrar to the Registrar of the Court of First Instance; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the Court of First Instance finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the Court of First Instance, it shall refer that action to the Court of First Instance, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the Court of First Instance are seised of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice has delivered judgment or, where the action is one brought pursuant to Article 230 of the EC Treaty or pursuant to Article 146 of the EAEC Treaty, nay decline jurisdiction so as to allow the Court of Justice to rule on such actions. In the same circumstances, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the Court of First Instance shall continue.

Where a Member State and an institution of the Communities are challenging the same act, the Court of First Instance shall decline jurisdiction so that the Court of Justice may rule on those applications.

Article 55

Final decisions of the Court of First Instance, decisions disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the Court of First Instance to all parties as well as all Member States and the institutions of the Communities even if they did not intervene in the case before the Court of First Instance.

Article 56

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the Court of First Instance and decisions of that Court disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Communities may bring such an appeal only where the decision of the Court of First Instance directly affects them.

With the exception of cases relating to disputes between the Communities and their servants, an appeal may also be brought by Member States and institutions of the Communities which did not intervene in the proceedings before the Court of First Instance. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

Article 57

Any person whose application to intervene has been dismissed by the Court of First Instance may appeal to the Court of Justice within two weeks from the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the Court of First Instance made pursuant to Article 242 or Article 243 or the fourth paragraph of Article 256 of the EC Treaty or Article 157 or Article 158 or the third paragraph of Article 164 of the EAEC Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 39.

Article 58

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Court of First Instance.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 59

Where an appeal is brought against a decision of the Court of First Instance, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the Court of Justice, having heard the Advocate and the parties, may dispense with the oral procedure.

Article 60

Without prejudice to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 244 of the EC Treaty and Article 159 of the EAEC Treaty, decisions of the Court of First Instance declaring a regulation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 56 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice, pursuant to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, for the suspension of the effects of the regulation which has been declared void or for the prescription of any other interim measure.

Article 61

If the appeal is well founded, the Court of Justice shall quash the decision of the Court of First Instance. It may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the Court of First Instance for judgment.

Where a case is referred back to the Court of First Instance, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or an institution of the Communities, which did not intervene in the proceedings before the Court of First Instance, is well founded, the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the Court of First Instance which has been quashed shall be considered as definitive in respect of the parties to the litigation.

Article 62

In the cases provided for in Article 225(2) and (3) of the EC Treaty and Article 140a(2) and (3) of the EAEC Treaty, where the First Advocate General considers that there is a serious risk of the unity or consistency of Community law being affected, he may propose that the Court of Justice review the decision of the Court of First Instance.

The proposal must be made within one month of delivery of the decision by the Court of First Instance. Within one month of receiving the proposal made by the First

Advocate General, the Court of Justice shall decide whether or not the decision should be reviewed.

Article 62a

The Court of Justice shall give a ruling on the questions which are subject to review by means of an urgent procedure on the basis of the file forwarded to it by the Court of First Instance.

Those referred to in Article 23 of this Statute and, in the cases provided for in Article 225(2) of the EC Treaty and in Article 140a(2) of the EAEC Treaty, the parties to the proceedings before the Court of First Instance shall be entitled to lodge statements or written observations with the Court of Justice relating to questions which are subject to review within a period prescribed for that purpose.

The Court of Justice may decide to open the oral procedure before giving a ruling.

Article 62b

In the cases provided for in Article 225(2) of the EC Treaty and in Article 140a(2) of the EAEC Treaty, without prejudice to Articles 242 and 243 of the EC Treaty, proposals for review and decisions to open the review procedure shall not have suspensory effect. If the Court of Justice finds that the decision of the Court of First Instance affects the unity or consistency of Community law, it shall refer the case back to the Court of First Instance which shall be bound by the points of law decided by the Court of Justice; the Court of Justice may state which of the effects of the decision of the Court of First Instance are to be considered as definitive in respect of the parties to the litigation. If, however, having regard to the result of the review, the outcome of the proceedings flows from the findings of fact on which the decision of the Court of First Instance was based, the Court of Justice shall give final judgment.

In the cases provided for in Article 225(3) of the EC Treaty and Article 140a(3) of the EAEC Treaty, in the absence of proposals for review or decisions to open the review procedure, the answer(s) given by the Court of First Instance to the questions submitted to it shall take effect upon expiry of the periods prescribed for that purpose in the second paragraph of Article 62. Should a review procedure be opened, the answer(s) subject to review shall take effect following that procedure, unless the Court of Justice decides otherwise. If the Court of Justice finds that the decision of the Court of First Instance affects the unity or consistency of Community law, the answer given by the Court of Justice to the questions subject to review shall be substituted for that given by the Court of First Instance.

Title IVa

Judicial panels

Article 62c

The provisions relating to the jurisdiction, composition, organisation and procedure of the judicial panels established under Article 225a of the EC Treaty and Article 140b of the EAEC Treaty are set out in an Annex to this Statute.

Title V

Final provisions

Article 63

The Rules of Procedure of the Court of Justice and of the Court of First Instance shall contain any provisions necessary for applying and, where required, supplementing this Statute.

Article 64

Until the rules governing the language arrangements applicable at the Court of Justice and the Court of First Instance have been adopted in this Statute, the provisions of the Rules of Procedure of the Court of Justice and of the Rules of Procedure of the Court of First Instance governing language arrangements shall continue to apply. Those provisions may only be amended or repealed in accordance with the procedure laid down for amending this Statute.

Annex

The European Union Civil Service Tribunal

Article 1 [*]

The European Union Civil Service Tribunal (hereafter "the Civil Service Tribunal") shall exercise at first instance jurisdiction in disputes between the Communities and their servants referred to in Article 236 of the EC Treaty and Article 152 of the EAEC Treaty, including disputes between any all bodies or agencies and their servants in respect of which jurisdiction is conferred on the Court of Justice.

Article 2

The Civil Service Tribunal shall consist of seven judges. Should the Court of Justice so request, the Council, acting by a qualified majority, may increase the number of judges.

The judges shall be appointed for a period of six years. Retiring judges may be reappointed.

Any vacancy shall be filled by the appointment of a new judge for a period of six years.

Article 3

1. The judges shall be appointed by the Council, acting in accordance with the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty, after consulting the committee provided for by this Article. When appointing judges, the Council shall ensure a balanced composition of the Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented.

2. Any person who is a Union citizen and fulfils the conditions laid down in the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty may submit an application. The Council, acting by a qualified majority on a recommendation from the Court, shall determine the conditions and the arrangements governing the submission and processing of such applications.

3. A committee shall be set up comprising seven persons chosen from among former members of the Court of Justice and the Court of First Instance and lawyers of recognised competence. The committee's membership and operating rules shall be determined by the Council, acting by a qualified majority on a recommendation by the President of the Court of Justice.

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[*] Under the second paragraph of Article 4 of Council Decision 2004/752 establishing the European Union Civil Service Tribunal (OJ 2004 L 333, p. 7), Article 1 of the Annex is to enter into force on the day of the publication in the *Official Journal of the European Union* of the decision of the President of the Court of Justice recording that the European Union Civil Service Tribunal has been constituted in accordance with law.

4. The committee shall give an opinion on candidates' suitability to perform the duties of judge at the Civil Service Tribunal. The committee shall append to its opinion a list of candidates having the most suitable high-level experience. Such list shall contain the names of at least twice as many candidates as there are judges to be appointed by the Council.

Article 4

1. The judges shall elect the President of the Civil Service Tribunal from among their number for a term of three years. He may be re-elected.

2. The Civil Service Tribunal shall sit in chambers of three judges. It may, in certain cases determined by its rules of procedure, sit in full court or in a chamber of five judges or of a single judge.

3. The President of the Civil Service Tribunal shall preside over the full court and the chamber of five judges. The Presidents of the chambers of three judges shall be designated as provided in paragraph 1. If the President of the Civil Service Tribunal is assigned to a chamber of three judges, he shall preside over that chamber.

4. The jurisdiction of and quorum for the full court as well as the composition of the chambers and the assignment of cases to them shall be governed by the rules of procedure.

Article 5

Articles 2 to 6, 14, 15, the first, second and fifth paragraphs of Article 17, and Article 18 of the Statute of the Court of Justice shall apply to the Civil Service Tribunal and its members.

The oath referred to in Article 2 of the Statute shall be taken before the Court of Justice, and the decisions referred to in Articles 3, 4 and 6 thereof shall be adopted by the Court of Justice after consulting the Civil Service Tribunal.

Article 6

1. The Civil Service Tribunal shall be supported by the departments of the Court of Justice and of the Court of First Instance. The President of the Court of Justice or, in appropriate cases, the President of the Court of First Instance, shall determine by common accord with the President of the Civil Service Tribunal the conditions under which officials and other servants attached to the Court of Justice or the Court of First Instance shall render their services to the Civil Service Tribunal to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Civil Service Tribunal under the authority of the President of that Tribunal.

2. The Civil Service Tribunal shall appoint its Registrar and lay down the rules governing his service. The fourth paragraph of Article 3 and Articles 10, 11 and 14 of the Statute of the Court of Justice shall apply to the Registrar of the Tribunal.

Article 7

1. The procedure before the Civil Service Tribunal shall be governed by Title III of the Statute of the Court of Justice, with the exception of Articles 22 and 23. Such further and more detailed provisions as may be necessary shall be laid down in the rules of procedure.

2. The provisions concerning the Court of First Instance's language arrangements shall apply to the Civil Service Tribunal.

3. The written stage of the procedure shall comprise the presentation of the application and of the statement of defence, unless the Civil Service Tribunal decides that a second exchange of written pleadings is necessary. Where there is such second exchange, the Civil Service Tribunal may, with the agreement of the parties, decide to proceed to judgment without an oral procedure.

4. At all stages of the procedure, including the time when the application is filed, the Civil Service Tribunal may examine the possibilities of an amicable settlement of the dispute and may try to facilitate such settlement.

5. The Civil Service Tribunal shall rule on the costs of a case. Subject to the specific provisions of the Rules of Procedure, the unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party’s pleadings.

Article 8

1. Where an application or other procedural document addressed to the Civil Service Tribunal is lodged by mistake with the Registrar of the Court of Justice or Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Civil Service Tribunal. Likewise, where an application or other procedural document addressed to the Court of Justice or to the Court of First Instance is lodged by mistake with the Registrar of the Civil Service Tribunal, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice or Court of First Instance.

2. Where the Civil Service Tribunal finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice or the Court of First Instance has jurisdiction, it shall refer that action to the Court of Justice or to the Court of First Instance. Likewise, where the Court of Justice or the Court of First Instance finds that an action falls within the jurisdiction of the Civil Service Tribunal, the Court seised shall refer that action to the Civil Service Tribunal, whereupon that Tribunal may not decline jurisdiction.

3. Where the Civil Service Tribunal and the Court of First Instance are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, the Civil Service Tribunal, after hearing the parties, may stay the proceedings until the judgment of the Court of First Instance has been delivered.

Where the Civil Service Tribunal and the Court of First Instance are seised of cases in which the same relief is sought, the Civil Service Tribunal shall decline jurisdiction so that the Court of First Instance may act on those cases.

Article 9

An appeal may be brought before the Court of First Instance, within two months of notification of the decision appealed against, against final decisions of the Civil Service Tribunal and decisions of that Tribunal disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of jurisdiction or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Communities may bring such an appeal only where the decision of the Civil Service Tribunal directly affects them.

Article 10

1. Any person whose application to intervene has been dismissed by the Civil Service Tribunal may appeal to the Court of First Instance within two weeks of notification of the decision dismissing the application.

2. The parties to the proceedings may appeal to the Court of First Instance against any decision of the Civil Service Tribunal made pursuant to Article 242 or Article 243 or the fourth paragraph of Article 256 of the EC Treaty or Article 157 or Article 158 or the third paragraph of Article 164 of the EAEC Treaty within two months of its notification.

3. The President of the Court of First Instance may, by way of summary procedure, which may, insofar as necessary, differ from some of the rules contained in this Annex and which shall be laid down in the rules of procedure of the Court of First Instance, adjudicate upon appeals brought in accordance with paragraphs 1 and 2.

Article 11

1. An appeal to the Court of First Instance shall be limited to points of law. It shall lie on the grounds of lack of jurisdiction of the Civil Service Tribunal, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Tribunal.

2. No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 12

1. Without prejudice to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, an appeal before the Court of First Instance shall not have suspensory effect.

2. Where an appeal is brought against a decision of the Civil Service Tribunal, the procedure before the Court of First Instance shall consist of a written part and an oral part. In accordance with conditions laid down in the rules of procedure, the Court of First Instance, having heard the parties, may dispense with the oral procedure.

Article 13

1. If the appeal is well founded, the Court of First Instance shall quash the decision of the Civil Service Tribunal and itself give judgment in the matter. It shall refer the case back to the Civil Service Tribunal for judgment where the state of the proceedings does not permit a decision by the Court.

2. Where a case is referred back to the Civil Service Tribunal, the Tribunal shall be bound by the decision of the Court of First Instance on points of law.

1. Unlimited jurisdiction in the matter of fines

(a) Regulation No 11 of the Council of 27 June 1960 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty[1]

Article 25

2. Pursuant to Article 172 of the Treaty[*], the Court of Justice shall have unlimited jurisdiction in regard to any penalty imposed under Articles 17 and 18[2]. The Commission may not proceed with the enforcement of a penalty until the period allowed for appeal has expired.

(b) Regulation No 17 of the Council of 6 February 1962 – First Regulation implementing Articles 85 and 86 of the Treaty[3]

Article 9

1. Subject to review of its decision by the Court of Justice, the Commission shall have sole power to declare Article 85(1) inapplicable pursuant to Article 85(3) of the Treaty.[**]

Article 17

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty[*] to review decisions whereby the Commission has fixed a fine or periodic penalty payment; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

(c) Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway[4]

Article 24

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1 OJ, English Special Edition 1959-1962, p. 60.

* Now Article 229.

2 Penalties are provided for under Article 17 of the Regulation where an undertaking fails to submit certain information and under Article 18 where the Commission is satisfied that there is discrimination.

3 OJ, English Special Edition 1959-62, p. 87.

** Now Article 81.

4 OJ, English Special Edition 1968 (I), p. 302.

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty* to review decisions whereby the Commission has fixed a fine or periodic penalty payment; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

(d) Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport[5]

Article 21

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty* to review decisions whereby the Commission has fixed a fine or periodic penalty payment; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

(e) Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector[6]

Article 14

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty* to review decisions whereby the Commission has fixed a fine or periodic penalty payment; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

(f) Council Regulation (EEC) No 2299/89 of 24 July 1989 on a code of conduct for computerised reservation systems[7]

Article 17

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty* to review decisions whereby the Commission has imposed a fine; it may cancel, reduce or increase the fine.

(g) Council Regulation (EEC) No 4064/89 of 21 December 1989

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* Now Article 229.

5 OJ L 378 of 31 December 1986, p. 4.

6 OJ 1987 L 374, p. 1.

7 OJ 1989 L 220, p. 1.

* Now Article 229.

on the control of concentrations between undertakings[8]

Article 16

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty* to review decisions whereby the Commission has fixed a fine or periodic penalty payments; it may cancel, reduce or increase the fine or periodic penalty payment imposed.

[8] OJ 1989 L 395, p. 1.

2. Jurisdiction to give preliminary rulings on questions of interpretation

A – Jurisdiction and the enforcement of judgments

(a) Protocol concerning the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters[1] [2]

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give rulings on the interpretation of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and the Protocol annexed to that Convention, signed at Brussels on 27 September 1968, and also on the interpretation of the present Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the Convention of 27 September 1968 and to this Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Hellenic Republic to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention and the 1982 Convention.

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[1] Signed at Luxembourg on 3 June 1971 by Belgium, France, Germany, Italy, Luxembourg and the Netherlands and entered into force for these States on 1 September 1975 (OJ L 204 of 2.8.1975, p. 28).

The text reproduced here is the result of later amendments made by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland (OJ L 304 of 30.10.1978), by the Convention of 25 October 1982 on the accession of the Hellenic Republic (OJ L 388 of 31.12.1982), by the Convention of 26 March 1989 on the accession of the Kingdom of Spain and the Portuguese Republic (OJ L 285 of 3.10.1989) and by the Convention of 29 November 1996 on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ C 15 of 15.1.1997).

The Accession Conventions of 1978, 1982 and 1989 are in force for all the respective Contracting States. As at 1 June 1999 the Accession Convention of 1996 is in force as between Austria, Denmark, Finland, Germany, Italy, the Netherlands, Spain and Sweden.

[2] At the time when this Protocol was signed the signatories declared that they were prepared to organise, in liaison with the Court of Justice, an exchange of information concerning judgments given by the courts mentioned in Article 2(1) of the Protocol in application of the Convention and the Protocol of 27 September 1968 (OJ L 204 of 2.8.1975).

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978, 1982 and 1989 Conventions.

Article 2

The following courts may request the Court of Justice to give preliminary rulings on questions of interpretation:

1. – in Belgium: la Cour de Cassation (het Hof van Cassatie) and le Conseil d'Etat (de Raad van State),

   – in Denmark: Højesteret,

   – in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,

   – in Greece: the τα ανώτατα Δικαστήρια,

   – in Spain: el Tribunal Supremo,

   – in France: la Cour de Cassation and le Conseil d'Etat,

   – in Ireland: the Supreme Court,

   – in Italy: la Corte Suprema di Cassazione,

   – in Luxembourg: la Cour Supérieure de Justice, when sitting as Cour de Cassation,

   – in the Netherlands: de Hoge Raad,

   – in Austria: der Oberste Gerichtshof, der Verwaltungsgerichtshof and der Verfassungsgerichtshof,

   – in Portugal: o Supremo Tribunal de Justiça and o Supremo Tribunal Administrativo,

   – in Finland: korkein oikeus/högsta domstolen and korkein hallinto-oikeus/högsta förvaltningsdomstolen

   – in Sweden: Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen,

   – in the United Kingdom: the House of Lords and courts to which application has been made under the second paragraph of Article 37 or under Article 41 of the Convention;

2. – the courts of the Contracting States when they are sitting in an appellate capacity;

3. – in the cases provided for in Article 37 of the Convention, the courts referred to in that Article.[3]

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[3] Article 37 of the Convention, as amended by the successive Accession Conventions, provides:
"1. An appeal against the decision authorising enforcement shall be lodged in accordance with the rules governing procedure in contentious matters:
– in Belgium, with the Tribunal de Première Instance or Rechtbank van Eerste Aanleg,
– in Denmark, with the Landsret,
– in the Federal Republic of Germany, with the Oberlandesgericht,
– in Greece, with the Εφετείο
– in Spain, with the Audiencia Provincial,
– in France, with the Cour d'Appel,
– in Ireland, with the High Court,
– in Italy, with the Corte d'Appello,
– in Luxembourg, with the Cour Supérieure de Justice, sitting as a court of civil appeal,
– in the Netherlands, with the Arrondissementsrechtbank,
– in Austria, with the Bezirksgericht,
– in Portugal, with the Tribunal da Relação,
– in Finland, with the hovioikeus/hovrätt,
– in Sweden, with the Svea hovrätt,
– in the United Kingdom:
(a) in England and Wales, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court;
(b) in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Sh

Article 3

1. Where a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 is raised in a case pending before one of the courts listed in point 1 of Article 2, that court shall, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. Where such a question is raised before any court referred to in point 2 or 3 of Article 2, that court may, under the conditions laid down in paragraph 1, request the Court of Justice to give a ruling thereon.

Article 4

1. The competent authority of a Contracting State may request the Court of Justice to give a ruling on a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 if judgments given by courts of that State conflict with the interpretation given either by the Court of Justice or in a judgment of one of the courts of another Contracting State referred to in point 1 or 2 of Article 2. The provisions of this paragraph shall apply only to judgments which have become *res judicata*.

2. The interpretation given by the Court of Justice in response to such a request shall not affect the judgments which gave rise to the request for interpretation.

3. The Procurators-General of the Courts of Cassation of the Contracting States, or any other authority designated by a Contracting State, shall be entitled to request the Court of Justice for a ruling on interpretation in accordance with paragraph 1.

4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities; they shall then be entitled within two months of the notification to submit statements of case or written observations to the Court.

5. No fees shall be levied or any costs or expenses awarded in respect of the proceedings provided for in this Article.

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e r i f f C o u r t ;

(c) in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment, with the Magistrates' Court.

2. [...]"

Article 5

1. Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is requested to give a preliminary ruling, shall also apply to any proceedings for the interpretation of the Convention and the other instruments referred to in Article 1.

2. The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community.

Article 11

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of any provisions of their laws which necessitate an amendment to the list of courts in point 1 of Article 2.

Article 12

This Protocol is concluded for an unlimited period.

Article 14

This Protocol, drawn up in a single original in the Dutch, French, German and Italian languages,[4] all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.

[4] The successive accession conventions have added authentic texts in Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish.

(b) Convention on jurisdiction and the enforcement of judgments in civil and commercial matters – Done at Lugano on 16 September 1988[1]

(i) PROTOCOL No 2 on the uniform interpretation of the Convention

Article 1

The courts of each Contracting State shall, when applying and interpreting the provisions of the Convention, pay due account to the principles laid down by any relevant decision delivered by courts of the other Contracting States concerning provisions of this Convention.

Article 2

1. The Contracting Parties agree to set up a system of exchange of information concerning judgments delivered pursuant to this Convention as well as relevant judgments under the Brussels Convention. This system shall comprise:

– transmission to a central body by the competent authorities of judgments delivered by courts of last instance and the Court of Justice of the European Communities as well as judgments of particular importance which have become final and have been delivered pursuant to this Convention or the Brussels Convention,

– classification of these judgments by the central body including, as far as necessary, the drawing-up and publication of translations and abstracts,

– communication by the central body of the relevant documents to the competent national authorities of all signatories and acceding States to the Convention and to the Commission of the European Communities.

2. The central body is the Registrar of the Court of Justice of the European Communities.

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[1] OJ L 319 of 25.11.1988, p. 9. Concluded between the Member States of the European Communities and of the European Free Trade Association, this convention is now in force in the relations between the 15 present Member States of the European Union and Iceland, Norway and Switzerland.

(ii) DECLARATION
by the Representatives of the Governments of the States signatories to the Lugano Convention which are members of the European Communities

Upon signature of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters done at Lugano on 16 September 1988,

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES

declare that they consider as appropriate that the Court of Justice of the European Communities, when interpreting the Brussels Convention, pay due account to the rulings contained in the case-law of the Lugano Convention.

(iii) DECLARATION
by the Representatives of the Governments of the States signatories to the Lugano Convention which are members of the European Free Trade Association

Upon signature of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters done at Lugano on 16 September 1988,

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN FREE TRADE ASSOCIATION

declare that they consider as appropriate that their courts, when interpreting the Lugano Convention, pay due account to the rulings contained in the case-law of the Court of Justice of the European Communities and of courts of the Member States of the European Communities in respect of provisions of the Brussels Convention which are substantially reproduced in the Lugano Convention.

B – Law applicable to contractual obligations

(a) First Protocol on the interpretation by the Court of Justice of the European Communities of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980[1]

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give rulings on the interpretation of:

(a) the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, hereinafter referred to as "the Rome Convention";

(b) the Convention on accession to the Rome Convention by the States which have become Members of the European Communities since the date on which it was opened for signature;

(c) this Protocol.

Article 2

Any of the courts referred to below may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning interpretation of the provisions contained in the instruments referred to in Article 1 if that court considers that a decision on the question is necessary to enable it to give judgment:

(a)
- in Belgium: la Cour de Cassation (het Hof van Cassatie) and le Conseil d'Etat (de Raad van State),
- in Denmark: Højesteret,
- in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,
- in Greece: the τα ανώτατα Δικαστήρια,
- in Spain: el Tribunal Supremo,
- in France: la Cour de Cassation and le Conseil d'Etat,

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[1] Signed in Brussels on 19 December 1988 by Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom of Great Britain and Northern Ireland (OJ L 48 of 20.2.1989, p. 1).
The text reproduced here includes the amendments resulting from the Convention of 29 November 1996 on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ C 15 of 15.1.1997, p. 10).
On the date of publication of this edition the Protocol was not yet in force (see footnote 2 to Article 6, p. 283).

– in Ireland: the Supreme Court,

– in Italy: la Corte Suprema di Cassazione and il Consiglio di Stato,

– in Luxembourg: la Cour Supérieure de Justice, when sitting as Cour de Cassation,

– in the Netherlands: de Hoge Raad,

– in Austria: der Oberste Gerichtshof, der Verwaltungsgerichtshof and der Verfassungsgerichtshof,

– in Portugal: o Supremo Tribunal de Justiça and o Supremo Tribunal Administrativo,

– in Finland: korkein oikeus/högsta domstolen, korkein hallinto-oikeus/högsta förvaltningsdomstolen, markkinatuomioistuin/marknadsdomstolen, and työtuomioistuin/arbetsdomstolen,

– in Sweden: Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen,

– in the United Kingdom: the House of Lords and other courts from which no further appeal is possible;

(b) the courts of the Contracting States when acting as appeal courts.

Article 3

1. The competent authority of a Contracting State may request the Court of Justice to give a ruling on a question of interpretation of the provisions contained in the instruments referred to in Article 1 if judgments given by courts of that State conflict with the interpretation given either by the Court of Justice or in a judgment of one of the courts of another Contracting State referred to in Article 2. The provisions of this paragraph shall apply only to judgments which have become *res judicata*.

2. The interpretation given by the Court of Justice in response to such a request shall not affect the judgments which gave rise to the request for interpretation.

3. The Procurators-General of the Supreme Courts of Appeal of the Contracting States, or any other authority designated by a Contracting State, shall be entitled to request the Court of Justice for a ruling on interpretation in accordance with paragraph 1.

4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities; they shall then be entitled within two months of the notification to submit statements of case or written observations to the Court.

5. No fees shall be levied or any costs or expenses awarded in respect of the proceedings provided for in this Article.

Article 4

1. Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is requested to give a preliminary ruling, shall also apply to any proceedings for the interpretation of the instruments referred to in Article 1.

2. The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community.*

Article 5

This Protocol shall be subject to ratification by the Signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 6

1. To enter into force, this Protocol must be ratified by seven States in respect of which the Rome Convention is in force[2]. This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last such State to take this step. If, however, the Second Protocol conferring on the Court of Justice of the European Communities certain powers to interpret the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, concluded in Brussels on 19 December 1988, enters into force on a later date, this Protocol shall enter into force on the date of entry into force of the Second Protocol.

2. Any ratification subsequent to the entry into force of this Protocol shall take effect on the first day of the third month following the deposit of the instrument of ratification, provided that the ratification, acceptance or approval of the Rome Convention by the State in question has become effective.

Article 7

The Secretary-General of the Council of the European Communities shall notify the Signatory States of:

(a) the deposit of each instrument of ratification;

(b) the date of entry into force of this Protocol;

(c) any designation communicated pursuant to Article 3(3);

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* Now Article 245 of the Treaty establishing the European Community.

[2] On the date of publication of this edition the Rome Convention was in force with respect to all the Member States of the European Union. On the same date this Protocol had been ratified by Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom.
As regards the Second Protocol, see footnote 1, p. 286.

(d) any communication made pursuant to Article 8.

Article 8

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of any provisions of their laws which necessitate an amendment to the list of courts in Article 2(a).

Article 9

This Protocol shall have effect for as long as the Rome Convention remains in force under the conditions laid down in Article 30 of that Convention.

Article 11

This Protocol, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages,[3] all 10 texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each Signatory State.

JOINT DECLARATION

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland,

On signing the First Protocol on the interpretation by the Court of Justice of the European Communities of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980,

Desiring to ensure that the Convention is applied as effectively and as uniformly as possible,

Declare themselves ready to organise, in cooperation with the Court of Justice of the European Communities, an exchange of information on judgments which have become *res judicata* and have been handed down pursuant to the Convention on the law applicable to contractual obligations by the courts referred to in Article 2 of the said Protocol. The exchange of information will comprise:

– the forwarding to the Court of Justice by the competent national authorities of judgments handed down by the courts referred to in Article 2(a) and significant judgments handed down by the courts referred to in Article 2(b),

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[3] The Accession Convention of 1996 added authentic texts in Finnish and Swedish.

– the classification and the documentary exploitation of these judgments by the Court of Justice including, as far as necessary, the drawing up of abstracts and translations, and the publication of judgments of particular importance,

– the communication by the Court of Justice of the documentary material to the competent national authorities of the States parties to the Protocol and to the Commission and the Council of the European Communities.

(b) Second Protocol conferring on the Court of Justice of the European Communities certain powers to interpret the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980[1]

Article 1

1. The Court of Justice of the European Communities shall, with respect to the Rome Convention, have the jurisdiction conferred upon it by the First Protocol[2] on the interpretation by the Court of Justice of the European Communities of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, concluded in Brussels on 19 December 1988. The Protocol on the Statute of the Court of Justice of the European Communities and the Rules of Procedure of the Court of Justice shall apply.

2. The Rules of Procedure of the Court of Justice shall be adapted and supplemented as necessary in accordance with Article 188 of the Treaty establishing the European Economic Community.*

Article 2

This Protocol shall be subject to ratification by the Signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 3

This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification of the last Signatory State to complete that formality.

Article 4

This Protocol, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages,[3] all 10 texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the

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1 Signed in Brussels on 19 December 1988 by Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom of Great Britain and Northern Ireland (OJ L 48 of 20.2.1989, p. 17).
On the date of publication of this edition, entry into force still depended on ratification by Belgium and Denmark (see Article 3).
The Convention of 29 November 1996 on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ C 15 of 15.1.1997, p. 10) did not amend the text.

2 See p. 281.

* Now Article 245 of the Treaty establishing the European Community.

3 The Accession Convention of 1996 added authentic texts in Finnish and Swedish.

European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory.

3. Protocol on the Privileges and Immunities of the European Communities

Protocol on the Privileges and Immunities of the European Communities[1]

Article 1

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall:

(a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy their immunity after they have ceased to hold office.

(b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;

(c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;

(d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the Government of the country in which this right is exercised;

(e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the Government of the country concerned.

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in

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[1] Annexed to the Treaty establishing a single Council and a single Commission of the European Communities, signed at Brussels on 8 April 1965 (OJ 152 of 13.7.1967). That Treaty was repealed by Article 9 of the Amsterdam Treaty, apart from the protocol reproduced here, supplemented by an Article 23 concerning the European Central Bank.

accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

Article 14

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Moveable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 18

Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities.

Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols of the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.

RULES OF PROCEDURE
OF THE COURT OF JUSTICE

This edition consolidates:

the Rules of Procedure of the Court of Justice of the European Communities of 19 June 1991 (OJ L 176 of 4.7.1991, p. 7, and OJ L 383 of 29.12.1992 (corrigenda)) and the amendments resulting from the following measures:

1. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 21 February 1995 (OJ L 44 of 28.2.1995, p. 61),

2. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 11 March 1997 (OJ L 103 of 19.4.1997, p. 1, and OJ L 351 of 23.12.1997, p. 72 (corrigenda)),

3. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 16 May 2000 (OJ L 122 of 24.5.2000, p. 43),

4. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 28 November 2000 (OJ L 322 of 19.12.2000, p. 1),

5. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 3 April 2001 (OJ L 119 of 27.4.2001, p. 1),

6. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 17 September 2002 (OJ L 272 of 10.10.2002, p. 1, and OJ L 281 of 19.10.2002, p. 24 (corrigenda)),

7. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 8 April 2003 (OJ L 147 of 14.6.2003, p. 17),

8. Amended decision of 10 June 2003 on official holidays annexed to the Rules of Procedure (OJ L 172 of 10.7.2003, p. 12),

9. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 19 April 2004 (OJ L 132 of 29.4.2004, p. 2),

10. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 20 April 2004 (OJ L 127 of 29.4.2004, p. 107),

11. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 12 July 2005 (OJ L 203 of 4.8.2005, p. 19),

12. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 18 October 2005 (OJ L 288 of 29.10.2005, p. 51),

13. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 18 December 2006 (OJ L 386 of 29.12.2006, p. 44),

14. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 15 January 2008 (OJ L 24 of 29.1.2008, p. 39),

15. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 8 July 2008 (OJ L 200 of 29.7.2008, p. 18),

16. Amendments to the Rules of Procedure of the Court of Justice of the European Communities of 23 June 2008 (OJ L 200 of 29.7.2008, p. 20).

This edition has no legal force and the preambles have therefore been omitted.

Rules of Procedure
of the Court of Justice of the European Communities
of 19 June 1991[1]

Contents

1. OJ L 176 of 4.7.1991, p. 7, and OJ L 383 of 29.12.1992, p. 117 (corrigenda), with amendments dated 21 February 1995 (published in OJ L 44 of 28.2.1995, p. 61), 11 March 1997 (published in OJ L 103 of 19.4.1997, p. 1, and OJ L 351 of 23.12.1997, p. 72 (corrigenda)), 16 May 2000 (published in OJ L 122 of 24.5.2000, p. 43), 28 November 2000 (published in OJ L 322 of 19.12.2000, p. 1), 3 April 2001 (published in OJ L 119 of 27.4.2001, p. 1), 17 September 2002 (published in OJ L 272 of 10.10.2002, p. 1, and OJ L 281 of 19.10.2002, p. 24 (corrigenda)), 8 April 2003 (published in OJ L 147 of 14.6.2003, p. 17), and for the Annex to these Rules, the decision of the Court of Justice of 10 June 2003 (published in OJ L 172 of 10.7.2003, p. 12), 19 April 2004 (published in OJ L 132 of 29.4.2004, p. 2), 20 April 2004 (published in OJ L 127 of 29.4.2004, p. 107), 12 July 2005 (published in OJ L 203 of 4 August 2005, p. 19), 18 October 2005 (OJ L 288 of 29.10.2005, p. 51), 18 December 2006 (OJ L 386 of 29.12.2006, p. 44), 15 January 2008 (OJ L 24 of 29.1.2008, p. 39), 8 July 2008 (OJ L 200 of 29.7.2008, p. 18) and 23 June 2008 (OJ L 200 of 29.7.2008, p. 20).

Title II – Procedure

Title III – Special forms of procedure

INTERPRETATION

Article 1

In these Rules:

- ‘Union Treaty’ means the Treaty on European Union,

- ‘EC Treaty’ means the Treaty establishing the European Community,

- ‘EAEC Treaty’ means the Treaty establishing the European Atomic Energy Community,

- ‘Statute’ means the Protocol on the Statute of the Court of Justice,

- ‘EEA Agreement’ means the Agreement on the European Economic Area.

For the purposes of these Rules:

- ‘institutions’ means the institutions of the Communities and bodies which are established by the Treaties, or by an act adopted in implementation thereof, and which may be parties before the Court,

- ‘EFTA Surveillance Authority’ means the surveillance authority referred to in the EEA Agreement.

TITLE 1

ORGANISATION OF THE COURT

Chapter 1

JUDGES AND ADVOCATES GENERAL

Article 2

The term of office of a Judge shall begin on the date laid down in his instrument of appointment. In the absence of any provisions regarding the date, the term shall begin on the date of the instrument.

Article 3

1. Before taking up his duties, a Judge shall at the first public sitting of the Court which he attends after his appointment take the following oath:

‘I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court’.

2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

Article 4

When the Court is called upon to decide whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President shall invite the Judge concerned to make representations to the Court, in closed session and in the absence of the Registrar.

Article 5

Articles 2, 3 and 4 of these Rules shall apply to Advocates General.

Article 6

Judges and Advocates General shall rank equally in precedence according to their seniority in office.

Where there is equal seniority in office, precedence shall be determined by age.

Retiring Judges and Advocates General who are reappointed shall retain their former precedence.

Chapter 2

PRESIDENCY OF THE COURT AND CONSTITUTION OF THE CHAMBERS

Article 7

1. The Judges shall, immediately after the partial replacement provided for in Article 223 of the EC Treaty, and Article 139 of the EAEC Treaty, elect one of their number as President of the Court for a term of three years.

2. If the office of the President of the Court falls vacant before the normal date of expiry thereof, the Court shall elect a successor for the remainder of the term.

3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes the oldest of them shall be deemed elected.

Article 8

The President shall direct the judicial business and the administration of the Court; he shall preside at hearings and deliberations.

Article 9

1. The Court shall set up Chambers of five and three Judges in accordance with Article 16 of the Statute and shall decide which Judges shall be attached to them.

The Court shall designate the Chamber or Chambers of five Judges which, for a period of one year, shall be responsible for cases of the kind referred to in Article 104b.

The composition of the Chambers and the designation of the Chamber or Chambers responsible for cases of the kind referred to in Article 104b shall be published in the *Official Journal of the European Union*.

2. As soon as an application initiating proceedings has been lodged, the President shall designate a Judge to act as Rapporteur.

For cases of the kind referred to in Article 104b, the Judge-Rapporteur shall be selected from among the Judges of the Chamber designated in accordance with paragraph 1 of this Article, on a proposal from the President of that Chamber. If the Chamber decides that the case is not to be dealt with under the urgent procedure, the President of the Court may reassign the case to a Judge-Rapporteur attached to another Chamber.

The President of the Court shall take the necessary steps if a Judge-Rapporteur is absent or prevented from acting.

3. For cases assigned to a formation of the Court in accordance with Article 44(3), the word 'Court' in these Rules shall mean that formation.

4. In cases assigned to a Chamber of five or three Judges**,** the powers of the President of the Court shall be exercised by the President of the Chamber.

Article 10

1. The Judges shall, immediately after the election of the President of the Court, elect the Presidents of the Chambers of five Judges for a term of three years.

The Judges shall elect the Presidents of the Chambers of three Judges for a term of one year.

The Court shall appoint for a period of one year the First Advocate General.

The provisions of Article 7(2) and (3) shall apply.

The elections and appointment made in pursuance of this paragraph shall be published in the *Official Journal of the European Union***.**

2. The First Advocate General shall assign each case to an Advocate General as soon as the Judge-Rapporteur has been designated by the President. He shall take the necessary steps if an Advocate General is absent or prevented from acting.

Article 11

When the President of the Court is absent or is prevented from attending or when the office of President is vacant, the functions of President shall be exercised by a President of a Chamber of five Judges according to the order of precedence laid down in Article 6 of these Rules.

When the President of the Court and the Presidents of the Chambers of five Judges are all absent or prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the Presidents of the Chambers of three Judges according to the order of precedence laid down in Article 6 of these Rules**.**

If the President of the Court and all the Presidents of Chambers are all absent or prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the other Judges according to the order of precedence laid down in Article 6 of these Rules.

C h a p t e r 2 a

FORMATIONS OF THE COURT

Article 11a

The Court shall sit in the following formations:

– the full Court, composed of all the Judges;
– the Grand Chamber, composed of 13 Judges in accordance with Article 11b,
– Chambers composed of five or three Judges in accordance with Article 11c.

Article 11b

1. For each case the Grand Chamber shall be composed of the President of the Court, the Presidents of the Chambers of five Judges, the Judge-Rapporteur and the number of Judges necessary to reach 13. The last-mentioned Judges shall be designated from the list referred to in paragraph 2, following the order laid down therein. The starting-point on that list, in every case assigned to the Grand Chamber, shall be the name of the Judge immediately following the last Judge designated from the list for the preceding case assigned to that formation of the Court.

2. After the election of the President of the Court and of the Presidents of the Chambers of five Judges, a list of the other Judges shall be drawn up for the purposes of determining the composition of the Grand Chamber. That list shall follow the order laid down in Article 6 of these Rules, alternating with the reverse order: the first Judge on that list shall be the first according to the order laid down in that Article, the second Judge shall be the last according to

that order, the third Judge shall be the second according to that order, the fourth Judge the penultimate according to that order, and so on.

The list shall be published in the *Official Journal of the European Union*.

3. In cases which are assigned to the Grand Chamber between the beginning of a year in which there is a partial replacement of Judges and the moment when that replacement has taken place, two substitute Judges shall also sit. Those substitute Judges shall be the two Judges appearing in the list referred to in the previous paragraph immediately after the last Judge designated for the composition of the Grand Chamber in the case.

The substitute Judges shall replace, in the order of the list referred to in the previous paragraph, such Judges as are unable to take part in the decision on the case.

Article 11c

1. The Chambers of five Judges and three Judges shall, for each case, be composed of the President of the Chamber, the Judge-Rapporteur and the number of Judges required to attain the number of five and three Judges respectively. Those last-mentioned Judges shall be designated from the lists referred to in paragraph 2 and following the order laid down in them. The starting-point in those lists, for every case assigned to a Chamber, shall be the name of the Judge immediately following the last Judge designated from the list for the preceding case assigned to the Chamber concerned.

2. For the composition of the Chambers of five Judges, after the election of the Presidents of those Chambers lists shall be drawn up including all the Judges attached to the Chamber concerned, with the exception of its President. The lists shall be drawn up in the same way as the list referred to in Article 11b(2).

For the composition of the Chambers of three Judges, after the election of the Presidents of those Chambers lists shall be drawn up including all the Judges attached to the Chamber concerned, with the exception of its President. The lists shall be drawn up according to the order laid down in Article 6 of these Rules.

The lists referred to in this paragraph shall be published in the *Official Journal of the European Union*.

Article 11d

1. Where the Court considers that several cases must be heard and determined together by one and the same formation of the Court, the composition of that formation shall be that fixed for the case in respect of which the preliminary report was first examined.

2. Where a Chamber to which a case has been assigned refers the case back to the Court under Article 44(4), in order that it may be reassigned to a formation composed of a greater number of Judges, that formation shall include the members of the Chamber which has referred the case back.

Article 11e

When a member of the formation determining a case is prevented from attending, he shall be replaced by a Judge according to the order of the lists referred to in Article 11b(2) or 11c(2).

When the President of the Court is prevented from attending, the functions of the President of the Grand Chamber shall be exercised in accordance with the provisions of Article 11.

When the President of a Chamber of five Judges is prevented from attending, the functions of President of the Chamber shall be exercised by a President of a Chamber of three Judges, where necessary according to the order laid down in Article 6 of these Rules or, if that Chamber does not include a President of a Chamber of three Judges, by one of the other Judges according to the order laid down in Article 6.

When the President of a Chamber of three Judges is prevented from attending, the functions of President of the Chamber shall be exercised by a Judge of that Chamber according to the order laid down in Article 6 of these Rules.

Chapter 3

REGISTRY

Section 1 – The Registrar and Assistant Registrars

Article 12

1. The Court shall appoint the Registrar. Two weeks before the date fixed for making the appointment, the President shall inform the Members of the Court of the applications which have been made for the post.

2. An application shall be accompanied by full details of the candidate's age, nationality, university degrees, knowledge of any languages, present and past occupations and experience, if any, in judicial and international fields.

3. The appointment shall be made following the procedure laid down in Article 7(3) of these Rules.

4. The Registrar shall be appointed for a term of six years. He may be reappointed.

5. The Registrar shall take the oath in accordance with Article 3 of these Rules.

6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Court shall take its decision after giving the Registrar an opportunity to make representations.

7. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Court shall appoint a new Registrar for a term of six years.

Article 13

The Court may, following the procedure laid down in respect of the Registrar, appoint one or more Assistant Registrars to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 15 of these Rules allow.

Article 14

Where the Registrar and the Assistant Registrars are absent or prevented from attending or their posts are vacant, the President shall designate an official or other servant to carry out temporarily the duties of Registrar.

Article 15

Instructions to the Registrar shall be adopted by the Court acting on a proposal from the President.

Article 16

1. There shall be kept in the Registry, under the control of the Registrar, a register in which all pleadings and supporting documents shall be entered in the order in which they are lodged.

2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.

3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.

4. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 15 of these Rules.

5. Persons having an interest may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale fixed by the Court on a proposal from the Registrar.

The parties to a case may on payment of the appropriate charge also obtain copies of pleadings and authenticated copies of judgments and orders.

6. Notice shall be given in the *Official Journal of the European Union* of the date of registration of an application initiating proceedings, the names and addresses of the parties, the subject-matter of the proceedings, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments.

7. Where the Council or the Commission is not a party to a case, the Court shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under Article 241 of the EC Treaty, or Article 156 of the EAEC Treaty. Copies of that act shall likewise be sent to the European Parliament, to enable it to assess whether the inapplicability of an act adopted jointly by that institution and by the Council is being invoked under Article 241 of the EC Treaty.

Article 17

1. The Registrar shall be responsible, under the authority of the President, for the acceptance, transmission and custody of documents and for effecting service as provided for by these Rules.

2. The Registrar shall assist the Court, the President and the Presidents of Chambers and the Judges in all their official functions.

Article 18

The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the publications of the Court.

Article 19

Subject to Articles 4 and 27 of these Rules, the Registrar shall attend the sittings of the Court and of the Chambers.

Section 2 – Other departments

Article 20

1. The officials and other servants of the Court shall be appointed in accordance with the provisions of the Staff Regulations.

2. Before taking up his duties, an official shall take the following oath before the President, in the presence of the Registrar:

'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the Court of Justice of the European Communities.'

Article 21

The organisation of the departments of the Court shall be laid down, and may be modified, by the Court on a proposal from the Registrar.

Article 22

The Court shall set up a translating service staffed by experts with adequate legal training and a thorough knowledge of several official languages of the Court.

Article 23

The Registrar shall be responsible, under the authority of the President, for the administration of the Court, its financial management and its accounts; he shall be assisted in this by an administrator.

Chapter 4

ASSISTANT RAPPORTEURS

Article 24

1. Where the Court is of the opinion that the consideration of and preparatory inquiries in cases before it so require, it shall, pursuant to Article 13 of the Statute, propose the appointment of Assistant Rapporteurs.

2. Assistant Rapporteurs shall in particular assist the President in connection with applications for the adoption of interim measures and assist the Judge-Rapporteurs in their work.

3. In the performance of their duties the Assistant Rapporteurs shall be responsible to the President of the Court, the President of a Chamber or a Judge-Rapporteur, as the case may be.

4. Before taking up his duties, an Assistant Rapporteur shall take before the Court the oath set out in Article 3 of these Rules.

Chapter 5

THE WORKING OF THE COURT

Article 25

1. The dates and times of the sittings of the Grand Chamber and of the full Court shall be fixed by the President.

2. The dates and times of the sittings of the Chambers of five and three Judges shall be fixed by their respective Presidents.

3. The Court may choose to hold one or more sittings in a place other than that in which the Court has its seat.

Article 26

1. Where, by reason of a Judge being absent or prevented from attending, there is an even number of Judges, the most junior Judge within the meaning of Article 6 of these Rules shall abstain from taking part in the deliberations unless he is the Judge-Rapporteur. In that case the Judge immediately senior to him shall abstain from taking part in the deliberations.

2. If after the Grand Chamber or full Court has been convened it is found that the quorum referred to in the third or fourth paragraph of Article 17 of the Statute has not been attained, the President shall adjourn the sitting until there is a quorum.

3. If in any Chamber of five or three Judges the quorum referred to in the second paragraph of Article 17 of the Statute has not been attained and it is not possible to replace the Judges prevented from attending in accordance with Article 11e, the President of that Chamber shall so inform the President of the Court who shall designate another Judge to complete the Chamber.

Article 27

1. The Court shall deliberate in closed session.

2. Only those Judges who were present at the oral proceedings and the Assistant Rapporteur, if any, entrusted with the consideration of the case may take part in the deliberations.

3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

4. Any Judge may require that any questions be formulated in the language of his choice and communicated in writing to the Court before being put to the vote.

5. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Court. Votes shall be cast in reverse order to the order of precedence laid down in Article 6 of these Rules.

6. Differences of view on the substance, wording or order of questions or on the interpretation of the voting shall be settled by decision of the Court.

7. Where the deliberations of the Court concern questions of its own administration, the Advocates General shall take part and have a vote. The Registrar shall be present, unless the Court decides to the contrary.

8. Where the Court sits without the Registrar being present it shall, if necessary, instruct the most junior Judge within the meaning of Article 6 of these Rules to draw up minutes. The minutes shall be signed by that Judge and by the President.

Article 28

1. Subject to any special decision of the Court, its vacations shall be as follows:

– from 18 December to 10 January,

– from the Sunday before Easter to the second Sunday after Easter,

– from 15 July to 15 September.

During the vacations, the functions of President shall be exercised at the place where the Court has its seat either by the President himself, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.

2. In a case of urgency, the President may convene the Judges and the Advocates General during the vacations.

3. The Court shall observe the official holidays of the place where it has its seat.

4. The Court may, in proper circumstances, grant leave of absence to any Judge or Advocate General.

C h a p t e r 6

LANGUAGES

Article 29

1. The language of a case shall be Bulgarian, Czech, Danish, Dutch, English, Estonian**,** Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene**,** Spanish or Swedish.

2. The language of a case shall be chosen by the applicant, except that:

(a) where the defendant is a Member State or a natural or legal person having the nationality of a Member State, the language of the case shall be the official language of that State; where that State has more than one official language, the applicant may choose between them;

(b) at the joint request of the parties, the use of another of the languages mentioned in paragraph 1 for all or part of the proceedings may be authorised;

(c) at the request of one of the parties, and after the opposite party and the Advocate General have been heard, the use of another of the languages mentioned in paragraph 1 as the language of the case for all or part of the proceedings may be authorised by way of derogation from subparagraphs (a) and (b); such a request may not be submitted by an institution of the European Communities.

In cases to which Article 103 of these Rules applies, the language of the case shall be the language of the national court or tribunal which refers the matter to the Court. At the duly substantiated request of one of the parties to the main proceedings, and after the opposite party and the Advocate General have been heard, the use of another of the languages mentioned in paragraph 1 may be authorised for the oral procedure.

Requests as above may be decided on by the President; the latter may, and where he wishes to accede to a request without the agreement of all the parties, must, refer the request to the Court.

3. The language of the case shall in particular be used in the written and oral pleadings of the parties and in supporting documents, and also in the minutes and decisions of the Court.

Any supporting documents expressed in another language must be accompanied by a translation into the language of the case.

In the case of lengthy documents, translations may be confined to extracts. However, the Court may, of its own motion or at the request of a party, at any time call for a complete or fuller translation.

Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when intervening in a case before the Court or when taking part in any reference of a kind mentioned in Article 103. This provision shall apply both to written statements and to oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, may be authorised to use one of the languages mentioned in paragraph 1, other than the language of the case, when they intervene in a case before the Court or participate in preliminary ruling proceedings envisaged by Article 23 of the Statute. This provision shall apply both to written statements and oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

Non-member States taking part in proceedings for a preliminary ruling pursuant to the fourth paragraph of Article 23 of the Statute may be authorised to use one of the languages mentioned in paragraph (1) of this Article other than the language of the case. This provision shall apply both to written statements and to oral statements. The Registrar shall cause any such statement or address to be translated into the language of the case.

4. Where a witness or expert states that he is unable adequately to express himself in one of the languages referred to in paragraph (1) of this Article, the Court may authorise him to give his evidence in another language. The Registrar shall arrange for translation into the language of the case.

5. The President of the Court and the Presidents of Chambers in conducting oral proceedings, the Judge-Rapporteur both in his preliminary report and in his report for the hearing, Judges and Advocates General in putting questions and Advocates General in delivering their opinions may use one of the languages referred to in paragraph 1 of this Article other than the language of the case. The Registrar shall arrange for translation into the language of the case.

Article 30

1. The Registrar shall, at the request of any Judge, of the Advocate General or of a party, arrange for anything said or written in the course of the proceedings before the Court to be translated into the languages he chooses from those referred to in Article 29(1).

2. Publications of the Court shall be issued in the languages referred to in Article 1 of Council Regulation No 1.

Article 31

The texts of documents drawn up in the language of the case or in any other language authorised by the Court pursuant to Article 29 of these Rules shall be authentic.

Chapter 7

RIGHTS AND OBLIGATIONS OF AGENTS, ADVISERS AND LAWYERS

Article 32

1. Agents, advisers and lawyers appearing before the Court or before any judicial authority to which the Court has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, advisers and lawyers shall enjoy the following further privileges and facilities:

(a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court for inspection in the presence of the Registrar and of the person concerned;

(b) agents, advisers and lawyers shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;

(c) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.

Article 33

In order to qualify for the privileges, immunities and facilities specified in Article 32, persons entitled to them shall furnish proof of their status as follows:

(a) agents shall produce an official document issued by the party for whom they act, and shall forward without delay a copy thereof to the Registrar;

(b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 34

The privileges, immunities and facilities specified in Article 32 of these Rules are granted exclusively in the interests of the proper conduct of proceedings.

The Court may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

Article 35

1. If the Court considers that the conduct of an adviser or lawyer towards the Court, a Judge, an Advocate General or the Registrar is incompatible with the dignity of the Court or with the requirements of the proper administration of justice, or that such adviser or lawyer is using his rights for purposes other than those for which they were granted, it shall inform the person concerned. If the Court informs the competent authorities to whom the person concerned is answerable, a copy of the letter sent to those authorities shall be forwarded to the person concerned.

On the same grounds, the Court may at any time, having heard the person concerned and the Advocate General, exclude the person concerned from the proceedings by order. That order shall have immediate effect.

2. Where an adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another adviser or lawyer.

3. Decisions taken under this Article may be rescinded.

Article 36

The provisions of this Chapter shall apply to university teachers who have a right of audience before the Court in accordance with Article 19 of the Statute.

TITLE II

PROCEDURE

Chapter 1

WRITTEN PROCEDURE

Article 37

1. The original of every pleading must be signed by the party's agent or lawyer.

The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Court and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time-limits laid down by the Court, translations of all pleadings into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 of this Article shall apply.

3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings, only the date of lodgment at the Registry shall be taken into account.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

6. Without prejudice to the provisions of paragraphs 1 to 5, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by telefax or other technical means of communication available to the Court shall be deemed to be the date of lodgment for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1 above, is lodged at the Registry no later than 10 days thereafter. Article 81(2) shall not be applicable to this period of 10 days.

7. Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 5, the Court may by decision determine the criteria for a procedural document sent to the Registry by electronic means to be deemed to be the original of that document. That decision shall be published in the *Official Journal of the European Union*.

Article 38

1. An application of the kind referred to in Article 21 of the Statute shall state:

(a) the name and address of the applicant;

(b) the designation of the party against whom the application is made;

(c) the subject-matter of the proceedings and a summary of the pleas in law on which the application is based;

(d) the form of order sought by the applicant;

(e) where appropriate, the nature of any evidence offered in support.

2. For the purpose of the proceedings, the application shall state an address for service in the place where the Court has its seat and the name of the person who is authorised and has expressed willingness to accept service.

In addition to, or instead of, specifying an address for service as referred to in the first subparagraph, the application may state that the lawyer or agent agrees that service is to be effected on him by telefax or other technical means of communication.

If the application does not comply with the requirements referred to in the first and second subparagraphs, all service on the party concerned for the purpose of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from Article 79(1), service shall then be deemed to be duly effected by the lodging of the registered letter at the post office of the place where the Court has its seat.

3. The lawyer acting for a party must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State which is a party to the EEA Agreement.

4. The application shall be accompanied, where appropriate, by the documents specified in the second paragraph of Article 21 of the Statute.

5. An application made by a legal person governed by private law shall be accompanied by:

(a) the instrument or instruments constituting or regulating that legal person or a recent extract from the register of companies, firms or associations or any other proof of its existence in law;

(b) proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorised for the purpose.

6. An application submitted under Articles 238 and 239 of the EC Treaty and Articles 153 and 154 of the EAEC Treaty shall be accompanied by a copy of the arbitration clause contained in the contract governed by private or public law entered into by the Communities or on their behalf, or, as the case may be, by a copy of the special agreement concluded between the Member States concerned.

7. If an application does not comply with the requirements set out in paragraphs 3 to 6 of this Article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them whether by putting the application itself in order or by producing any of the abovementioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Court shall, after hearing the Advocate General, decide whether the non-compliance with these conditions renders the application formally inadmissible.

Article 39

The application shall be served on the defendant. In a case where Article 38(7) applies, service shall be effected as soon as the application has been put in order or the Court has declared it admissible notwithstanding the failure to observe the formal requirements set out in that Article.

Article 40

1. Within one month after service on him of the application, the defendant shall lodge a defence, stating:

(a) the name and address of the defendant;

(b) the arguments of fact and law relied on;

(c) the form of order sought by the defendant;

(d) the nature of any evidence offered by him.

The provisions of Article 38(2) to (5) of these Rules shall apply to the defence.

2. The time-limit laid down in paragraph 1 of this Article may be extended by the President on a reasoned application by the defendant.

Article 41

1. The application initiating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant.

2. The President shall fix the time-limits within which these pleadings are to be lodged.

Article 42

1. In reply or rejoinder a party may offer further evidence. The party must, however, give reasons for the delay in offering it.

2. No new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.

If in the course of the procedure one of the parties puts forward a new plea in law which is so based, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur and after hearing the Advocate General, allow the other party time to answer on that plea.

The decision on the admissibility of the plea shall be reserved for the final judgment.

Article 43

The Court may, at any time, after hearing the parties and the Advocate General, if the assignment referred to in Article 10(2) has taken place, order that two or more cases concerning the same subject-matter shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final judgment. The cases may subsequently be disjoined. The President may refer these matters to the Court.

C h a p t e r 1 a

THE PRELIMINARY REPORT

AND ASSIGNMENT OF CASES TO FORMATIONS

Article 44

1. The President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the general meeting of the Court, either:

(a) after the rejoinder has been lodged; or

(b) where no reply or no rejoinder has been lodged within the time-limit fixed in accordance with Article 41(2); or

(c) where the party concerned has waived his right to lodge a reply or rejoinder; or

(d) where the expedited procedure referred to in Article 62a is to be applied, when the President fixes a date for the hearing.

2. The preliminary report shall contain recommendations as to whether a preparatory inquiry or any other preparatory step should be undertaken and as to the formation to which the case should be assigned. It shall also contain the Judge-Rapporteur's recommendation, if any, as to whether to dispense with a hearing as provided for in Article 44a and as to whether to dispense with an Opinion of the Advocate General pursuant to the fifth subparagraph of Article 20 of the Statute.

The Court shall decide, after hearing the Advocate General, what action to take upon the recommendations of the Judge-Rapporteur.

3. The Court shall assign to the Chambers of five and three Judges any case brought before it in so far as the difficulty or importance of the case or particular circumstances are not such as to require that it should be assigned to the Grand Chamber.

However, a case may not be assigned to a Chamber of five or three Judges if a Member State or an institution of the Communities, being a party to the proceedings, has requested that the case be decided by the Grand Chamber. For the purposes of this provision, 'party to the proceedings' means any Member State or any institution which is a party to or an intervener in the proceedings or which has submitted written observations in any reference of a kind mentioned in Article 103. A request such as that referred to in this subparagraph may not be made in proceedings between the Communities and their servants.

The Court shall sit as a full Court where cases are brought before it pursuant to the provisions referred to in the fourth paragraph of Article 16 of the Statute. It may assign a case to the full Court where, in accordance with the fifth paragraph of Article 16 of the Statute, it considers that the case is of exceptional importance.

4. The formation to which a case has been assigned may, at any stage of the proceedings, refer the case back to the Court in order that it may be reassigned to a formation composed of a greater number of Judges.

5. Where a preparatory inquiry has been opened, the formation determining the case may, if it does not undertake it itself, assign the inquiry to the Judge-Rapporteur.

Where the oral procedure is opened without an inquiry, the President of the formation determining the case shall fix the opening date.

Article 44a

Without prejudice to any special provisions laid down in these Rules, the procedure before the Court shall also include an oral part. However, after the pleadings referred to in Article 40(1) and, as the case may be, in Article 41(1) have been lodged, the Court, acting on a report from the Judge-Rapporteur and after hearing the Advocate General, and if none of the parties has submitted an application setting out the reasons for which he wishes to be heard, may decide

otherwise. The application shall be submitted within a period of three weeks from notification to the party of the close of the written procedure. That period may be extended by the President.

Chapter 2

PREPARATORY INQUIRIES AND OTHER PREPARATORY MEASURES

Section 1 – Measures of inquiry

Article 45

1. The Court, after hearing the Advocate General, shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be proved. Before the Court decides on the measures of inquiry referred to in paragraph 2(c), (d) and (e) the parties shall be heard.

The order shall be served on the parties.

2. Without prejudice to Articles 24 and 25 of the Statute, the following measures of inquiry may be adopted:

(a) the personal appearance of the parties;

(b) a request for information and production of documents;

(c) oral testimony;

(d) the commissioning of an expert's report;

(e) an inspection of the place or thing in question.

3. The Advocate General shall take part in the measures of inquiry.

4. Evidence may be submitted in rebuttal and previous evidence may be amplified.

Article 46

The parties shall be entitled to attend the measures of inquiry.

Section 2 – The summoning and examination of witnesses and experts

Article 47

1. The Court may, either of its own motion or on application by a party, and after hearing the Advocate General, order that certain facts be proved by witnesses. The order of the Court shall set out the facts to be established.

The Court may summon a witness of its own motion or on application by a party or at the instance of the Advocate General.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. The witness shall be summoned by an order of the Court containing the following information:

(a) the surname, forenames, description and address of the witness;

(b) an indication of the facts about which the witness is to be examined;

(c) where appropriate, particulars of the arrangements made by the Court for reimbursement of expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

The order shall be served on the parties and the witnesses.

3. The Court may make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Court of a sum sufficient to cover the taxed costs thereof; the Court shall fix the amount of the payment.

The cashier shall advance the funds necessary in connection with the examination of any witness summoned by the Court of its own motion.

4. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in these Rules.

The witness shall give his evidence to the Court, the parties having been given notice to attend. After the witness has given his main evidence the President may, at the request of a party or of his own motion, put questions to him.

The other Judges and the Advocate General may do likewise.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

5. After giving his evidence, the witness shall take the following oath:

'I swear that I have spoken the truth, the whole truth and nothing but the truth.'

The Court may, after hearing the parties, exempt a witness from taking the oath.

6. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

Article 48

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Court, the Court may impose upon him a pecuniary penalty not exceeding EUR 5 000 [1] and may order that a further summons be served on the witness at his own expense.

The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.

3. If the witness proffers a valid excuse to the Court, the pecuniary penalty imposed on him may be cancelled. The pecuniary penalty imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

4. Penalties imposed and other measures ordered under this Article shall be enforced in accordance with Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

Article 49

1. The Court may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Court may request the parties or one of them to lodge security for the costs of the expert's report.

3. At the request of the expert, the Court may order the examination of witnesses. Their examination shall be carried out in accordance with Article 47 of these Rules.

4. The expert may give his opinion only on points which have been expressly referred to him.

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[1] See Article 2 of Council Regulation EC No 1103/97 (OJ L 162 of 19.6.1997, p. 1).

5. After the expert has made his report, the Court may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. After making his report, the expert shall take the following oath before the Court:

'I swear that I have conscientiously and impartially carried out my task.'

The Court may, after hearing the parties, exempt the expert from taking the oath.

Article 50

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the matter shall be resolved by the Court.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Article 51

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Court shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

Article 52

The Court may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts, as provided for in the supplementary rules mentioned in Article 125 of these Rules.

Article 53

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes and any expert's report at the Registry and obtain copies at their own expense.

Section 3 – Closure of the preparatory inquiry

Article 54

Unless the Court prescribes a period within which the parties may lodge written observations, the President shall fix the date for the opening of the oral procedure after the preparatory inquiry has been completed.

Where a period had been prescribed for the lodging of written observations, the President shall fix the date for the opening of the oral procedure after that period has expired.

Section 4 – Preparatory Measures

Article 54a

The Judge-Rapporteur and the Advocate General may request the parties to submit within a specified period all such information relating to the facts, and all such documents or other particulars, as they may consider relevant. The information and/or documents provided shall be communicated to the other parties.

C h a p t e r 3

ORAL PROCEDURE

Article 55

1. Subject to the priority of decisions provided for in Article 85 of these Rules, the Court shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications initiating them respectively.

2. The President may in special circumstances order that a case be given priority over others.

The President may in special circumstances, after hearing the parties and the Advocate General, either on his own initiative or at the request of one of the parties, defer a case to be dealt with at a later date. On a joint application by the parties the President may order that a case be deferred.

Article 56

1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

2. The oral proceedings in cases heard *in camera* shall not be published.

Article 57

The President may in the course of the hearing put questions to the agents, advisers or lawyers of the parties.

The other Judges and the Advocate General may do likewise.

Article 58

A party may address the Court only through his agent, adviser or lawyer.

Article 59

1. The Advocate General shall deliver his opinion orally at the end of the oral procedure.

2. After the Advocate General has delivered his opinion, the President shall declare the oral procedure closed.

Article 60

The Court may at any time, in accordance with Article 45(1), after hearing the Advocate General, order any measure of inquiry to be taken or that a previous inquiry be repeated or expanded. The Court may direct the Judge-Rapporteur to carry out the measures so ordered.

Article 61

The Court may after hearing the Advocate General order the reopening of the oral procedure.

Article 62

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 3a

EXPEDITED PROCEDURES

Article 62a

1. On application by the applicant or the defendant, the President may exceptionally decide, on the basis of a recommendation by the Judge-Rapporteur and after hearing the other party and the Advocate General, that a case is to be determined pursuant to an expedited procedure derogating from the provisions of these Rules, where the particular urgency of the case requires the Court to give its ruling with the minimum of delay.

An application for a case to be decided under an expedited procedure shall be made by a separate document lodged at the same time as the application initiating the proceedings or the defence, as the case may be.

2. Under the expedited procedure, the originating application and the defence may be supplemented by a reply and a rejoinder only if the President considers this to be necessary.

An intervener may lodge a statement in intervention only if the President considers this to be necessary.

3. Once the defence has been lodged or, if the decision to adjudicate under an expedited procedure is not made until after that pleading has been lodged, once that decision has been taken, the President shall fix a date for the hearing, which shall be communicated forthwith to the parties. He may postpone the date of the hearing where the organisation of measures of inquiry or of other preparatory measures so requires.

Without prejudice to Article 42, the parties may supplement their arguments and offer further evidence in the course of the oral procedure. They must, however, give reasons for the delay in offering such further evidence.

4. The Court shall give its ruling after hearing the Advocate General.

Chapter 4

JUDGMENTS

Article 63

The judgment shall contain:

– a statement that it is the judgment of the Court,

– the date of its delivery,

– the names of the President and of the Judges taking part in it,

– the name of the Advocate General,

– the name of the Registrar,

– the description of the parties,

– the names of the agents, advisers and lawyers of the parties,

– a statement of the forms of order sought by the parties,

– a statement that the Advocate General has been heard,

– a summary of the facts,

– the grounds for the decision,

– the operative part of the judgment, including the decision as to costs.

Article 64

1. The judgment shall be delivered in open court; the parties shall be given notice to attend to hear it.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the parties shall be served with certified copies of the judgment.

3. The Registrar shall record on the original of the judgment the date on which it was delivered.

Article 65

The judgment shall be binding from the date of its delivery.

Article 66

1. Without prejudice to the provisions relating to the interpretation of judgments the Court may, of its own motion or on application by a party made within two weeks after the delivery of a judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The parties, whom the Registrar shall duly notify, may lodge written observations within a period prescribed by the President.

3. The Court shall take its decision in closed session after hearing the Advocate General.

4. The original of the rectification order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the rectified judgment.

Article 67

If the Court should omit to give a decision on a specific head of claim or on costs, any party may within a month after service of the judgment apply to the Court to supplement its judgment.

The application shall be served on the opposite party and the President shall prescribe a period within which that party may lodge written observations.

After these observations have been lodged, the Court shall, after hearing the Advocate General, decide both on the admissibility and on the substance of the application.

Article 68

The Registrar shall arrange for the publication of reports of cases before the Court.

Chapter 5

COSTS

Article 69

1. A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

2. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

Where there are several unsuccessful parties the Court shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court may order that the costs be shared or that the parties bear their own costs.

The Court may order a party, even if successful, to pay costs which the Court considers that party to have unreasonably or vexatiously caused the opposite party to incur.

4. The Member States and institutions which intervene in the proceedings shall bear their own costs.

The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, shall bear their own costs if they intervene in the proceedings.

The Court may order an intervener other than those mentioned in the preceding subparagraphs to bear his own costs.

5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the other party's observations on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.

Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

If costs are not claimed, the parties shall bear their own costs.

6. Where a case does not proceed to judgment the costs shall be in the discretion of the Court.

Article 70

Without prejudice to the second subparagraph of Article 69(3) of these Rules, in proceedings between the Communities and their servants the institutions shall bear their own costs.

Article 71

Costs necessarily incurred by a party in enforcing a judgment or order of the Court shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

Article 72

Proceedings before the Court shall be free of charge, except that:

(a) where a party has caused the Court to incur avoidable costs the Court may, after hearing the Advocate General, order that party to refund them;

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges referred to in Article 16(5) of these Rules.

Article 73

Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:

(a) sums payable to witnesses and experts under Article 51 of these Rules;

(b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.

Article 74

1. If there is a dispute concerning the costs to be recovered, the formation of the Court to which the case has been referred shall, on application by the party concerned and after hearing the opposite party and the Advocate General, make an order.

2. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.

Article 75

1. Sums due from the cashier of the Court and from its debtors shall be paid in euro.

2. Where costs to be recovered have been incurred in a currency other than the euro or where the steps in respect of which payment is due were taken in a country of which the euro is not the currency, conversions of currency shall be made at the European Central Bank's official rates of exchange on the day of payment.

Chapter 6

LEGAL AID

Article 76

1. A party who is wholly or in part unable to meet the costs of the proceedings may at any time apply for legal aid.

The application shall be accompanied by evidence of the applicant's need of assistance, and in particular by a document from the competent authority certifying his lack of means.

2. If the application is made prior to proceedings which the applicant wishes to commence, it shall briefly state the subject of such proceedings.

The application need not be made through a lawyer.

3. The President shall designate a Judge to act as Rapporteur. The Court, on the Judge-Rapporteur's proposal and after hearing the Advocate General, shall refer the application to a formation of the Court which shall decide whether legal aid should be granted in full or in part, or whether it should be refused. That formation shall consider whether there is manifestly no cause of action.

The formation of the Court shall give its decision by way of order. Where the application for legal aid is refused in whole or in part, the order shall state the reasons for that refusal.

4. The formation of the Court may at any time, either of its own motion or on application, withdraw legal aid if the circumstances which led to its being granted alter during the proceedings.

5. Where legal aid is granted, the cashier of the Court shall advance the funds necessary to meet the expenses.

In its decision as to costs the Court may order the payment to the cashier of the Court of the whole or any part of amounts advanced as legal aid.

The Registrar shall take steps to obtain the recovery of these sums from the party ordered to pay them.

C h a p t e r 7

DISCONTINUANCE

Article 77

If, before the Court has given its decision, the parties reach a settlement of their dispute and intimate to the Court the abandonment of their claims, the President shall order the case to be

removed from the register and shall give a decision as to costs in accordance with Article 69(5), having regard to any proposals made by the parties on the matter.

This provision shall not apply to proceedings under Articles 230 and 232 of the EC Treaty and Articles 146 and 148 of the EAEC Treaty.

Article 78

If the applicant informs the Court in writing that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 69(5).

Chapter 8

SERVICE

Article 79

1. Where these Rules require that a document be served on a person, the Registrar shall ensure that service is effected at that person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 37(1) of these Rules.

2. Where, in accordance with the second subparagraph of Article 38(2), the addressee has agreed that service is to be effected on him by telefax or other technical means of communication, any procedural document other than a judgment or order of the Court may be served by the transmission of a copy of the document by such means.

Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in paragraph 1 of this article. The addressee shall be so advised by telefax or other technical means of communication. Service shall then be deemed to have been effected on the addressee by registered post on the 10th day following the lodging of the registered letter at the post office of the place where the Court has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or other technical means of communication, that the document to be served has not reached him.

Chapter 9

TIME-LIMITS

Article 80

1. Any period of time prescribed by the Union Treaty, the EC Treaty and the EAEC Treaty, the Statute of the Court or these Rules for the taking of any procedural step shall be reckoned as follows:

(a) where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) a period expressed in weeks, months or in years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;

(d) periods shall include official holidays, Sundays and Saturdays;

(e) periods shall not be suspended during the judicial vacations.

2. If the period would otherwise end on a Saturday, Sunday or an official holiday, it shall be extended until the end of the first following working day.

A list of official holidays drawn up by the Court shall be published in the *Official Journal of the European Union.*

Article 81

1. Where the period of time allowed for initiating proceedings against a measure adopted by an institution runs from the publication of that measure, that period shall be calculated, for the purposes of Article 80(1)(a), from the end of the 14th day after publication thereof in the *Official Journal of the European Union.*

2. The prescribed time-limits shall be extended on account of distance by a single period of 10 days.

Article 82

Any time-limit prescribed pursuant to these Rules may be extended by whoever prescribed it.

The President and the Presidents of Chambers may delegate to the Registrar power of signature for the purpose of fixing time-limits which, pursuant to these Rules, it falls to them to prescribe or of extending such time-limits.

Chapter 10

STAY OF PROCEEDINGS

Article 82a

1. The proceedings may be stayed:

(a) in the circumstances specified in the third paragraph of Article 54 of the Statute, by order of the Court, made after hearing the Advocate General;

(b) in all other cases, by decision of the President adopted after hearing the Advocate General and, save in the case of references for a preliminary ruling as referred to in Article 103, the parties.

The proceedings may be resumed by order or decision, following the same procedure.

The orders or decisions referred to in this paragraph shall be served on the parties.

2. The stay of proceedings shall take effect on the date indicated in the order or decision of stay or, in the absence of such indication, on the date of that order or decision.

While proceedings are stayed time shall cease to run for the purposes of prescribed time-limits for all parties.

3. Where the order or decision of stay does not fix the length of stay, it shall end on the date indicated in the order or decision of resumption or, in the absence of such indication, on the date of the order or decision of resumption.

From the date of resumption time shall begin to run afresh for the purposes of the time-limits.

TITLE III

SPECIAL FORMS OF PROCEDURE

Chapter 1

SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

Article 83

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 242 of the EC Treaty or Article 157 of the EAEC Treaty, shall be admissible only if the applicant is challenging that measure in proceedings before the Court.

An application for the adoption of any other interim measure referred to in Article 243 of the EC Treaty or Article 158 of the EAEC Treaty shall be admissible only if it is made by a party to a case before the Court and relates to that case.

2. An application of a kind referred to in paragraph 1 of this Article shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 37 and 38 of these Rules.

Article 84

1. The application shall be served on the opposite party, and the President shall prescribe a short period within which that party may submit written or oral observations.

2. The President may order a preparatory inquiry.

The President may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.

Article 85

The President shall either decide on the application himself or refer it to the Court.

If the President is absent or prevented from attending, Article 11 of these Rules shall apply.

Where the application is referred to it, the Court shall postpone all other cases, and shall give a decision after hearing the Advocate General. Article 84 shall apply.

Article 86

1. The decision on the application shall take the form of a reasoned order, from which no appeal shall lie. The order shall be served on the parties forthwith.

2. The enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision of the Court on the substance of the case.

Article 87

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Article 88

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Article 89

The provisions of this Chapter shall apply to applications to suspend the enforcement of a decision of the Court or of any measure adopted by another institution, submitted pursuant to Articles 244 and 256 of the EC Treaty or Articles 159 and 164 of the EAEC Treaty.

The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

Article 90

1. An application of a kind referred to in the third and fourth paragraphs of Article 81 of the EAEC Treaty shall contain:

(a) the names and addresses of the persons or undertakings to be inspected;

(b) an indication of what is to be inspected and of the purpose of the inspection.

2. The President shall give his decision in the form of an order. Article 86 of these Rules shall apply.

If the President is absent or prevented from attending, Article 11 of these Rules shall apply.

C h a p t e r 2

PRELIMINARY ISSUES

Article 91

1. A party applying to the Court for a decision on a preliminary objection or other preliminary plea not going to the substance of the case shall make the application by a separate document.

The application must state the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing a statement of the form of order sought by that party and its pleas in law.

3. Unless the Court decides otherwise, the remainder of the proceedings shall be oral.

4. The Court shall, after hearing the Advocate General, decide on the application or reserve its decision for the final judgment.

If the Court refuses the application or reserves its decision, the President shall prescribe new time-limits for the further steps in the proceedings.

Article 92

1. Where it is clear that the Court has no jurisdiction to take cognisance of an action or where the action is manifestly inadmissible, the Court may, by reasoned order, after hearing the Advocate General and without taking further steps in the proceedings, give a decision on the action.

2. The Court may at any time of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with a case or declare that the action has become devoid of purpose and that there is no need to adjudicate on it; it shall give its decision in accordance with Article 91(3) and (4) of these Rules.

Chapter 3

INTERVENTION

Article 93

1. An application to intervene must be made within six weeks of the publication of the notice referred to in Article 16(6) of these Rules.

The application shall contain:

(a) the description of the case;

(b) the description of the parties;

(c) the name and address of the intervener;

(d) the intervener's address for service at the place where the Court has its seat;

(e) the form of order sought, by one or more of the parties, in support of which the intervener is applying for leave to intervene;

(f) a statement of the circumstances establishing the right to intervene, where the application is submitted pursuant to the second or third paragraph of Article 40 of the Statute.

The intervener shall be represented in accordance with Article 19 of the Statute.

Articles 37 and 38 of these Rules shall apply.

2. The application shall be served on the parties.

The President shall give the parties an opportunity to submit their written or oral observations before deciding on the application.

The President shall decide on the application by order or shall refer the application to the Court.

3. If the President allows the intervention, the intervener shall receive a copy of every document served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.

4. The intervener must accept the case as he finds it at the time of his intervention.

5. The President shall prescribe a period within which the intervener may submit a statement in intervention.

The statement in intervention shall contain:

(a) a statement of the form of order sought by the intervener in support of or opposing, in whole or in part, the form of order sought by one of the parties;

(b) the pleas in law and arguments relied on by the intervener;

(c) where appropriate, the nature of any evidence offered.

6. After the statement in intervention has been lodged, the President shall, where necessary, prescribe a time-limit within which the parties may reply to that statement.

7. Consideration may be given to an application to intervene which is made after the expiry of the period prescribed in paragraph 1 but before the decision to open the oral procedure provided for in Article 44(3). In that event, if the President allows the intervention, the intervener may submit his observations during the oral procedure, if that procedure takes place.

Chapter 4

JUDGMENTS BY DEFAULT AND APPLICATIONS TO SET THEM ASIDE

Article 94

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply for judgment by default.

The application shall be served on the defendant. The Court may decide to open the oral procedure on the application.

2. Before giving judgment by default the Court shall, after hearing the Advocate General, consider whether the application initiating proceedings is admissible, whether the appropriate

formalities have been complied with, and whether the application appears well founded. The Court may order a preparatory inquiry.

3. A judgment by default shall be enforceable. The Court may, however, grant a stay of execution until the Court has given its decision on any application under paragraph 4 to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment and must be lodged in the form prescribed by Articles 37 and 38 of these Rules.

5. After the application has been served, the President shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with Article 44 et seq. of these Rules.

6. The Court shall decide by way of a judgment which may not be set aside.

The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

C h a p t e r 5

Article 95

(repealed)

Article 96

(repealed)

C h a p t e r 6

EXCEPTIONAL REVIEW PROCEDURES

Section 1 – Third-party proceedings

Article 97

1. Articles 37 and 38 of these Rules shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the judgment contested;

(b) state how that judgment is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case.

The application must be made against all the parties to the original case.

Where the judgment has been published in the *Official Journal of the European Union*, the application must be lodged within two months of the publication.

2. The Court may, on application by the third party, order a stay of execution of the judgment. The provisions of Title III, Chapter I, of these Rules shall apply.

3. The contested judgment shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested judgment. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested judgment.

Section 2 – Revision

Article 98

An application for revision of a judgment shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.

Article 99

1. Articles 37 and 38 of these Rules shall apply to an application for revision. In addition such an application shall:

(a) specify the judgment contested;

(b) indicate the points on which the judgment is contested;

(c) set out the facts on which the application is based;

(d) indicate the nature of the evidence to show that there are facts justifying revision of the judgment, and that the time-limit laid down in Article 98 has been observed.

2. The application must be made against all parties to the case in which the contested judgment was given.

Article 100

1. Without prejudice to its decision on the substance, the Court, in closed session, shall, after hearing the Advocate General and having regard to the written observations of the parties, give in the form of a judgment its decision on the admissibility of the application.

2. If the Court finds the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.

3. The original of the revising judgment shall be annexed to the original of the judgment revised. A note of the revising judgment shall be made in the margin of the original of the judgment revised.

C h a p t e r 7

APPEALS AGAINST DECISIONS OF THE ARBITRATION COMMITTEE

Article 101

1. An application initiating an appeal under the second paragraph of Article 18 of the EAEC Treaty shall state:

(a) the name and address of the applicant;

(b) the description of the signatory;

(c) a reference to the arbitration committee's decision against which the appeal is made;

(d) the description of the parties;

(e) a summary of the facts;

(f) the pleas in law of and the form of order sought by the applicant.

2. Articles 37(3) and (4) and 38(2), (3) and (5) of these Rules shall apply.

A certified copy of the contested decision shall be annexed to the application.

3. As soon as the application has been lodged, the Registrar of the Court shall request the arbitration committee registry to transmit to the Court the papers in the case.

4. Articles 39, 40 and 55 et seq. of these Rules shall apply to these proceedings.

5. The Court shall give its decision in the form of a judgment. Where the Court sets aside the decision of the arbitration committee it may refer the case back to the committee.

Chapter 8

INTERPRETATION OF JUDGMENTS

Article 102

1. An application for interpretation of a judgment shall be made in accordance with Articles 37 and 38 of these Rules. In addition it shall specify:

(a) the judgment in question;

(b) the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the judgment was given.

2. The Court shall give its decision in the form of a judgment after having given the parties an opportunity to submit their observations and after hearing the Advocate General.

The original of the interpreting judgment shall be annexed to the original of the judgment interpreted. A note of the interpreting judgment shall be made in the margin of the original of the judgment interpreted.

Chapter 9

PRELIMINARY RULINGS AND OTHER REFERENCES FOR INTERPRETATION

Article 103

1. In cases governed by Article 23 of the Statute, the procedure shall be governed by the provisions of these Rules, subject to adaptations necessitated by the nature of the reference for a preliminary ruling.

2. The provisions of paragraph 1 shall apply to the references for a preliminary ruling provided for in the Protocol concerning the interpretation by the Court of Justice of the Convention of 29 February 1968 on the mutual recognition of companies and legal persons and the Protocol concerning the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Luxembourg on 3 June 1971, and to the references provided for by Article 4 of the latter Protocol.

The provisions of paragraph 1 shall apply also to references for interpretation provided for by other existing or future agreements.

Article 104

1. The decisions of national courts or tribunals referred to in Article 103 shall be communicated to the Member States in the original version, accompanied by a translation into the official language of the State to which they are addressed. Where appropriate on account of the length of the national court's decision, such translation shall be replaced by the translation into the official language of the State to which it is addressed of a summary of the decision, which will serve as a basis for the position to be adopted by that State. The summary shall include the full text of the question or questions referred for a preliminary ruling. That summary shall contain, in particular, in so far as that information appears in the national court's decision, the subject-matter of the main proceedings, the essential arguments of the parties in the main proceedings, a succinct presentation of the reasoning in the reference for a preliminary ruling and the case-law and the provisions of Community and domestic law relied on.

In the cases governed by the third paragraph of Article 23 of the Statute, the decisions of national courts or tribunals shall be notified to the States, other than the Member States, which are parties to the EEA Agreement and also to the EFTA Surveillance Authority in the original version, accompanied by a translation of the decision, or where appropriate of a summary, into one of the languages mentioned in Article 29(1), to be chosen by the addressee of the notification.

Where a non-Member State has the right to take part in proceedings for a preliminary ruling pursuant to the fourth paragraph of Article 23 of the Statute, the original version of the decision of the national court or tribunal shall be communicated to it together with a translation of the decision, or where appropriate of a summary, into one of the languages mentioned in Article 29(1), to be chosen by the non-Member State concerned.

2. As regards the representation and attendance of the parties to the main proceedings in the preliminary ruling procedure the Court shall take account of the rules of procedure of the national court or tribunal which made the reference.

3. Where a question referred to the Court for a preliminary ruling is identical to a question on which the Court has already ruled, or where the answer to such a question may be clearly deduced from existing case-law, the Court may, after hearing the Advocate General, at any time give its decision by reasoned order in which reference is made to its previous judgment or to the relevant case-law.

The Court may also give its decision by reasoned order, after informing the court or tribunal which referred the question to it, hearing any observations submitted by the persons referred to in Article 23 of the Statute and after hearing the Advocate General, where the answer to the question referred to the Court for a preliminary ruling admits of no reasonable doubt.

4. Without prejudice to paragraph (3) of this Article, the procedure before the Court in the case of a reference for a preliminary ruling shall also include an oral part. However, after the statements of case or written observations referred to Article 23 of the Statute have been submitted, the Court, acting on a report from the Judge-Rapporteur, after informing the persons who under the aforementioned provisions are entitled to submit such statements or observations, may, after hearing the Advocate General, decide otherwise, provided that none of those persons has submitted an application setting out the reasons for which he wishes to be heard. The application shall be submitted within a period of three weeks from service on the party or person

of the written statements of case or written observations which have been lodged. That period may be extended by the President.

5. The Court may, after hearing the Advocate General, request clarification from the national court.

6. It shall be for the national court or tribunal to decide as to the costs of the reference.

In special circumstances the Court may grant, by way of legal aid, assistance for the purpose of facilitating the representation or attendance of a party.

Article 104a

At the request of the national court, the President may exceptionally decide, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, to apply an accelerated procedure derogating from the provisions of these Rules to a reference for a preliminary ruling, where the circumstances referred to establish that a ruling on the question put to the Court is a matter of exceptional urgency.

In that event, the President may immediately fix the date for the hearing, which shall be notified to the parties in the main proceedings and to the other persons referred to in Article 23 of the Statute when the decision making the reference is served.

The parties and other interested persons referred to in the preceding paragraph may lodge statements of case or written observations within a period prescribed by the President, which shall not be less than 15 days. The President may request the parties and other interested persons to restrict the matters addressed in their statement of case or written observations to the essential points of law raised by the question referred.

The statements of case or written observations, if any, shall be notified to the parties and to the other persons referred to above prior to the hearing.

The Court shall rule after hearing the Advocate General.

Article 104b

1. A reference for a preliminary ruling which raises one or more questions in the areas covered by Title VI of the Union Treaty or Title IV of Part Three of the EC Treaty may, at the request of the national court or tribunal or, exceptionally, of the Court's own motion, be dealt with under an urgent procedure which derogates from the provisions of these Rules.

The national court or tribunal shall set out, in its request, the matters of fact and law which establish the urgency and justify the application of that exceptional procedure and shall, in so far as possible, indicate the answer it proposes to the questions referred.

If the national court or tribunal has not submitted a request for the urgent procedure to be applied, the President of the Court may, if the application of that procedure appears, prima facie, to be required, ask the Chamber referred to below to consider whether it is necessary to deal with the reference under that procedure.

The decision to deal with a reference for a preliminary ruling under the urgent procedure shall be taken by the designated Chamber, acting on a report of the Judge-Rapporteur and after hearing the Advocate General. The composition of that Chamber shall be determined in accordance with Article 11c on the day on which the case is assigned to the Judge-Rapporteur if the application of the urgent procedure is requested by the national court or tribunal, or, if the application of that procedure is considered at the request of the President of the Court, on the day on which that request is made.

2. A reference for a preliminary ruling of the kind referred to in the preceding paragraph shall, where the national court or tribunal has requested the application of the urgent procedure or where the President has requested the designated Chamber to consider whether it is necessary to deal with the reference under that procedure, be notified forthwith by the Registrar to the parties to the action before the national court or tribunal, to the Member State from which the reference is made and to the institutions referred to in the first paragraph of Article 23 of the Statute, in accordance with that provision.

The decision as to whether or not to deal with the reference for a preliminary ruling under the urgent procedure shall be notified forthwith to the national court or tribunal and to the parties, Member State and institutions referred to in the preceding subparagraph. The decision to deal with the reference under the urgent procedure shall prescribe the period within which those parties or entities may lodge statements of case or written observations. The decision may specify the matters of law to which such statements of case or written observations must relate and may specify the maximum length of those documents.

As soon as the notification referred to in the first subparagraph above has been made, the reference for a preliminary ruling shall also be communicated to the interested persons referred to in Article 23 of the Statute, other than the persons notified, and the decision whether or not to deal with the reference for a preliminary ruling under the urgent procedure shall be communicated to those interested persons as soon as the notification referred to in the second subparagraph has been made.

The parties and other interested persons referred to in Article 23 of the Statute shall be informed as soon as may be possible of the foreseeable date of the hearing.

Where the reference is not to be dealt with under the urgent procedure, the proceedings shall continue in accordance with the provisions of Article 23 of the Statute and the applicable provisions of these Rules.

3. A reference for a preliminary ruling which is to be dealt with under an urgent procedure, together with the statements of case or written observations which have been lodged, shall be served on the persons referred to in Article 23 of the Statute other than the parties and the entities referred to in the first subparagraph of the preceding paragraph of this Article. The reference for a preliminary ruling shall be accompanied by a translation, where appropriate in summary form, in accordance with Article 104(1).

The statements of case or written observations which have been lodged shall also be served on the parties and the other persons referred to in the first subparagraph of Article 104b(2).

The date of the hearing shall be notified to the parties and those other persons at the same time as the documents referred to in the preceding paragraphs are served.

4. The Chamber may, in cases of extreme urgency, decide to omit the written part of the procedure referred to in the second subparagraph of paragraph 2 of this Article.

5. The designated Chamber shall rule after hearing the Advocate General.

It may decide to sit in a formation of three Judges. In that event, it shall be composed of the President of the designated Chamber, the Judge-Rapporteur and the first Judge or, as the case may be, the first two Judges designated from the list referred to in Article 11c(2) on the date on which the composition of the designated Chamber is determined in accordance with the fourth subparagraph of paragraph 1 of this Article.

It may also decide to refer the case back to the Court in order for it to be assigned to a formation composed of a greater number of Judges. The urgent procedure shall continue before the new formation, where necessary after the reopening of the oral procedure.

6. The procedural documents referred to in this Article shall be deemed to have been lodged on the transmission to the Registry, by telefax or other technical means of communication available to the Court, of a copy of the signed original and the documents relied on in support of it, together with the schedule referred to in Article 37(4). The original of the document and the annexes referred to above shall be sent to the Registry.

Where this Article requires that a document be notified to or served on a person, such notification or service may be effected by the transmission of a copy of the document by telefax or other technical means of communication available to the Court and the addressee.'

Chapter 10

SPECIAL PROCEDURES UNDER ARTICLES 103 TO 105 OF THE EAEC TREATY

Article 105

1. Four certified copies shall be lodged of an application under the third paragraph of Article 103 of the EAEC Treaty. The Commission shall be served with a copy.

2. The application shall be accompanied by the draft of the agreement or contract in question, by the observations of the Commission addressed to the State concerned and by all other supporting documents.

The Commission shall submit its observations to the Court within a period of 10 days, which may be extended by the President after the State concerned has been heard.

A certified copy of the observations shall be served on that State.

3. As soon as the application has been lodged the President shall designate a Judge to act as Rapporteur. The First Advocate General shall assign the case to an Advocate General as soon as the Judge-Rapporteur has been designated.

4. The decision shall be taken in closed session after the Advocate General has been heard.

The agents and advisers of the State concerned and of the Commission shall be heard if they so request.

Article 106

1. In cases provided for in the last paragraph of Article 104 and the last paragraph of Article 105 of the EAEC Treaty, the provisions of Article 37 et seq. of these Rules shall apply.

2. The application shall be served on the State to which the respondent person or undertaking belongs.

Chapter 11

OPINIONS

Article 107

1. A request by the European Parliament for an opinion pursuant to Article 300 of the EC Treaty shall be served on the Council, on the Commission and on the Member States. Such a request by the Council shall be served on the Commission and on the European Parliament. Such a request by the Commission shall be served on the Council, on the European Parliament and on the Member States. Such a request by a Member State shall be served on the Council, on the Commission, on the European Parliament and on the other Member States.

The President shall prescribe a period within which the institutions and Member States which have been served with a request may submit their written observations.

2. The Opinion may deal not only with the question whether the envisaged agreement is compatible which the provisions of the EC Treaty but also with the question whether the Community or any Community institution has the power to enter into that agreement.

Article 108

1. As soon as the request for an Opinion has been lodged, the President shall designate a Judge to act as Rapporteur.

2. The Court sitting in closed session shall, after hearing the Advocates General, deliver a reasoned Opinion.

3. The Opinion, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be served on the Council, the Commission, the European Parliament and the Member States.

Article 109

(repealed)

C h a p t e r 1 2

REQUESTS FOR INTERPRETATION UNDER ARTICLE 68 OF THE EC TREATY

Article 109a

1. A request for a ruling on a question of interpretation under Article 68(3) of the EC Treaty shall be served on the Commission and the Member States if the request is submitted by the Council, on the Council and the Member States if the request is submitted by the Commission and on the Council, the Commission and the other Member States if the request is submitted by a Member State.

The President shall prescribe a time-limit within which the institutions and the Member States on which the request has been served are to submit their written observations.

2. As soon as the request referred to in paragraph 1 has been submitted, the President shall designate the Judge-Rapporteur. The First Advocate General shall thereupon assign the request to an Advocate General.

3. The Court shall, after the Advocate General has delivered his Opinion, give its decision on the request by way of judgment.

The procedure relating to the request shall include an oral part where a Member State or one of the institutions referred to in paragraph 1 so requests.

C h a p t e r 1 3

SETTLEMENT OF THE DISPUTES REFERRED TO IN ARTICLE 35 OF THE UNION TREATY

Article 109b

1. In the case of disputes between Member States as referred to in Article 35(7) of the Union Treaty, the matter shall be brought before the Court by an application by a party to the dispute. The application shall be served on the other Member States and on the Commission.

In the case of disputes between Member States and the Commission as referred to in Article 35(7) of the Union Treaty, the matter shall be brought before the Court by an application by a party to the dispute. The application shall be served on the other Member States, the Council and the

Commission if it was made by a Member State. The application shall be served on the Member States and on the Council if it was made by the Commission.

The President shall prescribe a time-limit within which the institutions and the Member States on which the application has been served are to submit their written observations.

2. As soon as the application referred to in paragraph 1 has been submitted, the President shall designate the Judge-Rapporteur. The First Advocate General shall thereupon assign the application to an Advocate General.

3. The Court shall, after the Advocate General has delivered his Opinion, give its ruling on the dispute by way of judgment.
The procedure relating to the application shall include an oral part where a Member State or one of the institutions referred to in paragraph 1 so requests.

4. The same procedure shall apply where an agreement concluded between the Member States confers jurisdiction on the Court to rule on a dispute between Member States or between Member States and an institution.

TITLE IV

APPEALS AGAINST DECISIONS OF THE COURT OF FIRST INSTANCE

Article 110

Without prejudice to the arrangements laid down in Article 29(2)(b) and (c) and the fourth subparagraph of Article 29(3) of these Rules, in appeals against decisions of the Court of First Instance as referred to in Articles 56 and 57 of the Statute, the language of the case shall be the language of the decision of the Court of First Instance against which the appeal is brought.

Article 111

1. An appeal shall be brought by lodging an application at the Registry of the Court of Justice or of the Court of First Instance.

2. The Registry of the Court of First Instance shall immediately transmit to the Registry of the Court of Justice the papers in the case at first instance and, where necessary, the appeal.

Article 112

1. An appeal shall contain:

(a) the name and address of the appellant;

(b) the names of the other parties to the proceedings before the Court of First Instance;

(c) the pleas in law and legal arguments relied on;

(d) the form or order sought by the appellant.

Article 37 and Article 38(2) and (3) of these Rules shall apply to appeals.

2. The decision of the Court of First Instance appealed against shall be attached to the appeal. The appeal shall state the date on which the decision appealed against was notified to the appellant.

3. If an appeal does not comply with Article 38(3) or with paragraph 2 of this Article, Article 38(7) of these Rules shall apply.

Article 113

1. An appeal may seek:

– to set aside, in whole or in part, the decision of the Court of First Instance;

– the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Court of First Instance may not be changed in the appeal.

Article 114

Notice of the appeal shall be served on all the parties to the proceedings before the Court of First Instance. Article 39 of these Rules shall apply.

Article 115

1. Any party to the proceedings before the Court of First Instance may lodge a response within two months after service on him of notice of the appeal. The time-limit for lodging a response shall not be extended.

2. A response shall contain:

(a) the name and address of the party lodging it;

(b) the date on which notice of the appeal was served on him;

(c) the pleas in law and legal arguments relied on;

(d) the form of order sought by the respondent.

Article 37 and Article 38(2) and (3) of these Rules shall apply.

Article 116

1. A response may seek:

– to dismiss, in whole or in part, the appeal or to set aside, in whole or in part, the decision of the Court of First Instance;

– the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Court of First Instance may not be changed in the response.

Article 117

1. The appeal and the response may be supplemented by a reply and a rejoinder where the President, on application made by the appellant within seven days of service of the response, considers such further pleading necessary and expressly allows the submission of a reply in order to enable the appellant to put forward his point of view or in order to provide a basis for the decision on the appeal. The President shall prescribe the date by which the reply is to be submitted and, upon service of that pleading, the date by which the rejoinder is to be submitted.

2. Where the response seeks to set aside, in whole or in part, the decision of the Court of First Instance on a plea in law which was not raised in the appeal, the appellant or any other party may submit a reply on that plea alone within two months of the service of the response in question. Paragraph 1 shall apply to any further pleading following such a reply.

Article 118

Subject to the following provisions, Articles 42(2), 43, 44, 55 to 90, 93, 95 to 100 and 102 of these Rules shall apply to the procedure before the Court of Justice on appeal from a decision of the Court of First Instance.

Article 119

Where the appeal is, in whole or in part, clearly inadmissible or clearly unfounded, the Court may at any time, acting on a report from the Judge-Rapporteur and after hearing the Advocate General, by reasoned order dismiss the appeal in whole or in part.

Article 120

After the submission of pleadings as provided for in Article 115(1) and, if any, Article 117(1) and (2) of these Rules, the Court, acting on a report from the Judge-Rapporteur and after hearing the Advocate General and the parties, may decide to dispense with the oral part of the procedure unless one of the parties submits an application setting out the reasons for which he wishes to be heard. The application shall be submitted within a period of three weeks from notification to the party of the close of the written procedure. That period may be extended by the President.

Article 121

The report referred to in Article 44(2) shall be presented to the Court after the pleadings provided for in Article 115(1) and where appropriate Article 117(1) and (2) of these Rules have been

lodged. Where no such pleadings are lodged, the same procedure shall apply after the expiry of the period prescribed for lodging them.

Article 122

Where the appeal is unfounded or where the appeal is well founded and the Court itself gives final judgment in the case, the Court shall make a decision as to costs.

In proceedings between the Communities and their servants:

– Article 70 of these Rules shall apply only to appeals brought by institutions;

– by way of derogation from Article 69(2) of these Rules, the Court may, in appeals brought by officials or other servants of an institution, order the parties to share the costs where equity so requires.

If the appeal is withdrawn Article 69(5) shall apply.

When an appeal brought by a Member State or an institution which did not intervene in the proceedings before the Court of First Instance is well founded, the Court of Justice may order that the parties share the costs or that the successful appellant pay the costs which the appeal has caused an unsuccessful party to incur.

Article 123

An application to intervene made to the Court in appeal proceedings shall be lodged before the expiry of a period of one month running from the publication referred to in Article 16(6).

TITLE IVA

REVIEW OF DECISIONS OF THE COURT OF FIRST INSTANCE

Article 123a

Without prejudice to the arrangements laid down in Article 29(2)(b) and (c) and the fourth and fifth subparagraphs of Article 29(3) of these Rules, where, in accordance with the second paragraph of Article 62 of the Statute, the Court decides to review a decision of the Court of First Instance, the language of the case shall be the language of the decision of the Court of First Instance which is subject to review.

Article 123b

A special Chamber shall be set up for the purpose of deciding, in accordance with Article 123d, whether a decision of the Court of First Instance is to be reviewed in accordance with Article 62 of the Statute.

That Chamber shall be composed of the President of the Court and of four of the Presidents of the Chambers of five Judges designated according to the order of precedence laid down in Article 6 of these Rules.

Article 123c

As soon as the date for the delivery of a decision to be given under Article 225(2) or (3) of the EC Treaty or Article 140a(2) or (3) of the EAEC Treaty is fixed, the Registry of the Court of First Instance shall inform the Registry of the Court of Justice. The decision shall be communicated immediately upon its delivery.

Article 123d

The proposal of the First Advocate General to review a decision of the Court of First Instance shall be forwarded to the President of the Court of Justice and notice of that transmission shall be given to the Registrar at the same time. Where the decision of the Court of First Instance has been given under Article 225(3) of the EC Treaty or Article 140a(3) of the EAEC Treaty, the Registrar shall forthwith inform the Court of First Instance, the national court and the parties to the proceedings before the national court of the proposal to review.

As soon as the proposal to review has been received, the President shall designate the Judge-Rapporteur from among the Judges of the Chamber referred to in Article 123b.

That Chamber, acting on a report from the Judge-Rapporteur, shall decide whether the decision of the Court of First Instance is to be reviewed. The decision to review the decision of the Court of First Instance shall indicate the questions which are to be reviewed.

Where the decision of the Court of First Instance has been given under Article 225(2) of the EC Treaty or Article 140a(2) of the EAEC Treaty, the Court of First Instance, the parties to the proceedings before it and the other interested parties referred to in the second paragraph of Article 62a of the Statute shall forthwith be informed by the Registrar of the decision of the Court of Justice to review the decision of the Court of First Instance.

Where the decision of the Court of First Instance has been given under Article 225(3) of the EC Treaty or Article 140a(3) of the EAEC Treaty, the Court of First Instance, the national court, the parties to the proceedings before the national court and the other interested parties referred to in the second paragraph of Article 62a of the Statute shall forthwith be informed by the Registrar of the decision of the Court of Justice as to whether or not the decision of the Court of First Instance is to be reviewed. Notice of a decision to review the decision of the Court of First Instance shall be given in the *Official Journal of the European Union*.

Article 123e

The decision to review a decision of the Court of First Instance shall be notified to the parties and other interested parties referred to in the second paragraph of Article 62a of the Statute. The notification to the Member States, and the States, other than the Member States, which are parties to the EEA Agreement, as well as the EFTA Surveillance Authority, shall be accompanied by a translation of the decision of the Court of Justice in accordance with the provisions of the first and second subparagraphs of Article 104(1) of these Rules. The decision of the Court of Justice shall also be communicated to the Court of First Instance and, in cases involving a decision given by that Court under Article 225(3) of the EC Treaty or Article 140a(3) of the EAEC Treaty, to the national court concerned.

Within one month of the notification referred to in the preceding paragraph, the parties and other persons to whom the decision of the Court of Justice has been notified may lodge statements or written observations on the questions which are subject to review.

As soon as a decision to review a decision of the Court of First Instance has been taken, the First Advocate General shall assign the review to an Advocate General.

After designating the Judge-Rapporteur, the President shall fix the date on which the latter is to present a preliminary report to the general meeting of the Court. That report shall contain the recommendations of the Judge-Rapporteur as to whether any preparatory steps should be taken, as to the formation of the Court to which the review should be assigned and as to whether a hearing should take place, and also as to the manner in which the Advocate General should present his views. The Court shall decide, after hearing the Advocate General, what action to take upon the recommendations of the Judge-Rapporteur.

Where the decision of the Court of First Instance which is subject to review was given under Article 225(2) of the EC Treaty or Article 140a(2) of the EAEC Treaty, the Court of Justice shall make a decision as to costs.

TITLE V

PROCEDURES PROVIDED FOR BY THE EEA AGREEMENT

Article 123f

1. In the case governed by Article 111(3) of the EEA Agreement, [2] the matter shall be brought before the Court by a request submitted by the Contracting Parties to the dispute. The request shall be served on the other Contracting Parties, on the Commission, on the EFTA Surveillance Authority and, where appropriate, on the other persons to whom a reference for a preliminary ruling raising the same question of interpretation of Community legislation would be notified.

The President shall prescribe a period within which the Contracting Parties and the other persons on whom the request has been served may submit written observations.

The request shall be made in one of the languages mentioned in Article 29(1). Paragraphs 3 to 5 of that Article shall apply. The provisions of Article 104(1) shall apply *mutatis mutandis*.

2. As soon as the request referred to in paragraph 1 of this Article has been submitted, the President shall appoint a Judge-Rapporteur. The First Advocate General shall, immediately afterwards, assign the request to an Advocate General.

The Court shall, after hearing the Advocate General, give a reasoned decision on the request in closed session.

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[2] OJ L 1 of 3.1.1994, p. 27.

3. The decision of the Court, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be served on the Contracting Parties and on the other persons referred to in paragraph 1.

Article 123g

In the case governed by Article 1 of Protocol 34 to the EEA Agreement, the request of a court or tribunal of an EFTA State shall be served on the parties to the case, on the Contracting Parties, on the Commission, on the EFTA Surveillance Authority and, where appropriate, on the other persons to whom a reference for a preliminary ruling raising the same question of interpretation of Community legislation would be notified.

If the request is not submitted in one of the languages mentioned in Article 29(1), it shall be accompanied by a translation into one of those languages.

Within two months of this notification, the parties to the case, the Contracting Parties and the other persons referred to in the first paragraph shall be entitled to submit statements of case or written observations.

The procedure shall be governed by the provisions of these Rules, subject to the adaptations called for by the nature of the request.

Miscellaneous provisions

Article 124

1. The President shall instruct any person who is required to take an oath before the Court, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. The witness shall take the oath either in accordance with the first subparagraph of Article 47(5) of these Rules or in the manner laid down by his national law.

Where his national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witness may make such an affirmation under the conditions and in the form prescribed in his national law.

Where his national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in paragraph 1 shall be followed.

3. Paragraph 2 shall apply *mutatis mutandis* to experts, a reference to the first subparagraph of Article 49(6) replacing in this case the reference to the first subparagraph of Article 47(5) of these Rules.

Article 125

Subject to the provisions of Article 223 of the EC Treaty and Article 139 of the EAEC Treaty and after consultation with the Governments concerned, the Court shall adopt supplementary rules concerning its practice in relation to:

(a) letters rogatory;

(b) applications for legal aid;

(c) reports of perjury by witnesses or experts, delivered pursuant to Article 30 of the Statute.

Article 125a

The Court may issue practice directions relating in particular to the preparation and conduct of the hearings before it and to the lodging of written statements of case or written observations.

Article 126

These Rules replace the Rules of Procedure of the Court of Justice of the European Communities adopted on 4 December 1974 (OJ L 350 of 28 December 1974, p. 1), as last amended on 15 May 1991.

Article 127

These Rules, which are authentic in the languages mentioned in Article 29(1) of these Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the first day of the second month following their publication.

ANNEX

DECISION ON OFFICIAL HOLIDAYS

THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES,

having regard to Article 80(2) of the Rules of Procedure, which requires the Court to draw up a list of official holidays;

DECIDES:

Article 1

For the purposes of Article 80(2) of the Rules of Procedure the following shall be official holidays:

– New Year's Day;

– Easter Monday;

– 1 May;

– Ascension Day;

– Whit Monday;

– 23 June;

– 15 August;

– 1 November;

– 25 December;

– 26 December.

The official holidays referred to in the first paragraph hereof shall be those observed at the place where the Court of Justice has its seat.

Article 2

Article 80(2) of the Rules of Procedure shall apply only to the official holidays mentioned in Article 1 of this Decision.

Article 3

This Decision, which shall be annexed to the Rules of Procedure, shall enter into force on the day of their publication in the *Official Journal of the European Union*.

Supplementary Rules[1]

Contents

[1] **Done at Luxembourg on 4 December 1974 (OJ L 350 of 28.12.1974, p. 29) with amendments dated 11 March 1997 (published in OJ L 103 of 19.4.1997, p. 4) and of 21 February 2006 (published in OJ L 72 of 11.3.2006, p. 1).**

Chapter I

Letters rogatory

Article 1

Letters rogatory shall be issued in the form of an order which shall contain the names, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their agents, lawyers or advisers, indicate their addresses for service and briefly describe the subject-matter of the proceedings.

Notice of the order shall be served on the parties by the Registrar.

Article 2

The Registrar shall send the order to the competent authority named in Annex I of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official languages of the Member State to which it is addressed.

The authority named pursuant to the first paragraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first paragraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar of the Court.

The Registrar shall be responsible for the translation of the documents into the language of the case.

Article 3

The Court shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.

Chapter II

Legal aid

Article 4

The Court, by any order by which it decides that a person is entitled to receive legal aid, shall order that a lawyer be appointed to act for him.

If the person does not indicate his choice of lawyer, or if the Court considers that his choice is unacceptable, the Registrar shall send a copy of the order and of the application for legal aid to the authority named in Annex II, being the competent authority of the State concerned.

The Court, in the light of the suggestions made by that authority, shall of its own motion appoint a lawyer to act for the person concerned.

Article 5

The Court shall advance the funds necessary to meet expenses.

It shall adjudicate on the lawyer's disbursements and fees; the President may, on application by the lawyer, order that he receive an advance.

Chapter III

Reports of perjury by a witness or expert

Article 6

The Court, after hearing the Advocate General, may decide to report to the competent authority referred to in Annex III of the Member State whose courts have penal jurisdiction in any case of perjury on the part of a witness or expert before the Court, account being taken of the provisions of Article 124 of the Rules of Procedure.

Article 7

The Registrar shall be responsible for communicating the decision of the Court. The decision shall set out the facts and circumstances on which the report is based.

Final provisions

Article 8

These Supplementary Rules replace the Supplementary Rules of 9 March 1962 (OJ, 1962, p. 1113).

Article 9

These Rules, which shall be authentic in the languages referred to in Article 29(1) of the Rules of Procedure, shall be published in the *Official Journal of the European Communities*.

These Rules shall enter into force on the date of their publication.

ANNEX I

List referred to in the first paragraph of Article 2

Belgium
The Minister for Justice

Czech Republic
The Minister for Justice

Denmark
The Minister for Justice

Germany
The Federal Minister for Justice

Estonia
The Minister for Justice

Greece
The Minister for Justice

Spain
The Minister for Justice

France
The Minister for Justice

Ireland
The Minister for Justice, Equality and Law Reform

Italy
The Minister for Justice

Cyprus
The Minister for Justice and Public Order

Latvia
Tieslietu ministrija

Lithuania
The Minister for Justice

Luxembourg
The Minister for Justice

Hungary
The Minister for Justice

Malta
The Attorney General

Netherlands
The Minister for Justice

Austria
The Federal Minister for Justice

Poland
The Minister for Justice

Portugal
The Minister for Justice

Slovenia
The Minister for Justice

Slovakia
The Minister for Justice

Finland
The Ministry of Justice

Sweden
The Ministry of Justice

United Kingdom
The Secretary of State

ANNEX II

List referred to in the second paragraph of Article 4

Belgium
The Minister for Justice

Czech Republic
česká advokátni komora

Denmark
The Minister for Justice

Germany
Bundesrechtsanwaltskammer

Estonia
The Minister for Justice

Greece
The Minister for Justice

Spain
The Minister for Justice

France
The Minister for Justice

Ireland
The Minister for Justice, Equality and Law Reform

Italy
The Minister for Justice

Cyprus
The Minister for Justice and Public Order

Latvia
Tieslietu ministrija

Lithuania
The Minister for Justice

Luxembourg
The Minister for Justice

Hungary
The Minister for Justice

Malta
Ministry of Justice and Home Affairs

Netherlands
Algemene Raad van de Nederlandse Orde van Advocaten

Austria
The Federal Minister for Justice

Poland
The Minister for Justice

Portugal
The Minister for Justice

Slovenia
The Minister for Justice

Slovakia
Slovenská Advokátska Komora

Finland
The Ministry of Justice

Sweden
Sveriges Advokatsamfund

United Kingdom
The Law Society, London (for applicants residing in England or Wales)

The Law Society of Scotland, Edinburgh (for applicants residing in Scotland)

The Incorporated Law Society of Northern Ireland, Belfast (for applicants residing in Northern Ireland)

ANNEX III

List referred to in Article 6

“*Belgium*
The Minister for Justice

Czech Republic
Nejvyšši státni mastupitelství

Denmark
The Minister for Justice

Germany
The Federal Minister for Justice

Estonia
Riigiprokuratuur

Greece
The Minister for Justice

Spain
The Minister for Justice

France
The Minister for Justice

Ireland
The Attorney General

Italy
The Minister for Justice

Cyprus
Νομική Υπηρεσία της Δημοκρατίας

Latvia
Ģenerālprokuratūra

Lithuania
Generaline prokuratūra

Luxembourg
The Minister for Justice

Hungary
The Minister for Justice

Malta
The Attorney General

Netherlands
The Minister for Justice

Austria
The Federal Minister for Justice

Poland
The Minister for Justice

Portugal
The Minister for Justice

Slovenia
The Minister for Justice

Slovakia
The Minister for Justice

Finland
The Ministry of Justice

Sweden
Riksåklagaren

United Kingdom
Her Majesty's Attorney General (for witnesses or experts residing in England or Wales)
Her Majesty's Advocate (for witnesses or experts residing in Scotland)
Her Majesty's Attorney General (for witnesses or experts residing in Northern Ireland)

Contents

Section One

Responsibilities of the Registry

Article 1

1. The Registry shall be open to the public from Monday to Friday from 10 a.m. to 12 noon and from 3 p.m. to 6 p.m. (5 p.m. on Fridays), except on the official holidays listed in Annex I to the Rules of Procedure.

Outside the opening hours of the Registry procedural documents may be validly lodged with the janitor, who shall record the date and time of such lodgment.

2. In any event the Registry shall at every public hearing held by the Court or a Chamber be open to the public half an hour before the hearing begins.

Article 2

The Registrar shall be responsible for maintaining the files of pending cases and for keeping them fully up to date.

Article 3

1. The Registrar shall be responsible for drawing up minutes of judgments, orders and other decisions. He shall submit them to the responsible Judges for their signatures.

2. The Registrar shall ensure that where the ECSC, EC or EAEC Treaty, the ECSC, EC or EAEC Statute, the Rules of Procedure or any other act giving powers to the Court of Justice provide for a document to be served, a notice to be given or a communication to be made the steps are carried out in accordance with the Rules of Procedure; the documents, notices and communications shall be sent by registered post, accompanied by a note signed by the Registrar giving the number of the case and the registration number of the document, together with a brief indication as to its nature. A copy of the note shall be appended to the original document.

3. The parties shall be served with the pleadings and other documents relating to the proceedings.

Where a document is very bulky and only one specimen of it is lodged at the Registry, the Registrar shall, after consulting the Judge-Rapporteur, inform the parties by registered letter that the document may be inspected by them at the Registry.

4. Where in the submission in the application initiating proceedings it is contended that an act of a Community institution not being a party to the action is illegal, the Registrar shall transmit a copy of the application to the institution in accordance with the second paragraph of Article 18 of the Statute of the Court of Justice of the EC and EAEC and the second paragraph of Article 21 of the Statute of the Court of Justice of the ECSC.

The Registrar shall not transmit other written pleadings to the institution, unless the institution has been allowed to intervene in accordance with Article 93(4) of the Rules of Procedure.

Article 4

1. A party who has lodged a procedural document at the Registry shall, if he so requests, be given a receipt.

2. Unless otherwise expressly authorised by the President or the Court, the Registrar shall decline to accept or, as the case may be, shall without delay return by registered post any pleading or other document not provided for in the Rules of Procedure or not worded in the language of the case.

3. On a procedural document which has been lodged on a date other than the date of its registration, a note shall be made stating that it has been so lodged.

Article 5

1. The Registrar shall, after consulting the President and the Judge-Rapporteur, take all measures necessary for implementing Article 38(7) of the Rules of Procedure.

He shall prescribe the period mentioned in that Article and shall communicate it to the person concerned by registered letter with a form for acknowledgment of receipt.

If the person concerned does not comply with the directions of the Registrar, the latter shall refer the matter to the President of the Court.

2. Requests to the Registrar of the Arbitration Committee pursuant to Article 101(3) of the Rules of Procedure shall be sent by registered letter with a form for acknowledgement of receipt.

The papers shall be returned to the Registry of the Arbitration Committee after the decision of the Court is pronounced or after the case is removed from the Court Register.

Article 6

1. Where a decision or order is delivered in open court a note to that effect shall be made at the foot of the text; the note shall be in the language of the case and shall read as follows:

"Delivered in open court in ... on ... (date)

(Signature) (Signature)

Registrar President"

2. The notes in the margins to judgments, as required by Articles 66(4), 94(6), 97(3), 100(3) and 102(2) of the Rules of Procedure, shall be made in the language of the case; the President and the Registrar shall initial them.

Article 7

1. Before every public hearing of the Court or a Chamber the Registrar shall draw up a case list in the respective language of each case.

This list shall contain:

- the date, hour and place of the hearing,
- the references to the cases which will be called,
- the names of the parties,
- the names and descriptions of the parties' agents, advisers and lawyers.

The case list shall be displayed at the entrance to the courtroom.

2. The Registrar shall draw up in the respective language of each case the minutes of every public hearing.

The minutes shall contain:

- the date and place of the hearing,
- the names of the Judges, Advocates General and Registrar present,
- the reference to the case,
- the names of the parties,
- the names and addresses of the parties' agents, advisers and lawyers,
- the names, forenames, descriptions and permanent addresses of the witnesses or experts examined,
- an indication of the evidence produced at the hearing,
- an indication of the documents lodged by the parties in the course of the hearing,
- the decisions of the Court, the Chamber or the President of the Court or Chamber given at the hearing.

If the oral procedure in the case extends over several successive hearings, it may be reported in a single set of minutes.

Article 8

The Registrar shall ensure that a person or body responsible for making an investigation or giving an expert opinion in accordance with Article 49 of the Rules of Procedure is in possession of the material necessary for carrying out his task.

Article 9

Certificates as provided for in Article 33(b) of the Rules of Procedure shall be delivered to the adviser or lawyer concerned if he so requests, where this step is required for the proper conduct of proceedings.

The certificates shall be drawn up by the Registrar.

Article 10

For the purposes of Article 32 of the Rules of Procedure, an extract from the case list shall be transmitted in advance to the Minister for Foreign Affairs of the place where the Court is sitting.

Section Two

Keeping of the Register

Article 11

The Registrar shall be responsible for keeping up to date the register of cases brought before the Court.

Article 12

When an application initiating proceedings is registered, the case shall be given a serial number followed by a mention of the year and a statement of either the name of the applicant or the subject-matter of the application. Cases shall be referred to by their serial numbers.

An application for interim measures shall be given the same serial number as the principal action, followed by the letter "R".

Article 13

The pages of the register shall be numbered in advance.

At regular intervals the President and the Registrar shall check the register and initial it in the margin against the last entry.

Article 14

The procedural documents in cases brought before the Court, including documents lodged by the parties and documents served by the Registrar, shall be entered in the register.

An annex which has not been lodged at the same time as the procedural document to which it relates shall be separately registered.

Article 15

1. Entries in the register shall be made chronologically in the order in which the documents to be registered are lodged; they shall be numbered consecutively.

2. Procedural documents shall be registered as soon as they are lodged at the Registry.

Documents drawn up by the Court shall be registered on the day of issue.

3. The entry in the register shall contain the information necessary for identifying the document and in particular:

- the date of registration,
- the reference to the case,
- the nature of the document,
- the date of the document.

The entry shall be made in the language of the case; numbers shall be written in figures and usual abbreviations shall be permitted.

4. Where a correction is made in the register a note to that effect, initialled by the Registrar, shall be made in the margin.

Article 16

The registration number of every document drawn up by the Court shall be noted on its first page.

A note of the registration, worded as follows, shall be stamped on the original of every document lodged by the parties:

"Registered at the Court of Justice under No . . .

Luxembourg, . . . day of . . . 19 . . ."

This note shall be signed by the Registrar.

Section Three

Scale of charges of the Registry of the Court

Article 17

No Registry charges may be imposed save those referred to in this section.

Article 18

Registry charges may be paid either in cash to the cashier of the Court or by bank transfer to the Court account at the bank named in the demand for payment.

Article 19

Where the party owing Registry charges has been granted legal aid, Article 76(5) of the Rules of Procedure shall apply.

Article 20

Registry charges shall be as follows:

(a) for an authenticated copy of a judgment or order, a certified copy of a procedural document or set of minutes, an extract from the Court Register, a certified copy of the Court Register or a certified copy made pursuant to Article 72(b) of the Rules of Procedure: LUF 60 a page;

(b) for a translation made pursuant to Article 72(b) of the Rules of Procedure: LUF 500 a page.

No page shall contain more than 40 lines.

This scale applies to the first copy; the charge for further copies shall be LUF 50 for each page or part of a page.

The charges referred to in this Article shall, as from 1 January 1975 be increased by 10% each time the cost-of-living index published by the Government of the Grand Duchy of Luxembourg is increased by 10%.

Article 21

1. Where pursuant to Articles 47(3), 51(1) and 76(5) of the Rules of Procedure an application is made to the cashier of the Court for an advance payment, the Registrar shall direct that particulars of the costs for which the advance payment is required be delivered.

Witnesses must supply evidence of their loss of earnings and experts must supply a note of fees for their services.

2. The Registrar shall order payment by the cashier of the Court of sums payable pursuant to the preceding paragraph, against a receipt or other proof of payment.

Where he is of the opinion that the amount applied for is excessive, he may of his own motion reduce it or order payment by instalments.

3. The Registrar shall order the cashier of the Court to refund the costs of letters rogatory payable in accordance with Article 3 of the Supplementary Rules to the authority designated by the competent authority referred to in Article 2 of those rules, in the currency of the State concerned against proof of payment.

4. The Registrar shall order the cashier of the Court to make the advance payment referred to in the second paragraph of Article 5 of the Supplementary Rules of Procedure, subject to the second subparagraph of paragraph 2 of this Article.

Article 22

1. Where sums paid out by way of legal aid pursuant to Article 76(5) of the Rules of Procedure are recoverable, payment of the sums shall be demanded by registered letter, signed by the Registrar. The letter shall state not only the amount payable but also the method of payment and the period prescribed.

The same provision shall apply to the implementation of Article 72(a) of the Rules of Procedure and Article 21(1), (3) and (4) of these Instructions.

2. If the sums demanded are not paid within the period prescribed by the Registrar, he shall request the Court to make an enforceable decision and to order its enforcement in accordance with Articles 44 and 92 of the ECSC Treaty, 187 and 192 of the EC Treaty(3) or 159 and 164 of the EAEC Treaty.

Where a party is by a judgment or order directed to pay costs to the cashier of the Court, the Registrar shall, if the costs are not paid within the period prescribed, apply for payment of the costs to be enforced.

Section Four

Publications of the Court

Article 23

The Registrar shall be responsible for the publications of the Court.

Article 24

There shall be published in the languages referred to in Article 1 of Council Regulation No 1 *Reports of Cases before the Court* which shall, subject to a decision to the contrary, contain the judgments of the Court together with the Opinions of the Advocates General and the Opinions given and the interim orders made in the course of the calendar year.

Article 25

The Registrar shall cause the following to be published in the *Official Journal of the European Communities*:

(a) notices of applications initiating proceedings, as referred to in Article 16(6) of the Rules of Procedure;

(b) notices of the removal of cases from the register;

(c) subject to a decision by the Court to the contrary, the operative part of every judgment and interim order;

(d) the composition of the Chambers;

(e) the appointment of the President of the Court;

(f) the appointment of the Registrar;

(g) the appointment of the Assistant Registrar and the Administrator.

Final provisions

Article 26

These Instructions replace the Instructions issued by the Court of Justice of the European Communities on 23 June 1960 (OJ 1960, p. 1417), as amended by the Decisions of the Court of 6 April 1962 (OJ 1962, p. 1115) and 13 July 1965 (OJ 1965, p. 2413).

Article 27

These Instructions, which are authentic in the languages referred to in Article 29(1) of the Rules of Procedure, shall be published in the *Official Journal of the European Communities.*

1: Done at Luxembourg on 4 December 1974 (OJ L 350 of 28.12.1974, p. 33) and amended on 3 October 1986 (OJ C 286 of 13.11.1986, p. 4).

2: The articles of the Treaty establishing the European Community have been renumbered by Article 12(1) of the Treaty of Amsterdam. The references to those articles contained in other acts are to be understood, pursuant to Article 12(3), as referring to those articles as renumbered.

3: Now, respectively, Articles 244 and 256.

COURT OF JUSTICE

PRACTICE DIRECTIONS

relating to direct actions and appeals

THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES,

HEREBY ADOPTS THE FOLLOWING PRACTICE DIRECTIONS:

Pursuant to Article 125a of its Rules of Procedure,

Whereas:

(1) It is in the interest of the efficient conduct of proceedings in direct actions and appeals that practice directions should be issued to agents and lawyers representing parties before the Court, dealing with the submission of pleadings and the preparation and conduct of hearings.

(2) The present directions reflect, explain and complement provisions in the Rules of Procedure and are designed to enable agents and lawyers to take account of the constraints under which the Court operates, particularly as regards the electronic processing of procedural documentation and translation and interpretation requirements.

(3) The Rules of Procedure and the Instructions to the Registrar require the Registrar to receive procedural documents, to ensure that they comply with the provisions of the Rules of Procedure and to assist the Court and Chambers, in particular in the organisation of hearings. In carrying out his duties, the Registrar must satisfy himself that the agents and lawyers comply with these practice directions, requiring them to make good any irregularities of form in documents lodged which do not comply with those provisions or requesting the agent or lawyer concerned to comply therewith.

(4) The views of representatives of the agents of the Member States and the institutions acting in proceedings before the Court, and of the Council of the Bars and Law Societies of the European Community (CCBE), have been heard on the drafting of these practice directions,

USE OF TECHNICAL MEANS OF COMMUNICATION

1. A copy of the signed original of a procedural document may be transmitted to the Registry in accordance with Article 37(6) of the Rules of Procedure either:

   — by telefax (to fax number: (352) 43 37 66),

   or

   — as an attachment to an electronic mail (e-mail address: ecj.registry@curia.eu.int).

2. Where transmission is by electronic mail, only a scanned copy of the signed original will be accepted. An ordinary electronic file or one bearing an electronic signature or a computer-generated facsimile signature will not be treated as complying with Article 37(6) of the Rules of Procedure.

   Documents should be scanned at a resolution of 300 DPI and wherever possible, in PDF format (images plus text), using Acrobat or Readiris 7 Pro software.

3. A document lodged by telefax or electronic mail will be treated as complying with the relevant time limit only if the signed original itself reaches the Registry within ten days following such lodgment, as specified in Article 37(6) of the Rules of Procedure. The signed original must be sent without delay, immediately after the despatch of the copy, without any corrections or amendments, even of a minor nature. In the event of any discrepancy between the signed original and the copy previously lodged, only the date of lodgment of the signed original will be taken into consideration.

4. Where, in accordance with Article 38(2) of the Rules of Procedure, a party agrees to be notified by telefax or other technical means of communication, the statement to that effect must specify the telefax number and/or the electronic mail address to which the Registry may send that party documents to be served. The recipient's computer must be equipped with suitable software (for example, Acrobat or Readiris 7 Pro) for reception and display of communications from the Registry, which will be transmitted in PDF format.

PRESENTATION OF PLEADINGS

5. Pleadings and other procedural documents lodged (*) by the parties must be submitted in a form which can be processed electronically by the Court and which, in particular, makes it possible to scan documents and to use character recognition.

   For that purpose, the following requirements must be complied with:

   1. the paper must be white, unlined and A4 size, with text on one side of the page only;

   2. pages of pleadings and annexes, if any, must be assembled in such a way as to be easily separable. They must not be bound together or permanently attached by means such as glue or staples;

   3. the text must be in a commonly-used font (such as Times New Roman, Courier or Arial), in at least 12 pt in the body of the text and at least 10 pt in the footnotes, with one and a half line spacing and upper, lower, left and right margins of at least 2,5 cm;

   4. the pages of the pleading must be numbered consecutively in the top right-hand corner. That numbering must also cover all the pages of any annexes to the pleading, so as to make it possible to check that all the pages of the annexes have been duly scanned.

6. The following information must appear on the first page of the pleading:

   1. the title of the pleading (application, appeal, defence, response, reply, rejoinder, application for leave to intervene, statement in intervention, observations on the statement in intervention, objection of inadmissibility, etc.).

      Where a response seeks an order setting aside in whole or in part the decision of the Court of First Instance on a plea in law not raised in the appeal, the title of the pleading must indicate that the document is a response and cross-appeal;

   2. the case number (C .../...), if it has already been notified by the Registry;

   3. the names of the applicant (appellant) and defendant (respondent) and in appeals, the identification of the decision under appeal and the parties before the Court of First Instance;

   4. the name of the party on whose behalf the pleading is lodged.

7. Each paragraph of the pleading must be numbered.

8. The signature of the agent or lawyer acting for the party concerned must appear at the end of the pleading.

FORM AND CONTENT OF THE PRINCIPAL TYPES OF PLEADING

A. **Direct actions**

Application initiating proceedings

9. An application must contain the statements prescribed by Article 38(1) and (2) of the Rules of Procedure.

10. The following must appear at the beginning of each application:

    1. the applicant's name and address;

    2. the name and capacity of the applicant's agent or lawyer;

    3. the identity of the party or parties against whom the action is brought;

    4. the statements referred to in Article 38(2) of the Rules of Procedure (address for service in Luxembourg and/or agreement to service by telefax or any other technical means of communication).

11. In the case of an application for annulment, a copy of the contested measure must be annexed to the application and identified as such.

(*) The Court's postal address is:
Court of Justice of the European Communities
L-2925 LUXEMBOURG.

12. Each application should be accompanied by a summary of the pleas in law and main arguments relied on, intended to facilitate publication in the Official Journal of the notice prescribed by Article 16(6) of the Rules of Procedure, which will be prepared by the Registry. The summary in question must not be more than two pages long.

13. The precise wording of the forms of order sought by the applicant must be specified either at the beginning or the end of the application.

14. The introductory part of the application must be followed by a brief account of the facts giving rise to the dispute.

15. The structure of the legal argument must reflect the pleas in law relied upon. After the account of the facts giving rise to the dispute, a summary outline of those pleas in law should be given.

Defence

16. The defence must contain the statements prescribed by Article 40(1) of the Rules of Procedure.

17. In addition to the case-number and the applicant's name, the following must appear at the beginning of each defence:

    1. the defendant's name and address;

    2. the name and capacity of the defendant's agent or lawyer;

    3. an address for service in Luxembourg and/or agreement to service by telefax or other technical means of communication (second subparagraph of Article 40(1) of the Rules of Procedure).

18. The precise wording of the forms of order sought by the defendant must be specified either at the beginning or at the end of the defence.

19. The structure of the legal argument must, so far as is possible, reflect that of the pleas in law put forward in the application.

20. The factual and legal background is to be recapitulated in the defence only in so far as its presentation in the application is disputed or calls for further particulars. If any fact alleged by the other party is contested it must be clearly indicated and the basis on which it is challenged must be stated explicitly.

Reply and rejoinder

21. The reply and rejoinder must not recapitulate the factual and legal background except in so far as its presentation in the previous pleadings is disputed or, exceptionally, calls for further particulars. If any fact alleged by the other party is contested it must be clearly indicated and the basis on which it is challenged must be stated explicitly.

Statement in intervention

22. The statement in intervention must develop no arguments that are not new in relation to those put forward by the main party. It may be confined to a mere reference to the other arguments.

    The statement in intervention must not recapitulate the factual and legal background except in so far as its presentation in the previous pleadings is disputed or, exceptionally, calls for further particulars. If any fact alleged by the other party is contested it must be clearly indicated and the basis on which it is challenged must be stated explicitly.

B. **Appeals**

The appeal

23. An appeal must contain the statements prescribed by Article 112(1) of Rules of Procedure.

24. The following must appear at the beginning of each appeal:

    1. the appellant's name and address;

    2. the name and capacity of the appellant's agent or lawyer;

    3. the identification of the decision of the Court of First Instance appealed against (type of decision, formation of the Court, date and number of the case) and the names of the parties before the Court of First Instance;

    4. the date on which the decision of the Court of First Instance was notified to the appellant;

    5. an address for service in Luxembourg and/or agreement to service by telefax or other technical means of communication.

25. A copy of the decision of the Court of First Instance appealed against must be annexed to the appeal.

26. The appeal should be accompanied by a summary of the grounds of appeal and main arguments relied on, intended to facilitate publication in the Official Journal of the notice prescribed by Article 16(6) of the Rules of Procedure. The summary in question must not be more than two pages long.

27. The precise wording of the forms of order sought by the appellant must be specified either at the beginning or at the end of the appeal (Article 113(1) of Rules of Procedure).

28. It is not generally necessary to set out the background to the dispute or its subject matter; it will be sufficient to refer to the decision of the Court of First Instance.

29. The structure of the legal arguments must reflect the grounds, in particular errors of law, relied upon in support of the appeal. A summary outline of those grounds should be given at the beginning of the appeal.

Response

30. A response must contain the statements prescribed by Article 115(1) of the Rules of Procedure.

31. The following must appear at the beginning of each response, in addition to the case number and the appellant's name:

    1. the name and address of the party lodging it;

    2. the name and capacity of the agent or lawyer acting for that party;

    3. the date on which notice of the appeal was served on the party;

    4. an address for service in Luxembourg and/or agreement to service by telefax or any other technical means of communication.

32. The precise wording of the forms of order sought by the party lodging the response must be specified either at the beginning or at the end of the response.

33. If the response seeks an order setting aside, in whole or in part, the decision of the Court of First Instance on a plea in law not raised in the appeal, that fact must be indicated in the title of the pleading (Response and Cross-appeal).

34. The structure of the legal arguments must, so far as is possible, reflect the grounds of appeal put forward by the appellant and/or, as appropriate, the grounds put forward by way of cross-appeal.

35. Since the factual and legal background has already been set out in the judgment under appeal, it is to be recapitulated in the response only quite exceptionally, in so far as its presentation in the appeal is disputed or calls for further particulars. Any fact challenged must be clearly indicated, and the point of fact or law in question indicated explicitly.

Reply and rejoinder

36. As a rule, the reply and rejoinder will not recapitulate any more the factual and legal background. Any fact challenged must be clearly indicated, and the point of fact or law in question indicated explicitly.

Statement in intervention

37. The statement in intervention must develop no arguments that are not new in relation to those put forward by the main party. It may be confined to a mere reference to the other arguments.

    The statement in intervention must not recapitulate the factual and legal background except in so far as its presentation in the previous pleadings is disputed or, exceptionally, calls for further particulars. Any fact challenged must be clearly indicated, and the point of fact or law in question indicated explicitly.

ANNEXES TO PLEADINGS

38. Legal argument submitted for consideration by the Court must appear in the pleadings and not in the annexes.

39. Only documents mentioned in the actual text of a pleading and necessary in order to prove or illustrate its contents may be submitted as annexes.

40. Annexes will be accepted only if they are accompanied by a schedule of annexes (Article 37(4) of the Rules of Procedure). That schedule must indicate for each document annexed:

    1. the number of the annex;

    2. a short description of the document (e.g. 'letter', followed by its date, author and addressee and its number of pages);

3. a reference to the page and paragraph in the pleading at which the document is mentioned and from which the need to produce it is apparent.

41. If, for the convenience of the Court, copies of judgments, legal writings or legislation are annexed to a pleading, they must be separate from the other annexes.

42. Each reference to a document lodged must state the relevant annex number as given in the schedule of annexes in which it appears and indicate the pleading to which it is annexed. In appeal proceedings, where the document has already been produced before the Court of First Instance, the identification used for that document before the Court of First Instance must also be given.

DRAFTING AND LENGTH OF PLEADINGS

43. With a view to avoiding delay in proceedings, when drafting pleadings the following points in particular must be taken into consideration:

— the case is examined on the basis of the pleadings; in order to facilitate that examination, documents must be structured and concise and must avoid repetition,

— pleadings will, as a general rule, be translated; in order to facilitate translation and to make it as accurate as possible sentences should be simple in structure and vocabulary should be simple and precise,

— the time needed for translation and for examination of the case-file is proportionate to the length of the pleadings lodged, so that the shorter the pleadings, the swifter the disposal of the case.

44. It is the Court's experience that, save in exceptional circumstances, effective pleadings need not exceed 10 or 15 pages and replies, rejoinders and responses can be limited to 5 to 10 pages.

APPLICATIONS FOR EXPEDITED PROCEDURE

45. A party applying by separate document under Article 62a of the Rules of Procedure for a case to be decided by the Court by expedited procedure must briefly state the reasons for the special urgency of the case. Save in exceptional circumstances, that application must not exceed five pages.

46. As the expedited procedure is largely oral, the pleading of the party requesting it must be confined to a summary of the pleas relied upon. Such pleadings must not, save in exceptional circumstances, exceed 10 pages.

APPLICATIONS FOR LEAVE TO LODGE A REPLY IN APPEAL PROCEEDINGS

47. The President may, on application, allow a reply to be lodged if it is necessary in order to enable the appellant to defend its point of view or in order to provide a basis for the decision on the appeal.

Save in exceptional circumstances such an application must not exceed 2 to 3 pages and must be confined to summarising the precise reasons for which, in the appellant's opinion, a reply is necessary. The request must be comprehensible in itself without any need to refer to the appeal or the response.

APPLICATIONS FOR HEARING OF ORAL ARGUMENT

48. The Court may decide not to hear oral argument where none of the parties has applied to be heard (Articles 44a and 120 of the Rules of Procedure). In practice, it is rare for a hearing to be organised in the absence of such an application.

The application must specify why the party wishes to be heard. That reasoning must be based on a real assessment of the benefit of a hearing to the party in question and must indicate the documentary elements or arguments which that party considers it necessary to develop or disprove more fully at a hearing. It is not sufficient to provide a general statement of reasons referring to the importance of the case or of the questions to be decided.

PREPARATION AND CONDUCT OF HEARINGS

49. Before the hearing begins the agents or lawyers are called to a short meeting with the relevant formation of the Court, in order to plan the hearing. At that point the Judge-Rapporteur and the Advocate General may indicate the matters they wish to hear developed in the arguments.

50. Oral argument is limited to 30 minutes maximum before the full Court, the Grand Chamber or a chamber of five Judges and to 15 minutes maximum before a Chamber of three Judges. Before any formation the presentation of an intervener's argument is limited to 15 minutes maximum.

Speaking time may exceptionally be extended beyond those limits on application made to the President of the formation concerned together with a detailed statement of reasons. The application must reach the Court as soon as possible and in order to be taken into consideration, at the latest two weeks before the date of the hearing.

The notification of the hearing asks the agents and lawyers to inform the Registry of the likely duration of their oral arguments. The information supplied is used in the planning of the business of the Court and the Chambers, and it is not possible to exceed the speaking time requested.

51. Having read the written pleadings, the Judges and the Advocate General are already familiar with the case, its subject matter and the pleas in law and arguments put forward by the parties. The purpose of oral argument is not to present a party's point of view afresh but to clarify any matters which the agent or lawyer regards as particularly important, especially those referred to in the application for a hearing (see paragraph 42 above). Repetition of what has already been stated in the written pleadings must be avoided; if necessary, a reference to the pleadings during the course of the oral argument will suffice.

Oral submissions should begin by outlining the plan to be followed.

52. Very frequently the Judges and Advocate General will listen to oral argument via simultaneous interpretation. In order to make that interpretation possible, agents and lawyers should speak at a natural and unforced pace and use short sentences of simple structure.

It is inadvisable to read out a text prepared in advance. It is preferable to speak on the basis of properly structured notes. If the oral argument is, nevertheless, prepared in writing, account should be taken in drafting the text of the fact that it is to be delivered orally and ought therefore to come as close as possible to oral exposition. To facilitate interpretation, agents and lawyers are requested to send the text or written outline of their oral argument by fax in advance to the Interpretation Division (fax (352) 43 03 36 97).

Done at Luxembourg, 15 October 2004.

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(Information)

COURT OF JUSTICE

COURT OF JUSTICE

Notice

An information note addressed to the national courts concerning the preliminary ruling procedure before the Court of Justice was communicated to them by the competent national authorities in 1996. That note having shown itself to be of use in practice, the Court has taken steps to bring it up to date in the light of experience and now considers it appropriate to distribute it by means of publication in the Official Journal of the European Union.

INFORMATION NOTE

on references from national courts for a preliminary ruling

(2005/C 143/01)

1. The preliminary ruling system is a fundamental mechanism of European Union law aimed at enabling national courts to ensure uniform interpretation and application of that law in all the Member States.

2. The Court of Justice of the European Communities has jurisdiction to give preliminary rulings on the interpretation of the law of the European Union and on the validity of acts of secondary legislation. That general jurisdiction is conferred on it by Article 234 of the EC Treaty and, in certain specific cases, by other provisions.

3. The preliminary ruling procedure being based on cooperation between the Court and national courts, it may be helpful, in order to ensure that that cooperation is effective, to provide the national courts with the following information.

4. This practical information, which is in no way binding, is intended to provide guidance to national courts as to whether it is appropriate to make a reference for a preliminary ruling and, should they proceed, to help them formulate and submit questions to the Court.

The role of the Court in the preliminary ruling procedure

5. Under the preliminary ruling procedure, the Court's role is to give an interpretation of Community law or to rule on its validity, not to apply that law to the factual situation underlying the main proceedings, which is the task of the national court. It is not for the Court to decide issues of fact raised in the main proceedings or to resolve differences of opinion on the interpretation or application of rules of national law.

6. In ruling on the interpretation or validity of Community law, the Court makes every effort to give a reply which will be of assistance in resolving the dispute, but it is for the referring court to draw the appropriate conclusions from that reply, if necessary by disapplying the rule of national law in question.

The decision to submit a question to the Court

The originator of the question

7. Under Article 234 of the EC Treaty and Article 150 of the EAEC Treaty, any court or tribunal of a Member State, in so far as it is called upon to give a ruling in proceedings intended to arrive at a decision of a judicial nature, may as a rule refer a question to the Court for a preliminary ruling. The status of that court or tribunal is interpreted by the Court as a self-standing concept of Community law.

8. However, in the specific sphere of acts of the institutions in Title IV of Part Three of the EC Treaty on visa, asylum, immigration and other policies related to free movement of persons — in particular jurisdiction and the recognition and enforcement of judicial decisions — a reference may be made only by courts or tribunals against the decisions of which there is no appeal, in accordance with Article 68 of the EC Treaty.

9. Likewise, under Article 35 of the Treaty on European Union, acts of the institutions in the area of police and judicial cooperation in criminal matters may be the subject of a reference for a preliminary ruling only from courts in the Member States which have accepted the jurisdiction of the Court, each Member State specifying whether that right of referral to the Court applies to any court or tribunal of that State or only to those against the decisions of which there is no appeal.

10. It is not necessary for the parties in the case to raise the question; the national court may do so of its own motion.

References on interpretation

11. Any court or tribunal **may** refer a question to the Court on the interpretation of a rule of Community law if it considers it necessary to do so in order to resolve a dispute brought before it.

12. However, courts or tribunals against whose decisions there is no judicial remedy under national law **must,** as a rule, refer such a question to the Court, unless the Court has already ruled on the point (and there is no new context that raises any serious doubt as to whether that case-law may be applied), or unless the correct interpretation of the rule of Community law is obvious.

13. Thus, a court or tribunal against whose decisions there is a judicial remedy may, in particular when it considers that sufficient clarification is given by the case-law of the Court, itself decide on the correct interpretation of Community law and its application to the factual situation before it. However, a reference for a preliminary ruling may prove particularly useful, at an appropriate stage of the proceedings, when there is a new question of interpretation of general interest for the uniform application of Community law throughout the Union, or where the existing case-law does not appear to be applicable to a new set of facts.

14. It is for the national court to explain why the interpretation sought is necessary to enable it to give judgment.

References on determination of validity

15. Although national courts may reject pleas raised before them challenging the validity of Community acts, the Court has exclusive jurisdiction to declare such acts invalid.

16. All national courts **must** therefore refer a question to the Court when they have doubts about the validity of a Community act, stating the reasons for which they consider that the Community act may be invalid.

17. If a national court has serious doubts about the validity of a Community act on which a national measure is based, it may exceptionally suspend application of that measure temporarily or grant other interim relief with respect to it. It must then refer the question of validity to the Court of Justice, stating the reasons for which it considers the Community act to be invalid.

The stage at which to submit a question for a preliminary ruling

18. A national court or tribunal may refer a question to the Court of Justice for a preliminary ruling as soon as it finds that a ruling on the point or points of interpretation or validity is necessary to enable it to give judgment; it is the national court which is in the best position to decide at what stage of the proceedings such a question should be referred.

19. It is, however, desirable that a decision to seek a preliminary ruling should be taken when the proceedings have reached a stage at which the national court is able to define the factual and legal context of the question, so that the Court has available to it all the information necessary to check, where appropriate, that Community law applies to the main proceedings. It may also be in the interests of justice to refer a question for a preliminary ruling only after both sides have been heard.

The form of the reference for a preliminary ruling

20. The decision by which a national court or tribunal refers a question to the Court of Justice for a preliminary ruling may be in any form allowed by national law as regards procedural steps. It must however be borne in mind that it is that document which serves as the basis of the proceedings before the Court and that it must therefore contain such information as will enable the latter to give a reply which is of assistance to the national court. Moreover, it is only the actual reference for a preliminary ruling which is notified to the parties entitled to submit observations to the Court, in particular the Member States and the institutions, and which is translated.

21. Owing to the need to translate the reference, it should be drafted simply, clearly and precisely, avoiding superfluous detail.

22. A maximum of about ten pages is often sufficient to set out in a proper manner the context of a reference for a preliminary ruling. The order for reference must be succinct but sufficiently complete and must contain all the relevant information to give the Court and the parties entitled to submit observations a clear understanding of the factual and legal context of the main proceedings. In particular, the order for reference must:

— include a brief account of the subject-matter of the dispute and the relevant findings of fact, or, at least, set out the factual situation on which the question referred is based;

— set out the tenor of any applicable national provisions and identify, where necessary, the relevant national case-law, giving in each case precise references (e.g. page of an official journal or specific law report, with any internet reference);

— identify the Community provisions relevant to the case as accurately as possible;

— explain the reasons which prompted the national court to raise the question of the interpretation or validity of the Community provisions, and the relationship between those provisions and the national provisions applicable to the main proceedings;

— include, where appropriate, a summary of the main arguments of the parties.

In order to make it easier to read and refer to the document, it is helpful if the different points or paragraphs of the order for reference are numbered.

23. Finally, the referring court may, if it considers itself to be in a position to do so, briefly state its view on the answer to be given to the questions referred for a preliminary ruling.

24. The question or questions themselves should appear in a separate and clearly identified section of the order for reference, generally at the beginning or the end. It must be possible to understand them without referring to the statement of the grounds for the reference, which however provides the necessary background for a proper assessment.

The effects of the reference for a preliminary ruling on the national proceedings

25. A reference for a preliminary ruling in general calls for the national proceedings to be stayed until the Court has given its ruling.

26. However, the national court may still order protective measures, particularly in a reference on determination of validity (see point 17 above).

Costs and legal aid

27. Proceedings for a preliminary ruling before the Court are free of charge and the Court does not rule on the costs of the parties to the main proceedings; it is for the national court to rule on those costs.

28. If a party has insufficient means and where possible under national rules, the national court may grant that party legal aid to cover the costs, including those of lawyers' fees, which it incurs before the Court. The Court itself may also grant legal aid.

Communication between the national court and the Court of Justice

29. The order for reference and the relevant documents (including, where applicable, the case file or a copy of the case file) are to be sent by the national court directly to the Court of Justice, by registered post (addressed to the Registry of the Court of Justice of the European Communities, L-2925 Luxembourg, telephone + 352-4303-1).

30. The Court Registry will stay in contact with the national court until a ruling is given, and will send it copies of the procedural documents.

31. The Court will send its ruling to the national court. It would welcome information from the national court on the action taken upon its ruling in the national proceedings and, where appropriate, a copy of the national court's final decision.

INFORMATION NOTE
on references from national courts for a preliminary ruling

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SUPPLEMENT
following the implementation of the urgent preliminary ruling procedure applicable to references concerning the area of freedom, security and justice

1. This note is supplementary to the existing information note on references from national courts for a preliminary ruling, [1] and provides practical information on the new urgent preliminary ruling procedure applicable to references concerning the area of freedom, security and justice. The procedure is governed by Article 23a of the Protocol on the Statute of the Court of Justice and Article 104b of its Rules of Procedure. [2]

2. This information is intended to assist national courts proposing to request the application of the urgent preliminary ruling procedure, and to facilitate the Court's handling of that request. In common with the existing information note, it is in no way binding.

Conditions for the application of the urgent preliminary ruling procedure

3. The urgent preliminary ruling procedure is applicable only in the areas covered by Title VI (Articles 29 to 42) of the Treaty on European Union concerning police and judicial cooperation in criminal matters, [3] and Title IV (Articles 61 to 69) of Part Three of the EC Treaty concerning visas, asylum, immigration and other policies related to free movement of persons, [4] including judicial cooperation in civil matters.

4. Although a reference for a preliminary ruling generally calls for the national proceedings to be stayed until the Court has given its ruling, the referring court may still order protective measures to safeguard the interests of the parties pending the judgment of the Court, particularly as regards a national administrative measure based on a Community act which is the subject of a reference for a preliminary ruling on validity.

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1 See OJ 2005 C 143, pp. 1 to 4.
2 See OJ 2008 L 24, pp. 39 to 43.
3 As regards the power to make a reference to the Court, see Article 35 of the Treaty on European Union and the table of declarations made by the Member States in accordance with that provision.
4 As regards the power to make a reference to the Court, see Article 68 of the Treaty establishing the European Community.

5. The Court decides whether the urgent procedure is to be applied. Such a decision is generally taken only on a reasoned request from the referring court. Exceptionally, the Court may decide of its own motion to deal with a reference under the urgent preliminary ruling procedure, where that appears to be required.

6. The urgent procedure simplifies the various stages of the proceedings before the Court, but its application entails significant constraints for the Court and for the parties and other interested persons participating in the procedure, particularly the Member States.

7. It should therefore be requested only where it is absolutely necessary for the Court to give its ruling on the reference as quickly as possible. Although it is not possible to provide an exhaustive list of such situations, particularly because of the varied and evolving nature of Community rules governing the area of freedom, security and justice, a national court or tribunal might, for example, consider submitting a request for the urgent procedure to be applied in the following situations: in the case of a person detained or deprived of his liberty, where the answer to the question raised is decisive as to the assessment of that person's legal situation or, in proceedings concerning parental authority or custody of children, where the identity of the court having jurisdiction under Community law depends on the answer to the question referred for a preliminary ruling.

The request for application of the urgent preliminary ruling procedure

8. To enable the Court to decide quickly whether the urgent preliminary ruling procedure should be applied, the request must set out the matters of fact and law which establish the urgency and, in particular, the risks involved in following the normal preliminary ruling procedure.

9. In so far as it is able to do so, the referring court should briefly state its view on the answer to be given to the question(s) referred. Such a statement makes it easier for the parties and other interested persons participating in the procedure to define their positions and facilitates the Court's decision, thereby contributing to the rapidity of the procedure.

10. The request for the urgent preliminary ruling procedure must be submitted in a form that enables the Registry of the Court to establish immediately that the file must be dealt with in a particular way. Accordingly, the request should be submitted in a document separate from the order for reference itself, or in a covering letter expressly setting out the request.

11. As regards the order for reference itself, it should be noted that relevant information is already contained in points 20 to 24 of the information note on references from national courts for a preliminary ruling. It is particularly

important in an urgent situation that the order for reference should be succinct, as it helps to ensure the rapidity of the procedure.

Communication between the Court of Justice, the national court and the parties

12. As regards communication with the national court or tribunal and the parties before it, national courts or tribunals which submit a request for an urgent preliminary ruling procedure are requested to state the e-mail address or any fax number which may be used by the Court, together with the e-mail addresses or any fax numbers of the representatives of the parties to the proceedings.

13. A copy of the signed order for reference together with a request for the urgent preliminary ruling procedure can initially be sent to the Court by e-mail (ECJ-Registry@curia.europa.eu) or by fax (+352 43 37 66). Processing of the reference and of the request can then begin upon receipt of the e-mailed or faxed copy. The originals of those documents must, however, be sent to the Registry of the Court as soon as possible.

Jurisdiction of the Court of Justice to give preliminary rulings on police and judicial cooperation in criminal matters

Member State	Declaration under Article 35(2) EU	Option chosen (point (a) or point (b) of Article 35(3) EU)	Reservation pursuant to Declaration No 10 annexed to the Amsterdam Final Act (Declaration on Article 35 EU (formerly Article K.7))	Information published in OJ [1]	Provisions of national law adopted further to the reservation pursuant to Declaration No 10
Germany	yes	point (b)	yes	1999 L 114, p. 56 1999 C 120, p. 24	Gesetz betreffend die Anrufung des Gerichtshofs der Europäischen Gemeinschaften im Wege des Vorabentscheidungsverfahrens auf dem Gebiet der polizeilichen Zusammenarbeit und der justitiellen Zusammenarbeit in Strafsachen nach Art. 35 des EU-Vertrages (EuGH-Gesetz) vom 6. 8. 1998 BGBl. 1998 I, p.2035
Austria	yes	point (b)	yes	1999 L 114, p. 56 1999 C 120, p. 24	Bundesgesetz über die Einholung von Vorabentscheidungen des Gerichtshofs der Europäischen Gemeinschaften auf dem Gebiet der polizeilichen Zusammenarbeit und der justitiellen Zusammenarbeit in Strafsachen BGBl. I N°89/1999
Belgium	yes	point (b)	yes	1999 L 114, p. 56 1999 C 120, p. 24	*
Bulgaria	*				
Cyprus	*				
Denmark	no	-	-	-	-
Spain	yes	point (a)	yes	1999 L 114, p. 56 1999 C 120, p. 24	Ley Orgánica 9/1998, de 16 de diciembre BOE 17 de diciembre 1998, núm. 301/1998 [pág. 42266]
Estonia	*				
Finland	yes	point (b)	no	1999 L 114, p. 56 1999 C 120, p. 24	-
France	yes	point (b)	yes	2005 L 327, p. 19 2005 C 318, p. 1	Décret n° 2000-668 du 10 juillet 2000 Journal Officiel de la République française du 19.07.00, p. 11073
Greece	yes	point (b)	no	1999 L 114, p. 56 1999 C 120, p. 24	-
Hungary	yes	point (b) [2]	no	2005 L 327, p. 19 2005 C 318, p. 1 2008 L 70, p. 23 2008 C 69, p. 1	-

Member State	Declaration under Article 35(2) EU	Option chosen (point (a) or point (b) of Article 35(3) EU)	Reservation pursuant to Declaration No 10 annexed to the Amsterdam Final Act (Declaration on Article 35 EU (formerly Article K.7))	Information published in OJ	Provisions of national law adopted further to the reservation pursuant to Declaration No 10
Ireland	no	-	-	-	-
Italy	yes	point (b)	yes	1999 L 114, p. 56 1999 C 120, p. 24	*
Latvia	yes	point (b)	no	2008 L 70, p. 23 2008 C 69, p. 1	*
Lithuania	yes	point (b)	no	2008 L 70, p. 23 2008 C 69, p. 1	-
Luxembourg	yes	point (b)	yes	1999 L 114, p. 56 1999 C 120, p. 24	*
Malta	*				
Netherlands	yes	point (b)	yes	1999 L 114, p. 56 1999 C 120, p. 24	*
Poland	*				
Portugal	yes	point (b)	no	1999 L 114, p. 56 1999 C 120, p. 24	-
Czech Republic	yes	point (b)	yes	2003 L 236, p. 980	§ 109 odst. 1 písm. d) OSŘ ve znění zákona č. 555/2004 Sb. Parlamentu České republiky, kterým se mění zákon č. 99/1963 Sb., občanský soudní řád, ve znění pozdějších předpisů, zákon č. 150/2002 Sb., soudní řád správní, ve znění pozdějších předpisů, zákon č. 549/1991 Sb., o soudních poplatcích, ve znění pozdějších předpisů, a zákon č. 85/1996 Sb., o advokacii, ve znění pozdějších předpisů
Romania	*				
United Kingdom	no	-	-	-	-
Slovakia	*				
Slovenia	yes	point (b)	yes	2008 L 70, p. 23 2008 C 69, p. 1	*
Sweden	yes	point b)	no	1999 L 114, p. 56 1999 C 120, p. 24	-

* No official information available.

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1 A summary report on the declarations concerning acceptance was published, in identical terms, in OJ 2008 L 70, p. 23, and OJ 2008 C 69, p. 1.

2 According to the information published in OJ 2008 L 70, p. 23, and OJ 2008 C 69, p. 1, the Republic of Hungary has withdrawn its previous declaration (see OJ 2005 L 327, p. 19, and 2005 C 318, p.1) that it accepted the jurisdiction of the Court of Justice of the European Communities in accordance with the arrangements laid down in Article 35(2) and (3)(a) of the Treaty on European Union and has declared that it accepts the jurisdiction of the Court of Justice of the European Communities in accordance with the arrangements laid down in Article 35(2) and (3)(b) of the Treaty on European Union. This is consistent with Decision (Kormányhatározat) 2088/2003 (V.15) of the Hungarian Government, according to which the Republic of Hungary accepts the jurisdiction of the Court of Justice in accordance with the arrangements laid down in Article 35(3)(b) EU.

Article 35 (formerly Article K.7) of the Treaty on European Union

1. The Court of Justice of the European Communities shall have jurisdiction, subject to the conditions laid down in this article, to give preliminary rulings on the validity and interpretation of framework decisions and decisions, on the interpretation of conventions established under this title and on the validity and interpretation of the measures implementing them.

2. By a declaration made at the time of signature of the Treaty of Amsterdam or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice to give preliminary rulings as specified in paragraph 1.

3. A Member State making a declaration pursuant to paragraph 2 shall specify that either:

(a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment; or

(b) any court or tribunal of that State may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

…

Declaration (No 10) on Article 35 (formerly Article K.7) of the Treaty on European Union *(annexed to the Amsterdam Final Act)*

The Conference notes that Member States may, when making a declaration pursuant to Article [35(2)] of the Treaty on European Union, reserve the right to make provisions in their national law to the effect that, where a question relating to the validity or interpretation of an act referred to in Article [35(1)] is raised in a case pending before a national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal will be required to refer the matter to the Court of Justice.

NOTES

FOR THE GUIDANCE OF

COUNSEL

Notes for the guidance of Counsel [1]
in written and oral proceedings before the Court of Justice
of the European Communities

January 2007

[1] The word "Counsel" is used in a non-technical sense so as to include all those appearing before the Court and acting as advocate, whatever their capacity or technical status.

Postal address:	Court of Justice of the European Communities L 2925 Luxembourg
Telephone (switchboard):	4303-1
Fax:	Registry 43 37 66 Interpreters 4303-3697 Press Office 4303-2500 Switchboard 4303-2600
E-mail:	ecj.registry@curia.europa.eu
Website:	http:/www.curia.europa.eu

Introduction

Two factors distinguish proceedings before the Court of Justice from those before certain national supreme courts. Firstly, proceedings before the Court of Justice are governed by strict rules of law contained in the Treaties, the Protocol on the Statute of the Court and its Rules of Procedure. The Court is thus not in a position to make exceptions to them. Secondly, proceedings before the Court are subject to rules on the use of languages appropriate to a multilingual Community, a fact which influences the nature and purpose of both the written and the oral procedure (see A.3 and C.4 below).

Accordingly, this guide is designed to explain to Counsel the purpose of proceedings before the Court, in order to enhance the quality of judicial protection within the Community legal order and ensure the rapid and effective conduct of cases.

This guide should therefore be seen as a working tool intended to enable Counsel to present their written and oral pleadings in the form which the Court of Justice considers most fitting. At the same time, attention will be drawn to the Court's procedural practice. However, this guide is intended neither to lay down legal rules in itself nor to override the relevant provisions in force.

In these notes, references to "Article ... EC", "Article ... of the Statute" and "Article ... of the RP" are respectively references to articles of the EC Treaty, of the Statute of the Court of Justice and of the Rules of Procedure of the Court. The version of the Rules of Procedure at present in force was adopted on 19 June 1991 (Official Journal 1991 L 176, p. 1) and was amended on 21 February 1995 (OJ 1995 L 44, p. 61), 11 March 1977 (OJ 1997 L 103, p. 1) 16 May 2000 (OJ 2000 L 122, p. 43) and on 28 November 2000 (OJ 2000 L 322, p. 1). A consolidated version of the Rules of Procedure was published in OJ C 34 of 1 February 2001. Since then, eight amendments have been made to the Rules of Procedure, on 3 April 2001 (OJ 2001 L 119, p. 1), on 17 September 2002 (OJ 2002 L 272, p. 24), on 8 April 2003 (OJ 2003 L 147, p. 17), on 19 April 2004 (OJ 2004 L 132, p. 2) on 20 April 2004 (OJ 2004 L 127, p. 107), on 12 July 2005 (OJ 2005 L 203, p. 19), on 18 October 2005 (OJ 2005 L 288, p. 51) and on 18 December 2006 (OJ 2006 L 386, p. 44).

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A. General points

1. The various stages of proceedings before the Court of Justice

Proceedings before the Court comprise a written phase followed by an oral phase (see the first paragraph of Article 20 of the Statute).

The oral procedure includes the presentation of oral argument at the hearing and the Advocate General's Opinion, which is delivered in open court. In accordance with the Rules of Procedure, the Court may dispense with a hearing of oral argument (see C.7 below) and, in accordance with the Statute, it may, where it considers that the case raises no new point of law and after hearing the Advocate General, decide to proceed to judgment without an Opinion from the Advocate General (fifth paragraph of Article 20 of the Statute).

The active participation of Counsel for parties to the proceedings concludes with the hearing at which oral argument is presented. Without prejudice to the possibility of the procedure being reopened for exceptional reasons, no observations of the parties following the Opinion may be included in the file.

2. Representation of the parties

a. The rule

The requirement that parties be represented is laid down in Article 19 of the Statute. Apart from Member States, EEA States and Community institutions, which are represented by their Agents, parties must be represented in all proceedings by a lawyer entitled to practise before a court of a Member State or other EEA State. The requirement of representation by a lawyer does not apply to applications for legal aid (see A.4.b. below), and, in certain circumstances, preliminary-ruling proceedings (see b. below).

University professors who are nationals of Member States whose law allows them to plead before courts are treated as Counsel by virtue of the seventh paragraph of Article 19 of the Statute.

Pursuant to Article 38(3) of the RP, Counsel are required, when lodging an application, to attach a certificate as to their right of audience before the courts of one of the Member States or another EEA State. A copy of the Lawyer's Professional Identity Card (issued by the CCBE) is accepted for this purpose.

b. Representation in preliminary ruling proceedings

The requirement of representation differs slightly in preliminary ruling proceedings (Article 104(2) of the RP). Any person empowered to represent or assist a party in the

proceedings before the national court may also do so before the Court of Justice. Consequently, if the rules of procedure applicable to proceedings before the national court do not require parties to be represented, the parties to those proceedings are entitled to submit their own written and oral observations.

3. Use of languages

A clear distinction must be drawn between the **language of the case**, which is governed by Article 29 et seq. of the RP, and the **working language** used within the Court.

All the official languages of the Member States of the E.C. can be the **language of the case**. However, each case has its "own" language. Only one language may therefore be chosen as the language of the case. An exception is made to this rule where cases are joined and the language of the case is different for each: in such circumstances each language used is a language of the case.

The provisions of Article 29 of the RP concerning that choice are very detailed but can be summarised in three sentences.

– In **direct actions**, the applicant has the right to choose the language of the case unless the defendant is a Member State or a natural or legal person who is a national of a Member State; in such cases, the language of the case is the official language (or one of the official languages where there are more than one) of that State.

– In **preliminary rulings**, the language of the case is always that of the national court making the reference.

– The Member States may use their own language where they intervene in a direct action or take part in preliminary-ruling proceedings.

The Judges and Advocates General are not required to use the language of the case. They are therefore at liberty to ask questions at the hearing in any of the official languages of the Communities even if it is not the language of the case.

The **working language of the Court** is the language used by the Members of the Court and its staff for day to day internal communication and work produced jointly. At present, the working language is French. Consequently, pleadings submitted in a language other than French are translated into French for the Court's internal purposes.

4. Costs and legal aid

a. Costs

Proceedings before the Court are free, in that no charge or fee of any kind is payable to the Court.

The costs referred to in Article 69 et seq. of the RP are only those costs which are described as "recoverable", namely lawyers' fees, payments to witnesses, post and telephone costs, and so forth, incurred by the parties themselves.

The rule concerning the **award of costs** is simple: the unsuccessful party is ordered to pay the costs and thus bears its own costs and those of the other parties, except Member States and institutions, which, when intervening, bear their own costs. For costs to be awarded on that basis, a request to that effect must be included as one of the orders sought ("conclusions") - if no such request is made the parties bear their own costs.

However, the Court may, according to the circumstances of the case, either order that the parties bear their own costs wholly or in part or even award costs against the successful party.

Special conditions apply to proceedings brought by officials (see Article 70 of the RP).

The Court gives a decision on costs in the judgment or order which brings the proceedings to an end.

With regard to costs incurred in preliminary ruling cases, the Court's decision incorporates a standard form of words referring to the final decision to be taken by the national court which made the reference to the Court of Justice. Institutions, Member States and other EEA States which submit observations bear their own costs.

b. Legal aid

Article 76 of the RP provides for legal aid. The Court has a limited budget for that purpose.

Any party may at any time apply for legal aid if he is "wholly or in part unable to meet the costs of the proceedings". The right to make such an application is not conditional upon the nature of the action or procedure. Thus, legal aid may also be applied for in a preliminary ruling case. However, in such a case, the party concerned must first seek legal aid from the competent authorities in his own country. In order to establish his lack of means, the person concerned must provide the Court with all relevant information, in particular a certificate from the competent authority to that effect.

Where legal aid is applied for before the commencement of proceedings, the party must give a brief description of the subject matter of the application in order to enable the Court to consider whether the application is not manifestly unfounded.

The obligation to be represented by Counsel does not apply to applications for legal aid.

An order granting or withholding legal aid is not subject to appeal. Where the application for legal aid is refused in whole or in part, the order will state the reasons for that refusal.

It must be emphasised that the grant of legal aid does not mean that the recipient of it cannot, if appropriate, be ordered to pay the costs. Moreover, the Court may take action to recover sums disbursed by way of legal aid.

B. The written procedure

1. The purpose of the written procedure

Regardless of the nature of the proceedings concerned (direct action, reference for a preliminary ruling, appeal), the purpose of the written procedure is always the same, namely to put before the Court, the Judges and the Advocate General, an exhaustive account of the facts, pleas and arguments of the parties and the forms of order sought.

In that connection, it is important to note that the entire procedure before the Court, in particular the written phase, is governed by the principle whereby new pleas may not be raised in the course of the proceedings, with the sole exception of those based on matters of law and fact which come to light in the course of the procedure.

The procedure before the Court does not therefore have the same flexibility as that allowed by certain national rules of procedure.

2. The conduct of the written procedure

The course of the written procedure differs according to the nature of the proceedings.

a. Direct actions

In direct actions, each litigant may submit two sets of pleadings: the application and the reply in the case of the applicant and the defence and rejoinder in the case of the defendant.

b. Appeals

In an appeal against a decision of the Court of First Instance, the parties may, in principle, submit only one set of pleadings, the application or response, depending on their respective roles. The possibility of a reply is subject to express authorisation from the President of the Court of Justice (see B.8.c. below).

c. Preliminary-ruling proceedings

In preliminary ruling proceedings, the persons referred to in Article 23 of the Statute may, within a mandatory period of two months after notification of the order for reference, submit their written observations (see B.9. below).

3. The lodgement of pleadings

All pleadings must be sent to the Registry of the Court in order to be registered in accordance with Article 37 of the RP. The original must be signed by Counsel for the party concerned. Copies must be certified by the party lodging them.

All documents relied on must be annexed to the relevant pleading, which must be accompanied by a schedule listing them.

In direct actions, the original pleading and all the annexes to it must be lodged together with five copies for the Court and, for the purposes of notification (see B.4. below), a copy for every other party to the proceedings.

Any pleading may be delivered by hand to the Court Registry or, outside the working hours of the Registry, to the security officer on duty at the main entrance to the Court building (Boulevard Konrad Adenauer, Plateau du Kirchberg). The Court building is open 24 hours a day.

If pleadings are sent by post, the envelope must bear the following address and nothing else:

Court of Justice of the European Communities

- Registry -

L - 2925 Luxembourg

4. Notification

a. The addressees

In direct actions, the following, inter alia, are notified to the parties concerned: applications, appeals, defences, replies, rejoinders, applications for interim measures and applications for leave to intervene.

References for a preliminary ruling from national courts, and the observations of those entitled to submit them under Article 23 of the Statute, are notified to the parties to the proceedings, to the Member States, to the Commission and, if appropriate, to the Council, or to the Council, the European Parliament and the European Central Bank, and to the other EEA States and the EFTA Supervisory Authority.

In all cases, the Report for the Hearing (if a hearing of oral argument takes place), the Opinion of the Advocate General, where delivered, and the judgment are notified to those taking part in the proceedings before the Court.

b. Address for service and consent to notification by fax or e-mail

In the case of direct actions, Article 38(2) of the RP provides that parties are to give an address for service in Luxembourg; the address given may be that of any natural person residing in Luxembourg, with the exception of officials of the Court of Justice. In such cases, due notification is deemed to take place upon receipt of the document in question by the person whose address has been given as the address for service.

As well as, or instead of, giving an address for service, the lawyer or agent for a party may consent to service by fax or any other technical means of communication. In such cases,

procedural documents, other than judgments and orders, will be notified by fax or e-mail and shall be deemed to have been duly served when such means are used.

However, where for technical reasons or on account of the nature or length of the document concerned transmission by fax or e-mail is not feasible, it will be sent to the party's address for service in Luxembourg or, if no address for service has been given, by registered post with a form for acknowledgment of receipt to the address of the party's lawyer or agent. The lawyer or agent will be informed by fax or e-mail that the document has been sent by that means and the postal dispatch shall be deemed to have been delivered to its addressee on the tenth day following the day on which it was lodged at the Luxembourg post office, unless it is shown by the acknowledgment of receipt that it was received on another date or the addressee informs the Registrar, within three weeks of being advised of the dispatch, that it has not reached its addressee (Article 79(2) of the RP).

A lawyer or agent who consents to service by fax or any other technical means of communication must indicate his fax number or e-mail address.

If no address for service in Luxembourg is given of if a party's lawyer or agent consents to service by fax or any other technical means of communication, procedural documents shall be sent by registered post to the address of the lawyer or agent in question and, in such cases, due service shall be deemed to have been effected by the lodging of the dispatch at the Luxembourg post office.

In the case of preliminary ruling proceedings, as there is no obligation to give an address for service, service is effected by registered post with a form for acknowledgement of receipt. A party may, however, expressly consent to service by fax or any other technical means of communication. In such cases, service will be effected in accordance with the procedures indicated above.

5. Procedural time limits

Procedural time limits are calculated in accordance with Article 80 et seq. of the RP. It must be emphasised that certain of those time limits cannot be extended – in particular, the time-limit for instituting proceedings (Articles 230 (formerly Article 173) and 232 (formerly Article 175) EC), the time-limit for applications for leave to intervene (Articles 93 and 123 of the RP), the time-limit for lodging a response (Article 115 of the RP) and the time-limit for lodging written observations in preliminary-ruling proceedings (Article 23 of the Statute).

a. Calculation of time-limits

A period which starts with the service of a pleading is reckoned from the time when the document is received at the address for service in Luxembourg, from the time when the document is received by the addressee when it is sent by registered post to the addressee or from the time of its transmission by fax or e-mail where the lawyer or agent has consented to service by those means of communication.

The day on which the document is received or sent is not included within the time limit (Article 80(1) of the Rules of Procedure).

b. Extension of time-limits on account of distance

Time limits are extended on account of distance by a fixed period of 10 days regardless of the place of establishment or habitual residence of the person concerned.

c. Curtailment of time-limits

The period within which a pleading must be lodged stops running when the original thereof is lodged.

However, the date on which a copy of the signed original of a procedural document, including where appropriate a list of the annexures to it, reaches the Registry by fax or by any other technical means of communication available to the Court (e-mail) shall be taken into account for the purpose of verifying compliance with time-limits, including those which cannot be extended, provided that the signed original of the document, accompanied by the annexures to it and the requisite copies, is lodged at the Registry within the ten days following that date. For transmission by e-mail, this means that a scanned version of the signed original of the document must be sent.

Transmission must without fail be directed either to the Registry fax number (+352) 433766 or to the e-mail address of the Registry: ecj.registry@curia.europa.eu.

d. Extension of time-limits for other reasons

Certain time limits laid down by the Rules of Procedure may be extended under Article 82 thereof, such as the period within which a defence must be lodged. An application for any such extension must be made in every case by the party concerned. The application must be made a reasonable time before the prescribed period has expired and reasons for the application must be given. For that purpose, it is helpful if the consent of the opposite party is lodged at the same time as the application for extension.

Applications for extensions may be submitted by fax.

6. Originating applications

a. The application in direct actions

The originating application must be submitted in accordance with Articles 37 and 38 of the RP. It is important to note that Article 38(1) of the RP is strictly applied (see Article 38(7) of the RP). Failure to observe mandatory conditions may, in certain cases, render the application formally inadmissible.

In principle, the language of the case is chosen by the applicant (Article 29 of the RP).

b. Applications initiating appeal proceedings

The conditions applicable to applications initiating appeal proceedings are laid down in Article 112 of the RP. Article 112(1) of the RP is strictly applied (see Article 112(3) of the RP).

The language of the case is that of the decision of the Court of First Instance against which the appeal is brought (see Article 110 of the RP).

c. The purpose common to all originating applications

Originating applications must place before the Court all matters of fact and law which justify the commencement of proceedings. At the same time, the application defines the scope of the proceedings – in principle, it is not permitted to raise new issues or add to the forms of order sought in the course of the proceedings (see also B.13.a. below).

d. Summary of pleas and arguments

It is desirable for all pleadings to be accompanied by a summary, comprising no more than two pages, of the pleas and arguments put forward. The summary ensures that the pleas and arguments relied upon are clearly identified for the purpose, in particular, of preparation of the Report for the Hearing by the Judge Rapporteur.

7. References for preliminary rulings

In preliminary rulings, proceedings before the Court are set in motion by the national court's decision to stay the proceedings before it and submit questions on Community law. The litigants before the national court are not entitled to make a reference to the Court of Justice on their own initiative, nor are they under any obligation to take any action before they are served with a copy of the order for reference by the Registry of the Court of Justice (see B.2.c. and B.4. above).

The order for reference, the form of which is governed by the rules of the national jurisdiction, is forwarded to the Court of Justice either by the registry of the national court or by the Judge himself. The Court of Justice has drawn up guidance notes for the use of national courts when submitting requests for preliminary rulings.

If Counsel propose the text of the order for reference, it is important that they give a clear account of the factual and legislative background so that the meaning of the questions is clear.

8. The other documents submitted in direct actions and appeals

a. The defence

The substantive conditions governing the defence are set out in Article 40 of the RP. In view of the prohibition of putting forward new pleas in law, which applies to all stages of the proceedings, the defendant must set out all matters of law and of fact available to him when drafting the defence.

b. The reply and the rejoinder

The reply is intended merely to respond to the pleas and arguments raised in the defence. All unnecessary repetition must be avoided.

Similarly, the sole purpose of the rejoinder is to respond to the pleas and arguments put forward in the reply.

Both replies and rejoinders are subject to the requirements of Article 42 of the RP and may not, in principle, put forward new pleas in law.

The lodgement of a reply or rejoinder is purely optional. With a view to expediting the written procedure, the parties are requested seriously to consider the possibility of waiving the right to lodge them.

An extension of the time allowed for lodging replies and rejoinders is granted only in exceptional circumstances.

c. The response, reply and rejoinder in appeal proceedings

The response to an appeal must fulfil the requirements of Article 115 of the RP. A reply may be lodged only with the express prior consent of the President following an application from the person concerned. That application must without fail be lodged within a period of seven days as from notification of the response. With a view to completion of the written procedure within the shortest possible time, parties are requested as far as possible to refrain from making such applications. A rejoinder may be lodged following a reply.

d. Summaries of pleas in law and arguments

It is desirable for the defence and other pleadings to be accompanied, in the same way as originating applications, by a summary, not exceeding two pages in length, of the pleas in law and arguments put forward.

9. Written observations in preliminary ruling proceedings

After receiving a copy from the Court Registry of the request for a preliminary ruling, the "interested parties" - the litigants before the national court, the Member States, the Commission and, if appropriate, the Council, the Parliament and the European Central Bank and, in some cases, the other EEA States and the EFTA Supervisory Authority - may submit a document, referred to as written observations, within a period of two months (extended on account of distance by a period of 10 days in all cases). This time limit is mandatory and cannot therefore be extended.

The purpose of the written observations is to suggest the answers which the Court should give to the questions referred to it, and to set out succinctly, but completely, the reasoning on which those answers are based. It is important to bring to the attention of the Court the factual circumstances of the case before the national court and the relevant provisions of the national legislation at issue.

It must be emphasised that none of the parties is entitled to reply in writing to the written observations submitted by the others. Any response to the written observations of other

parties must be made orally at the hearing. For that purpose, the written observations are notified to all the parties once the written procedure is completed and the necessary translations have been made.

The submission of written observations is strongly recommended since the time allowed for oral argument at the hearing is strictly limited. However, any party who has not submitted written observations retains the right to present oral argument, in particular his responses to the written arguments, at the hearing, if a hearing is held.

10. Stay of proceedings

Pursuant to Article 82a of the RP, the proceedings may be stayed:

– in the circumstances specified in Article 54 of the Statute where the Court of Justice and the Court of First Instance are called on to adjudicate at the same time on the same subject matter; the decision to stay the proceedings is a matter for the Court of Justice and the parties will not necessarily be given an opportunity to express their views;

– in all other cases, by decision of the President. The decision is taken after the views of the Advocate General have been heard and, save in the case of references for a preliminary ruling, those of the parties.

Whilst the proceedings are suspended, no period prescribed for any procedural steps by the parties will expire.

11. Applications for interim measures

a. Applications made directly to the Court of Justice

Applications for interim measures can be entertained only if they are made by a party to proceedings pending before the Court of Justice and relate to those proceedings. Notwithstanding that connection with the main proceedings, the application for interim measures must always be made in a separate document and must meet the conditions laid down by Article 83 of the RP. It may be presented at the same time as the originating application.

In view of the fact that applications for interim measures are made as a matter of urgency and of the need for rapid translation, applicants are requested to set out succinctly in their applications the pleas in fact and law on which their application is based. The application for interim measures should itself provide all the details needed to enable the President or the Court, as the case may be, to decide whether there are good grounds for the requested measures to be granted.

Once the application for interim measures has been served on him, the other party is traditionally allowed to submit written observations within a brief period, approximately one month.

It is only after those observations have been lodged that the President, with the Judge Rapporteur and Advocate General in attendance in some cases, hears the parties concerned (in public) and makes an order.

In cases of extreme urgency, the President may make an order immediately, that is to say within three or four days after the application for interim measures is made and without awaiting written observations from the other party. In such cases, the order is provisional, in that it does not bring the procedure on the interlocutory application to an end. The other party is then invited to submit written observations. The final stage, after the hearing, is a (second) order concluding the interlocutory proceedings which confirms or amends the first (provisional) order.

b. Appeals against interim orders made by the Court of First Instance

An appeal, limited to points of law, may be brought under Article 57 of the Statute against interim orders made by, in particular, the President of the Court of First Instance. Such appeals are subject to the same procedure as applications for the adoption of interim measures made directly to the Court of Justice.

12. Expedited procedures

In direct actions, where it is inappropriate to issue interim measures and the particular urgency of a case is such that the Court must give final judgment with a minimum of delay, Article 62a of the Rules of Procedure provides that exceptionally, by decision of the President, a case may be determined pursuant to an expedited procedure.

An application for a case to be decided under an expedited procedure must be made in a separate document lodged at the same time as the application initiating the proceedings or the defence, as the case may be.

Under the expedited procedure, the oral procedure takes on greater significance. The written procedure is normally limited to the application and the defence. It is recommended that those documents be kept as short and concise as possible.

The date of the hearing, which is mandatory under the expedited procedure, will be fixed once the defence has been lodged or, if the decision to adjudicate under an expedited procedure is not made until after the defence has been lodged, once that decision has been taken.

An expedited procedure is also available for preliminary-ruling proceedings (Article 104a of the RP). Application of that procedure may be requested only by the national court from which the order for reference emanates.

13. Intervention

Intervention is allowed only in direct actions and appeals. The forms of order sought in the application to intervene must be limited to supporting the submissions of one or other of the

parties. It must be borne in mind that the intervener is required to accept the case as it stands at the time of intervention.

The intervention procedure is twofold, comprising: (a) the action taken in order to obtain leave to intervene and (b) the actual participation of the intervener in the proceedings.

a. Action taken to obtain leave to intervene

A person wishing to intervene in a direct action must submit an application to intervene. The application must be submitted within a period of six weeks after publication of the notice in the Official Journal. An application lodged outside that time-limit may nevertheless be taken into account (see paragraph b. below). That document must contain all the information needed to enable the President or, in certain cases, the Court to make an order granting leave to intervene. Before the Court or the President makes an order, the original litigants are invited to submit written observations, and in exceptional cases even oral observations, as to whether or not intervention is admissible and appropriate. At the same time, they are asked to inform the Court whether they intend availing themselves of the right of confidentiality. If leave to intervene is granted, the party concerned is invited to lodge non confidential versions of its observations.

The application to intervene need not be in the language of the case.

b. The intervener's participation in the proceedings

Once leave to intervene has been granted, the intervener submits a statement in intervention. At that stage, the language of the case must be used, unless the intervener is a Member State.

The statement in intervention may be followed by observations from the parties.

However, if the application to intervene is lodged outside the normal time-limit for such applications, but before the decision to open the oral procedure has been taken, the intervener may submit his observations only orally at the hearing, if a hearing is held.

If a case is to be dealt with under the expedited procedure, an intervener may only make his submissions orally at the hearing.

14. Practical advice

a. The drafting and scheme of pleadings

There are no formal requirements applicable to pleadings (subject to compliance with rules laid down elsewhere); but they must be clear, concise and complete.

In view of the translation workload, in particular, and the time involved in translation, repetition must be avoided. The Court should be able, on a single reading, to apprehend the essential matters of fact and law.

Since in most cases pleadings will be read by the Judges and the Advocate General in a language other than that in which they are drafted, Counsel must always bear in mind that, if the meaning of a text is obscure in the original language, there is a risk that the translation will deepen the obscurity. That risk is aggravated by the fact that it is not always possible, in the transition from one language to another, to find a satisfactory, or even accurate, translation of the "legal jargon" which may be used before national courts.

Counsel should also remember the strict rule concerning the introduction of fresh pleas in law (see B.1, B.6.c and B.8.a above); they are not entitled to "reserve", even conditionally, pleas or arguments for subsequent pleadings or the hearing.

Ideally, the structure of pleadings should be clear and logical and they should be divided into separate parts with titles and paragraph numbers. In addition to a summary of the pleas in law and arguments, a table of contents may be useful in complex cases.

The pattern of originating applications may be outlined as follows:

– Details of the type of dispute involved, and of the kind of decision sought: action for annulment, application for interim measures, and so on.

– A brief account of the relevant facts.

– All the pleas in law on which the application is based.

– The arguments in support of each plea in law. They must include relevant references to the case law of the Court.

– The forms of order sought, based on the pleas in law and arguments.

In appeals, the forms of order sought are limited by Article 113 of the RP.

It is desirable for the defence and similar documents to follow closely the structure of the reasoning set out in the pleadings to which they constitute a response.

Written observations in preliminary rulings must set out:

– the relevant facts and the relevant provisions of national law,

– legal argument, including references to the case law of the Court,

– proposals for answers to be given by the Court to the questions submitted by the national court.

However, if the party concerned accepts the facts of the case as set out in the order for reference, he need merely say so.

b. Documents annexed to pleadings

It must be borne in mind that, pursuant to Article 37 of the RP, documents relied on by the parties must be annexed to pleadings. Unless there are exceptional circumstances and the parties consent, the Court will not take account of documents submitted outside the prescribed time limits or produced at the hearing.

Only relevant documents, on which the parties base their arguments, must be annexed to pleadings. Where documents are of some length, it is not only permissible, but indeed desirable, for the relevant extracts only to be annexed to the pleading and for a copy of the complete document to be lodged at the Registry.

Since annexes are not translated by the Court unless a Member of the Court so requests, the relevance of every document must be clearly indicated in the body of the pleading to which it is annexed.

The Court does not accept notes on which oral argument is to be based for inclusion in the file on the case (See C.4. below regarding the forwarding to the Interpretation Division of notes on which oral submissions are to be based.)

However, Counsel may in all cases send unofficial translations of pleadings and annexes, although, by virtue of Article 31 of the RP, such translations are not authentic.

c. Facts and evidence

The initial pleadings must indicate all evidence in support of each of the points of fact at issue. However, new evidence may be put forward subsequently (in contrast to the rule excluding new pleas in law), provided that adequate reasons are given to justify the delay.

The various forms of evidence upon which parties may rely are set out in Article 45(2) of the RP.

d. Citations

Counsel are requested, when citing a judgment of the Court, to give full details, including the names of the parties or, at least, the name of the applicant. In addition, when citing a passage from a judgment of the Court or from an Opinion of an Advocate General, they are requested to specify the page number and the number of the paragraph in which the passage in question is to be found.

To facilitate its work, the Court suggests as an appropriate form of citation that used in the judgments of the Court, for example: "judgment in Case 152/85 *Misset* [1987] ECR 223, paragraph ..."

C. Oral procedure

1. Preparation for the main hearing

Once the written procedure is completed and the necessary translations have been made, the Judge Rapporteur places the preliminary report before the general meeting, in which all the Members of the Court take part. At that meeting, the Judge Rapporteur, in consultation with the Advocate General, proposes any procedural or preparatory measures to be taken by the Court.

In most cases, the Court, at the suggestion of the Judge Rapporteur, decides to open the oral procedure without any preparatory inquiries. The exact date is fixed by the President.

a. Preparatory measures

At the same time, the Court decides on any preparatory measures to be taken, on a proposal from the Judge-Rapporteur in consultation with the Advocate General. Accordingly, in some cases the parties may be asked, before the hearing, either to provide better particulars of the forms of order sought by them and of their pleas in law in order to clarify obscure points, or to examine in greater detail issues which have not been adequately canvassed, or to concentrate their pleadings on the decisive issues or to commence their oral submissions by answering certain questions put to them by the Court. The parties' replies to those questions should be given either in writing within a period laid down by the Court, or orally during the hearing. Preparatory measures may be decided upon at a later stage by the Judge-Rapporteur and the Advocate General in consultation with the presiding Judge, but within a reasonable period, before Counsel have prepared their oral submissions.

A situation sometimes arises where the Court considers it appropriate to request coordination of oral submissions by several Counsel who are putting forward essentially the same views or of those of the Counsel called on to put forward the same views several times at the same hearing (for example in a direct action and related preliminary ruling proceedings).

Counsel are requested in all cases to take the initiative themselves to coordinate their oral submissions with a view to limiting the duration of the oral procedure.

b. The Report for the Hearing

A Report for the Hearing is prepared when the procedure in the case includes a hearing of oral argument (see C.7 below as regards dispensing with a hearing of oral argument). About three weeks before the hearing, the Report for the Hearing is sent to Counsel for the parties, interested parties and the other participants in the proceedings.

That Report, drawn up by the Judge-Rapporteur, comprises, for direct actions and appeals, a brief description of the relevant facts and applicable law, a note of the forms of order sought by the parties and the pleas in law relied upon, with, as a rule, the arguments put forward in support of the pleas being recorded only in summary form. For references for a preliminary ruling, the Report comprises a description of the legal and factual background to the case, a note of the questions referred and the answers proposed in the written observations lodged, with the arguments put forward in support of the proposed answers being, as a rule, not recorded.

After receiving the Report for the Hearing, the parties are invited to satisfy themselves that there are no errors in the information contained in the Report. If Counsel consider that errors are present, they are requested to inform the Registrar before the hearing – and to suggest such amendments as they consider appropriate. It must, however, be emphasised that the Report for the Hearing is, by its very nature, a report presented by the Judge-Rapporteur to the other Members of the Court and that it is for him to decide whether it need be amended.

2. The purpose of the oral procedure

In all cases (both direct actions and preliminary rulings) – except where a case is dealt with under the expedited procedure – and, in the light of the knowledge which the Court already possesses of all the documents lodged in the course of the written procedure, the purpose of the oral procedure is:

- to reply to any requests that may be made for the pleadings to be summarised;

- to provide a more detailed analysis of the dispute, by explaining and expounding the more complex points and those which are more difficult to grasp and to highlight the most important points;

- to submit any new arguments prompted by recent events occurring after the close of the written procedure which, for that reason, could not be set out in the pleadings;

- to answer the questions put by the Court;

In the case of references for a preliminary ruling, or in other proceedings where the written procedure merely consists in the lodging of a single set of pleadings, the purpose of the hearing is also to allow the parties and other interested persons to reply to the arguments put forward by other participants in their written pleadings.

The oral procedure must, however, involve no repetition of what has already been stated in writing. Participants at the hearing who have the same arguments to make should, wherever possible, avoid repeating points that have already been put forward at the same hearing.

3. Conduct of the oral procedure

Before the sitting commences, the Court invites Counsel to a brief private meeting in order to settle arrangements for the hearing. In some cases, at this stage, the Judge-Rapporteur or the Advocate General, or both, may indicate other matters which they would like to be developed in the oral observations.

As a rule, the hearing starts with oral argument from Counsel for the parties. This is followed by questions put to Counsel by the Members of the Court. The hearing concludes with brief responses from those Counsel who wish to make them.

The Members of the Court frequently interrupt Counsel when they are speaking in order to clarify points which appear to them to be of particular relevance.

4. The constraints of simultaneous interpretation

The Members of the Court do not necessarily follow the oral submissions in the language in which they are made but often listen to the simultaneous interpretation. This imposes certain constraints to which Counsel should, in their own interests, be attentive in order to ensure that what they say is perfectly understood by the Members of the Court. Counsel must therefore regard the interpreters as essential partners in presentation of their argument.

In the first place, it is highly inadvisable to read a text prepared in advance. The reason for this is that an address prepared in writing is generally made up of longer and more complicated sentences and which the speaker will be inclined to read too quickly to allow for satisfactory interpretation. In the interests of Counsel themselves, it is preferable for them to speak on the basis of well-structured notes, using simple terms and short sentences.

In cases where Counsel prefers to follow a text, the same advice applies: simple terms and short sentences should be used and the text should be read at normal talking speed.

For the same reasons, it is desirable for Counsel to give details of the proposed structure of their submissions before dealing with any matter in detail.

Before attending the hearing, the interpreters carefully study the entire file on the case. If, as soon as possible, Counsel forward all relevant information concerning the probable content of their oral submissions (possibly the notes on which they are to be based), the interpreters will be able to complete their preparatory work, give a better rendering of the oral submissions and ensure that they are not disconcerted by technical terms, citations of texts or figures.

Such information should be sent to the Court's Directorate for Interpretation by fax (Luxembourg (352) 4303 3697) or email (interpret@curia.eu). That text will be communicated only to the interpreters. To obviate any misunderstanding, the name of the party must be indicated in the text.

Finally, it should be borne in mind that Counsel will not be heard by the interpreters unless they speak directly into the microphone.

5. Time allowed for addressing the Court

As a general rule, the period initially allowed to each main party is limited to a maximum of 30 minutes, limited, however, to a maximum of 15 minutes before Chambers composed of three Judges. The time allowed to interveners is limited to a maximum of 15 minutes. (This limitation applies only to oral argument properly so called and does not include the time taken to reply to questions put by Members of the Court).

Exceptions to this rule may be allowed by the Court in order to put the parties on an equal footing. For that purpose, an application must be sent to the Registrar of the Court, giving a detailed explanation and indicating the time considered necessary. In order to be taken into account, such applications must reach the Court at least 15 days before the date of the hearing. The decision on the application will be notified to the applicant at least one week before the hearing.

Any party who indicates that a shorter period will be sufficient must keep to the period allowed.

Having regard to the purpose of the hearing, experience shows that the time allowed for oral submissions is generally not fully used by Counsel accustomed to appearing before the Court. A period for oral submissions of less than 20 minutes is usually sufficient.

For reasons connected with the efficient conduct of the hearing, *only one person per party to the proceedings is, as a rule, permitted to present oral argument*. Where a party is represented by more than one person, following a duly reasoned application in writing made at least two weeks before the date of the hearing, at most two of them may present oral argument and the overall duration of their oral arguments may not exceed the time for such presentation stated above. The answers to questions put by the Members of the Court and the final replies may, however, be given by counsel other than the one who has presented oral argument.

Where several parties defend the same point of view before the Court (a situation which arises particularly where there are interventions or cases are joined), their Counsel are invited to confer with each other before the hearing so as to avoid any repetition.

The President of the Court or Chamber hearing the case will seek to ensure observance of the principles set out above, as regards both the purpose of the oral procedure, that is to say the actual content of the oral submissions, and the time allowed for addressing the Court.

6. The need for oral submissions

It is for each Counsel to judge, in the light of the purpose of the oral procedure, as defined above, whether oral argument is really necessary or whether a simple reference to the written observations or pleadings would suffice. The Court would like to stress that if a party refrains from presenting oral argument, this will never be construed as constituting acquiescence in the oral argument presented by another party.

In that connection, it goes without saying that the Court takes account of the procedural constraints inherent in preliminary ruling cases, in which only the oral procedure gives the parties an opportunity to respond to the written observations of another "interested party" and, if necessary, to take a position regarding new developments.

7. Omission of the hearing

The Rules of Procedure allow the oral procedure to be dispensed with unless one of the litigants or, in preliminary-ruling proceedings, an interested party taking part in the procedure has lodged a request for a hearing to be held, giving the reasons for which that litigant or interested party wishes to be heard.

A request for a hearing of the kind referred to above must, under the Rules of Procedure (Article 44a, Article 104(4) and Article 120) be lodged within three weeks after the person concerned has been notified of the conclusion of the written procedure or, in the case of preliminary-ruling proceedings, notification to the litigants and other interested parties of the written observations submitted. Reference to the necessity of lodging such an application to avoid possible omission of a hearing will be made in the letter from the Registry giving notice of conclusion of the written procedure or, in the case of preliminary-ruling proceedings, forwarding the written observations submitted. The period of three weeks for submitting such an application may be extended in response to a duly reasoned request.

8. The hearing of applications for interim measures

Before an order granting interim measures is made, the views of the parties concerned may be heard by the President, with the Judge Rapporteur and the Advocate General in attendance in some cases. The hearing is public and takes place about two to four weeks before the President, or, where appropriate, the Court, makes an order on the application. Such hearings are much less formal than the main hearing. In practice, the President starts by summarising, orally, the difficulties involved in the case. He then invites the parties to express their views on those difficulties. The hearing ends with questions put to the parties.

Where the matter is referred to the Court, the hearing before the formation dealing with the case follows the usual procedure.

It must be borne in mind that such hearings are not intended to enable the parties to address the merits of the case.

9. Practical advice

a. Postponement of hearings

The Court grants requests for postponement only for compelling reasons.

b. Entrance to the building

As a security measure, access to the Court building is controlled. Counsel are therefore requested kindly to produce their professional card, identity card, passport or some other means of identification.

c. Dress

Except at hearings of applications for interim measures, lawyers are required to appear before the Court in their robes. The Court always has a number of plain robes available to help out those who have forgotten their own.

Registry of the Court of Justice

Bd Konrad Adenauer
L-2925 Luxembourg

Tel.: (352) 4303-1
fax: (352) 43 37 66
e-mail: ECJ.Registry@curia.europa.eu

Procedural documents and any correspondence concerning cases before the Court are to be sent to the Registry of the Court of Justice at the address above or by delivering the documents or correspondence directly to the Registry offices at the Court (Boulevard Konrad Adenauer, Luxembourg-Kirchberg), or, outside office hours, to the reception desk at the Court.
Transmission of a procedural document by fax or e-mail first is taken into consideration for the purposes of procedural time-limits provided that such transmission and the subsequent lodgement of the document comply with the requirements laid down in the Rules of Procedure. Such transmissions must be sent to the fax number or the e-mail address indicated above.

Owing to technical difficulties, messages above a certain size (around 4Mb) cannot successfully be transmitted by electronic mail. To ensure that such messages are received correctly by the addressee, please either send the scanned document in several parts or transmit it by fax.

See also:
- Rules of Procedure of the Court of Justice
- Notes for the guidance of Counsel

Court of First instance

- Extracts of Treaties
- Statute of the Court of Justice (1-3-2008)
- Rules of Procedure of the Court of First Instance (1-9-2008)
- Instructions to the registrar of the Court of First Instance of the European Communities (5-9-2007)
- Court of First Instance Practice Directions to parties (5-9-2007)
- Election of the President of the Court of First Instance of the European Communities - Election of Presidents of the Chambers - Assignment of Judges to the Chambers (OJ 2007 C 269)
- Appeal Chamber - Criteria for assigning cases to Chambers (OJ 2007 C 269)
- Designation of the Judge replacing the President as the Judge hearing applications for interim measures (OJ 2008 C 171)
- Lodging of procedural documents
- Legal aid application form

RULES OF PROCEDURE OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES OF 2 MAY 1991

(OJ L 136 of 30 May 1991; corrigendum published in OJ L 317 of 19.11.1991, p. 34)

as amended:
(1) on 15.9.1994 (OJ L 249 of 24.9.1994, p. 17)
(2) on 17.2.1995 (OJ L 44 of 28.2.1995, p. 64)
(3) on 6.7.1995 (OJ L 172 of 22.7.1995, p. 3)
(4) on 12.3.1997 (OJ L 103 of 19.4.1997;
corrigendum published in OJ L 351 of 23.12.1997, p. 72)
(5) on 17.5.1999 (OJ L 135 of 29.5.1999, p. 92)
(6) on 6.12.2000 (OJ L 322 of 19.12.2000, p. 4)
(7) on 21.05.2003 (OJ L 147 of 14.06.2003, p. 22)
(8) on 19.04.2004 (OJ L 132 of 29.04.2004, p. 3)
(9) on 21.04.2004 (OJ L 127 of 29.04.2004, p. 108)
(10) on 12.10.2005 (OJ L 298 of 15.11.2005, p.1)
(11) on 18.12.2006 (OJ L 386 of 29.12.2006, p. 45)
(12) on 12.06.2008 (OJ L 179 of 08.07.2008, p. 12)

INTERPRETATION

Article 1 (2)(7)

In these Rules:

– ‘EC Treaty’ means the Treaty establishing the European Community;

‘EAEC Treaty’ means the Treaty establishing the European Atomic Energy Community (Euratom);

– ‘Statute of the Court of Justice’ means the Protocol on the Statute of the Court of Justice;

– ‘EEA Agreement’ means the Agreement on the European Economic Area.

For the purposes of these Rules:

– ‘institutions’ means the institutions of the Communities and bodies which are established by the Treaties, or by an act adopted in implementation thereof, and which may be parties before the Court of First Instance;

– ‘EFTA Surveillance Authority’ means the surveillance authority referred to in the EEA Agreement.

TITLE 1

ORGANISATION OF THE COURT OF FIRST INSTANCE

Chapter 1

PRESIDENT AND MEMBERS OF THE COURT OF FIRST INSTANCE

Article 2

1. Every Member of the Court of First Instance shall, as a rule, perform the function of Judge.

Members of the Court of First Instance are hereinafter referred to as 'Judges'.

2. Every Judge, with the exception of the President, may, in the circumstances specified in Articles 17 to 19, perform the function of Advocate General in a particular case.

References to the Advocate General in these Rules shall apply only where a Judge has been designated as Advocate General.

Article 3

The term of office of a Judge shall begin on the date laid down in his instrument of appointment. In the absence of any provision regarding the date, the term shall begin on the date of the instrument.

Article 4

1. Before taking up his duties, a Judge shall take the following oath before the Court of Justice of the European Communities:

> 'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.'

2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

Article 5 (6)

When the Court of Justice is called upon to decide, after consulting the Court of First Instance, whether a Judge of the Court of First Instance no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President of the Court of First Instance shall invite the Judge concerned to make representations to the Court of First Instance, in closed session and in the absence of the Registrar.

The Court of First Instance shall state the reasons for its opinion.

An opinion to the effect that a Judge of the Court of First Instance no longer fulfils the requisite conditions or no longer meets the obligations arising from his office must receive the votes of a majority of the Judges of the Court of First Instance. In that event, particulars of the voting shall be communicated to the Court of Justice.

Voting shall be by secret ballot; the Judge concerned shall not take part in the deliberations.

Article 6

With the exception of the President of the Court of First Instance and of the Presidents of the Chambers, the Judges shall rank equally in precedence according to their seniority in office.

Where there is equal seniority in office, precedence shall be determined by age.

Retiring Judges who are reappointed shall retain their former precedence.

Article 7 (2) (6)(7)(10)

1. The Judges shall, immediately after the partial replacement provided for in Article 224 of the EC Treaty and Article 140 of the EAEC Treaty, elect one of their number as President of the Court of First Instance for a term of three years.

2. If the office of President of the Court of First Instance falls vacant before the normal date of expiry thereof, the Court of First Instance shall elect a successor for the remainder of the term.

3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes the oldest of them shall be deemed elected.

Article 8(7)

The President of the Court of First Instance shall direct the judicial business and the administration of the Court of First Instance. He shall preside at plenary sittings and deliberations.

The President of the Court of First Instance shall preside over the Grand Chamber.

If the President of the Court of First Instance is assigned to a Chamber of three or of five Judges, he shall preside over that Chamber.

Article 9(10)

When the President of the Court of First Instance is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised by a President of a Chamber according to the order of precedence laid down in Article 6.

If the President of the Court of First Instance and the Presidents of the Chambers are all absent or prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the other Judges according to the order of precedence laid down in Article 6.

Chapter 2

CONSTITUTION OF THE CHAMBERS AND DESIGNATION OF JUDGE-RAPPORTEURS AND ADVOCATES GENERAL

Article 10(7)(9)

1. The Court of First Instance shall set up Chambers of three and of five Judges and a Grand Chamber of thirteen Judges and shall decide which Judges shall be attached to them.

2. The decision taken in accordance with this Article shall be published in the *Official Journal of the European Union.*

Article 11 (5)(7)

1. Cases before the Court of First Instance shall be heard by Chambers composed of three or of five Judges in accordance with Article 10.

Cases may be heard by the Court of First Instance sitting in plenary session or by the Grand Chamber under the conditions laid down in Articles 14, 51, 106, 118, 124, 127 and 129.

Cases may be heard by a single Judge where they are delegated to him under the conditions specified in Articles 14 and 51 or assigned to him pursuant to Articles 124, 127(1) or 129(2).

2. In cases coming before a Chamber, the term 'Court of First Instance' in these Rules shall designate that Chamber. In cases delegated or assigned to a single Judge the term 'Court of First Instance' in these Rules shall designate that Judge.

Article 12 (1)(7)

1. The Court of First Instance shall lay down criteria by which cases are to be allocated among the Chambers.

The decision shall be published in the *Official Journal of the European Union*.

Article 13

1. As soon as the application initiating proceedings has been lodged, the President of the Court of First Instance shall assign the case to one of the Chambers.

2. The President of the Chamber shall propose to the President of the Court of First Instance, in respect of each case assigned to the Chamber, the designation of a Judge to act as Rapporteur; the President of the Court of First Instance shall decide on the proposal.

Article 14 (5)(7)

1. Whenever the legal difficulty or the importance of the case or special circumstances so justify, a case may be referred to the Court of First Instance sitting in plenary session, to the Grand Chamber or to a Chamber composed of a different number of Judges.

2. (1) The following cases assigned to a Chamber composed of three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of those cases and to the absence of other special circumstances, they are suitable for being so heard and determined and have been delegated under the conditions laid down in Article 51:

(a) cases brought pursuant to Article 236 of the EC Treaty and to Article 152 of the EAEC Treaty;

(b) cases brought pursuant to the fourth paragraph of Article 230, the third paragraph of Article 232 and Article 235 of the EC Treaty and to the fourth paragraph of Article 146, the third paragraph of Article 148 and Article 151 of the EAEC Treaty that raise only questions already clarified by established case-law or that form part of a series of cases in which the same relief is sought and of which one has already been finally decided;

(c) cases brought pursuant to Article 238 of the EC Treaty and Article 153 of the EAEC Treaty.

(2) Delegation to a single Judge shall not be possible:

(a) in cases which raise issues as to the legality of an act of general application;

(b) in cases concerning the implementation of the rules:

– on competition and on control of concentrations,

– relating to aid granted by States,

– relating to measures to protect trade,

– relating to the common organisation of the agricultural markets, with the exception of cases that form part of a series of cases in which the same relief is sought and of which one has already been finally decided;

(c) in the cases referred to in Article 130(1).

(3) The single Judge shall refer the case back to the Chamber if he finds that the conditions justifying its delegation are no longer satisfied.

3. The decisions to refer or to delegate a case which are provided for in paragraphs 1 and 2 shall be taken under the conditions laid down in Article 51.

Article 15(7)

1. The Judges shall elect from amongst themselves, pursuant to the provisions of Article 7(3), the Presidents of the Chambers composed of three and of five Judges.

2. The Presidents of Chambers of five Judges shall be elected for a term of three years. Their term of office shall be renewable once.

The election of the Presidents of Chambers of five Judges shall take place immediately after the election of the President of the Court of First Instance as provided for in Article 7(1).

3. The Presidents of Chambers of three Judges shall be elected for a defined term.

4. If the office of the President of a Chamber falls vacant before the normal date of expiry thereof, a successor shall be elected as President of the Chamber for the remainder of the term.

5. The results of those elections shall be published in the *Official Journal of the European Union.*

Article 16 (5)

In cases coming before a Chamber the powers of the President shall be exercised by the President of the Chamber.

In cases delegated or assigned to a single Judge, with the exception of those referred to in Articles 105 and 106, the powers of the President shall be exercised by that Judge.

Article 17

When the Court of First Instance sits in plenary session, it shall be assisted by an Advocate General designated by the President of the Court of First Instance.

Article 18

A Chamber of the Court of First Instance may be assisted by an Advocate General if it is considered that the legal difficulty or the factual complexity of the case so requires.

Article 19

The decision to designate an Advocate General in a particular case shall be taken by the Court of First Instance sitting in plenary session at the request of the Chamber before which the case comes.

The President of the Court of First Instance shall designate the Judge called upon to perform the function of Advocate General in that case.

Chapter 3

REGISTRY

Section 1 – The Registrar

Article 20

1. The Court of First Instance shall appoint the Registrar.

Two weeks before the date fixed for making the appointment, the President of the Court of First Instance shall inform the Judges of the applications which have been submitted for the post.

2. An application shall be accompanied by full details of the candidate's age, nationality, university degrees, knowledge of any languages, present and past occupations and experience, if any, in judicial and international fields.

3. The appointment shall be made following the procedure laid down in Article 7(3).

4. The Registrar shall be appointed for a term of six years. He may be reappointed.

5. Before he takes up his duties the Registrar shall take the oath before the Court of First Instance in accordance with Article 4.

6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Court of First

Instance shall take its decision after giving the Registrar an opportunity to make representations.

7. If the office of Registrar falls vacant before the usual date of expiry of the term thereof, the Court of First Instance shall appoint a new Registrar for a term of six years.

Article 21

The Court of First Instance may, following the procedure laid down in respect of the Registrar, appoint one or more Assistant Registrars to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 23 allow.

Article 22

Where the Registrar is absent or prevented from attending and, if necessary, where the Assistant Registrar is absent or so prevented, or where their posts are vacant, the President of the Court of First Instance shall designate an official or servant to carry out the duties of Registrar.

Article 23

Instructions to the Registrar shall be adopted by the Court of First Instance acting on a proposal from the President of the Court of First Instance.

Article 24 (2) (6)(7)(10)(12)

1. There shall be kept in the Registry, under the control of the Registrar, a register in which all pleadings and supporting documents shall be entered in the order in which they are lodged.

2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.

3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.

4. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 23.

5. Persons having an interest may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale fixed by the Court of First Instance on a proposal from the Registrar.

The parties to a case may on payment of the appropriate charge also obtain copies of pleadings and authenticated copies of orders and judgments.

6. Notice shall be given in the *Official Journal of the European Union* of the date of registration of an application initiating proceedings, the names and addresses of the parties, the subject-matter of the proceedings, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments.

7. Where the Council or the Commission is not a party to a case, the Court of First Instance shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under Article 241 of the EC Treaty or Article 156 of the EAEC Treaty. Copies of those documents shall likewise be sent to the European Parliament to enable it to assess whether the inapplicability of an act adopted jointly by that institution and by the Council is being invoked under Article 241 of the EC Treaty.

Article 25

1. The Registrar shall be responsible, under the authority of the President, for the acceptance, transmission and custody of documents and for effecting service as provided for by these Rules.

2. The Registrar shall assist the Court of First Instance, the President and the Judges in all their official functions.

Article 26

The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the publications of the Court of First Instance.

Article 27

Subject to Articles 5 and 33, the Registrar shall attend the sittings of the Court of First Instance.

Section 2 – Other Departments

Article 28

The officials and other servants whose task is to assist directly the President, the Judges and the Registrar shall be appointed in accordance with the Staff Regulations. They shall be responsible to the Registrar, under the authority of the President of the Court of First Instance.

Article 29

The officials and other servants referred to in Article 28 shall take the oath provided for in Article 20(2) of the Rules of Procedure of the Court of Justice before the President of the Court of First Instance in the presence of the Registrar.

Article 30

The Registrar shall be responsible, under the authority of the President of the Court of First Instance, for the administration of the Court of First Instance, its financial management and its accounts; he shall be assisted in this by the departments of the Court of Justice.

Chapter 4

THE WORKING OF THE COURT OF FIRST INSTANCE

Article 31

1. The dates and times of the sittings of the Court of First Instance shall be fixed by the President.

2. The Court of First Instance may choose to hold one or more sittings in a place other than that in which the Court of First Instance has its seat.

Article 32 (4) (5)(7)(10)

1. Where, by reason of a Judge being absent or prevented from attending, there is an even number of Judges, the most junior Judge within the meaning of Article 6 shall abstain from taking part in the deliberations unless he is the Judge-Rapporteur. In this case, the Judge immediately senior to him shall abstain from taking part in the deliberations.

Where, following the designation of an Advocate General pursuant to Article 17, there is an even number of Judges in the Court of First Instance sitting in plenary session, the President of the Court shall designate, before the hearing and in accordance with a rota established in advance by the Court of First Instance and published in the *Official Journal of the European Union*, the Judge who will not take part in the judgment of the case.

2. If after the Court of First Instance has been convened in plenary session, it is found that the quorum of nine Judges has not been attained, the President of the Court of First Instance shall adjourn the sitting until there is a quorum.

3. If in any Chamber of three or of five Judges, the quorum of three Judges has not been attained, the President of that Chamber shall so inform the President of the Court of First Instance who shall designate another Judge to complete the Chamber.

The quorum of the Grand Chamber shall be nine Judges. If that quorum has not been attained, the President of the Court of First Instance shall designate another Judge to complete the Chamber.

If in the Grand Chamber or in any Chamber of five Judges the number of Judges provided for by Article 10(1) is not attained by reason of a Judge's being absent or prevented from attending before the date of the opening of the oral procedure, the President of the Court of First Instance shall designate a Judge to complete that Chamber in order to restore the number of Judges provided for.

4. If in any Chamber of three or five Judges the number of Judges assigned to that Chamber is higher than three or five respectively, the President of the Chamber shall decide which of the Judges will be called upon to take part in the judgment of the case.

5. If the single Judge to whom the case has been delegated or assigned is absent or prevented from attending, the President of the Court of First Instance shall designate another Judge to replace that Judge.

Article 33

1. The Court of First Instance shall deliberate in closed session.

2. Only those Judges who were present at the oral proceedings may take part in the deliberations.

3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

4. Any Judge may require that any question be formulated in the language of his choice and communicated in writing to the other Judges before being put to the vote.

5. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Court of First Instance. Votes shall be cast in reverse order to the order of precedence laid down in Article 6.

6. Differences of view on the substance, wording or order of questions, or on the interpretation of a vote shall be settled by decision of the Court of First Instance.

7. Where the deliberations of the Court of First Instance concern questions of its own administration, the Registrar shall be present, unless the Court of First Instance decides to the contrary.

8. Where the Court of First Instance sits without the Registrar being present it shall, if necessary, instruct the most junior Judge within the meaning of Article 6 to draw up minutes. The minutes shall be signed by this Judge and by the President.

Article 34

1. Subject to any special decision of the Court of First Instance, its vacations shall be as follows:

– from 18 December to 10 January,

– from the Sunday before Easter to the second Sunday after Easter,

– from 15 July to 15 September.

During the vacations, the functions of President shall be exercised at the place where the Court of First Instance has its seat either by the President himself, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.

2. In a case of urgency, the President may convene the Judges during the vacations.

3. The Court of First Instance shall observe the official holidays of the place where it has its seat.

4. The Court of First Instance may, in proper circumstances, grant leave of absence to any Judge.

Chapter 5

LANGUAGES

Article 35 (2)(4)(8)(11)

1. The language of a case shall be Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish or Swedish.

2. The language of the case shall be chosen by the applicant, except that:

(a) where the defendant is a Member State or a natural or legal person having the nationality of a Member State, the language of the case shall be the official language of that State; where that State has more than one official language, the applicant may choose between them;

(b) at the joint request of the parties, the use of another of the languages mentioned in paragraph 1 for all or part of the proceedings may be authorised;

(c) at the request of one of the parties, and after the opposite party and the Advocate General have been heard, the use of another of the languages mentioned in paragraph 1 as the language of the case for all or part of the proceedings may be authorised by way of derogation from subparagraph (**b**); such a request may not be submitted by an institution.

Requests as above may be decided on by the President; the latter may and, where he proposes to accede to a request without the agreement of all the parties, must refer the request to the Court of First Instance.

3. The language of the case shall be used in the written and oral pleadings of the parties and in supporting documents, and also in the minutes and decisions of the Court of First Instance.

Any supporting documents expressed in another language must be accompanied by a translation into the language of the case.

In the case of lengthy documents, translations may be confined to extracts. However, the Court of First Instance may, of its own motion or at the request of a party, at any time call for a complete or fuller translation.

Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when intervening in a case before the Court of First Instance. This provision shall apply both to written statements and to oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, may be authorised to use one of the languages mentioned in paragraph 1, other than the language of the case, when they intervene in a case before the Court of First Instance. This provision shall apply both to written statements and oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

4. Where a witness or expert states that he is unable adequately to express himself in one of the languages referred to in paragraph 1 of this Article, the Court of First Instance may authorise him to give his evidence in another language. The Registrar shall arrange for translation into the language of the case.

5. The President in conducting oral proceedings, the Judge-Rapporteur both in his preliminary report and in his report for the hearing, Judges and the Advocate General in putting questions and the Advocate General in delivering his opinion may use one of the languages referred to in paragraph 1 of this Article other than the language of the case. The Registrar shall arrange for translation into the language of the case.

Article 36

1. The Registrar shall, at the request of any Judge, of the Advocate General or of a party, arrange for anything said or written in the course of the proceedings before the Court of First Instance to be translated into the languages he chooses from those referred to in Article 35(1).

2. Publications of the Court of First Instance shall be issued in the languages referred to in Article 1 of Council Regulation No 1.

Article 37

The texts of documents drawn up in the language of the case or in any other language authorised by the Court of First Instance pursuant to Article 35 shall be authentic.

Chapter 6

RIGHTS AND OBLIGATIONS OF AGENTS, ADVISERS AND LAWYERS

Article 38 (2)

1. Agents, advisers and lawyers, appearing before the Court of First Instance or before any judicial authority to which it has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, advisers and lawyers shall enjoy the following further privileges and facilities:

(a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court of First Instance for inspection in the presence of the Registrar and of the person concerned;

(b) agents, advisers and lawyers shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;

(c) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.

Article 39 (2)

In order to qualify for the privileges, immunities and facilities specified in Article 38, persons entitled to them shall furnish proof of their status as follows:

(a) agents shall produce an official document issued by the party for whom they act and shall forward without delay a copy thereof to the Registrar;

(b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 40

The privileges, immunities and facilities specified in Article 38 are granted exclusively in the interests of the proper conduct of proceedings.

The Court of First Instance may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

Article 41(10)

1. If the Court of First Instance considers that the conduct of an adviser or lawyer towards the Court of First Instance, the President, a Judge or the Registrar is incompatible with the dignity of the Court of First Instance or with the requirements of the proper administration of justice, or that such adviser or lawyer uses his rights for purposes other than those for which they were granted, it shall so inform the person concerned. The Court of First Instance may inform the competent authorities to whom the person concerned is

answerable; a copy of the letter sent to those authorities shall be forwarded to the person concerned.

On the same grounds the Court of First Instance may at any time, having heard the person concerned, exclude that person from the proceedings by order. That order shall have immediate effect.

2. Where an adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another adviser or lawyer.

3. Decisions taken under this Article may be rescinded.

Article 42 (2)(7)

The provisions of this Chapter shall apply to university teachers who have a right of audience before the Court of First Instance in accordance with Article 19 of the Statute of the Court of Justice.

TITLE 2

PROCEDURE

Chapter 1

WRITTEN PROCEDURE

Article 43 (6)(10)

1. The original of every pleading must be signed by the party's agent or lawyer.

The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Court of First Instance and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time-limits laid down by the Court of First Instance, translations of all pleadings into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 of this Article shall apply.

3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings only the date of lodgment at the Registry shall be taken into account.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

6. Without prejudice to the provisions of paragraphs 1 to 5, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by telefax or other technical means of communication available to the Court of First Instance shall be deemed to be the date of lodgment for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1, is lodged at the Registry no later than ten days thereafter. Article 102(2) shall not be applicable to this period of ten days.

7. Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 5, the Court of First Instance may by decision determine the criteria for a procedural document sent to the Registry by electronic means to be deemed to be the original of that document. That decision shall be published in the *Official Journal of the European Union.*

Article 44 (1) (2) (6)(7)

1. An application of the kind referred to in Article 21 of the Statute of the Court of Justice shall state:

(a) the name and address of the applicant;

(b) the designation of the party against whom the application is made;

(c) the subject-matter of the proceedings and a summary of the pleas in law on which the application is based;

(d) the form of order sought by the applicant;

(e) where appropriate, the nature of any evidence offered in support.

2. For the purposes of the proceedings, the application shall state an address for service in the place where the Court of First Instance has its seat and the name of the person who is authorised and has expressed willingness to accept service.

In addition to or instead of specifying an address for service as referred to in the first subparagraph, the application may state that the lawyer or agent agrees that service is to be effected on him by telefax or other technical means of communication.
If the application does not comply with the requirements referred to in the first and second subparagraphs, all service on the party concerned for the purposes of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from the first paragraph of Article 100, service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Court of First Instance has its seat.

3. The lawyer acting for a party must lodge at the Registry a certificate that he is authorised to practise before a Court of a Member State or of another State which is a party to the EEA Agreement.

4. The application shall be accompanied, where appropriate, by the documents specified in the second paragraph of Article 21 of the Statute of the Court of Justice.

5. An application made by a legal person governed by private law shall be accompanied by:

(a) the instrument or instruments constituting and regulating that legal person or a recent extract from the register of companies, firms or associations or any other proof of its existence in law;

(b) proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorised for the purpose.

5a. An application submitted under Article 238 of the EC Treaty or Article 153 of the EAEC Treaty pursuant to an arbitration clause contained in a contract governed by public or private law, entered into by the Community or on its behalf, shall be accompanied by a copy of the contract which contains that clause.

6. If an application does not comply with the requirements set out in paragraphs 3 to 5 of this Article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them whether by putting the application itself in order or by producing any of the above-mentioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Court of First Instance shall decide whether the non-compliance with these conditions renders the application formally inadmissible.

Article 45

The application shall be served on the defendant. In a case where Article 44(6) applies, service shall be effected as soon as the application has been put in order or the Court of First Instance has declared it admissible notwithstanding the failure to observe the formal requirements set out in that Article.

Article 46(10)

Within two months after service on him of the application, the defendant shall lodge a defence, stating:

(a) the name and address of the defendant;

(b) the arguments of fact and law relied on;

(c) the form of order sought by the defendant;

(d) the nature of any evidence offered by him.

The provisions of Article 44(2) to (5) shall apply to the defence.

2. In proceedings between the Communities and their servants the defence shall be accompanied by the complaint within the meaning of Article 90(2) of the Staff Regulations of Officials and by the decision rejecting the complaint together with the dates on which the complaint was submitted and the decision notified.

3. The time-limit laid down in paragraph 1 of this Article may, in exceptional circumstances, be extended by the President on a reasoned application by the defendant.

Article 47 (6)

1. The application initiating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant unless the Court of First Instance, after hearing the Advocate General, decides that a second exchange of pleadings is unnecessary because the documents before it are sufficiently comprehensive to enable the parties to elaborate their pleas and arguments in the course of the oral procedure. However, the Court of First Instance may authorise the parties to supplement the documents if the applicant presents a reasoned request to that effect within two weeks from the notification of that decision.

2. The President shall fix the time-limits within which these pleadings are to be lodged.

Article 48

1. In reply or rejoinder a party may offer further evidence. The party must, however, give reasons for the delay in offering it.

2. No new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.

If in the course of the procedure one of the parties puts forward a new plea in law which is so based, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur and after hearing the Advocate General, allow the other party time to answer on that plea.

Consideration of the admissibility of the plea shall be reserved for the final judgment.

Article 49

At any stage of the proceedings the Court of First Instance may, after hearing the Advocate General, prescribe any measure of organisation of procedure or any measure of inquiry referred to in Articles 64 and 65 or order that a previous inquiry be repeated or expanded.

Article 50 (4)(10)

1. The President may, at any time, after hearing the parties and the Advocate General, order that two or more cases concerning the same subject-matter shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final judgment. The cases may subsequently be disjoined. The President may refer these matters to the Court of First Instance.

2. The agents, advisers or lawyers of all the parties to the joined cases, including interveners, may examine at the Registry the pleadings served on the parties in the other cases concerned. The President may, however, on application by a party, without prejudice to Article 67(3), exclude secret or confidential documents from that consultation

Article 51 (1) (5)(7)(12)

1. In the cases specified in Article 14(1), and at any stage in the proceedings, the Chamber hearing the case or the President of the Court First Instance may, either on its or his own initiative or at the request of one of the parties, propose to the Court of First Instance sitting in plenary session that the case be referred to the Court of First Instance sitting in plenary session, to the Grand Chamber or to a Chamber composed of a different number of Judges. The decision to refer a case to a formation composed of a greater number of Judges shall be taken by the Court of First Instance in plenary session, after hearing the Advocate General.

The case shall be decided by a Chamber composed of at least five Judges where a Member State or an institution of the European Communities which is a party to the proceedings so requests.

2. The decision to delegate a case to a single Judge in the situations specified in Article 14(2) shall be taken, after the parties have been heard, unanimously by the Chamber composed of three Judges before which the case is pending.

Where a Member State or an institution of the European Communities which is a party to the proceedings objects to the case being heard by a single Judge the case shall be maintained before or referred to the Chamber to which the Judge-Rapporteur belongs.

Article 52 (6)(7)

1. Without prejudice to Article 49, the President shall,

(a) after the rejoinder has been lodged, or

(b) where no reply or no rejoinder has been lodged within the time-limit fixed in accordance with Article 47(2), or

(c) where the party concerned has waived his right to lodge a reply or rejoinder, or

(d) where the Court of First Instance has decided that there is no need, in accordance with Article 47(1), to supplement the application and the defence by a reply and a rejoinder, or

(e) where the Court of First Instance has decided that it is appropriate to adjudicate under an expedited procedure in accordance with Article 76a(1),

fix a date on which the Judge-Rapporteur is to present his preliminary report to the Court of First Instance.

2. The preliminary report shall contain recommendations as to whether measures of organisation of procedure or measures of inquiry should be undertaken and whether the case should be referred to the Court of First Instance sitting in plenary session, to the Grand Chamber or to a Chamber composed of a different number of Judges.

The Court of First Instance shall decide, after hearing the Advocate General, what action to take upon the recommendations of the Judge-Rapporteur.

Article 53

Where the Court of First Instance decides to open the oral procedure without undertaking measures of organisation of procedure or ordering a preparatory inquiry, the President of the Court of First Instance shall fix the opening date.

Article 54

Without prejudice to any measures of organisation of procedure or measures of inquiry which may be arranged at the stage of the oral procedure, where, during the written procedure, measures of organisation of procedure or measures of inquiry have been instituted and completed, the President shall fix the date for the opening of the oral procedure.

Chapter 2

ORAL PROCEDURE

Article 55(10)

1. The Court of First Instance shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications initiating them respectively.

2. The President may in special circumstances order that a case be given priority over others.

The President may in special circumstances, after hearing the parties and the Advocate General, either on his own initiative or at the request of one of the parties, defer a case to be dealt with at a later date. On a joint application by the parties the President may order that a case be deferred.

Article 56

The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

Article 57

The oral proceedings in cases heard *in camera* shall not be published.

Article 58

The President may in the course of the hearing put questions to the agents, advisers or lawyers of the parties.

The other Judges and the Advocate General may do likewise.

Article 59

A party may address the Court of First Instance only through his agent, adviser or lawyer.

Article 60

Where an Advocate General has not been designated in a case, the President shall declare the oral procedure closed at the end of the hearing.

Article 61

1. Where the Advocate General delivers his opinion in writing, he shall lodge it at the Registry, which shall communicate it to the parties.

2. After the delivery, orally or in writing, of the opinion of the Advocate General the President shall declare the oral procedure closed.

Article 62

The Court of First Instance may, after hearing the Advocate General, order the reopening of the oral procedure.

Article 63

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 3

MEASURES OF ORGANISATION OF PROCEDURE AND MEASURES OF INQUIRY

Section 1 – Measures of organisation of procedure

Article 64(10)

1. The purpose of measures of organisation of procedure shall be to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions. They shall be prescribed by the Court of First Instance, after hearing the Advocate General.

2. Measures of organisation of procedure shall, in particular, have as their purpose:

(a) to ensure efficient conduct of the written and oral procedure and to facilitate the taking of evidence;

(b) to determine the points on which the parties must present further argument or which call for measures of inquiry;

(c) to clarify the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them;

(d) to facilitate the amicable settlement of proceedings.

3. Measures of organisation of procedure may, in particular, consist of:

(a) putting questions to the parties;

(b) inviting the parties to make written or oral submissions on certain aspects of the proceedings;

(c) asking the parties or third parties for information or particulars;

(d) asking for documents or any papers relating to the case to be produced;

(e) summoning the parties' agents or the parties in person to meetings.

4. Each party may, at any stage of the procedure, propose the adoption or modification of measures of organisation of procedure. In that case, the other parties shall be heard before those measures are prescribed.

Where the procedural circumstances so require, the Registrar shall inform the parties of the measures envisaged by the Court of First Instance and shall give them an opportunity to submit comments orally or in writing.

5. If the Court of First Instance sitting in plenary session or as the Grand Chamber decides to prescribe measures of organisation of procedure and does not undertake such measures itself, it shall entrust the task of so doing to the Chamber to which the case was originally assigned or to the Judge-Rapporteur.

If a Chamber prescribes measures of organisation of procedure and does not undertake such measures itself, it shall entrust the task to the Judge-Rapporteur.

The Advocate General shall take part in measures of organisation of procedure.

Section 2 – Measures of inquiry

Article 65 (2)(7)

Without prejudice to Articles 24 and 25 of the Statute of the Court of Justice, the following measures of inquiry may be adopted:

(a) the personal appearance of the parties;

(b) a request for information and production of documents;

(c) oral testimony;

(d) the commissioning of an expert's report;

(e) an inspection of the place or thing in question.

Article 66

1. The Court of First Instance, after hearing the Advocate General, shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be proved. Before the Court of First Instance decides on the measures of inquiry referred to in Article 65(c), (d) and (e) the parties shall be heard.

The order shall be served on the parties.

2. Evidence may be submitted in rebuttal and previous evidence may be amplified.

Article 67 (6)(10)

1. Where the Court of First Instance sitting in plenary session or as the Grand Chamber orders a preparatory inquiry and does not undertake such an inquiry itself, it shall entrust the task of so doing to the Chamber to which the case was originally assigned or to the Judge-Rapporteur.

Where a Chamber orders a preparatory inquiry and does not undertake such an inquiry itself, it shall entrust the task of so doing to the Judge-Rapporteur.

The Advocate General shall take part in the measures of inquiry.

2. The parties may be present at the measures of inquiry.

3. Subject to the provisions of Article 116(2) and (6), the Court of First Instance shall take into consideration only those documents which have been made available to the lawyers and agents of the parties and on which they have been given an opportunity of expressing their views.

Where it is necessary for the Court of First Instance to verify the confidentiality, in respect of one or more parties, of a document that may be relevant in order to rule in a case, that document shall not be communicated to the parties at the stage of such verification.

Where a document to which access has been denied by a Community institution has been produced before the Court of First Instance in proceedings relating to the legality of that denial, that document shall not be communicated to the other parties.

Section 3 – The summoning and examination of witnesses and experts

Article 68

1. The Court of First Instance may, either of its own motion or on application by a party, and after hearing the Advocate General and the parties, order that certain facts be proved by witnesses. The order shall set out the facts to be established.

The Court of First Instance may summon a witness of its own motion or on application by a party or at the instance of the Advocate General.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. The witness shall be summoned by an order containing the following information:

(a) the surname, forenames, description and address of the witness;

(b) an indication of the facts about which the witness is to be examined;

(c) where appropriate, particulars of the arrangements made by the Court of First Instance for reimbursement of expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

The order shall be served on the parties and the witnesses.

3. The Court of First Instance may make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Court of First Instance of a sum sufficient to cover the taxed costs thereof; the Court of First Instance shall fix the amount of the payment.

The cashier of the Court of First Instance shall advance the funds necessary in connection with the examination of any witness summoned by the Court of First Instance of its own motion.

4. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in paragraph 5 of this Article and in Article 71.

The witness shall give his evidence to the Court of First Instance, the parties having been given notice to attend. After the witness has given his main evidence the President may, at the request of a party or of his own motion, put questions to him.

The other Judges and the Advocate General may do likewise.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

5. Subject to the provisions of Article 71, the witness shall, after giving his evidence, take the following oath:

'I swear that I have spoken the truth, the whole truth and nothing but the truth.'

The Court of First Instance may, after hearing the parties, exempt a witness from taking the oath.

6. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Court of First Instance, the latter may impose upon him a pecuniary penalty not exceeding EUR 5 000 and may order that a further summons be served on the witness at his own expense.

The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.

3. If the witness proffers a valid excuse to the Court of First Instance, the pecuniary penalty imposed on him may be cancelled. The pecuniary penalty imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

4. Penalties imposed and other measures ordered under this Article shall be enforced in accordance with Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

Article 70

1. The Court of First Instance may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Court of First Instance may request the parties or one of them to lodge security for the costs of the expert's report.

3. At the request of the expert, the Court of First Instance may order the examination of witnesses. Their examination shall be carried out in accordance with Article 68.

4. The expert may give his opinion only on points which have been expressly referred to him.

5. After the expert has made his report, the Court of First Instance may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. Subject to the provisions of Article 71, the expert shall, after making his report, take the following oath before the Court of First Instance:

'I swear that I have conscientiously and impartially carried out my task.'

The Court of First Instance may, after hearing the parties, exempt the expert from taking the oath.

Article 71

1. The President shall instruct any person who is required to take an oath before the Court of First Instance, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. Witnesses and experts shall take the oath either in accordance with the first subparagraph of Article 68(5) and the first subparagraph of Article 70(6) or in the manner laid down by their national law.

3. Where the national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witnesses and experts may make such an affirmation under the conditions and in the form prescribed in their national law.

Where their national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in the first paragraph of this Article shall be followed.

Article 72

1. The Court of First Instance may, after hearing the Advocate General, decide to report to the competent authority referred to in Annex III to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State whose courts have penal jurisdiction in any case of perjury on the part of a witness or expert before the Court of First Instance, account being taken of the provisions of Article 71.

2. The Registrar shall be responsible for communicating the decision of the Court of First Instance. The decision shall set out the facts and circumstances on which the report is based.

Article 73

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the matter shall be resolved by the Court of First Instance.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Article 74

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court of First Instance may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Court of First Instance shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

Article 75

1. The Court of First Instance may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.

2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their agents, lawyers or advisers, indicate their addresses for service and briefly describe the subject-matter of the proceedings.

Notice of the order shall be served on the parties by the Registrar.

3. The Registrar shall send the order to the competent authority named in Annex I to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the Member State to which it is addressed.

The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar.

The Registrar shall be responsible for the translation of the documents into the language of the case.

4. The Court of First Instance shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.

Article 76

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes and any expert's report at the Registry and obtain copies at their own expense.

Chapter 3a (6)

EXPEDITED PROCEDURES

Article 76a(10)

1. The Court of First Instance may, on application by the applicant or the defendant, after hearing the other parties and the Advocate General, decide, having regard to the particular urgency and the circumstances of the case, to adjudicate under an expedited procedure.

An application for a case to be decided under an expedited procedure shall be made by a separate document lodged at the same time as the application initiating the proceedings or the defence. That application may state that certain pleas in law or arguments or certain passages of the application initiating the proceedings or the defence are raised only in the event that the

case is not decided under an expedited procedure, in particular by enclosing with the application an abbreviated version of the application initiating the proceedings and a list of the annexes which are to be taken into consideration only if the case is decided under an expedited procedure

By way of derogation from Article 55, cases on which the Court of First Instance has decided to adjudicate under an expedited procedure shall be given priority.

2. By way of derogation from Article 46(1), where the applicant has requested, in accordance with paragraph 1 of this Article, that the case should be decided under an expedited procedure, the period prescribed for the lodging of the defence shall be one month. If the Court of First Instance decides not to allow the request, the defendant shall be granted an additional period of one month in order to lodge or, as the case may be, supplement the defence. The time-limits laid down in this subparagraph may be extended pursuant to Article 46(3).

Under the expedited procedure, the pleadings referred to in Articles 47(1) and 116(4) and (5) may be lodged only if the Court of First Instance, by way of measures of organisation of procedure adopted in accordance with Article 64, so allows.

3. Without prejudice to Article 48, the parties may supplement their arguments and offer further evidence in the course of the oral procedure. They must, however, give reasons for the delay in offering such further evidence.

4. The decision of the Court of First Instance to adjudicate under an expedited procedure may prescribe conditions as to the volume and presentation of the pleadings of the parties; the subsequent conduct of the proceedings or as to the pleas in law and arguments on which the Court of First Instance will be called upon to decide.

If one of the parties does not comply with any one of those conditions, the decision to adjudicate under an expedited procedure may be revoked. The proceedings shall then continue in accordance with the ordinary procedure.

Chapter 4

STAY OF PROCEEDINGS AND DECLINING OF JURISDICTION BY THE COURT OF FIRST INSTANCE

Article 77 (2)(7)(12)

Without prejudice to Article 123(4), Article 128 and Article 129(4), proceedings may be stayed:

(a) in the circumstances specified in the third paragraph of Article 54 of the Statute of the Court of Justice;

(b) where an appeal is brought before the Court of Justice against a decision of the Court of First Instance disposing of the substantive issues in part only, disposing of a

procedural issue concerning a plea of lack of competence or inadmissibility or dismissing an application to intervene;

(c) at the joint request of the parties;

(d) in other particular cases where the proper administration of justice so requires.

Article 78 (4)

The decision to stay the proceedings shall be made by order of the President after hearing the parties and the Advocate General; the President may refer the matter to the Court of First Instance. A decision ordering that the proceedings be resumed shall be adopted in accordance with the same procedure. The orders referred to in this Article shall be served on the parties.

Article 79

1. The stay of proceedings shall take effect on the date indicated in the order of stay or, in the absence of such an indication, on the date of that order.

While proceedings are stayed time shall, except for the purposes of the time-limit prescribed in Article 115(1) for an application to intervene, cease to run for the purposes of prescribed time-limits for all parties.

2. Where the order of stay does not fix the length of the stay, it shall end on the date indicated in the order of resumption or, in the absence of such indication, on the date of the order of resumption.

From the date of resumption time shall begin to run afresh for the purposes of the time-limits.

Article 80 (2)(7)

Decisions declining jurisdiction in the circumstances specified in the third paragraph of Article 54 of the Statute of the Court of Justice shall be made by the Court of First Instance by way of an order which shall be served on the parties.

Chapter 5

JUDGMENTS

Article 81

The judgment shall contain:

– a statement that it is the judgment of the Court of First Instance,

– the date of its delivery,

– the names of the President and of the Judges taking part in it,

– the name of the Advocate General, if designated,

– the name of the Registrar,

– the description of the parties,

– the names of the agents, advisers and lawyers of the parties,

– a statement of the forms of order sought by the parties,

– a statement, where appropriate, that the Advocate General delivered his opinion,

– a summary of the facts,

– the grounds for the decision,

– the operative part of the judgment, including the decision as to costs.

Article 82

1. The judgment shall be delivered in open court; the parties shall be given notice to attend to hear it.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the parties shall be served with certified copies of the judgment.

3. The Registrar shall record on the original of the judgment the date on which it was delivered.

Article 83 (2)(7)

Subject to the provisions of the second paragraph of Article 60 of the Statute of the Court of Justice, the judgment shall be binding from the date of its delivery.

Article 84

1. Without prejudice to the provisions relating to the interpretation of judgments, the Court of First Instance may, of its own motion or on application by a party made within two weeks after the delivery of a judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The parties, whom the Registrar shall duly notify, may lodge written observations within a period prescribed by the President.

3. The Court of First Instance shall take its decision in closed session.

4. The original of the rectification order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the rectified judgment.

Article 85

If the Court of First Instance should omit to give a decision on costs, any party may within a month after service of the judgment apply to the Court of First Instance to supplement its judgment.

The application shall be served on the opposite party and the President shall prescribe a period within which that party may lodge written observations.

After these observations have been lodged, the Court of First Instance shall decide both on the admissibility and on the substance of the application.

Article 86

The Registrar shall arrange for the publication of cases before the Court of First Instance.

Chapter 6

COSTS

Article 87 (2) (4)

1. A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

2. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

Where there are several unsuccessful parties the Court of First Instance shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court of First Instance may order that the costs be shared or that each party bear its own costs.

The Court of First Instance may order a party, even if successful, to pay costs which it considers that party to have unreasonably or vexatiously caused the opposite party to incur.

4. The Member States and institutions which intervened in the proceedings shall bear their own costs.

The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, shall bear their own costs if they intervene in the proceedings.

The Court of First Instance may order an intervener other than those mentioned in the preceding subparagraph to bear his own costs.

5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the observations of the other party on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.

Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

If costs are not applied for, the parties shall bear their own costs.

6. Where a case does not proceed to judgment, the costs shall be in the discretion of the Court of First Instance.

Article 88

Without prejudice to the second subparagraph of Article 87(3), in proceedings between the Communities and their servants the institutions shall bear their own costs.

Article 89

Costs necessarily incurred by a party in enforcing a judgment or order of the Court of First Instance shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

Article 90

Proceedings before the Court of First Instance shall be free of charge, except that:

(a) where a party has caused the Court of First Instance to incur avoidable costs, the Court of First Instance may order that party to refund them;

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges referred to in Article 24(5).

Article 91

Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:

(a) sums payable to witnesses and experts under Article 74;

(b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.

Article 92

1. If there is a dispute concerning the costs to be recovered, the Court of First Instance hearing the case shall, on application by the party concerned and after hearing the opposite party, make an order, from which no appeal shall lie.

2. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.

Article 93

1. Sums due from the cashier of the Court of First Instance and from debtors of the Court of First Instance shall be paid in euro.

2. Where expenses to be refunded have been incurred in a currency other than the euro or where the steps in respect of which payment is due were taken in a country of which the euro is not the currency, conversions of currency shall be made at the official rates of exchange of the European Central Bank on the day of payment.

Chapter 7(4)(10)

LEGAL AID

Article 94

1. In order to ensure effective access to justice, legal aid shall be granted for proceedings before the Court of First Instance in accordance with the following rules.

Legal aid shall cover, in whole or in part, the costs involved in legal assistance and representation by a lawyer in proceedings before the Court of First Instance. The cashier of the Court of First Instance shall be responsible for those costs.

2. Any natural person who, because of his economic situation, is wholly or partly unable to meet the costs referred to in paragraph 1 shall be entitled to legal aid.

The economic situation shall be assessed, taking into account objective factors such as income, capital and the family situation.

3. Legal aid shall be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded.

Article 95

1. An application for legal aid may be made before or after the action has been brought.

The application need not be made through a lawyer.

2. The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's economic situation, such as a certificate issued by the competent national authority attesting to his economic situation.

If the application is made before the action has been brought, the applicant must briefly state the subject-matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard.

3. The Court of First Instance may provide, in accordance with Article 150, for the compulsory use of a form in making an application for legal aid

Article 96

1. Before giving its decision on an application for legal aid, the Court of First Instance shall invite the other party to submit its written observations unless it is already apparent from the information produced that the conditions laid down in Article 94(2) have not been satisfied or that those laid down in Article 94(3) have been satisfied.

2. The decision on the application for legal aid shall be taken by the President by way of an order. He may refer the matter to the Court of First Instance.

An order refusing legal aid shall state the reasons on which it is based.

3. In any order granting legal aid a lawyer shall be designated to represent the person concerned.

If the person has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar shall send a copy of the order granting legal aid and a copy of the application to the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice. The lawyer instructed to represent the applicant shall be designated having regard to the suggestions made by that authority.

An order granting legal aid may specify an amount to be paid to the lawyer instructed to represent the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed. It may provide for a contribution to be made by the person concerned to the costs referred to in Article 94(1), having regard to his economic situation.

4. The introduction of an application for legal aid shall suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, in the cases referred to in the second subparagraph of paragraph 3, of the order designating the lawyer instructed to represent the applicant.

5. If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned. He may refer the matter to the Court of First Instance.

An order withdrawing legal aid shall contain a statement of reasons.

6. No appeal shall lie from orders made under this article.

Article 97

1. Where legal aid is granted, the President may, on application by the lawyer of the person concerned, decide that an amount by way of advance should be paid to the lawyer.

2. Where, by virtue of the decision closing the proceedings, the recipient of legal aid has to bear his own costs, the President shall fix the lawyer's disbursements and fees which are to be paid by the cashier of the Court of First Instance by way of a reasoned order from which no appeal shall lie. He may refer the matter to the Court of First Instance.

3. Where, in the decision closing the proceedings, the Court of First Instance has ordered another party to pay the costs of the recipient of legal aid, that other party shall be required to refund to the cashier of the Court of First Instance any sums advanced by way of aid.

In the event of challenge or if the party does not comply with a demand by the Registrar to refund those sums, the President shall rule by way of reasoned order from which no appeal shall lie. The President may refer the matter to the Court of First Instance.

4. Where the recipient of the aid is unsuccessful, the Court of First Instance may, in its decision, as to costs, closing the proceedings, if equity so requires, order that one or more parties should bear their own costs or that those costs should be borne, in whole or in part, by the cashier of the Court of First Instance by way of legal aid.

Chapter 8

DISCONTINUANCE

Article 98 (2) (6)(7)

If, before the Court of First Instance has given its decision, the parties reach a settlement of their dispute and intimate to the Court of First Instance the abandonment of their claims, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 87(5) having regard to any proposals made by the parties on the matter.

This provision shall not apply to proceedings under Articles 230 and 232 of the EC Treaty and Articles 146 and 148 of the EAEC Treaty.

Article 99

If the applicant informs the Court of First Instance in writing that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 87(5).

Chapter 9

SERVICE

Article 100 (6)(12)

1. Where these Rules require that a document be served on a person, the Registrar shall ensure that service is effected at that person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 43(1).

2. Where, in accordance with the second subparagraph of Article 44(2), the addressee has agreed that service is to be effected on him by telefax or other technical means of communication, any procedural document including a judgment or order of the Court of First Instance may be served by the transmission of a copy of the document by such means.

Judgments and orders notified pursuant to Article 55 of the Statute of the Court of Justice to the Member States and institutions which were not parties to the proceedings shall be sent to them by telefax or any other technical means of communication.

Where, for technical reasons or on account of the length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in paragraph 1. The addressee shall be so advised by telefax or other technical means of communication. Service shall then be deemed to have been effected on the addressee by registered post on the tenth day following the lodging of the registered letter at the post office of the place where the Court of First Instance has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or other technical means of communication, that the document to be served has not reached him.

Chapter 10

TIME-LIMITS

Article 101 (2)(7)

1. Any period of time prescribed by the EC and EAEC Treaties, the Statute of the Court of Justice or these Rules for the taking of any procedural step shall be reckoned as follows:

(a) Where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) A period expressed in weeks, months or in years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years,

the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) Where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;

(d) Periods shall include official holidays, Sundays and Saturdays;

(e) Periods shall not be suspended during the judicial vacations.

2. If the period would otherwise end on a Saturday, Sunday or official holiday, it shall be extended until the end of the first following working day.

The list of official holidays drawn up by the Court of Justice and published in the *Official Journal of the European Union* shall apply to the Court of First Instance.

Article 102 (4) (6)(7)

1. Where the period of time allowed for commencing proceedings against a measure adopted by an institution runs from the publication of that measure, that period shall be calculated, for the purposes of Article 101(1)(a), from the end of the 14th day after publication thereof in the *Official Journal of the European Union*.

2. The prescribed time-limits shall be extended on account of distance by a single period of ten days.

Article 103

1. Any time-limit prescribed pursuant to these Rules may be extended by whoever prescribed it.

2. The President may delegate power of signature to the Registrar for the purpose of fixing time-limits which, pursuant to these Rules, it falls to the President to prescribe, or of extending such time-limits.

TITLE 3

SPECIAL FORMS OF PROCEDURE

Chapter 1

SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

Article 104 (2) (6)(7)

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 242 of the EC Treaty and Article 157 of the EAEC Treaty, shall be admissible only if the applicant is challenging that measure in proceedings before the Court of First Instance.

An application for the adoption of any other interim measure referred to in Article 243 of the EC Treaty and Article 158 of the EAEC Treaty shall be admissible only if it is made by a party to a case before the Court of First Instance and relates to that case.

2. An application of a kind referred to in paragraph 1 of this Article shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 43 and 44.

Article 105

1. The application shall be served on the opposite party, and the President of the Court of First Instance shall prescribe a short period within which that party may submit written or oral observations.

2. The President of the Court of First Instance may order a preparatory inquiry.

The President of the Court of First Instance may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.

Article 106(7)

A Judge, designated for the purpose in the decision adopted by the Court of First Instance in accordance with Article 10, shall replace the President of the Court of First Instance in deciding an application in the event that the President is absent or prevented from dealing with it.

Article 107

1. The decision on the application shall take the form of a reasoned order. The order shall be served on the parties forthwith.

2. The enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision on the substance of the case by the Court of First Instance.

Article 108

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Article 109

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Article 110 (2) (6)(7)

The provisions of this Chapter shall apply to applications to suspend the enforcement of a decision of the Court of First Instance or of any measure adopted by another institution, submitted pursuant to Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

Chapter 2
PRELIMINARY ISSUES

Article 111 (4)

Where it is clear that the Court of First Instance has no jurisdiction to take cognisance of an action or where the action is manifestly inadmissible or manifestly lacking any foundation in law, the Court of First Instance may, by reasoned order, after hearing the Advocate General and without taking further steps in the proceedings, give a decision on the action.

Article 112 (2)(7)

The decision to refer an action to the Court of Justice, pursuant to the second paragraph of Article 54 of the Statute of the Court of Justice, shall, in the case of manifest lack of competence, be made by reasoned order and without taking any further steps in the proceedings.

Article 113 (4)(10)

The Court of First Instance may at any time, of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with an action or declare that the action has become devoid of purpose and that there is no need to adjudicate on it; it shall give its decision in accordance with Article 114(3) and (4).

Article 114(10)

1. A party applying to the Court of First Instance for a decision on admissibility, on lack of competence or other preliminary plea not going to the substance of the case shall make the application by a separate document.

The application must contain the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing the form of order sought and the arguments of fact and law relied on.

3. Unless the Court of First Instance otherwise decides, the remainder of the proceedings shall be oral.

4. The Court of First Instance shall, after hearing the Advocate General, decide on the application or reserve its decision for the final judgment. It shall refer the case to the Court of Justice if the case falls within the jurisdiction of that Court.

If the Court of First Instance refuses the application or reserves its decision, the President shall prescribe new time-limits for further steps in the proceedings.

Chapter 3

INTERVENTION

Article 115 (2) (6)(7)

1. An application to intervene must be made either within six weeks of the publication of the notice referred to in Article 24(6) or, subject to Article 116(6), before the decision to open the oral procedure as provided for in Article 53.

2. The application shall contain:

(a) the description of the case;

(b) the description of the parties;

(c) the name and address of the intervener;

(d) the intervener's address for service at the place where the Court of First Instance has its seat;

(e) the form of order sought, by one or more of the parties, in support of which the intervener is applying for leave to intervene;

(f) a statement of the circumstances establishing the right to intervene, where the application is submitted pursuant to the second or third paragraph of Article 40 of the Statute of the Court of Justice.

Articles 43 and 44 shall apply.

3. The intervener shall be represented in accordance with Article 19 of the Statute of the Court of Justice.

Article 116 (6)

1. The application shall be served on the parties.

The President shall give the parties an opportunity to submit their written or oral observations before deciding on the application.

The President shall decide on the application by order or shall refer the decision to the Court of First Instance. The order must be reasoned if the application is dismissed.

2. If an intervention for which application has been made within the period of six weeks prescribed in Article 115(1) is allowed, the intervener shall receive a copy of every document served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.

3. The intervener must accept the case as he finds it at the time of his intervention.

4. In the cases referred to in paragraph 2 above, the President shall prescribe a period within which the intervener may submit a statement in intervention.

The statement in intervention shall contain:

(a) a statement of the form of order sought by the intervener in support of or opposing, in whole or in part, the form of order sought by one of the parties;

(b) the pleas in law and arguments relied on by the intervener;

(c) where appropriate, the nature of any evidence offered.

5. After the statement in intervention has been lodged, the President shall, where necessary, prescribe a time-limit within which the parties may reply to that statement.

6. Where the application to intervene is made after the expiry of the period of six weeks prescribed in Article 115(1), the intervener may, on the basis of the Report for the Hearing communicated to him, submit his observations during the oral procedure.

Chapter 4

JUDGMENTS OF THE COURT OF FIRST INSTANCE DELIVERED AFTER ITS DECISION HAS BEEN SET ASIDE AND THE CASE REFERRED BACK TO IT

Article 117

Where the Court of Justice sets aside a judgment or an order of the Court of First Instance and refers the case back to that Court, the latter shall be seised of the case by the judgment so referring it.

Article 118 (5)(7)

1. Where the Court of Justice sets aside a judgment or an order of a Chamber, the President of the Court of First Instance may assign the case to another Chamber composed of the same number of Judges.

2. Where the Court of Justice sets aside a judgment delivered or an order made by the Court of First Instance sitting in plenary session or by the Grand Chamber, the case shall be assigned to that Court or that Chamber as the case may be.

2a. Where the Court of Justice sets aside a judgment delivered or an order made by a single Judge, the President of the Court of First Instance shall assign the case to a Chamber composed of three Judges of which that Judge is not a member.

3. In the cases provided for in paragraphs 1, 2 and 2a of this Article, Articles 13(2), 14(1) and 51 shall apply.

Article 119

1. Where the written procedure before the Court of First Instance has been completed when the judgment referring the case back to it is delivered, the course of the procedure shall be as follows:

(a) Within two months from the service upon him of the judgment of the Court of Justice the applicant may lodge a statement of written observations;

(b) In the month following the communication to him of that statement, the defendant may lodge a statement of written observations. The time allowed to the defendant for lodging it may in no case be less than two months from the service upon him of the judgment of the Court of Justice;

(c) In the month following the simultaneous communication to the intervener of the observations of the applicant and the defendant, the intervener may lodge a statement of written observations. The time allowed to the intervener for lodging it may in no case be less than two months from the service upon him of the judgment of the Court of Justice.

2. Where the written procedure before the Court of First Instance had not been completed when the judgment referring the case back to the Court of First Instance was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the Court of First Instance.

3. The Court of First Instance may, if the circumstances so justify, allow supplementary statements of written observations to be lodged.

Article 120

The procedure shall be conducted in accordance with the provisions of Title II of these Rules.

Article 121

The Court of First Instance shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the Court of Justice.

Chapter 5

JUDGMENTS BY DEFAULT AND APPLICATIONS TO SET THEM ASIDE

Article 122 (4)

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply to the Court of First Instance for judgment by default.

The application shall be served on the defendant. The Court of First Instance may decide to open the oral procedure on the application.

2. Before giving judgment by default the Court of First Instance shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. It may order a preparatory inquiry.

3. A judgment by default shall be enforceable. The Court of First Instance may, however, grant a stay of execution until it has given its decision on any application under paragraph 4 of this Article to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment and must be lodged in the form prescribed by Articles 43 and 44.

5. After the application has been served, the President shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with the provisions of Title II of these Rules.

6. The Court of First Instance shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

Chapter 6

EXCEPTIONAL REVIEW PROCEDURES

Section 1 – Third-party proceedings

Article 123(7)

1. Articles 43 and 44 shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the judgment contested;

(b) state how that judgment is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case before the Court of First Instance.

The application must be made against all the parties to the original case.

Where the judgment has been published in the *Official Journal of the European Union*, the application must be lodged within two months of the publication.

2. The Court of First Instance may, on application by the third party, order a stay of execution of the judgment. The provisions of Title III, Chapter 1, shall apply.

3. The contested judgment shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested judgment. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested judgment.

4. Where an appeal before the Court of Justice and an application initiating third-party proceedings before the Court of First Instance contest the same judgment of the Court of First Instance, the Court of First Instance may, after hearing the parties, stay the proceedings until the Court of Justice has delivered its judgment.

Article 124 (5)

The application initiating third-party proceedings shall be assigned to the Chamber which delivered the judgment which is the subject of the application; if the Court of First Instance sitting in plenary session or the Grand Chamber of the Court of First Instance delivered the judgment, the application shall be assigned to it. If the judgment has been delivered by a single Judge, the application initiating third-party proceedings shall be assigned to that Judge.

Section 2 – Revision

Article 125 (2)(7)

Without prejudice to the period of ten years prescribed in the third paragraph of Article 44 of the Statute of the Court of Justice, an application for revision of a judgment shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.

Article 126

1. Articles 43 and 44 shall apply to an application for revision. In addition such an application shall:

(a) specify the judgment contested;

(b) indicate the points on which the application is based;

(c) set out the facts on which the application is based;

(d) indicate the nature of the evidence to show that there are facts justifying revision of the judgment, and that the time-limits laid down in Article 125 have been observed.

2. The application must be made against all parties to the case in which the contested judgment was given.

Article 127 (5)(7)

1. The application for revision shall be assigned to the Chamber which delivered the judgment which is the subject of the application; if the Court of First Instance sitting in plenary session or the Grand Chamber of the Court of First Instance delivered the judgment, the application shall be assigned to it. If the judgment has been delivered by a single Judge, the application for revision shall be assigned to that Judge.

2. Without prejudice to its decision on the substance, the Court of First Instance shall, after hearing the Advocate General, having regard to the written observations of the parties, give its decision on the admissibility of the application.

3. If the Court of First Instance finds the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.

4. The original of the revising judgment shall be annexed to the original of the judgment revised. A note of the revising judgment shall be made in the margin of the original of the judgment revised.

Article 128

Where an appeal before the Court of Justice and an application for revision before the Court of First Instance concern the same judgment of the Court of First Instance, the Court of First Instance may, after hearing the parties, stay the proceedings until the Court of Justice has delivered its judgment.

Section 3 – Interpretation of judgments

Article 129 (5)(7)

1. An application for interpretation of a judgment shall be made in accordance with Articles 43 and 44. In addition it shall specify:

(a) the judgment in question;

(b) the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the judgment was given.

2. The application for interpretation shall be assigned to the Chamber which delivered the judgment which is the subject of the application; if the Court of First Instance sitting in plenary session or the Grand Chamber of the Court of First Instance delivered the judgment, the application shall be assigned to it. If the judgment has been delivered by a single Judge, the application for interpretation shall be assigned to that Judge.

3. The Court of First Instance shall give its decision in the form of a judgment after having given the parties an opportunity to submit their observations and after hearing the Advocate General.

The original of the interpreting judgment shall be annexed to the original of the judgment interpreted. A note of the interpreting judgment shall be made in the margin of the original of the judgment interpreted.

4. Where an appeal before the Court of Justice and an application for interpretation before the Court of First Instance concern the same judgment of the Court of First Instance, the Court of First Instance may, after hearing the parties, stay the proceedings until the Court of Justice has delivered its judgment.

TITLE IV (3)

PROCEEDINGS RELATING TO INTELLECTUAL PROPERTY RIGHTS

Article 130 ***(3)***

1. Subject to the special provisions of this Title, the provisions of these Rules of Procedure shall apply to proceedings brought against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and against the Community Plant Variety Office (both hereinafter referred to as 'the Office'), and concerning the application of the rules relating to an intellectual property regime.

2. The provisions of this Title shall not apply to actions brought directly against the Office without prior proceedings before a Board of Appeal.

Article 131 (3)

1. The application shall be drafted in one of the languages described in Article 35(1), according to the applicant's choice.

2. The language in which the application is drafted shall become the language of the case if the applicant was the only party to the proceedings before the Board of Appeal or if another party to those proceedings does not object to this within a period laid down for that purpose by the Registrar after the application has been lodged.

If, within that period, the parties to the proceedings before the Board of Appeal inform the Registrar of their agreement on the choice, as the language of the case, of one of the languages referred to in Article 35(1), that language shall become the language of the case before the Court of First Instance.

In the event of an objection to the choice of the language of the case made by the applicant within the period referred to above and in the absence of an agreement on the matter between the parties to the proceedings before the Board of Appeal, the language in which the application for registration in question was filed at the Office shall become the language of the case. If, however, on a reasoned request by any party and after hearing the other parties, the President finds that the use of that language would not enable all parties to the proceedings before the Board of Appeal to follow the proceedings and defend their interests and that only the use of another language from among those mentioned in Article 35(1) makes it possible to remedy that situation, he may designate that other language as the language of the case; the President may refer the matter to the Court of First Instance.

3. In the pleadings and other documents addressed to the Court of First Instance and during the oral procedure, the applicant may use the language chosen by him in accordance with paragraph 1 and each of the other parties may use a language chosen by that party from those mentioned in Article 35(1).

4. If, by virtue of paragraph 2, a language other than that in which the application is drafted becomes the language of the case, the Registrar shall cause the application to be translated into the language of the case.

Each party shall be required, within a reasonable period to be prescribed for that purpose by the Registrar, to produce a translation into the language of the case of the pleadings or documents other than the application that are lodged by that party in a language other than the language of the case pursuant to paragraph 3. The party producing the translation, which shall be authentic within the meaning of Article 37, shall certify its accuracy. If the translation is not produced within the period prescribed, the pleading or the procedural document in question shall be removed from the file.

The Registrar shall cause everything said during the oral procedure to be translated into the language of the case and, at the request of any party, into the language used by that party in accordance with paragraph 3.

Article 132 (3)

1. Without prejudice to Article 44, the application shall contain the names of all the parties to the proceedings before the Board of Appeal and the addresses which they had given for the purposes of the notifications to be effected in the course of those proceedings.

The contested decision of the Board of Appeal shall be appended to the application. The date on which the applicant was notified of that decision must be indicated.

2. If the application does not comply with paragraph 1, Article 44(6) shall apply.

Article 133 (3)

1. The Registrar shall inform the Office and all the parties to the proceedings before the Board of Appeal of the lodging of the application. He shall arrange for service of the application after determining the language of the case in accordance with Article 131(2).

2. The application shall be served on the Office, as defendant, and on the parties to the proceedings before the Board of Appeal other than the applicant. Service shall be effected in the language of the case.

Service of the application on a party to the proceedings before the Board of Appeal shall be effected by registered post with a form of acknowledgment of receipt at the address given by the party concerned for the purposes of the notifications to be effected in the course of the proceedings before the Board of Appeal.

3. Once the application has been served, the Office shall forward to the Court of First Instance the file relating to the proceedings before the Board of Appeal.

Article 134 (3)

1. The parties to the proceedings before the Board of Appeal other than the applicant may participate, as interveners, in the proceedings before the Court of First Instance.

2. The interveners referred to in paragraph 1 shall have the same procedural rights as the main parties.

They may support the form of order sought by a main party and they may apply for a form of order and put forward pleas in law independently of those applied for and put forward by the main parties.

3. An intervener, as referred to in paragraph 1, may, in his response lodged in accordance with Article 135(1), seek an order annulling or altering the decision of the Board of Appeal on a point not raised in the application and put forward pleas in law not raised in the application.

Such submissions seeking orders or putting forward pleas in law in the intervener's response shall cease to have effect should the applicant discontinue the proceedings.

4. In derogation from Article 122, the default procedure shall not apply where an intervener, as referred to in paragraph 1 of this Article, has responded to the application in the manner and within the period prescribed.

Article 135 (3)

1. The Office and the interveners referred to in Article 134(1) may submit responses to the application within a period of two months from the service of the application.

Article 46 shall apply to the responses.

2. The application and the responses may be supplemented by replies and rejoinders by the parties, including the interveners referred to in Article 134(1), where the President, on a reasoned application made within two weeks of service of the responses or replies, considers such further pleading necessary and allows it in order to enable the party concerned to put forward its point of view.

The President shall prescribe the period within which such pleadings are to be submitted.

3. Without prejudice to the foregoing, in the cases referred to in Article 134(3), the other parties may, within a period of two months of service upon them of the response, submit a pleading confined to responding to the form of order sought and the pleas in law submitted for the first time in the response of an intervener. That period may be extended by the President on a reasoned application from the party concerned.

4. The parties' pleadings may not change the subject-matter of the proceedings before the Board of Appeal.

Article 135a (12)

After the submission of pleadings as provided for in Article 135(1) and, if applicable, Article 135(2) and (3), the Court of First Instance, acting upon a report of the Judge-Rapporteur and after hearing the Advocate General and the parties, may decide to rule on the action without an oral procedure unless one of the parties submits an application setting out the reasons for which he wishes to be heard. The application shall be submitted within a period of one month from notification to the party of closure of the written procedure. That period may be extended by the President.

Article 136 (3)

1. Where an action against a decision of a Board of Appeal is successful, the Court of First Instance may order the Office to bear only its own costs.

2. Costs necessarily incurred by the parties for the purposes of the proceedings before the Board of Appeal and costs incurred for the purposes of the production, prescribed by the second subparagraph of Article 131(4), of translations of pleadings or other documents into the language of the case shall be regarded as recoverable costs.

In the event of inaccurate translations being produced, the second subparagraph of Article 87(3) shall apply.

TITLE 5 (10)

APPEALS AGAINST DECISIONS OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Article 137

1. An appeal shall be brought by lodging a notice of appeal at the Registry of the Court of First Instance or of the Civil Service Tribunal.

2. The Registry of the Civil Service Tribunal shall immediately transmit to the Registry of the Court of First Instance the papers in the case at first instance and, where necessary, the appeal.

Article 138

1. The notice of appeal shall contain:

(a) the name and address of the appellant;

(b) the names of the other parties to the proceedings before the Civil Service Tribunal;

(c) the pleas in law and legal arguments relied on;

(d) the form of order sought by the appellant.

Article 43 and Article 44(2) and (3) shall apply to appeals.

2. The decision of the Civil Service Tribunal appealed against shall be attached to the notice. The notice shall state the date on which the decision appealed against was notified to the appellant.

3. If a notice of appeal does not comply with Article 44(3) or with paragraph (2) of this Article, Article 44(6) shall apply.

Article 139

1. An appeal may seek:

(a) to set aside, in whole or in part, the decision of the Civil Service Tribunal;

(b) the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject matter of the proceedings before the Civil Service Tribunal may not be changed in the appeal.

Article 140

The notice of appeal shall be served on all the parties to the proceedings before the Civil Service Tribunal. Article 45 shall apply.

Article 141

1. Any party to the proceedings before the Civil Service Tribunal may lodge a response within two months after service on him of the notice of appeal. The time limit for lodging a response shall not be extended.

2. A response shall contain:

(a) the name and address of the respondent;

(b) the date on which notice of the appeal was served on the respondent;

(c) the pleas in law and legal arguments relied on;

(d) the form of order sought by the respondent.

Article 43 and Article 44(2) and (3) shall apply.

Article 142

1. A response may seek:

(a) to dismiss, in whole or in part, the appeal or to set aside, in whole or in part, the decision of the Civil Service Tribunal;

(b) the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Civil Service Tribunal may not be changed in the response.

Article 143

1. The notice of appeal and the response may be supplemented by a reply and a rejoinder where the President, on application made by the appellant within seven days of service of the response, considers such further pleading necessary and expressly allows the submission of a reply in order to enable the appellant to put forward his point of view or in order to provide a basis for the decision on the appeal. The President shall prescribe the date by which the reply is to be submitted and, upon service of that pleading, the date by which the rejoinder is to be submitted.

2. Where the response seeks to set aside, in whole or in part, the decision of the Civil Service Tribunal on a plea in law which was not raised in the appeal, the appellant or any other party may submit a reply on that plea alone within two months of the service of the response in question. Paragraph 1 shall apply to any further pleading following such a reply.

Article 144

Subject to the provisions of Articles 144 to 149 inclusive, Articles 48(2) and Articles 49, 50, 51(1), 52, 55 to 64, 76a to 110, 115(2) and (3), 116, 123 to 127 and 129 shall apply to the procedure before the Court of First Instance on appeal from a decision of the Civil Service Tribunal.

Article 145

Where the appeal is, in whole or in part, clearly inadmissible or clearly unfounded, the Court of First Instance may at any time, acting on a report from the Judge Rapporteur and after hearing the Advocate General, by reasoned order dismiss the appeal in whole or in part.

Article 146

After the submission of pleadings as provided for in Article 141(1) and, if applicable, Article 143(1) and (2), the Court of First Instance, acting on a report from the Judge Rapporteur and after hearing the Advocate General and the parties, may decide to rule on the appeal without

an oral procedure unless one of the parties submits an application setting out the reasons for which he wishes to be heard. The application shall be submitted within a period of one month from notification to the party of the closure of the written procedure. That period may be extended by the President.

Article 147

The preliminary report referred to in Article 52 shall be presented to the Court of First Instance after the pleadings provided for in Article 141(1) and where appropriate Article 143(1) and (2) have been lodged. Where no such pleadings are lodged, the same procedure shall apply after the expiry of the period prescribed for lodging them.

Article 148

Where the appeal is unfounded or where the appeal is well founded and the Court of First Instance itself gives judgment in the case, the Court of First Instance shall make a decision as to costs.

Article 88 shall apply only to appeals brought by institutions;

By way of derogation from Article 87(2), the Court of First Instance may, in appeals brought by officials or other servants of an institution, decide to apportion the costs between the parties where equity so requires.

If the appeal is withdrawn Article 87(5) shall apply.

Article 149

An application to intervene made to the Court in appeal proceedings shall be lodged before the expiry of a period of one month running from the date of the publication of the notice referred to in Article 24(6)

Final provisions

Article 150 (10)

The Court of First Instance may issue practice directions relating, in particular, to the preparations for and conduct of hearings before it and to the lodging of written pleadings or observations.

Article 151 (3)(7)(10)

These Rules, which are authentic in the languages mentioned in Article 35(1), shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the second month from the date of their publication.

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

INTERNAL RULES AND RULES OF PROCEDURE

INSTRUCTIONS TO THE REGISTRAR OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

of 5 July 2007

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES,

ON A PROPOSAL FROM THE PRESIDENT OF THE COURT OF FIRST INSTANCE,

Having regard to the Rules of Procedure adopted on 2 May 1991, as subsequently amended, and in particular Article 23 thereof,

HAS LAID DOWN THE FOLLOWING:

INSTRUCTIONS TO THE REGISTRAR

Article 1

The tasks of the Registrar

1. The Registrar shall be responsible for the maintenance of the register of the Court and the files of pending cases, for the acceptance, transmission, service and custody of documents, for correspondence with the parties and third parties in relation to pending cases, and for the custody of the seals of the Court. He shall ensure that registry charges are collected and that sums due to the Court treasury are recovered. He shall be responsible for the publications of the Court.

2. In carrying out the duties specified above, the Registrar shall be assisted by an Assistant Registrar. In the absence of the Registrar or in the event of his being prevented from carrying out those duties, they shall be performed by the Assistant Registrar who shall take the decisions reserved to the Registrar by the Rules of Procedure of the Court of First Instance or these Instructions or delegated to him pursuant to these Instructions.

Article 2

Opening hours of the Registry

1. The offices of the Registry shall be open to the public every working day.

All days other than Saturdays, Sundays and the official holidays on the list referred to in Article 101(2) of the Rules of Procedure shall be working days.

If a working day as referred to in the previous subparagraphs is a holiday for the officials and servants of the institution, arrangements shall be made for a skeleton staff to be on duty at the Registry during the hours in which it is normally open to the public.

2. The Registry shall be open to the public at the following times:

— in the morning, from Monday to Friday, from 9.30 a.m. to 12 noon,

— in the afternoon, from Monday to Thursday, from 2.30 p.m. to 5.30 p.m. and, except during the vacations provided for in Article 34(1) of the Rules of Procedure, on Fridays from 2.30 p.m. to 4.30 p.m.

The Registry shall be open to the public half an hour before the commencement of a hearing.

3. When the Registry is closed, procedural documents may be validly lodged with the janitor at the entrances to the Court buildings at any time of the day or night. The janitor shall make a record, which shall constitute good evidence, of the date and time of such lodgment and shall issue a receipt upon request.

Article 3

The register

1. Judgments and orders as well as all the documents placed on the file in cases brought before the Court shall be entered in the register.

2. Entries in the register shall be numbered consecutively; they shall be made in the language of the case and contain the information necessary for identifying the document, in particular the date of registration, the number of the case and the nature of the document.

3. Where a correction is made to the register, a note to that effect shall be made therein.

The register kept in electronic form shall be set up and maintained in such a way that no registration can be deleted therefrom and that following any amendment or rectification the original entry is preserved.

4. The registration number of every document drawn up by the Court shall be noted on its first page.

A note of the registration, indicating the registration number and the date of entry in the register, shall be made on the original of every procedural document lodged by the parties and on every copy which is notified to them. This note shall be in the language of the case. The note made on the original of the procedural document shall be signed by the Registrar.

5. When a document is not entered in the register on the same day on which it is lodged, the date of lodgment shall be entered in the register and noted on the original and on the copies of the procedural document concerned.

6. For the purposes of the application of the previous paragraph, the following dates shall be taken into account, depending on the circumstances: the date on which the procedural document was received by the Registrar or by a Registry official or employee, the date referred to in Article 2(3) above or, in the cases provided for in the first paragraph of Article 54 of the Statute of the Court of Justice and Article 8(1) of the Annex to that Statute, the date on which the procedural document was lodged with the Registrar of the Court of Justice or with the Registrar of the Civil Service Tribunal.

Article 4

The case number

1. When an application initiating proceedings is registered, the case shall be given a serial number preceded by 'T-' and followed by an indication of the year.

Applications for interim measures, applications to intervene, applications for rectification or interpretation of judgments, applications for revision or initiating third-party proceedings, applications for the taxation of costs and applications for legal aid relating to pending cases shall be given the same serial number as the principal action, followed by a reference to indicate that the proceedings concerned are special forms of procedure. An action which is preceded by an application for legal aid in connection therewith shall be given the same case number as the latter. Where the Court of Justice refers a case back to the Court of First Instance following an appeal, that case shall keep the number previously given to it when it was before the Court of First Instance.

2. The serial number of the case together with the names of the parties shall be indicated on the procedural documents, in correspondence relating to the case and, without prejudice to Article 18(4) of these Instructions, in the publications of the Court of First Instance.

Article 5

The file and access to the file

1. The case-file shall contain the originals, including their annexes, of the procedural documents produced by the parties, with the exception of those whose acceptance is refused pursuant to Article 7 of these Instructions, the decisions taken in the case, including any decisions relating to refusal to accept documents, reports for the hearing, minutes of the hearing, notices served by the Registrar and any other documents or correspondence to be taken into consideration in deciding the case.

If in doubt the Registrar shall refer the question whether a document is to be placed on the case-file to the President in order for a decision to be taken.

2. The documents contained in the file shall be given a serial number.

3. The lawyers or agents of the parties to a case before the Court or persons duly authorised by them may inspect the original case-file, including administrative files produced before the Court, at the Registry and may request copies or extracts of procedural documents and of the register.

Lawyers or agents of parties granted leave to intervene and lawyers or agents of all the parties to joined cases shall have the same right of access to case-files, subject to the provisions of Article 6(2) and (3) relating to the confidential treatment of certain information or documents on the file.

4. The confidential and non-confidential versions of procedural documents shall be kept in separate sections of the file. Access to the confidential section of the file shall be confined to the parties in respect of whom no confidential treatment has been ordered.

5. A document which is produced in a case and placed on the file of that case may not be taken into account for the purpose of preparing another case for hearing.

6. At the close of the proceedings, the case-file shall be closed and bound. The closed file shall contain a list of the documents on the file, an indication of their number, and a cover page showing the serial number of the case, the parties and the date on which the file was closed.

7. No third party, private or public, may have access to the case-file or to the procedural documents without the express authorisation of the President of the Court of First Instance or, where the case is still pending, of the President of the formation of the Court that is hearing the case, after the parties have been heard. That authorisation may be granted only upon written request accompanied by a detailed explanation of the third party's legitimate interest in inspecting the file.

Article 6

Confidential treatment

1. Without prejudice to Article 67(3) of the Rules of Procedure, no consideration may be given to an application by the applicant for any information or documents on the case-file to be treated as confidential in relation to the defendant. Likewise, no such application may be made by the defendant in relation to the applicant.

2. A party may apply pursuant to Article 116(2) of the Rules of Procedure for certain information or documents on the case-file to be treated as confidential in relation to an intervener. Such an application must be made in accordance with the provisions of the Practice Directions to parties (points 74 to 77).

Where an application for confidential treatment does not comply with the Practice Directions to parties, the Registrar shall request the party concerned to put the application in order. If, despite such a request, the application for confidential treatment is not made to comply with the Practice Directions to parties, it will not be able properly to be processed; a copy of every procedural document in its entirety will then be furnished to the intervener in accordance with Article 116(2) of the Rules of Procedure.

3. Where cases are joined, a party in one case may apply pursuant to Article 50(2) of the Rules of Procedure for certain information or documents on the case-file to be treated as confidential in relation to a party in a joined case. Such an application must be made in accordance with the provisions of the Practice Directions to parties (points 78 and 79).

Where an application for confidential treatment does not comply with the Practice Directions to parties, the Registrar shall request the party concerned to put the application in order. If, despite such a request, the application for confidential treatment is not made to comply with the Practice Directions to parties, it will not be able properly to be processed; the other party in the joined case will then have access to the whole case-file.

Article 7

Non-acceptance of documents and regularisation

1. The Registrar shall ensure that documents placed on the file are in conformity with the provisions of the Statute of the Court of Justice, the Rules of Procedure, the Practice Directions to parties and these Instructions.

If necessary, he shall allow the parties a period of time for making good any formal irregularities in the documents lodged.

Service of a pleading shall be delayed in the event of non-compliance with the provisions of the Rules of Procedure referred to in points 55 and 56 of the Practice Directions to parties.

Non-compliance with the provisions referred to in points 57 and 59 of the Practice Directions to parties shall delay, or may delay, as the case may be, the service of a pleading.

2. The Registrar shall refuse to register pleadings or procedural documents which are not provided for by the Rules of Procedure. If in doubt the Registrar shall refer the matter to the President in order for a decision to be taken.

3. Without prejudice to Article 43(6) of the Rules of Procedure, concerning the lodgment of documents by fax or other technical means of communication, the Registrar shall accept only documents bearing the original signature of the party's lawyer or agent.

The Registrar may request the lodgment of a lawyer's or agent's specimen signature, if necessary certified as a true specimen, in order to enable him to verify that the first subparagraph of Article 43(1) of the Rules of Procedure has been complied with.

4. Documents annexed to a pleading or procedural document must be lodged in accordance with the provisions of the Practice Directions to parties relating to the production of annexes to pleadings. If the party concerned fails to make good the irregularity, the Registrar shall refer the matter to the Judge-Rapporteur for a decision, with the President's agreement, on whether to refuse to accept the annexes not in conformity with the provisions of the Practice Directions to parties.

5. Save in the cases expressly provided for by the Rules of Procedure, the Registrar shall refuse to accept pleadings or procedural documents of the parties drawn up in a language other than the language of the case.

Where documents annexed to a pleading or procedural document are not accompanied by a translation into the language of the case, the Registrar shall require the party concerned to make good the irregularity if such a translation appears necessary for the purposes of the efficient conduct of the proceedings.

Where an application to intervene originating from a third party other than a Member State is not drawn up in the language of the case, the Registrar shall require the application to be put in order before it is served on the parties. If a version of such an application drawn up in the language of the case is lodged within the period prescribed for this purpose by the Registrar, the date on which the first version, not in the language of the case, was lodged shall be taken as the date on which the document was lodged.

6. Where a party challenges the Registrar's refusal to accept a document, the Registrar shall submit the document concerned to the President for a decision on whether it is to be accepted.

Article 8

Presentation of originating applications

1. Where the Registrar considers that an application initiating proceedings is not in conformity with Article 44(1) of the Rules of Procedure, he shall suspend service of the application in order that the Court may give a decision on the admissibility of the action.

2. For the purposes of the production of the document required by Article 44(3) of the Rules of Procedure certifying that the lawyer acting for a party or assisting the party's agent is authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area, reference may be made to a document previously lodged at the Registry of the Court.

3. Where the applicant is a legal person governed by private law, documents to be produced by virtue of Article 44(5)(a) and (b) of the Rules of Procedure must enable the following to be verified:

— existence of authority;

— existence in law of the legal person;

— power and capacity of the authority's signatory;

— proper conferment of the authority.

Article 9

Translations

1. The Registrar shall, in accordance with Article 36(1) of the Rules of Procedure, arrange for everything said or written in the course of the proceedings to be translated, at the request of a Judge, an Advocate-General or a party, into the language of the case or, where necessary, into another language as provided for in Article 35(2) of the Rules of Procedure. Where, for the purposes of the efficient conduct of the proceedings, a translation into another language, as provided for in Article 35(1) of the Rules of Procedure, is necessary, the Registrar shall also arrange for such a translation to be made.

2. If, pursuant to Article 131(4) of the Rules of Procedure, the Registrar has prescribed a period within which the party concerned is to produce a translation into the language of the case, the accuracy of which it must certify, and the translation is not produced within the prescribed period, the Registrar shall arrange for the pleading or procedural document concerned to be removed from the case-file.

3. The Registrar shall prescribe the periods within which institutions which are parties to proceedings are to produce the translations provided for by Article 43(2) of the Rules of Procedure.

Article 10

Service

1. Service shall be effected, in accordance with Article 100(1) of the Rules of Procedure, either by the dispatch by registered post, with a form for acknowledgment of receipt, of a certified copy of the original of the document to be served or by personal delivery of such copy to the addressee against a receipt. If need be, the certified copy shall be prepared by the Registrar.

The copy of the document shall be accompanied by a letter specifying the case number, the register number and a brief indication of the nature of the document. The signed original of that letter shall be kept on the case-file.

2. If service of the application on the defendant is attempted unsuccessfully, the Registrar shall prescribe a period within which the applicant is to supply a new address for service.

3. Provided that the addressee concerned has an address for service in Luxembourg, documents shall be served on the person authorised to accept service.

Where, contrary to Article 44(2) of the Rules of Procedure, a party has omitted to state an address for service in Luxembourg and has not agreed that service is to be effected on him by fax or other technical means of communication, service shall be effected by the lodging at the post office in Luxembourg of a registered letter addressed to the lawyer or agent of the party concerned.

4. Where, in accordance with the second subparagraph of Article 44(2) of the Rules of Procedure, a party has agreed that service is to be effected on him by fax or other technical means of communication, service shall be effected, in accordance with Article 100(2) of the Rules of Procedure, by the transmission by such means of a copy of the document to be served.

However, judgments and orders of the Court of First Instance and documents which, for technical reasons or on account of their nature or length, cannot be transmitted by such means shall be served in accordance with paragraph 1 above.

Where the addressee has not stated an address for service in Luxembourg, he shall be informed of such service by the transmission by fax or other technical means of communication of a copy of the letter accompanying the document to be served and drawing his attention to the provisions of the second subparagraph of Article 100(2) of the Rules of Procedure.

5. The form for acknowledgment of receipt, the receipt, the proof of lodging of the registered letter at the post office in Luxembourg or a document establishing the dispatch by fax or other technical means of communication shall be kept on the case-file together with a copy of the letter sent to the addressee when service was effected.

6. If, owing to the length of a document, only one copy is annexed to a procedural document lodged by a party or if, for other reasons, copies of a document or an object lodged at the Registry cannot be served on the parties, the Registrar shall inform the parties accordingly and indicate to them that the document or object in question is available to them at the Registry for inspection.

Article 11

Setting and extension of time-limits

1. The Registrar shall prescribe the time-limits provided for in the Rules of Procedure, in accordance with the authority accorded to him by the President.

2. Documents received at the Registry after the period prescribed for their lodgment has expired may be accepted only with the authorisation of the President.

3. The Registrar may extend the time-limits prescribed, in accordance with the authority accorded to him by the President. When necessary, he shall submit to the President proposals for the extension of time-limits.

Applications for extensions of time-limits must be duly reasoned and be submitted in good time before the expiry of the period prescribed. A time-limit may not be extended more than once save for exceptional reasons.

Article 12

Procedures on applications for interim measures

In the procedures referred to in Articles 104 to 110 of the Rules of Procedure, the Registrar may send procedural documents by all appropriate means which urgency requires, and in particular by means of fax transmission; in the event of such transmission, the Registrar shall nevertheless ensure that it is followed by a dispatch in the manner prescribed by Article 100 of the Rules of Procedure.

Article 13

Hearings and minutes of hearings

1. Before every public hearing the Registrar shall draw up a cause list in the language of the case. The cause list shall contain the date, hour and place of the hearing, the competent formation of the Court, an indication of the cases which will be called and the names of the parties.

The cause list shall be displayed at the entrance to the courtroom.

2. The Registrar shall draw up in the respective language of each case the minutes of every hearing. Those minutes shall contain an indication of the case, the date, hour and place of the hearing, an indication of whether the hearing was in public or in camera, the names of the Judges, the Advocate-General and the Registrar present, the names and capacities of the agents, lawyers or advisers of the parties present, the surnames, forenames, status and permanent addresses of the witnesses or experts examined, an indication of the evidence or documents produced at the hearing and, in so far as is necessary, the statements made at the hearing and the decisions pronounced at the hearing by the Court or the President.

3. The Registrar shall arrange for minutes of the examination of a witness which reproduce the witness's evidence to be drawn up in the language in which the witness gave his evidence.

Before signing the minutes and submitting them to the President for his signature the Registrar shall forward the draft minutes to the witness, if necessary by registered post, and request the witness to check them, make any observations which he may wish to make upon them and sign them.

Article 14

Witnesses and experts

1. The Registrar shall take the measures necessary for giving effect to orders requiring the taking of expert opinion or the examination of witnesses.

2. The Registrar shall obtain from witnesses evidence of their expenses and loss of earnings and from experts a fee note accounting for their expenses and services.

3. The Registrar shall cause sums due to witnesses and experts under the Rules of Procedure to be paid from the Court's treasury. In the event of a dispute concerning such sums, the Registrar shall refer the matter to the President in order for a decision to be taken.

4. The Registrar shall arrange for the costs of examining experts or witnesses advanced by the Court in a case to be demanded from the parties ordered to pay the costs. If necessary, steps pursuant to Article 16(2) shall be taken.

Article 15

Originals of judgments and orders

1. Originals of judgments and orders of the Court shall be kept in chronological order in the archives of the Registry. A certified copy shall be placed on the case-file.

At the parties' request, the Registrar shall supply them with a certified copy of the original of a judgment or of an order.

The Registrar may supply uncertified copies of judgments and orders to third parties who so request.

2. Judgments or orders rectifying or interpreting a judgment or an order, judgments given on applications to set aside judgments by default, judgments and orders given in third-party proceedings or on applications for revision and judgments or orders given by the Court of Justice in appeals shall be mentioned in the margin of the judgment or order concerned. The original or a certified copy shall be appended to the original of the judgment or order.

Article 16

Recovery of sums

1. Where sums paid out by way of legal aid or sums advanced to witnesses or experts are recoverable by the Court's treasury, the Registrar shall, by registered letter, demand payment of those sums from the party which is to bear them in accordance with the Rules of Procedure.

2. If the sums demanded are not paid within the period prescribed by the Registrar, he may request the Court to make an enforceable decision and, if necessary, require its enforcement.

Article 17

Registry charges

1. Where a copy of a procedural document or an extract from the case-file or from the register is supplied to a party on paper at its request, the Registrar shall impose a Registry charge of EUR 3,50 ([1]) per page for a certified copy and EUR 2,50 per page for an uncertified copy.

2. Where the Registrar arranges for a procedural document or an extract from the case-file to be translated at the request of a party, a Registry charge of EUR 1,25 per line shall be imposed.

3. The charges referred to in this Article shall, as from 1 January 2007, be increased by 10 % each time the weighted cost-of-living index published by the Government of the Grand Duchy of Luxembourg is increased by 10 %.

Article 18

Publications

1. The Registrar shall cause to be published in the *Official Journal of the European Union* the composition of the Chambers and the criteria applied in the allocation of cases to them, the election of the President of the Court of First Instance and of the Presidents of Chambers, the designation of the Judge replacing the President of the Court of First Instance as the Judge hearing applications for interim measures, and the appointment of the Registrar and of any Deputy Registrar.

2. The Registrar shall cause to be published in the *Official Journal of the European Union* notices of proceedings brought and of decisions closing proceedings.

3. The Registrar shall ensure that the case-law of the Court of First Instance is made public and that the Reports of Cases before the Court of First Instance are published in the languages referred to in Article 1 of Council Regulation No 1 ([2]), as amended, and in accordance with any arrangements adopted by the Court of First Instance.

4. Where a party so requests or the Court of its own motion so decides, the names of parties or third parties or other information may be omitted from the publications relating to a case if there is a legitimate interest in keeping the identity of a person or other information confidential.

Article 19

Advice for lawyers and agents

1. The Registrar shall make known to lawyers and agents the Practice Directions to parties and these Instructions to the Registrar.

2. When requested by lawyers or agents, the Registrar shall provide them with information on the practice followed pursuant to the Rules of Procedure, pursuant to the Practice Directions to parties and pursuant to these Instructions to the Registrar in order to ensure that proceedings are conducted efficiently.

Article 20

Derogations from these Instructions

Where the special circumstances of a case and the proper administration of justice require, the Court or the President may derogate from any of these Instructions.

Article 21

Entry into force of these Instructions

1. The Instructions to the Registrar of 3 March 1994 (OJ L 78, 22.3.1994, p. 32), as amended on 29 March 2001 (OJ L 119, 27.4.2001, p. 2) and 5 June 2002 (OJ L 160, 18.6.2002 p. 1), are hereby repealed and replaced by these Instructions to the Registrar.

2. These Instructions to the Registrar, which are authentic in the languages referred to in Article 36(2) of the Rules of Procedure, shall be published in the *Official Journal of the European Union*. They shall enter into force on the day following their publication.

Done at Luxembourg, 5 July 2007.

E. COULON	B. VESTERDORF
Registrar	*President*

([1]) Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro (OJ L 162 of 19 June 1997, p. 1).

([2]) Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community (OJ, English Special Edition (1952-1978) (I), p. 59).

PRACTICE DIRECTIONS TO PARTIES

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES,

Having regard to Article 150 of its Rules of Procedure;

Whereas:

It is in the interests of the efficient conduct of proceedings before the Court of First Instance ('the Court') and the expeditious processing of cases that practice directions should be issued to the lawyers and agents of parties, dealing with the manner in which pleadings and other procedural documents relating to the written procedure are to be submitted and how best to prepare for the hearing before the Court;

The present directions reflect, explain and complement provisions in the Court's Rules of Procedure and are designed to enable lawyers and agents to allow for the constraints under which the Court operates, and particularly those attributable to translation requirements and the electronic processing of procedural documentation;

The Instructions to the Registrar dated 5 July 2007 (OJ L 232, 4.9.2007, p. 1)('the Instructions to the Registrar') require the Registrar to ensure that documents placed on a case-file comply with the provisions of the Statute of the Court of Justice, the Rules of Procedure and these Practice Directions ('the Practice Directions') together with the Instructions to the Registrar, and, in particular, oblige him to require that any irregularities of form in documents lodged be made good and, in default of such regularisation, that he refuse, where appropriate, to accept them if they do not comply with the provisions of the Statute of the Court of Justice or of the Rules of Procedure;

Compliance with the Practice Directions will assure lawyers and agents that the pleadings and documents lodged by them may properly be processed by the Court and will not, with respect to the matters dealt with in the Practice Directions, entail the application of Article 90(a) of the Rules of Procedure;

Following consultations with the representatives of the agents of the Member States, of the institutions acting in proceedings before the Court and of the Council of Bars and Law Societies of Europe (CCBE);

HEREBY DECIDES TO ADOPT THE FOLLOWING PRACTICE DIRECTIONS.

I. WRITTEN PROCEDURE

A. **Use of technical means of communication**

1. A copy of the signed original of a procedural document may be transmitted to the Registry in accordance with Article 43(6) of the Rules of Procedure either:

— by fax (to fax number: (352) 4303 2100), or

— by e-mail (e-mail address: CFI.Registry@curia.europa.eu).

2. In the case of transmission by email, only a scanned copy of the signed original will be accepted. A document despatched in the form of an ordinary electronic file which is unsigned or bears an electronic signature or a facsimile signature generated by computer will not be treated as complying with Article 43(6) of the Rules of Procedure. No correspondence relating to a case which is received by the Court in the form of an ordinary email message will be taken into consideration.

Scanned documents should ideally be scanned at a resolution of 300 dpi and submitted in PDF format (images and text) using Acrobat or Readiris 7 Pro software.

3. The lodgment of a document by fax or email will be treated as complying with the relevant time-limit only if the signed original of that document reaches the Registry prior to the expiry of the period of 10 days following such lodgment, as specified in Article 43(6) of the Rules of Procedure. The signed original must be sent without delay, immediately after the despatch of the copy, without any corrections or amendments, even of a minor nature, being made thereto. In the event of any discrepancy between the signed original and the copy previously lodged, only the date of lodgment of the signed original will be taken into consideration.

4. Where, in accordance with Article 44(2) of the Rules of Procedure, a party consents to being served by fax or other technical means of communication, the statement to that effect must specify the fax number and/or the email address to which the Registry may send that party documents to be served. The recipient's computer must be equipped with suitable software (for example, Acrobat or Readiris 7 Pro) enabling communications from the Registry, which will be transmitted in PDF format, to be read.

B. **Lodgment of pleadings**

5. The following information must appear on the first page of the pleading:

(a) the title of the pleading (application, defence, reply, rejoinder, application for leave to intervene, statement in intervention, objection of inadmissibility, observations on ....., replies to questions, etc.);

(b) the case number (T-.../..), where it has already been notified by the Registry;

(c) the names of the applicant and of the defendant;

(d) the name of the party on whose behalf the pleading is lodged.

6. Each paragraph of the pleading must be numbered.

7. The original signature of the lawyer or agent acting for the party concerned must appear at the end of the pleading. Where more than one representative is acting for the party concerned, the signature of one representative shall be sufficient.

8. Pleadings lodged by the parties must be submitted in such a way as to enable them to be processed electronically by the Court, in particular by means of document scanning and character recognition.

In order to permit the use of such technology, the following requirements should be complied with:

(a) the paper must be white, unlined and A4 size, with the text appearing on one side of the page only;

(b) pages of pleadings and annexes, if any, must be placed together in such a way as to enable them to be easily undone. They must not be bound together or fixed to each other by any other means (e.g. glued or stapled);

(c) the text must appear in characters of a current type (such as Times New Roman, Courier or Arial), in at least 12 pt in the body of the text and at least 10 pt in the footnotes, with one-and-a-half line spacing and upper, lower, left and right margins of at least 2,5 cm;

(d) the pages of the pleading must be numbered consecutively in the top right-hand corner.

Where annexes to a pleading are produced, they must be paginated in accordance with the requirements at point 52 of the Practice Directions.

9. Each copy of every procedural document required to be produced by the parties pursuant to the second subparagraph of Article 43(1) of the Rules of Procedure must be signed by the lawyer or agent of the party concerned and certified by him as a true copy of the original document.

C. **Length of pleadings**

10. Depending on the subject-matter and the circumstances of the case, the maximum number of pages shall be as follows:

— 50 pages for the application and the defence,

— 20 pages for the application and responses in intellectual property cases,

— 15 pages for the appeal and the response,

— 25 pages for the reply and the rejoinder,

— 20 pages for an objection of inadmissibility and observations thereon,

— 20 pages for a statement in intervention and 15 pages for observations thereon.

Those maxima may be exceeded only in cases involving particularly complex legal or factual issues.

D. **Form and content of the application and of the defence/response**

D.1. *Direct actions*

11. The Rules of Procedure contain provisions which specifically govern proceedings relating to intellectual property rights (Articles 130 to 136). The rules relating to applications and responses lodged in the context of such proceedings (D.1.2) are therefore set out separately from those relating to applications and defences lodged in the context of any other proceedings (D.1.1).

D.1.1. Application and defence

Application initiating proceedings

12. The information which is mandatory and must be included in the application initiating proceedings is prescribed under Article 44 of the Rules of Procedure.

13. For practical reasons, the following information must appear at the beginning of the application:

(a) the name and address of the applicant;

(b) the name and capacity of the applicant's lawyer or agent;

(c) the identity of the party against whom the application is made;

(d) the statements referred to in Article 44(2) of the Rules of Procedure (statement of an address for service and/or agreement to service by technical means of communication).

14. The introductory part of the application should be followed by a brief account of the facts giving rise to the dispute.

15. Legal arguments should be set forth and grouped by reference to the particular pleas in law to which they relate, and ideally each argument or group of arguments should be preceded by a summary statement of the relevant plea.

16. The precise wording of the form of order sought by the applicant must be stated either at the beginning or at the end of the application.

17. In the case of an action for annulment, a copy of the contested measure must be annexed to the application and identified as such.

18. The documents referred to in Article 44(3) and (5)(a) and (b) of the Rules of Procedure must be produced together with the application, but separately from the documents annexed in support of the action.

19. Each application must be accompanied by a summary of the pleas in law and main arguments relied on, designed to facilitate the drafting of the notice prescribed by Article 24(6) of the Rules of Procedure, which will be prepared by the Registry. The summary in question must not be more than two pages long.

20. All evidence offered in support must be expressly and accurately indicated, in such a way as to show clearly the facts to be proved:

— documentary evidence offered in support must refer to the relevant document number in a schedule of annexed documents. Alternatively, if a document is not in the applicant's possession, the pleading must indicate how the document may be obtained.

— where oral testimony is sought to be given, each proposed witness or person from whom information is to be obtained must be clearly identified.

21. If the application is lodged after the submission of an application for legal aid, the effect of which, under Article 96(4) of the Rules of Procedure, is to suspend the period prescribed for the bringing of an action, this must be pointed out at the beginning of the application initiating proceedings.

If the application is lodged after notification of the order making a decision on an application for legal aid, reference must equally be made in the application to the date on which the order was served on the applicant.

Defence

22. The information which is mandatory and must be included in the defence is prescribed under Article 46(1) of the Rules of Procedure.

23. For practical reasons, in addition to the case-number and the name of the applicant, the following information must be included at the beginning of the defence:

(a) the name and address of the defendant;

(b) the name and capacity of the defendant's lawyer or agent;

(c) the statements referred to in Article 44(2) of the Rules of Procedure (statement of an address for service and/or agreement to service by technical means of communication).

24. The precise wording of the form of order sought by the defendant must be stated either at the beginning or at the end of the defence.

25. Points 15, 18 and 20 of the Practice Directions shall apply to the defence.

26. Any fact alleged by the other party which is contested must be specified and the basis on which it is contested expressly stated.

D.1.2. Application and response (in intellectual property cases)

Application initiating proceedings

27. The information which is mandatory and must be included in the application initiating proceedings is prescribed under Articles 44 and 132(1) of the Rules of Procedure.

28. For practical reasons, the following information must appear at the beginning of the application:

(a) the name and address of the applicant;

(b) the name and capacity of the applicant's lawyer;

(c) the names of all parties to the proceedings before the Board of Appeal and the addresses given by them for notification purposes during those proceedings;

(d) the statements referred to in Article 44(2) of the Rules of Procedure (statement of an address for service and/or agreement to service by technical means of communication).

29. In the case of an action for annulment, a copy of the contested measure must be annexed to the application and identified as such. Reference must be made to the date on which the decision was notified to the applicant.

30. Point 10, second indent, and points 14, 15, 16, 18, 20 and 21 of the Practice Directions shall apply to applications in intellectual property cases.

Response

31. The information which is mandatory and must be included in the response is prescribed under Article 46(1) of the Rules of Procedure.

32. In addition to the case-number and the name of the applicant, the following must appear at the beginning of the response:

(a) the name and address of the defendant or of the intervener;

(b) the name and capacity of the defendant's agent or of the intervener's lawyer;

(c) the statements referred to in Article 44(2) of the Rules of Procedure (statement of an address for service and/or agreement to service by technical means of communication).

33. The precise wording of the form of order sought by the defendant or by the intervener must be stated either at the beginning or at the end of the response.

34. Point 10, second indent, and points 15, 18, 20 and 26 of the Practice Directions shall apply to the response.

D.2. *Appeals*

Notice of Appeal

35. The notice of appeal must contain the statements prescribed under Article 138(1) of the Rules of Procedure.

36. The following must appear at the beginning of any notice of appeal:

(a) the name and address of the appellant;

(b) the name and capacity of the appellant's agent or lawyer;

(c) a reference to the decision of the Civil Service Tribunal appealed against (nature of the decision, formation of the Tribunal, date and case-number);

(d) the names of the other parties to the proceedings before the Civil Service Tribunal;

(e) a reference to the date of service on the appellant of the decision of the Civil Service Tribunal;

(f) the statements referred to in Article 44(2) of the Rules of Procedure (statement of an address for service in Luxembourg and/or agreement to service by technical means of communication).

37. The precise wording of the form of order sought by the appellant must be stated either at the beginning or at the end of the notice (Article 139(1) of the Rules of Procedure).

38. It is not generally necessary to describe the background or subject-matter of the proceedings. A reference to the decision of the Civil Service Tribunal is sufficient.

39. It is recommended that the pleas in law be summarised at the beginning of the notice. Legal arguments should be set forth and grouped by reference to the particular pleas in law in support of the appeal to which they relate, particularly by reference to the errors of law relied on.

40. A copy of the decision of the Civil Service Tribunal appealed against shall be annexed to the notice.

41. Each notice of appeal must be accompanied by a summary of the pleas in law and main arguments relied on, designed to facilitate the drafting of the notice for publication in the Official Journal prescribed by Article 24(6) of the Rules of Procedure. The summary in question must not be more than two pages long.

42. The document referred to in Article 44(3) of the Rules of Procedure (certificate that the lawyer is authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area) must be produced together with the notice of appeal, unless the appellant is a Community institution or a Member State represented by an agent.

Response

43. The response must contain the statements prescribed under Article 141(2) of the Rules of Procedure.

44. In addition to the case-number and the name of the appellant, the following must appear at the beginning of each response:

(a) the name and address of the party submitting the response;

(b) the name and capacity of that party's agent or lawyer;

(c) the date of service of the appeal on that party;

(d) the statements referred to in Article 44(2) of the Rules of Procedure (statement of an address for service in Luxembourg and/or agreement to service by technical means of communication).

45. The precise wording of the form of order sought by the party submitting the response must be stated either at the beginning or at the end of the response (Article 142(1) of the Rules of Procedure).

46. If the response seeks to set aside, in whole or in part, the decision of the Civil Service Tribunal on a plea in law which was not raised in the appeal, a reference to that effect should be included in the heading of the pleading ('response and cross-appeal').

47. Legal arguments must, as far as possible, be set forth and grouped by reference to the appellant's pleas in law and/or, as the case may be, to the pleas in law relating to the cross-appeal.

48. Since the factual and legal background is already included in the judgment under appeal, it should be repeated in the response only, in truly exceptional circumstances, in so far as its presentation in the notice of appeal is contested or requires clarification. The matter of fact or of law contested must be specified and the basis on which it is contested expressly stated.

49. The document referred to in Article 44(3) of the Rules of Procedure (certificate that the lawyer is authorised to practise before a Court of a Member State or of another State which is a party to the Agreement on the European Economic Area) must be produced together with the response, unless the party producing it is a Community institution or a Member State represented by an agent.

E. **Annexes to pleadings**

50. Only those documents mentioned in the actual text of a pleading and which are necessary in order to prove or illustrate its contents may be submitted as annexes.

51. Annexes will be accepted only if they are accompanied by a schedule indicating, for each document annexed:

(a) the number of the annex;

(b) a short description of the document (e.g. 'letter'), followed by its date, author and addressee and the number of pages;

(c) the page reference and paragraph number in the pleading where the document is mentioned and its relevance is described.

An annex should also be numbered in such a way as to identify the pleading in which it is produced (thus, for example, Annex A.1, A.2, etc. in an application; Annex B.1, B.2, etc. in a defence; Annex C.1, C.2, etc. in a reply; Annex D.1, D.2, etc. in a rejoinder).

52. The pages of documents annexed to a pleading must be numbered in the top right-hand corner, either consecutively with the pleading to which they are annexed or separately from the pleading concerned. Such page numbering is intended to make it possible to ensure, by means of a page count, that all pages of the annexes have been duly scanned.

53. Where annexes are documents which themselves contain annexes, they must be arranged and numbered in such a way as to avoid all possibility of confusion and should, where necessary, be separated by dividers.

54. Each reference in the text of a pleading to a document lodged must state the relevant annex number as given in the schedule of annexes and indicate the pleading with which the annex has been lodged, in the manner described at point 51 above.

F. **Regularisation of pleadings**

F.1 *Regularisation of applications*

55. If an application does not comply with the following requirements set out in Article 44(3) to (5) of the Rules of Procedure, it shall not be served on the defendant and a reasonable period shall be prescribed for the purposes of putting the application in order:

(a) production of the certificate of the lawyer's authorisation to practise (Article 44(3) of the Rules of Procedure);

(b) proof of the existence in law of a legal person governed by private law (Article 44(5)(a) of the Rules of Procedure);

(c) authority (Article 44(5)(b) of the Rules of Procedure);

(d) proof that that authority has been properly conferred by someone authorised for the purpose (Article 44(5)(b) of the Rules of Procedure);

(e) production of the contested measure (action for annulment) or of the documentary evidence of the date on which the institution was requested to act (action for failure to act) (second paragraph of Article 21 of the Statute of the Court of Justice; Article 44(4) of the Rules of Procedure).

56. In intellectual property cases in which the lawfulness of a decision of a Board of Appeal of OHIM is called into question, an application which does not comply with the following requirements under Article 132 of the Rules of Procedure shall not be served on the other party/parties, and a reasonable period shall be prescribed for the purposes of putting the application in order:

(a) the names and addresses of the parties to the proceedings before the Board of Appeal (first subparagraph of Article 132(1) of the Rules of Procedure);

(b) the date on which the decision of the Board of Appeal was notified (second subparagraph of Article 132(1) of the Rules of Procedure);

(c) the contested decision annexed (second subparagraph of Article 132(1) of the Rules of Procedure).

57. If an application does not comply with the following procedural rules, service of the application shall be delayed and a reasonable period shall be prescribed for the purposes of putting the application in order:

(a) indication of the applicant's address (first paragraph of Article 21 of the Statute of the Court of Justice; Article 44(1)(a) of the Rules of Procedure; point 13(a) of the Practice Directions);

(b) original signature of the lawyer or agent at the end of the application (point 7 of the Practice Directions);

(c) numbered paragraphs (point 6 of the Practice Directions);

(d) production of the annexes mentioned in the schedule (second subparagraph of Article 43(1) of the Rules of Procedure);

(e) sufficient number of copies of the annexes mentioned in the schedule (second subparagraph of Article 43(1) of the Rules of Procedure);

(f) production of a schedule of annexes (Article 43(4) of the Rules of Procedure and point 51 of the Practice Directions);

(g) sufficient number of copies of the schedule (second subparagraph of Article 43(1) of the Rules of Procedure);

(h) schedule of annexes with page reference and paragraph number(s) (point 51(c) of the Practice Directions);

(i) sufficient number of copies of the schedule of annexes with page reference and paragraph number(s) (second subparagraph of Article 43(1) of the Rules of Procedure);

(j) sufficient number of copies of the contested measure or of the documentary evidence of the date on which the institution was requested to act (second subparagraph of Article 43(1) of the Rules of Procedure);

(k) production of a copy of the contract containing the arbitration clause (Article 44(5a) of the Rules of Procedure);

(l) sufficient number of copies of the contract containing the arbitration clause (second subparagraph of Article 43(1) of the Rules of Procedure);

(m) pagination of the application and annexes (points 8(d) and 52 of the Practice Directions);

(n) sufficient number of certified copies of the application (seven for *inter partes* intellectual property cases and six for all other cases) (second subparagraph of Article 43(1) of the Rules of Procedure);

(o) production of certified true copies of the application (second subparagraph of Article 43(1) of the Rules of Procedure; point 9 of the Practice Directions).

58. If the application does not comply with the following procedural rules, the application shall be served and a reasonable period shall be prescribed for the purposes of putting it in order:

(a) address for service (statement of an address for service and/or agreement to service by technical means of communication) (Article 44(2) of the Rules of Procedure; Article 10(3) of the Instructions to the Registrar; points 4 and 13(d) of the Practice Directions);

(b) certificate of authorisation to practise in respect of any additional lawyer (Article 44(3) of the Rules of Procedure);

(c) summary of the pleas in law and main arguments (point 19 of the Practice Directions);

(d) translation into the language of the case accompanying any document expressed in a language other than the language of the case (second subparagraph of Article 35(3) of the Rules of Procedure).

Regularisation of lengthy applications:

59. An application comprising a number of pages which exceeds the maximum number of pages prescribed at point 10 of the Practice Directions by 40 % or more shall require regularisation, unless otherwise directed by the President.

An application comprising a number of pages which exceeds the maximum number of pages prescribed at point 10 of the Practice Directions by less than 40 % may require regularisation if so directed by the President.

Where an applicant is requested to put his application in order, service on the defendant of the application which requires regularisation on account of its length shall be delayed.

F.2 *Regularisation of other pleadings*

60. The instances of regularisation referred to above shall apply as necessary to pleadings other than the application.

G. **Applications for expedited procedure**

61. An application in respect of which the expedited procedure is requested must not in principle exceed 25 pages. Such an application must be submitted in accordance with the requirements set out at points 12 to 19 above.

62. An application for a case to be decided by the Court under the expedited procedure, which is made by a separate document in accordance with Article 76a of the Rules of Procedure, must contain a brief statement of the reasons for the special urgency of the case and any other relevant circumstances. The provisions of Sections B and E above shall apply.

63. It is recommended that the party applying for the expedited procedure specifies in its application the pleas in law, arguments or passages of the pleading in question (application or defence) which are put forward only in the event that the case is not decided under the expedited procedure. That information, referred to in the second subparagraph of Article 76a(1) of the Rules of Procedure, must be clearly specified in the application, indicating the numbers of the paragraphs concerned.

64. It is recommended also that an abbreviated version of the relevant pleading be annexed to any application for a case to be decided under the expedited procedure which contains the information referred to at point 63 above.

Where an abbreviated version is annexed, it must comply with the following directions:

(a) the abbreviated version shall be in the same format as the original version of the pleading in question, with omitted passages being identified by the word 'omissis' in square brackets;

(b) paragraphs which are retained in the abbreviated version shall keep the same numbering as in the original version of the pleading in question;

(c) if the abbreviated version does not refer to all of the annexes to the original version of the pleading in question, the schedule of annexes accompanying the abbreviated version shall identify each annex omitted by the word 'omissis';

(d) annexes which are retained in the abbreviated version must keep the same numbering as in the schedule of annexes in the original version of the pleading in question;

(e) the annexes referred to in the schedule accompanying the abbreviated version must be attached to that version.

In order to ensure that it is dealt with as expeditiously as possible, the abbreviated version must comply with the above directions.

65. Where the production of an abbreviated version of the pleading is requested by the Court under Article 76a(4) of the Rules of Procedure, the abbreviated version must be prepared in accordance with the above directions, unless otherwise specified.

66. If the applicant has not specified in its application for expedited procedure the pleas in law, arguments or passages of the application which are to be taken into consideration only in the event that the case is not decided under the expedited procedure, the defendant must respond to the application initiating proceedings within a period of one month.

If the applicant has specified in its application for expedited procedure the pleas in law, arguments or passages of the application which are to be taken into consideration only in the event that the case is not decided under the expedited procedure, the defendant must respond, within a period of one month, to the pleas in law and arguments advanced in the application, in the light of the information provided in the application for the expedited procedure.

If the applicant has attached an abbreviated version of the application to its application for expedited procedure, the defendant must respond, within a period of one month, to the pleas in law and arguments contained in that abbreviated version of the application.

67. If the Court decides to reject the application for an expedited procedure before the defendant has lodged its defence, the period of one month for lodgment of the defence prescribed under the first subparagraph of Article 76a(2) of the Rules of Procedure shall be extended by a further month.

If the Court decides to reject the application for an expedited procedure after the defendant has lodged its defence within the period of one month prescribed by the first subparagraph of Article 76a(2) of the Rules of Procedure, the defendant shall be allowed a further period of one month in order to supplement his defence.

H. Applications for suspension of operation or enforcement and other interim measures

68. The application must be made by a separate document. It must be intelligible in itself, without necessitating reference to the application lodged in the main proceedings.

69. An application for suspension of operation or enforcement or for other interim measures must state, with the utmost concision, the subject-matter of the proceedings, the pleas of fact and of law on which the main action is based (establishing a prima facie case on the merits in that action) and the circumstances giving rise to urgency. It must specify the measure(s) applied for. Sections B, D and E above shall apply.

70. Because an application for interim measures requires the existence of a prima facie case to be assessed for the purposes of a summary procedure, it must not set out in full the text of the application in the main proceedings.

71. In order that an application for interim measures may be dealt with urgently, the number of pages it contains must not in principle (depending on the subject-matter and the circumstances of the case) exceed a maximum of 25 pages.

I. Applications for confidential treatment

72. Without prejudice to the provisions of the second and third subparagraphs of Article 67(3) of the Rules of Procedure, the Court shall take into consideration only those documents which have been made available to the lawyers and agents of the parties and on which they have been given an opportunity of expressing their views (first subparagraph of Article 67(3) of the Rules of Procedure).

73. Nevertheless, a party may apply for any part of the contents of the case-file which are secret or confidential:

— to be excluded from the documents to be furnished to an intervener (Article 116(2) of the Rules of Procedure);

— not to be made available to a party in a joined case (Article 50(2) of the Rules of Procedure).

Applications for leave to intervene

74. An application by one of the parties pursuant to Article 116(2) of the Rules of Procedure for the exclusion on grounds of secrecy or confidentiality of any part of the contents of the case-file from the documents to be furnished to an intervener shall be made by a separate document.

75. Such an application must be limited to what is strictly necessary. It may not in any event cover the entirety of a pleading and may only exceptionally extend to the entirety of an annexed document. It should usually be feasible to furnish a non-confidential version of a document in which passages, words or figures have been deleted without harming the interest sought to be protected. An application which is insufficiently detailed will not be considered.

76. An application must accurately identify the particulars or passages to be excluded and briefly state the reasons for which each of those particulars or passages is regarded as secret or confidential.

77. The application must be accompanied by a non-confidential version of each pleading or document concerned with the confidential material deleted.

Joined cases

78. An application by one of the parties pursuant to Article 50(2) of the Rules of Procedure for any part of the contents of the case-file not to be made available to a party in a joined case on grounds of secrecy or confidentiality shall be made by a separate document.

79. Points 75 to 77 of the Practice Directions shall apply *mutatis mutandis* to applications for confidential treatment submitted in joined cases.

J. **Applications for leave to lodge a reply in appeal proceedings**

80. Under Article 143(1) of the Rules of Procedure, the President may, on application within the period prescribed by that provision, allow a reply to be submitted if it is necessary in order to enable the appellant to put forward his point of view or in order to provide a basis for the decision on the appeal.

81. Save in exceptional circumstances, such an application must not exceed 2 to 3 pages and must be confined to summarising the precise reasons for which, in the appellant's opinion, a reply is necessary. The request must be intelligible in itself, without necessitating reference to the appeal or to the response.

K. **Applications for hearing of oral argument in appeal proceedings**

82. The Court may decide to rule on the appeal without an oral procedure, unless one of the parties submits an application to be heard within the period prescribed under Article 146 of the Rules of Procedure.

83. The application must set out the reasons for which the party wishes to be heard. That reasoning must be based on a real assessment of the benefit of a hearing to the party in question and must indicate the elements of the file or arguments which that party considers it necessary to develop or disprove more fully at a hearing. It is not sufficient to provide a general statement of reasons referring to the importance of the case or of the questions to be decided.

L. **Applications for legal aid**

84. The use of a form in making an application for legal aid is compulsory. The form is available on the website of the Court of Justice at www.curia.europa.eu.

The form may also be obtained on request from the Registry of the Court of First Instance (Tel. (352) 4303 3477), either by sending an email stating the applicant's name and address to CFI.Registry@curia.europa.eu, or by writing to the following address:

Registry of the Court of First Instance
Rue du Fort Niedergrünewald
L-2925 Luxembourg

85. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration and will give rise to a reply from the Registrar reiterating that the use of the form is compulsory and attaching a copy of the form.

86. The original application for legal aid must be signed by the legal aid applicant or by his lawyer.

87. If the application for legal aid is submitted by the legal aid applicant's lawyer before the application initiating proceedings has been lodged, the application for legal aid must be accompanied by documentation certifying that the lawyer is authorised to practise before a Court of a Member State or of another State which is a party to the Agreement on the European Economic Area.

88. The application form is intended to provide the Court, in accordance with Article 95(2) of the Rules of Procedure, with the information required to give an effective decision on the application for legal aid. The information required concerns:

— the legal aid applicant's economic situation;

and,

— where the action has not yet been brought, the subject-matter of the action, the facts of the case and the arguments relating thereto.

Together with the form, the legal aid applicant is required to produce documentary evidence to support his assertions.

89. The duly completed form and supporting documents must be intelligible in themselves without necessitating reference to any other letters lodged at the Registry by the legal aid applicant.

90. Without prejudice to the Court's power to request information or the production of further documents under Article 64 of the Rules of Procedure, the application for legal aid may not be supplemented by the subsequent lodgment of addenda. Such addenda will be returned, unless they have been lodged at the request of the Court. In exceptional cases, supporting documents intended to establish the applicant's lack of means may nevertheless be accepted subsequently, subject to the delay in their production being adequately explained.

91. Under Article 96(4) of the Rules of Procedure, the introduction of an application for legal aid is to suspend the period prescribed for the bringing of the action to which the application refers until the date of notification of the order making a decision on that application or, where no lawyer is designated in that order to represent the person concerned, until the date of service of the order designating the lawyer instructed to represent the legal aid applicant.

The suspension shall take effect from the date on which the form is lodged or, where the request for legal aid is submitted without using the form, from the date on which that request is lodged, provided that the form is returned within the period prescribed by the Registry to that effect in the letter referred to at point 85 above. If the form is not returned within the prescribed period, the suspension shall take effect from the date on which the form is lodged.

92. Where the form is lodged by fax or email, the signed original must reach the Registry of the Court no more than 10 days after such lodgment, in order for the date of lodgment of the fax or email to be taken into account in the suspension of the time-limit for bringing an action. If the original form is not lodged within that 10-day period, the suspension of the time-limit for bringing an action shall take effect on the date on which the original form is lodged. In the event of any discrepancy between the signed original and the copy previously lodged, only the signed original will be taken into account, and the relevant date for the purpose of suspension of the time-limit for bringing an action will be the date on which that original was lodged.

II. ORAL PROCEDURE

93. The oral procedure exists:

— where necessary, to reiterate in condensed form the position taken by the parties, emphasising the key submissions advanced in writing,

— to clarify, if necessary, certain arguments advanced during the written procedure and to submit any new arguments prompted by recent events which arose after the close of the written procedure and which could not therefore have been set out in the pleadings,

— to reply to any questions put by the Court.

94. It is for Counsel to each party to assess, in the light of the purpose of the oral procedure, as defined in point 93 above, whether oral argument is really necessary or whether it would be sufficient simply to refer to the pleadings or written observations. The oral procedure can then concentrate on the replies to questions put by the Court. If Counsel does consider it necessary to address the Court, he may always confine himself to making specific points and referring to the pleadings in relation to other points.

95. If a party refrains from presenting oral argument, this will never be construed as constituting acquiescence in the oral argument presented by another party where the arguments in question have already been refuted in writing. Such silence will not preclude that party from responding to the other party's submission.

96. In some cases, the Court may consider it preferable to start the oral procedure with questions put by its Members to Counsel for the parties. In that case, Counsel are requested to take this into account if they then wish to make a brief address.

97. In the interests of clarity and in order to enable the Members of the Court to understand oral submissions better, it is generally preferable for Counsel to speak freely on the basis of notes rather than to read out a written text. Counsel for the parties are also requested to simplify their presentation of the case as far as possible; a series of short sentences will always be preferable to a long, complicated sentence. It would also assist the Court if Counsel could structure their oral argument and indicate, before developing it, the structure they intend to adopt.

If, however, the submission is prepared in writing, it is advisable to bear in mind when drafting it that it will have to be presented orally and should therefore resemble a spoken text as much as possible. To facilitate interpretation, agents and lawyers are requested to send any text or written notes for their submissions to the Directorate for Interpretation in advance either by fax ((+352) 4303 3697) or by e-mail (interpret@curia.europa.eu).

Any notes for submissions thus transmitted will be treated in the strictest confidence. To avoid any misunderstanding, the name of the party must be stated. Notes for submissions will not be placed on the case-file.

98. Counsel are reminded that, depending on the case being heard, only some of the Members of the bench will be following the oral argument in the language in which it is being presented; the other Members will be listening to the simultaneous interpretation. In the interests of the better conduct of the proceedings and of maintaining the quality of the simultaneous interpretation, Counsel are strongly advised to speak slowly and directly into the microphone.

Where Counsel intend to cite verbatim passages from certain texts or documents, particularly passages not appearing in the documents before the Court, it would be helpful if they would indicate the passages concerned to the interpreters before the hearing. Similarly, it may be helpful to draw the 'interpreters' attention to any terms which may be difficult to translate.

99. As the courtrooms are equipped with an automatic sound amplification system, Counsel must press the button on the microphone in order to switch it on and wait for the light to

come on before starting to speak. The button should not be pressed while a Member of the Court or another person is speaking, in order not to cut off his or her microphone.

100. The time taken in presenting oral submissions may vary, depending on the complexity of the case and on whether or not new facts have arisen. The lawyers or agents of the main parties are requested to limit their oral submissions to 15 minutes or thereabouts for each party, and those of any intervener to 10 minutes, unless the Registry has indicated otherwise. These limitations apply only to the presentation of oral argument itself and not to time spent in answering questions put at the hearing.

If circumstances so require, a request for leave to exceed the speaking time normally allowed, giving reasons and indicating the speaking time considered necessary, may be made to the Registry at least 15 days (or less, in duly substantiated exceptional circumstances) before the date fixed for the hearing. When such requests are made, Counsel for the parties will be informed of the time which they will have for presenting their oral submissions.

101. Where a party is represented by more than one Counsel, no more than two of them may normally present argument and their combined speaking time must not exceed the time-limits indicated above. However, Counsel other than those who addressed the Court may answer questions from Members of the Court and reply to observations of other Counsel.

Where two or more parties are advancing the same argument before the Court (a situation which may arise where, in particular, there are interventions or where cases have been joined), their Counsel are requested to confer with each other before the hearing in order to avoid any repetition.

102. The Report for the Hearing is drawn up by the Judge-Rapporteur and provides an objective summary of the case. It does not set out every detail of the 'parties' arguments but is meant to enable the parties to check that their pleas and arguments have been properly understood and to facilitate study of the documents before the Court by the other Members of the bench hearing the case.

The Court will make every effort to ensure that Counsel for the parties receive the Report for the Hearing at least three weeks before the hearing. The sole purpose of this document is to prepare the hearing for the oral procedure.

103. If the Report for the Hearing contains factual errors, Counsel are requested to notify them to the Registry in writing before the hearing. Similarly, if it does not correctly convey the essence of a party's argument, Counsel for that party may propose the amendments they consider appropriate.

If at the hearing Counsel submit oral observations on the Report for the Hearing, these will be recorded by the Registrar or acting Registrar.

104. When citing a judgment of the Court of Justice, the Court of First Instance or the Civil Service Tribunal, Counsel are requested to give all the references, including the names of the parties, and, where relevant, to state the number of the page of the European Court Reports (ECR) on which the passage in question appears.

105. The Court will accept documents submitted at the hearing only in exceptional circumstances and only after the parties have been heard in that regard.

106. A request to use particular technical means for the purposes of a presentation must be made in good time. Arrangements for such use of technology should be made with the Registrar, so that any technical or practical constraints can be taken into account.

III. ENTRY INTO FORCE OF THESE PRACTICE DIRECTIONS

107. The Practice Directions to parties of 14 March 2002 (OJ L 87, 4.4.2002, p. 48) and the 'Notes for the guidance of counsel at the hearing of oral argument' are hereby revoked and replaced by these Practice Directions.

108. These Practice Directions shall be published in the *Official Journal of the European Union*. They shall enter into force on the day following their publication.

Done at Luxembourg, 5 July 2007.

E. COULON	B. VESTERDORF
Registrar	*President*

COURT OF FIRST INSTANCE

Election of the President of the Court of First Instance of the European Communities

(2007/C 269/68)

At a meeting on 17 September 2007, the Judges of the Court of First Instance, in accordance with Article 7 of the Rules of Procedure, elected Judge Marc Jaeger as President of the Court of First Instance for the period from 17 September 2007 to 31 August 2010.

Election of Presidents of the Chambers

(2007/C 269/69)

On 20 September 2007, the Court of First Instance, in accordance with Article 15 of the Rules of Procedure, elected Ms Tiili, Mr Azizi, Mr Meij, Mr Vilaras, Mr Forwood, Ms Martins Ribeiro, Mr Czúcz and Ms Pelikánová as Presidents of the Chambers composed of five Judges and of the Chambers composed of three Judges for the period from 20 September 2007 to 31 August 2010.

Assignment of Judges to the Chambers

(2007/C 269/70)

On 19 and 25 September 2007, the Court of First Instance decided to establish eight Chambers of five Judges and eight Chambers of three Judges for the period from 25 September 2007 to 31 August 2010, and to assign the Judges to them as follows:

First Chamber, Extended Composition, sitting with five Judges:

Ms Tiili, President of the Chamber, Mr Dehousse, Ms Wiszniewska-Białecka, Ms Jürimäe and Mr Soldevila Fragoso, Judges.

First Chamber, sitting with three Judges:

Ms Tiili, President of the Chamber;

Mr Dehousse, Judge;

Ms Wiszniewska-Białecka, Judge.

Second Chamber, Extended Composition, sitting with five Judges:

Ms Pelikánová, President of the Chamber, Mr Dehousse, Ms Wiszniewska-Białecka, Ms Jürimäe and Mr Soldevila Fragoso, Judges.

Second Chamber, sitting with three Judges:

Ms Pelikánová, President of the Chamber;

Ms Jürimäe, Judge;

Mr Soldevila Fragoso, Judge.

Third Chamber, Extended Composition, sitting with five Judges:

Mr Azizi, President of the Chamber, Mr Cooke, Ms Cremona, Ms Labucka and Mr Frimodt Nielsen, Judges.

Third Chamber, sitting with three Judges:

Mr Azizi, President of the Chamber;

Ms Cremona, Judge;

Mr Frimodt Nielsen, Judge.

Fourth Chamber, Extended Composition, sitting with five Judges:

Mr Czúcz, President of the Chamber, Mr Cooke, Ms Cremona, Ms Labucka and Mr Frimodt Nielsen, Judges.

Fourth Chamber, sitting with three Judges:

Mr Czúcz, President of the Chamber;

Mr Cooke, Judge;

Ms Labucka, Judge.

Fifth Chamber, Extended Composition, sitting with five Judges:

Mr Vilaras, President of the Chamber, Mr Vadapalas, Mr Prek, Mr Tchipev and Mr Ciucă, Judges.

Fifth Chamber, sitting with three Judges:

Mr Vilaras, President of the Chamber;

Mr Prek, Judge;

Mr Ciucă, Judge.

Sixth Chamber, Extended Composition, sitting with five Judges:

Mr Meij, President of the Chamber, Mr Vadapalas, Mr Prek, Mr Tchipev and Mr Ciucă, Judges.

Sixth Chamber, sitting with three Judges:

Mr Meij, President of the Chamber;

Mr Vadapalas, Judge;

Mr Tchipev, Judge.

Seventh Chamber, Extended Composition, sitting with five Judges:

Mr Forwood, President of the Chamber, Mr Šváby, Mr Papasavvas, Mr Moavero Milanesi, Mr Wahl, Mr Dittrich and Mr Truchot, Judges.

Seventh Chamber, sitting with three Judges:

Mr Forwood, President of the Chamber;

(a) Mr Šváby and Mr Moavero Milanesi, Judges.

(b) Mr Šváby and Mr Truchot, Judges.

(c) Mr Moavero Milanesi and Mr Truchot, Judges.

Eighth Chamber, Extended Composition, sitting with five Judges:

Ms Martins Ribeiro, President of the Chamber, Mr Šváby, Mr Papasavvas, Mr Moavero Milanesi, Mr Wahl, Mr Dittrich and Mr Truchot, Judges.

Eighth Chamber, sitting with three Judges:

Ms Martins Ribeiro, President of the Chamber;

(a) Mr Papasavvas and Mr Wahl, Judges.

(b) Mr Papasavvas and Mr Dittrich, Judges.

(c) Mr Wahl and Mr Dittrich, Judges.

In the Seventh and Eighth Chambers, Extended Composition, sitting with five Judges, the Judges who will sit with the President of the Chamber to make up the formation of five Judges will be the three Judges of the Chamber initially hearing the case, the fourth Judge of that Chamber and a Judge of the other Chamber composed of four Judges. The latter, who will not be the President of the Chamber, will be designated in turn for one year, in the order provided for by Article 6 of the Rules of Procedure of the Court of First Instance.

In the Seventh and Eighth Chambers sitting with three Judges, the President of the Chamber will sit with the Judges referred to at (a), (b) or (c) above in turn, depending on which of those formations the Judge-Rapporteur belongs to. For cases in which the President of the Chamber is the Judge-Rapporteur, the President of the Chamber will sit with the Judges of each of those formations alternately in accordance with the order in which the cases are registered, subject to the presence of connected cases.

Composition of the Grand Chamber

(2007/C 269/71)

On 19 September 2007, the Court of First Instance decided, in accordance with Article 10(1) of the Rules of Procedure, that for the period from 25 September 2007 to 31 August 2010 the 13 Judges of whom the Grand Chamber is composed shall be the President of the Court, the seven Presidents of those Chambers not entrusted with the case, and the Judges of the Chamber, Extended Composition, which would have had to sit in the case in question if it had been assigned to a Chamber composed of five Judges.

Plenary session

(2007/C 269/72)

On 2 October 2007, the Court of First Instance decided, in accordance with the second subparagraph of Article 32(1) of the Rules of Procedure, that where, following the designation of an Advocate General pursuant to Article 17 of the Rules of Procedure, there is an even number of Judges in the Court of First Instance sitting in plenary session, the rota established in advance, applied during the period of three years for which the Presidents of the Chambers composed of five Judges are elected, in accordance with which the President of the Court is to designate the Judge who will not take part in the judgment of the case, shall be in reverse order to the order in which the Judges rank according to their seniority in office under Article 6 of the Rules of Procedure, unless the Judge who would thus be designated is the Judge-Rapporteur. In that event, it is the Judge ranking immediately above him who shall be designated.

Appeal Chamber

(2007/C 269/73)

On 19 September 2007, the Court of First Instance decided that, for the period from 25 September 2007 to 30 September 2008, the Appeal Chamber will be composed of the President of the Court and, in rotation, four Presidents of Chambers.

Criteria for assigning cases to Chambers

(2007/C 269/74)

On 25 September 2007, the Court of First Instance laid down the following criteria for the assignment of cases to the Chambers for the period from 25 September 2007 to 30 September 2008, in accordance with Article 12 of the Rules of Procedure:

1. Appeals against the decisions of the Civil Service Tribunal shall be assigned to the Appeal Chamber as soon as the application has been lodged and without prejudice to any subsequent application of Articles 14 and 51 of the Rules of Procedure.

2. Cases other than those referred to in paragraph 1 above shall be assigned to Chambers of three Judges as soon as the application has been lodged and without prejudice to any subsequent application of Articles 14 and 51 of the Rules of Procedure.

   Cases referred to in this paragraph shall be allocated to the Chambers in turn, in accordance with the date on which they are registered at the Registry, following three separate rotas:

   — for cases concerning application of the competition rules applicable to undertakings, the rules on State aid and the rules on trade protection measures;

   — for cases concerning the intellectual property rights referred to in Article 130(1) of the Rules of Procedure;

   — for all other cases.

   In applying those rotas, the two Chambers sitting with three Judges which are composed of four Judges shall be taken into consideration twice at each third turn.

   The President of the Court of First Instance may derogate from the rotas on the ground that cases are related or with a view to ensuring an even spread of the workload.

Designation of the Judge replacing the President as the Judge hearing applications for interim measures

(2007/C 269/75)

On 19 September 2007, the Court of First Instance decided, in accordance with Article 106 of the Rules of Procedure, to designate Judge Cooke to replace the President of the Court for the purpose of deciding applications for interim measures where the latter is absent or prevented from dealing with them, in respect of the period from 18 September 2007 to 30 September 2008.

However, as regards applications for interim measures in respect of which a hearing was held and/or inquiry completed before 17 September 2007, the Judge designated to hear applications for interim measures during the period from 1 October 2006 to 17 September 2007 (OJ 2006 C 190, p. 15, and OJ 2007 C 155, p. 19) shall remain empowered to sign orders in those cases after 17 September 2007.

Judgment of the Court of First Instance of 27 September 2007 — Pelle and Konrad v Council of the European Union and the Commission of the European Communities

(Case T-8/95 and T-9/95) [1]

(Non-contractual liability — Milk — Additional levy — Reference quantity — Regulation (EEC) No 2187/93 — Compensation of producers — Suspension of limitation)

(2007/C 269/76)

Language of the case: German

Parties

Applicants: Wilhelm Pelle (Kluse-Ahlen, Germany) and Ernst-Reinhard Konrad (Löllbach, Germany) (represented by: B. Meisterernst, M. Düsing, D. Manstetten, F. Schulze and W. Haneklaus, lawyers)

Defendants: Council of the European Union (represented initially by A. Brautigam and A.-M. Colaert, and subsequently by A.-M. Colaert, agents) and the Commission of the European Communities (represented by B. Booß and M. Niejahr, agents, and subsequently by T. van Rijn and M. Niejahr, assisted initially by H.-J. Rabe, G. Berrisch and M. Núñez-Müller, lawyers)

COURT OF FIRST INSTANCE

Designation of the Judge replacing the President as the Judge hearing applications for interim measures

(2008/C 171/54)

On 12 June 2008, the Court of First Instance decided to amend the decision of 19 September 2007 in consequence of the resignation of Judge Cooke and, in accordance with Article 106 of the Rules of Procedure, to designate Judge Papasavvas to replace the President of the Court for the purpose of deciding applications for interim measures where the latter is absent or prevented from dealing with them, in respect of the period from 1 July 2008 to 30 June 2009.

Judgment of the Court of First Instance of 21 May 2008 — Belfass v Council

(Case T-495/04) [1]

(Public procurement — Community tender procedure — Obvious clerical error — Award to the tender offering best value for money — Abnormally low tender — Article 139(1) of Regulation (EC, Euratom) No 2342/2002 — Plea of illegality — Specifications — Admissibility)

(2008/C 171/55)

Language of the case: French

Parties

Applicant: Belfass SPRL (Forest, Belguim) (represented by: L. Vogel, lawyer)

Defendant: Council of the European Union (represented by: B. Driessen and A. Vitro, Agents)

Re:

Application, first, for the annulment of the decision of the Council of the European Union of 13 October 2004 to reject both the tenders submitted by the applicant under tender procedure UCA-033/04 and, secondly, for compensation in respect of the damage allegedly suffered by the applicant by reason of the Council's conduct.

Operative part of the judgment

1. *Annuls the decision of the Council of the European Union of 13 October 2004 to reject the tenders of Belfass SPRL submitted under tender procedure UCA-033/04, in so far as that decision rejected Belfass' offer with respect to Lot No 2;*

2. *Dismisses the action as to the remainder;*

3. *Orders each party to bear its own costs.*

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[1] OJ C 57, 5.3.2005.

Judgment of the Court of First Instance of 22 May 2008 — NewSoft Technology v OHIM — Soft (Presto! BizCard Reader)

(Case T-205/06) [1]

(Community trade mark — Invalidity proceedings — Community word mark Presto! BizCard Reader — Earlier national figurative marks Presto — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) and Article 52(1)(a) of Regulation (EC) No 40/94)

(2008/C 171/56)

Language of the case: German

Parties

Applicant: NewSoft Technology Corp. (Taipei, Taiwan) (represented by: M. Dirksen-Schwanenland, U. von Sothen and M. Di Stefano, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Soft, SA (Madrid, Spain) (represented by: A. Velázquez Ibáñez and P. Merino Baylos, lawyers)

Registry of the Court of First Instance

Rue du Fort Niedergrünewald
L-2925 Luxembourg

Tél.: (352) 4303-1
fax: (352) 4303 2100
e-mail: CFI.Registry@curia.europa.eu

This address of the Registry of the Court of First Instance must be used for the lodging of procedural documents and for correspondence from representatives of the parties concerning pending cases; this address must not be used for making general enquiries.

Procedural documents and correspondence concerning pending cases may also be delivered directly to representatives of the Registry of the Court of First Instance or, outside the Registry's opening hours, to the security staff present 24/24 hours at the entrances to the court buildings.

Transmission of a procedural document by fax or e-mail is taken into account only if it is a copy of the signed original and on condition that the original itself arrives at the Registry not later than ten days afterwards.

Transmission by e-mail of electronic messages of a volume exceeding 4 Mo causes technical problems. To allow correct transmission of such messages, it is advisable to send the scanned document in several parts or to use fax.

See also:
- Rules of Procedure of the Court of First Instance
- Instructions to the Registrar of the Court of First Instance
- CFI Practice Directions to parties
- Legal aid application form

Court of First instance > Legal aid application form

(Every application for legal aid must be made on this form. Before completing the form, please read the Guide for Legal Aid Applicants carefully)

I. LEGAL AID APPLICATION FORM

The provisions concerning legal aid are contained in the Rules of Procedure of the Court of First Instance.

In particular, they provide as follows.

• Any natural person who, because of his economic situation, is wholly or partly unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Court of First Instance is to be entitled to legal aid (Art. 94(1) and (2) of the Rules of Procedure of the Court of First Instance).

• The economic situation is to be assessed, taking into account objective factors such as income, capital and the family situation (Art. 94(2) of the Rules of Procedure).

• Legal aid is to be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded (Art. 94(3) of the Rules of Procedure).

• An application for legal aid may be made before or after the action has been brought. The application need not be made through a lawyer (Art. 95(1) of the Rules of Procedure).

• The introduction of an application for legal aid is to suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, where no lawyer is designated in that order to represent the person concerned, until the date of service of the order designating the lawyer instructed to represent the applicant (Art. 96(4) of the Rules of Procedure).

The compulsory use of this application form for legal aid is provided for by Article 95 of the Rules of Procedure.

II. GUIDE FOR LEGAL AID APPLICANTS

In order to bring an action before the Court of First Instance, the applicant must be represented by a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area.

A natural person who, because of his economic situation, is unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Court of First Instance may apply for legal aid. Legal aid may not be granted to a legal person.

The legal aid application itself may be submitted with or without the assistance of a lawyer.

1) Procedure for submission of an application for legal aid

The application for legal aid:

• must be made using the form prescribed for that purpose. The use of this form is compulsory. No consideration will be given to a request for legal aid made in any other way;

• may be made before or after the action to which it relates has been brought;

• may be submitted with or without the assistance of a lawyer.

The application for legal aid may be lodged by fax or by electronic mail. An application lodged by either means will, however, be processed only upon receipt of the original at the Court of First Instance.

In the event of transmission by electronic mail, only a scanned copy of the signed original will be accepted.

The original of the application for legal aid must be signed by the applicant himself or by his lawyer, failing which the application will not be processed and the document will be returned.

2) Effect of proper lodgment of an application for legal aid before the action has been brought

Where an application for legal aid is properly lodged before the action has been brought, the period prescribed for the bringing of the action will be suspended until the date of notification of the order making a decision on that application. Time for bringing an action will not run, therefore, while the application for legal aid is being considered by the Court of First Instance.

If the original of the application for legal aid is received at the Registry of the Court of First Instance within a period of 10 days after any lodgment by fax or by electronic mail, the date of lodgment by fax or by electronic mail will be taken into account in the suspension of the time-limit for bringing an action.

If the original application for legal aid is received at the Court of First Instance more than 10 days after lodgment by fax or by electronic mail, the date of lodgment of the original application will be taken into account.

3) Contents of the application for legal aid and supporting documents

If the application for legal aid is lodged before the action is brought, the applicant must briefly state the subject-matter of the action, the facts of the case and the arguments he proposes to submit in support of the action. A section for that purpose is included in the form.

A copy of any supporting document relevant for the purposes of assessing whether the proposed action is admissible and well founded must be attached – for example, correspondence with the prospective defendant or, in the case of an action for annulment, the decision which is to be contested as to its lawfulness.

The application must be accompanied also by supporting documents enabling the applicant's economic situation to be assessed, such as documents or certificates issued by a public authority or third party – for example, a certificate issued by a competent national authority attesting to the applicant's economic situation, together with, for example, tax returns, proof of salary, certificates issued by social security or unemployment benefit authorities, bank statements. Sworn statements made and signed by the applicant himself are not sufficient proof of lack of means.

The information given on the form concerning the applicant's economic situation and the documents lodged in support of the information provided should give a complete picture of the applicant's economic situation.

An application which does not establish to the requisite legal standard the applicant's inability to meet the costs of the proceedings will be rejected.

For information:

• no original documents will be returned;

• an application may not be supplemented by the subsequent lodgment of addenda. Such addenda will be returned, unless they have been lodged at the request of the Court of First Instance. It is essential, therefore, to include all necessary information on the form and to attach copies of any documentary proof of the information provided. In exceptional cases, supporting documents intended to establish the applicant's lack of means may nevertheless be accepted subsequently, subject to the delay in their production being adequately explained.

4) Refusal to grant legal aid

Legal aid will be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded.

The applicant's attention is drawn to the fact that the Court of First Instance has jurisdiction to hear and determine disputes between natural persons and Community institutions or bodies. The Court cannot review the lawfulness of decisions taken by:

– other international bodies, in particular those of the European Court of Human Rights;

– Member States;

– national courts or tribunals.

Thus, for example, an application for legal aid submitted in connection with an action for annulment of a measure by a Member State will be refused, since the Court of First Instance does not have jurisdiction to hear and determine disputes between natural persons and Member States.

Similarly, an application which is made before the action to which it relates is brought, but after expiry of the time-limit for bringing that action, will be rejected since the proposed action will then be dismissed as inadmissible on the ground of delay.

5) Address

The form, duly completed and signed, together with any supporting documents referred to, should be sent to the following address:

Registry of the Court of First Instance
Rue du Fort Niedergrünewald
L-2925 Luxembourg

Tel: (+352) 4303-1
Fax: (+352) 4303 2100
Email: CFI.Registry@curia.europa.eu

6) Downloading the legal aid application form

The form can be downloaded in Word or PDF format. The completed form must be printed, signed by hand and sent with any supporting documents to the above address.

Downloading the form in Word format

Downloading the form in PDF format

7) Requesting printed copies of the legal aid application form

You can obtain a printed copy of the form by telephoning (+352) 4303-3477 or by sending a written request to the above address, or by sending your contact details using the following form.

Name * :

Email * :

Telephone :

Postal Address * :

* : Required field

Submit Reset

COURT OF FIRST INSTANCE
OF THE
EUROPEAN COMMUNITIES

APPLICATION FOR LEGAL AID

COMPULSORY FORM AND GUIDE FOR APPLICANTS

I. LEGAL AID APPLICATION FORM

The provisions concerning legal aid are contained in the Rules of Procedure of the Court of First Instance.

In particular, they provide as follows:

- Any natural person who, because of his economic situation, is wholly or partly unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Court of First Instance is to be entitled to legal aid (Art. 94(1) and (2) of the Rules of Procedure of the Court of First Instance).

- The economic situation is to be assessed, taking into account objective factors such as income, capital and the family situation (Art. 94(2) of the Rules of Procedure).

- Legal aid is to be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded (Art. 94(3) of the Rules of Procedure).

- An application for legal aid may be made before or after the action has been brought. The application need not be made through a lawyer (Art. 95(1) of the Rules of Procedure).

- The introduction of an application for legal aid is to suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, where no lawyer is designated in that order to represent the person concerned, until the date of service of the order designating the lawyer instructed to represent the applicant (Art. 96(4) of the Rules of Procedure).

The compulsory use of this application form for legal aid is provided for by Article 95 of the Rules of Procedure.

APPLICATION FOR LEGAL AID

COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

APPLICANT FOR LEGAL AID

Mrs ☐ Miss ☐ Mr ☐

Surname (at birth) : .....

Married name, if applicable : .....

First name(s) : .....

Date of birth (dd / mm / yyyy) : .... / .... / .....

Place of birth : .....

Address : .....

Postcode : ..... Town/City : .....

Country : .....

Telephone (optional) : .....

Fax (optional) : .....

Email (optional) : .....

Occupation or current position : .....

PARTY AGAINST WHOM YOU PROPOSE TO BRING AN ACTION [1]

The applicant's attention is drawn to the fact that the Court of First Instance has jurisdiction to hear and determine disputes between natural persons and Community institutions or bodies. The Court cannot review the lawfulness of decisions taken by:

– other international bodies, in particular those of the European Court of Human Rights;

– Member States;

– national courts or tribunals.

Details of the party/parties against whom you propose to bring the action :

DEFENDANT(S)	ADDRESS
.....	
.....	

Continue, if necessary, on a blank sheet of paper which should be attached to your application.

[1] This section should not be completed if the action has already been brought.

Description of the subject-matter of the action which you wish to bring, the facts of the case and the arguments in support of the action [2] :

Any supporting document that is relevant for the purposes of assessing whether the proposed action is admissible and well founded must be annexed to this form and included in the list of supporting documents.

Any original supporting documents lodged will not be returned.

[2] 'If the application is made before the action has been brought, the applicant must briefly state the subject-matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard' (second subparagraph of Art. 95(2) of the Rules of Procedure).

APPLICANT'S ECONOMIC SITUATION [3]

FINANCIAL RESOURCES

☞ *If, at the time of your application, your financial resources have remained unchanged since last year, the resources taken into account will be those declared to the national authorities in respect of the period from 1 January to 31 December of last year.*

☞ *If your financial situation has changed, your current resources will be taken into account, from 1 January this year until the date of your application.*

		Your resources	**Resources of your spouse or cohabitee**	**Resources of any other person who normally lives with you (child or other dependant). Specify :** .....
a.	**No income**	☐ [4]	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g. rent received, income from capital, income from securities, stocks and shares, etc.)			

Continue, if necessary, on a blank sheet of paper which should be attached to your application.

[3] 'The economic situation shall be assessed, taking into account objective factors such as income, capital and the family situation' (second subparagraph of Art. 94(2) of the Rules of Procedure).

[4] If this box is ticked, the applicant must provide details of means of support.

Please state :

- the nature and value of any movable property (shares, liabilities, capital, etc.) and the address and value of any immovable property (buildings, land, etc.), including non-income-producing property, which you own :

OUTGOINGS

Please provide :

- details of children and other persons who are dependent on you or who normally live with you :

Surname(s) and first name(s)	Relationship to you (e.g. son, nephew, mother)	Date of birth (dd / mm / yyyy)
.....	.....	.... / .... / .....
.....	.....	.... / .... / .....
.....	.....	.... / .... / .....
.....	.....	.... / .... / .....

Continue, if necessary, on a blank sheet of paper which should be attached to your application.

- details of maintenance payments which you make to third parties :

Any additional information about your situation (resources or outgoings) :

The information above must be substantiated by supporting documents making it possible to assess your economic situation (Art. 95(2) of the Rules of Procedure).

The list of supporting documents, including, where appropriate, a certificate issued by a competent national authority attesting to your economic situation, must be annexed to this form.

Any original supporting documents lodged will not be returned.

PROPOSED LEGAL REPRESENTATION

If you have chosen a lawyer who is authorised to practise before a court of a Member State or of another State which is a party to the EEA Agreement, the following information will be required :

Title (e.g. Maître) and name : .....

Address : .....

Postcode : ..... Town/City : .....

Country : .....

Telephone : .....

Fax (optional) : .....

Email (optional) : .....

SOLEMN DECLARATION

I, the undersigned, hereby declare that the information contained in this application for legal aid is correct :

Date : .... / .... / ..... Signature of the applicant/applicant's lawyer :

LIST OF SUPPORTING DOCUMENTS

Supporting documents enabling your economic situation to be assessed :

- .....
- .....
- .....
- .....
- .....
- .....
- .....
- .....
- .....
- .....

If the action has not yet been brought, supporting document(s) relevant for the purposes of assessing whether the proposed action is admissible and well founded :

- .....
- .....
- .....
- .....
- .....
- .....
- .....
- .....
- .....
- .....

II. GUIDE FOR LEGAL AID APPLICANTS[5]

In order to bring an action before the Court of First Instance, the applicant must be represented by a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area.

A natural person who, because of his economic situation, is unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Court of First Instance may apply for legal aid. Legal aid may not be granted to a legal person.

The legal aid application itself may be submitted with or without the assistance of a lawyer.

1) Procedure for submission of an application for legal aid

The application for legal aid:

– must be made using the form prescribed for that purpose. The use of this form is compulsory. No consideration will be given to a request for legal aid made in any other way;

– may be made before or after the action to which it relates has been brought;

– may be submitted with or without the assistance of a lawyer.

The application for legal aid may be lodged by fax or by electronic mail. An application lodged by either means will, however, be processed only upon receipt of the original at the Court of First Instance.

In the event of transmission by electronic mail, only a scanned copy of the signed original will be accepted.

The original of the application for legal aid must be signed by the applicant himself or by his lawyer, failing which the application will not be processed and the document will be returned.

2) Effect of proper lodgment of an application for legal aid before the action has been brought

Where an application for legal aid is properly lodged before the action has been brought, the period prescribed for the bringing of the action will be suspended until the date of notification of the order making a decision on that application. Time for bringing an action will not run, therefore, while the application for legal aid is being considered by the Court of First Instance.

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5 This guide is an integral part of the legal aid application form. The information which it contains is taken from the Rules of Procedure of the Court of First Instance and the provisions of the Practice Directions to parties concerning applications for legal aid.

If the original of the application for legal aid is received at the Registry of the Court of First Instance within a period of 10 days after any lodgment by fax or by electronic mail, the date of lodgment by fax or by electronic mail will be taken into account in the suspension of the time-limit for bringing an action.

If the original application for legal aid is received at the Court of First Instance more than 10 days after lodgment by fax or by electronic mail, the date of lodgment of the original application will be taken into account.

3) Contents of the application for legal aid and supporting documents

If the application for legal aid is lodged before the action is brought, the applicant must briefly state the subject-matter of the action, the facts of the case and the arguments he proposes to submit in support of the action. A section for that purpose is included in the form.

A copy of any supporting document relevant for the purposes of assessing whether the proposed action is admissible and well founded must be attached – for example, correspondence with the prospective defendant or, in the case of an action for annulment, the decision which is to be contested as to its lawfulness.

The application must be accompanied also by supporting documents enabling the applicant's economic situation to be assessed, such as documents or certificates issued by a public authority or third party – for example, a certificate issued by a competent national authority attesting to the applicant's economic situation, together with, for example, tax returns, proof of salary, certificates issued by social security or unemployment benefit authorities, bank statements. Sworn statements made and signed by the applicant himself are not sufficient proof of lack of means.

The information given on the form concerning the applicant's economic situation and the documents lodged in support of the information provided should give a complete picture of the applicant's economic situation.

An application which does not establish to the requisite legal standard the applicant's inability to meet the costs of the proceedings will be rejected.

For information:

– no original documents will be returned;

– an application may not be supplemented by the subsequent lodgment of addenda. Such addenda will be returned, unless they have been lodged at the request of the Court of First Instance. It is essential, therefore, to include all necessary information on the form and to attach copies of any documentary proof of the information provided. In exceptional cases, supporting documents intended to establish the applicant's lack of means may nevertheless be accepted subsequently, subject to the delay in their production being adequately explained.

4) Refusal to grant legal aid

Legal aid will be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded.

The applicant's attention is drawn to the fact that the Court of First Instance has jurisdiction to hear and determine disputes between natural persons and Community institutions or bodies. The Court cannot review the lawfulness of decisions taken by:

– other international bodies, in particular those of the European Court of Human Rights;

– Member States;

– national courts or tribunals.

Thus, for example, an application for legal aid submitted in connection with an action for annulment of a measure by a Member State will be refused, since the Court of First Instance does not have jurisdiction to hear and determine disputes between natural persons and Member States.

Similarly, an application which is made before the action to which it relates is brought, but after expiry of the time-limit for bringing that action, will be rejected since the proposed action will then be dismissed as inadmissible on the ground of delay.

5) Address

The form may be:

- completed electronically (www.curia.europa.eu)

- obtained by telephoning (+352) 4303 3477 or by writing to the address below or sending an email to CFI.Registry@curia.europa.eu, giving details of the name and address to which the form is to be sent.

The duly completed and signed form, together with any supporting documents referred to, should be sent to the following address:

Registry of the Court of First Instance
Rue du Fort Niedergrünewald
L-2925 Luxembourg

Tel.: (+352) 4303 1
Fax: (+352) 4303 2100
Email: CFI.Registry@curia.europa.eu

Civil Service Tribunal

- Extracts of Treaties (Art. 225a, EC Treaty)
- Council Decision of 2 November 2004 establishing the European Union Civil Service Tribunal
- Statute of the Court of Justice (1-3-2008)
- Constitution and composition of the Chambers, election of their Presidents and assignment of the Judges to Chambers (17-12-2005)
- Criteria for the assignment of cases to Chambers (6-10-2007)
- Designation of the Judge replacing the President of the Tribunal as Judge hearing applications for interim measures (6-10-2007)
- Rules of Procedure of the Civil Service Tribunal (1-11-2007)
- Instructions to the Registrar of the Civil Service Tribunal (1-11-2007)
- Practice directions to parties on judicial proceedings before the Civil Service Tribunal (1-5-2008)
- Model Application
- Checklist: Application
- Checklist: Defence
- Checklist: Hearing of oral argument
- Legal aid application form (1-5-2008)
- Summaries of applications
- Lodging of procedural documents

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Treaty establishing the European Community (consolIdated version) - Part Five - Institutions of the Community - TITLE I - Provisions governing the institutions - Chapter 1 - The institutions - Section 4 - The Court of Justice - Article 225 A

Official Journal C 321 E , 29/12/2006 P. 0144 - 0144
Official Journal C 325 , 24/12/2002 P. 0124 - Consolidated version

Article 225a

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the decision establishing the judicial panel provides otherwise, the provisions of this Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 2 November 2004

establishing the European Union Civil Service Tribunal

(2004/752/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 225a and 245 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 140b and 160 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Justice,

Whereas:

(1) Article 225a of the EC Treaty and Article 140b of the Euratom Treaty empower the Council to create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas, to lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

(2) The establishment of a specific judicial panel to exercise jurisdiction at first instance in European civil service disputes, currently within the jurisdiction of the Court of First Instance of the European Communities, would improve the operation of the Community courts system. It answers the call made in Declaration No 16 relating to Article 225a of the EC Treaty [1], adopted when the Treaty of Nice was signed on 26 February 2001.

(3) A judicial panel should accordingly be attached to the Court of First Instance, that shall for institutional and organisational purposes be an integral part of the Court of Justice institution, an institution with members enjoying a similar status to members of the Court of First Instance.

(4) The new judicial panel should be given a name that distinguishes it in its trial formations from the trial formations of the Court of First Instance.

(5) To make the court system generally easy to understand, the provisions relating to the judicial panel's jurisdiction, composition, organisation and procedure should be laid down in an Annex to the Statute of the Court of Justice.

(6) The number of judges of the judicial panel should match its caseload. To facilitate decision-making by the Council in the appointment of judges, provision should be made for the Council to establish an independent Advisory Committee to verify that applications received meet the relevant conditions.

(7) The judicial panel should try cases by a procedure matching the specific features of the disputes that are to be referred to it, examining the possibilities for amicable settlement of disputes at all stages of the procedure.

(8) In accordance with the third paragraph of Article 225a of the EC Treaty and the third paragraph of Article 140b of the Euratom Treaty, appeals may be lodged at the Court of First Instance against decisions of the judicial panel on points of law only in the same conditions as those governing appeals lodged at the Court of Justice against decisions of the Court of First Instance. The relevant provisions of the Statute of the Court of Justice are reproduced in the Annex to the Statute relating to the judicial panel, to avoid cross-references that would make the general set of provisions difficult to read.

(9) Provision should be made in this Decision for transitional arrangements so that the judicial panel can exercise its functions as soon as it is established,

[1] OJ C 80, 10.3.2001, p. 80.

HAS DECIDED AS FOLLOWS:

Article 1

A judicial panel shall be attached to the Court of First Instance of the European Communities to hear disputes involving the European Union civil service and shall be known as the 'European Union Civil Service Tribunal'. The European Union Civil Service Tribunal shall have its headquarters at the Court of First Instance.

Article 2

The Protocol on the Statute of the Court of Justice shall be amended as follows:

1. the following Title shall be inserted:

'TITLE IVa

JUDICIAL PANELS

Article 62a

The provisions relating to the jurisdiction, composition, organisation and procedure of the judicial panels established under Articles 225a of the EC Treaty and 140b of the EAEC Treaty are set out in an Annex to this Statute.';

2. Annex I, as set out in the Annex to this Decision, shall be added.

Article 3

1. The first President of the European Union Civil Service Tribunal shall be appointed for three years in the same manner as its judges, unless the Council decides that the procedure laid down in Article 4(1) of Annex I to the Statute of the Court of Justice, as set out in the Annex to this Decision, shall be applied.

2. Immediately after all the judges of the European Union Civil Service Tribunal have taken oath, the President of the Council shall choose by lot three judges of the Tribunal whose duties are to end, by way of derogation from the first sentence of the second paragraph of Article 2 of Annex I to the Statute of the Court, upon expiry of the first three years of their term of office.

3. Cases referred to in Article 1 of Annex I to the Statute of the Court of Justice of which the Court of First Instance is seised on the date on which that Article enters into force but in which the written procedure provided for in Article 52 of the Rules of Procedure of the Court of First Instance has not yet been completed shall be referred to the European Union Civil Service Tribunal.

4. Until the entry into force of its rules of procedure, the European Union Civil Service Tribunal shall apply *mutatis mutandis* the Rules of Procedure of the Court of First Instance, except for the provisions concerning a single judge.

Article 4

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*, with the exception of Article 1 of Annex I to the Statute of the Court of Justice, as set out in the Annex to this Decision.

Article 1 of Annex I to the Statute of the Court of Justice shall enter into force on the day of the publication in the *Official Journal of the European Union* of the Decision of the President of the Court of Justice recording that the European Union Civil Service Tribunal has been constituted in accordance with law.

Done at Brussels, 2 November 2004.

For the Council
The President
B. R. BOT

ANNEX

'ANNEX I

THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Article 1

The European Union Civil Service Tribunal (hereafter the Civil Service Tribunal) shall exercise at first instance jurisdiction in disputes between the Communities and their servants referred to in Article 236 of the EC Treaty and Article 152 of the EAEC Treaty, including disputes between all bodies or agencies and their servants in respect of which jurisdiction is conferred on the Court of Justice.

Article 2

The Civil Service Tribunal shall consist of seven judges. Should the Court of Justice so request, the Council, acting by a qualified majority, may increase the number of judges.

The judges shall be appointed for a period of six years. Retiring judges may be reappointed.

Any vacancy shall be filled by the appointment of a new judge for a period of six years.

Article 3

1. The judges shall be appointed by the Council, acting in accordance with the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty, after consulting the committee provided for by this Article. When appointing judges, the Council shall ensure a balanced composition of the Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented.

2. Any person who is a Union citizen and fulfils the conditions laid down in the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty may submit an application. The Council, acting by a qualified majority on a recommendation from the Court, shall determine the conditions and the arrangements governing the submission and processing of such applications.

3. A committee shall be set up comprising seven persons chosen from among former members of the Court of Justice and the Court of First Instance and lawyers of recognised competence. The committee's membership and operating rules shall be determined by the Council, acting by a qualified majority on a recommendation by the President of the Court of Justice.

4. The committee shall give an opinion on candidates' suitability to perform the duties of judge at the Civil Service Tribunal. The committee shall append to its opinion a list of candidates having the most suitable high-level experience. Such list shall contain the names of at least twice as many candidates as there are judges to be appointed by the Council.

Article 4

1. The judges shall elect the President of the Civil Service Tribunal from among their number for a term of three years. He may be re-elected.

2. The Civil Service Tribunal shall sit in chambers of three judges. It may, in certain cases determined by its rules of procedure, sit in full court or in a chamber of five judges or of a single judge.

3. The President of the Civil Service Tribunal shall preside over the full court and the chamber of five judges. The Presidents of the chambers of three judges shall be designated as provided in paragraph 1. If the President of the Civil Service Tribunal is assigned to a chamber of three judges, he shall preside over that chamber.

4. The jurisdiction of and quorum for the full court as well as the composition of the chambers and the assignment of cases to them shall be governed by the rules of procedure.

Article 5

Articles 2 to 6, 14, 15, the first, second and fifth paragraphs of Article 17, and Article 18 of the Statute of the Court of Justice shall apply to the Civil Service Tribunal and its members.

The oath referred to in Article 2 of the Statute shall be taken before the Court of Justice, and the decisions referred to in Articles 3, 4 and 6 thereof shall be adopted by the Court of Justice after consulting the Civil Service Tribunal.

Article 6

1. The Civil Service Tribunal shall be supported by the departments of the Court of Justice and of the Court of First Instance. The President of the Court of Justice or, in appropriate cases, the President of the Court of First Instance, shall determine by common accord with the President of the Civil Service Tribunal the conditions under which officials and other servants attached to the Court of Justice or the Court of First Instance shall render their services to the Civil Service Tribunal to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Civil Service Tribunal under the authority of the President of that Tribunal.

2. The Civil Service Tribunal shall appoint its Registrar and lay down the rules governing his service. The fourth paragraph of Article 3 and Articles 10, 11 and 14 of the Statute of the Court of Justice shall apply to the Registrar of the Tribunal.

Article 7

1. The procedure before the Civil Service Tribunal shall be governed by Title III of the Statute of the Court of Justice, with the exception of Articles 22 and 23. Such further and more detailed provisions as may be necessary shall be laid down in the rules of procedure.

2. The provisions concerning the Court of First Instance's language arrangements shall apply to the Civil Service Tribunal.

3. The written stage of the procedure shall comprise the presentation of the application and of the statement of defence, unless the Civil Service Tribunal decides that a second exchange of written pleadings is necessary. Where there is such second exchange, the Civil Service Tribunal may, with the agreement of the parties, decide to proceed to judgment without an oral procedure.

4. At all stages of the procedure, including the time when the application is filed, the Civil Service Tribunal may examine the possibilities of an amicable settlement of the dispute and may try to facilitate such settlement.

5. The Civil Service Tribunal shall rule on the costs of a case. Subject to the specific provisions of the Rules of Procedure, the unsuccessful party shall be ordered to pay the costs should the court so decide.

Article 8

1. Where an application or other procedural document addressed to the Civil Service Tribunal is lodged by mistake with the Registrar of the Court of Justice or Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Civil Service Tribunal. Likewise, where an application or other procedural document addressed to the Court of Justice or to the Court of First Instance is lodged by mistake with the Registrar of the Civil Service Tribunal, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice or Court of First Instance.

2. Where the Civil Service Tribunal finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice or the Court of First Instance has jurisdiction, it shall refer that action to the Court of Justice or to the Court of First Instance. Likewise, where the Court of Justice or the Court of First Instance finds that an action falls within the jurisdiction of the Civil Service Tribunal, the Court seised shall refer that action to the Civil Service Tribunal, whereupon that Tribunal may not decline jurisdiction.

3. Where the Civil Service Tribunal and the Court of First Instance are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, the Civil Service Tribunal, after hearing the parties, may stay the proceedings until the judgment of the Court of First Instance has been delivered.

Where the Civil Service Tribunal and the Court of First Instance are seised of cases in which the same relief is sought, the Civil Service Tribunal shall decline jurisdiction so that the Court of First Instance may act on those cases.

Article 9

An appeal may be brought before the Court of First Instance, within two months of notification of the decision appealed against, against final decisions of the Civil Service Tribunal and decisions of that Tribunal disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of jurisdiction or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Communities may bring such an appeal only where the decision of the Civil Service Tribunal directly affects them.

Article 10

1. Any person whose application to intervene has been dismissed by the Civil Service Tribunal may appeal to the Court of First Instance within two weeks of notification of the decision dismissing the application.

2. The parties to the proceedings may appeal to the Court of First Instance against any decision of the Civil Service Tribunal made pursuant to Article 242 or Article 243 or the fourth paragraph of Article 256 of the EC Treaty or Article 157 or Article 158 or the third paragraph of Article 164 of the EAEC Treaty within two months of its notification.

3. The President of the Court of First Instance may, by way of summary procedure, which may, insofar as necessary, differ from some of the rules contained in this Annex and which shall be laid down in the rules of procedure of the Court of First Instance, adjudicate upon appeals brought in accordance with paragraphs 1 and 2.

Article 11

1. An appeal to the Court of First Instance shall be limited to points of law. It shall lie on the grounds of lack of jurisdiction of the Civil Service Tribunal, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Tribunal.

2. No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 12

1. Without prejudice to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, an appeal before the Court of First Instance shall not have suspensory effect.

2. Where an appeal is brought against a decision of the Civil Service Tribunal, the procedure before the Court of First Instance shall consist of a written part and an oral part. In accordance with conditions laid down in the rules of procedure, the Court of First Instance, having heard the parties, may dispense with the oral procedure.

Article 13

1. If the appeal is well founded, the Court of First Instance shall quash the decision of the Civil Service Tribunal and itself give judgment in the matter. It shall refer the case back to the Civil Service Tribunal for judgment where the state of the proceedings does not permit a decision by the Court.

2. Where a case is referred back to the Civil Service Tribunal, the Tribunal shall be bound by the decision of the Court of First Instance on points of law.'

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

RULES OF PROCEDURE

RULES OF PROCEDURE OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

of 25 July 2007

THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL,

Having regard to the Treaty establishing the European Community, and in particular Article 225a thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 140b thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Communities, and in particular Annex I thereto,

Having regard to Council Decision 2004/752/EC, Euratom of 2 November 2004 establishing the European Union Civil Service Tribunal, ([1])

Having regard to the agreement of the Court of Justice,

Having regard to the Council's approval given on 19 April 2007,

Whereas:

(1) The Civil Service Tribunal is required to draw up its Rules of Procedure in agreement with the Court of Justice and with the approval of the Council, acting by a qualified majority.

(2) It is necessary to adopt the provisions laid down for the functioning of the Civil Service Tribunal by the Treaties, by the Statute of the Court of Justice, by Annex I thereto and by Decision 2004/752/EC, Euratom, and to adopt any other provisions necessary in order to clarify and supplement those acts, if the need arises.

(3) It is necessary to provide procedures for the Civil Service Tribunal in keeping with the needs of a court of first instance and with the task entrusted to it of adjudicating in accordance with rules adapted to the particular features of the cases that it has to hear and determine, examining the possibilities of an amicable settlement of disputes at all stages of the procedure.

(4) It is desirable, in order to guarantee the unity and coherence of the judicial system as a whole, that the rules applicable to procedure before the Civil Service Tribunal should not diverge any further than is necessary from the rules applicable to procedure before the Court of Justice under the latter's Rules of Procedure, adopted on 19 June 1991, ([2]) as subsequently amended, and to procedure before the Court of First Instance under the latter's Rules of Procedure, adopted on 2 May 1991, ([3]) as subsequently amended.

([1]) OJ L 333 of 9.11.2004, p. 7.

([2]) OJ L 176 of 4.7.1991, p. 7. Rules of Procedure most recently amended by Council Decision 2006/955/EC, Euratom (OJ L 386 of 29.12.2006, p. 44).

([3]) OJ L 136 of 30.5.1991, p. 1. Rules of Procedure most recently amended by Council Decision 2006/956/EC, Euratom (OJ L 386 of 29.12.2006, p. 45).

HEREBY ADOPTS THE FOLLOWING

RULES OF PROCEDURE

PRELIMINARY PROVISIONS

Article 1

Interpretation

1. In these Rules:

— 'EC Treaty' means the Treaty establishing the European Community;

— 'EAEC Treaty' means the Treaty establishing the European Atomic Energy Community (Euratom);

— 'Statute of the Court of Justice' means the Protocol on the Statute of the Court of Justice;

— 'Staff Regulations' means the Regulation laying down the Staff Regulations of Officials of the European Communities and the Conditions of Employment of other servants of the European Communities.

2. For the purposes of these Rules:

— 'Tribunal' means the European Union Civil Service Tribunal or, for cases dealt with by a Chamber or a single Judge, that Chamber or that Judge;

— 'President of the Tribunal' means the President of that court exclusively, 'President' meaning the president of the formation of the court;

— 'institutions' means the institutions of the Communities and bodies which are established by the Treaties, or by an act adopted in implementation thereof, and which may be parties before the Tribunal.

TITLE 1

ORGANISATION OF THE TRIBUNAL

Chapter 1

PRESIDENT AND MEMBERS OF THE TRIBUNAL

Article 2

Judges' term of office

1. The term of office of a Judge shall begin on the date laid down in his instrument of appointment.

2. In the absence of any provision regarding the date, the term shall begin on the date of the instrument.

Article 3

Taking of the oath

1. Before taking up his duties, a Judge shall take the following oath before the Court of Justice of the European Communities:

'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.'

2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

Article 4

Disqualification and removal of a Judge

1. When the Court of Justice is called upon to decide, after consulting the Tribunal, whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President of the Tribunal shall invite the Judge concerned to make representations to the Tribunal in closed session and in the absence of the Registrar.

2. The Tribunal shall state the reasons for its opinion.

3. An opinion to the effect that a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office must receive the votes of at least a majority of the Judges of the Tribunal. In that event, particulars of the voting shall be communicated to the Court of Justice.

4. Voting shall be by secret ballot; the Judge concerned shall not take part in the deliberations.

Article 5

Precedence

1. With the exception of the President of the Tribunal and of the Presidents of the Chambers, the Judges shall rank equally in precedence according to their seniority in office.

2. Where there is equal seniority in office, precedence shall be determined by age.

3. Retiring Judges who are reappointed shall retain their former precedence.

Article 6

Election of the President of the Tribunal

1. In accordance with Article 4(1) of Annex I to the Statute of the Court of Justice, the Judges shall elect the President of the Tribunal from among their number for a term of three years. He may be re-elected.

2. If the office of President of the Tribunal falls vacant before the usual date of expiry of his term, the Tribunal shall elect a successor for the remainder thereof.

3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes, the oldest of them shall be deemed elected.

4. The name of the President of the Tribunal shall be published in the *Official Journal of the European Union*.

Article 7

Responsibilities of the President of the Tribunal

1. The President of the Tribunal shall direct the judicial business and the administration of the Tribunal.

2. He shall preside at sittings and deliberations in closed session of:

— the full court;

— the Chamber sitting with five Judges;

— any Chamber sitting with three Judges to which he is attached.

Article 8

Replacement of the President of the Tribunal

When the President of the Tribunal is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised according to the order of precedence laid down pursuant to Article 5.

Chapter 2

FORMATIONS OF THE COURT

Article 9

Formations of the court

By virtue of Article 4(2) of Annex I to the Statute of the Court of Justice, the Tribunal shall sit in full court, in a Chamber of five Judges, Chambers of three Judges or as a single Judge.

Article 10

Constitution of Chambers

1. The Tribunal shall set up Chambers sitting with three Judges. It may set up a Chamber sitting with five Judges.

2. The Tribunal shall decide which Judges shall be attached to the Chambers. If the number of Judges attached to a Chamber is greater than the number of Judges sitting, it shall decide how to designate the Judges taking part in the formation of the court.

3. Decisions taken in accordance with this article shall be published in the *Official Journal of the European Union*.

Article 11

Presidents of Chambers

1. In accordance with Article 4(3) of Annex I to the Statute of the Court of Justice, the Judges shall elect from among their number for a term of three years the Presidents of the Chambers sitting with three Judges. The election shall be carried out in accordance with the procedure laid down in Article 6(3). They may be re-elected.

2. Article 6(2) and (4) shall apply.

3. The Presidents of Chambers shall direct the judicial business of their Chambers and shall preside at sittings and deliberations.

4. When the President of a Chamber is absent or prevented from attending or when the office of President is vacant, the Chamber shall be presided over by a member thereof according to the order of precedence laid down pursuant to Article 5.

5. If, exceptionally, the President of the Tribunal is called upon to complete the formation of the court, he shall preside.

Article 12

Ordinary formation of the court — Assignment of cases to Chambers

1. Without prejudice to Article 13 or Article 14, the Tribunal shall sit in Chambers of three Judges.

2. The Tribunal shall lay down criteria by which cases are to be assigned to the Chambers.

3. The decision provided for in the previous paragraph shall be published in the *Official Journal of the European Union*.

Article 13

Referral of a case to the full court or to the Chamber sitting with five Judges

1. Whenever the difficulty of the questions of law raised or the importance of the case or special circumstances so justify, a case may be referred to the full court or to the Chamber sitting with five Judges.

2. The decision to refer shall be taken by the full court on a proposal by the Chamber hearing the case or by any member of the Tribunal. It may be taken at any stage of the proceedings.

Article 14

Referral of a case to a single Judge

1. Cases assigned to a Chamber sitting with three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of the case and to the absence of other special circumstances, they are suitable for being so heard and determined.

Referral to a single Judge shall not be possible in cases which raise issues as to the legality of an act of general application.

2. The decision to refer shall be taken unanimously, the parties having been heard, by the Chamber before which the case is pending. It may be taken at any stage of the proceedings.

3. If the single Judge to whom the case has been referred is absent or prevented from attending, the President shall designate another Judge to replace that Judge.

4. The single Judge shall refer the case back to the Chamber if he finds that the conditions set out in paragraph 1 above are no longer satisfied.

5. In cases heard by a single Judge, the powers of the President shall be exercised by that Judge.

Chapter 3

REGISTRY AND DEPARTMENTS

Section 1 — The Registry

Article 15

Appointment of the Registrar

1. The Tribunal shall appoint the Registrar.

2. Two weeks before the date fixed for making the appointment, the President of the Tribunal shall inform the Judges of the applications which have been submitted for the post.

3. The appointment shall be made in accordance with the procedure laid down in Article 6(3).

4. The name of the Registrar elected shall be published in the *Official Journal of the European Union*.

5. The Registrar shall be appointed for a term of six years. He may be reappointed.

6. Before he takes up his duties the Registrar shall take the oath before the Tribunal in accordance with Article 3.

Article 16

Vacancy of the office of Registrar

1. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Tribunal shall take its decision after giving the Registrar an opportunity to make representations.

2. If the office of Registrar falls vacant before the usual date of expiry of the term thereof, the Tribunal shall appoint a new Registrar for a term of six years.

Article 17

Assistant Registrar

The Tribunal may, following the procedure laid down in respect of the Registrar, appoint an Assistant Registrar to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 19(4) allow.

Article 18

Absence or inability to attend of the Registrar

Where the Registrar is absent or prevented from attending and, if necessary, where the Assistant Registrar is absent or so prevented, or where their posts are vacant, the President of the Tribunal shall designate an official or servant to carry out the duties of Registrar.

Article 19

Duties of the Registrar

1. The Registrar shall assist the Tribunal, the President of the Tribunal and the Judges in the performance of their functions. He shall be responsible for the organisation and activities of the Registry under the authority of the President of the Tribunal.

2. The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the Tribunal's publications. The Registrar shall be responsible, under the authority of the President of the Tribunal, for the acceptance, transmission and custody of all documents and for effecting service as provided for by these Rules.

3. Subject to Articles 4, 16(1) and 27, the Registrar shall attend the sittings of the Tribunal.

4. The Tribunal shall adopt its Instructions to the Registrar, acting on a proposal from the President of the Tribunal. They shall be published in the *Official Journal of the European Union*.

Article 20

Keeping of the register

1. There shall be kept in the Registry, under the control of the Registrar, a register in which all pleadings and supporting documents shall be entered.

2. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 19(4).

3. Any person having a duly substantiated interest may consult the register at the Registry and obtain copies or extracts on payment of a charge on a scale fixed by the Tribunal on a proposal from the Registrar.

4. Any party to proceedings may in addition obtain, on payment of the appropriate charge, additional copies of the pleadings or of the orders and judgments.

5. No third party, private or public, may have access to the case-file or to the procedural documents without the express authorisation of the President, after the parties have been heard. That authorisation may be granted only upon written request accompanied by a detailed explanation of the third party's legitimate interest in inspecting the file.

Section 2 — The Departments

Article 21

Officials and other servants

1. The officials and other servants whose task is to assist directly the President of the Tribunal, the Judges and the Registrar shall be appointed in accordance with the Staff Regulations. They shall be responsible to the Registrar, under the authority of the President of the Tribunal.

2. Before the President of the Tribunal, in the presence of the Registrar, they shall take the following oath:

'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the European Union Civil Service Tribunal.'

Article 22

Administration and financial management of the Tribunal

The Registrar shall be responsible, under the authority of the President of the Tribunal, for the administration, financial management and accounts of the Tribunal; he shall be assisted in this by the departments of the Court of Justice and the Court of First Instance.

Chapter 4

WORKING OF THE TRIBUNAL

Article 23

Dates, times and place of the sittings of the Tribunal

1. The dates and times of the sittings of the Tribunal shall be fixed by the President.

2. The Tribunal may choose to hold one or more particular sittings in a place other than that in which it has its seat.

Article 24

Quorum

Sittings of the Tribunal shall be valid only if the following quorum is observed:

— five Judges for the full court;

— three Judges for the Chamber sitting with five Judges or for the Chambers sitting with three Judges.

Article 25

Absence or inability to attend of a Judge

1. If, because a Judge is absent or prevented from attending, the quorum is not attained, the President shall adjourn the sitting until the Judge is no longer absent or prevented from attending.

2. In order to attain a quorum in a Chamber, the President may also, if the proper administration of justice so requires, complete the formation of the court with another Judge of the same Chamber or, failing that, propose that the President of the Tribunal should designate a Judge from another Chamber. The replacement Judge shall be designated by turn according to the order of precedence referred to in Article 5, with the exception, if possible, of the President of the Tribunal and of the Presidents of Chambers.

3. If the formation of the court is completed pursuant to paragraph 2 after the hearing, the oral procedure shall be reopened.

Article 26

Absence or inability to attend, before the hearing, of a Judge of the Chamber sitting with five Judges

If, in the Chamber sitting with five Judges, a Judge is absent or prevented from attending before the hearing, the President of the Tribunal shall designate another Judge according to the order of precedence referred to in Article 5. If the number of five Judges cannot be restored, the hearing may nevertheless be held, provided that the quorum is attained.

Article 27

Deliberations

1. The Tribunal shall deliberate in closed session.

2. Only those Judges who were present at the hearing may take part in the deliberations.

3. In accordance with the first paragraph of Article 17 of the Statute of the Court of Justice and the first paragraph of Article 5 of Annex I to the Statute, deliberations of the Tribunal shall be valid only if an uneven number of Judges is sitting in the deliberations.

If, in the Chamber sitting with five Judges or in the full court, there is an even number of Judges, as a result of a Judge's being absent or prevented from attending, the lowest-ranking Judge, according to the order of precedence fixed pursuant to Article 5, shall abstain from taking part in the deliberations, unless he is the Judge-Rapporteur. In that last case, it is the Judge immediately senior to him who shall abstain.

4. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

Any Judge may require that any question be formulated in the language of his choice and communicated in writing to the other Judges before being put to the vote.

The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Tribunal. Votes shall be cast in reverse order to the order of precedence laid down pursuant to Article 5.

Differences of view on the substance, wording or order of questions, or on the interpretation of a vote, shall be settled by decision of the Tribunal.

5. Where the deliberations of the Tribunal concern questions of its own administration, the Registrar shall be present, unless the Tribunal decides to the contrary.

6. Where the Tribunal sits without the Registrar being present it shall, if necessary, instruct the lowest-ranking Judge, according to the order of precedence referred to in Article 5, to draw up minutes. The minutes shall be signed by this Judge and by the President.

Article 28

Judicial vacations

1. Subject to any special decision of the Tribunal, its vacations shall be as follows:

— from 18 December to 10 January,

— from the Sunday before Easter to the second Sunday after Easter,

— from 15 July to 15 September.

2. During the vacations, the functions of President of the Tribunal shall be exercised at the place where the Tribunal has its seat either by the President of the Tribunal, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.

In a case of urgency, the President may convene the Judges.

3. The Tribunal shall observe the official holidays of the place where it has its seat.

4. The Tribunal may, in proper circumstances, grant leave of absence to any Judge.

Chapter 5

LANGUAGES

Article 29

Language arrangements

By virtue of Article 64 of the Statute of the Court of Justice and Article 7(2) of Annex I to the Statute, the provisions of the Rules of Procedure of the Court of First Instance governing language arrangements shall apply to the Tribunal.

Chapter 6

RIGHTS AND OBLIGATIONS OF THE PARTIES' REPRESENTATIVES

Article 30

Privileges, immunities and facilities

1. The parties' representatives, appearing before the Tribunal or before any judicial authority to which it has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. The parties' representatives shall enjoy the following further privileges and facilities:

(a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately

forwarded to the Tribunal for inspection in the presence of the Registrar and of the person concerned;

(b) the parties' representatives shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;

(c) the parties' representatives shall be entitled to travel in the course of duty without hindrance.

3. The privileges, immunities and facilities specified in paragraphs 1 and 2 are granted exclusively in the interests of the proper conduct of proceedings.

4. The Tribunal may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

Article 31

Status of the parties' representatives

In order to qualify for the privileges, immunities and facilities specified in Article 30, persons entitled to them shall furnish proof of their status as follows:

(a) agents shall produce an official document issued by the party for whom they act and shall forward without delay a copy thereof to the Registrar;

(b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 32

Exclusion from the proceedings

1. If the Tribunal considers that the conduct of a party's representative towards the Tribunal, the President, a Judge or the Registrar is incompatible with the dignity of the Tribunal or with the requirements of the proper administration of justice, or that such representative uses his rights for purposes other than those for which they were granted, it shall so inform the person concerned. The Tribunal may inform the competent authorities to whom the person concerned is answerable; a copy of the letter sent to those authorities shall be forwarded to the person concerned.

On the same grounds the Tribunal may at any time, having heard the person concerned, exclude that person from the proceedings by order. That order shall have immediate effect.

2. Where a party's representative is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another representative.

3. Decisions taken under this Article may be rescinded.

TITLE 2

PROCEDURE

Chapter 1

WRITTEN PROCEDURE

Article 33

General provisions

1. The written procedure shall comprise the lodging of the application and of the defence and, in the circumstances provided for in Article 41, the lodging of a reply and a rejoinder.

2. The President shall fix the dates or time-limits by which the pleadings must be lodged.

Article 34

Lodging of pleadings

1. The original of every pleading must be signed by the party's representative.

The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Tribunal and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time-limits laid down by the Tribunal, translations of the pleadings of which they are the author into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 shall apply.

3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings only the date of lodging at the Registry shall be taken into account.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

6. Without prejudice to the provisions of paragraphs 1 to 4, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by any technical means of communication available to the Tribunal shall be deemed to be the date of lodging for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1, is lodged at the Registry no later than 10 days after the copy of the original was received. Article 100(3) shall not be applicable to this period of 10 days.

7. Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 4, the Tribunal may by decision determine the criteria for a procedural document sent to the Registry by electronic means to be deemed to be the original of that document. That decision shall be published in the *Official Journal of the European Union*.

Article 35

Application

1. An application of the kind referred to in Article 21 of the Statute of the Court of Justice shall state:

(a) the name and address of the applicant;

(b) the description and address of the signatory;

(c) the designation of the party against whom the application is made;

(d) the subject-matter of the proceedings and the form of order sought by the applicant;

(e) the pleas in law and the arguments of fact and law relied on;

(f) where appropriate, the nature of any evidence offered in support.

2. To the application there shall be annexed, where appropriate:

(a) the act of which annulment is sought;

(b) the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint together with the dates on which the complaint was submitted and the decision notified.

3. For the purposes of the proceedings, the application shall state:

— an address for service in the place where the Tribunal has its seat and the name of the person authorised to accept service;

— or any technical means of communication available to the Tribunal by which the applicant's representative agrees to accept service;

— or else both the methods of transmission of service referred to above.

4. If the application does not comply with the requirements referred to in paragraph 3, all service on the party concerned for the purposes of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to that party's representative. By way of derogation from Article 99(1), service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Tribunal has its seat.

5. The applicant's lawyer must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.

Article 36

Putting the application in order

If an application does not comply with the requirements set out in Article 35(1)(a), (b), (c), (2) or (5), the Registrar shall prescribe a reasonable period within which the applicant is to comply with them by putting the application in order. If the applicant fails to put the application in order within the time prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the application formally inadmissible.

Article 37

Service of the application and notice in the Official Journal

1. The application shall be served on the defendant. In the cases provided for by Article 36, service shall be effected as soon as the application has been put in order or, failing that, as soon as the Tribunal has declared it admissible.

2. Notice shall be given in the *Official Journal of the European Union* of the date on which the application was lodged, the parties, the subject-matter and description of the proceedings and the form of order sought by the applicant.

Article 38

First assignment of a case to a formation of the court

As soon as the application initiating proceedings has been lodged, the President of the Tribunal shall assign the case to one of the Chambers sitting with three Judges in accordance with the criteria set out in Article 12(2).

The President of that Chamber shall propose to the President of the Tribunal, in respect of each case assigned, the designation of a Judge to act as Rapporteur; the President of the Tribunal shall decide on the proposal.

Article 39

Defence

1. Within two months after service of the application, the defendant shall lodge a defence stating:

(a) the name and address of the defendant;

(b) the description and address of the signatory;

(c) the form of order sought by the defendant;

(d) the pleas in law and the arguments of fact and law relied on;

(e) where appropriate, the nature of any evidence offered in support.

The provisions of Article 35(3) and (4) shall apply.

The lawyer acting for the defendant must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.

2. The time-limit laid down in paragraph 1 may, in exceptional circumstances, be extended by the President on a reasoned application by the defendant.

Article 40

Forwarding pleadings to the Council and the Commission

Where the Council or the Commission is not a party to a case, the Tribunal shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under Article 241 of the EC Treaty or Article 156 of the EAEC Treaty.

Article 41

Second exchange of pleadings

Pursuant to Article 7(3) of Annex I to the Statute of the Court of Justice, the Tribunal may decide, either of its own motion or on a reasoned application by the applicant, that a second exchange of written pleadings is necessary to supplement the documents before the Tribunal.

Article 42

Offers of further evidence

The parties may offer further evidence in support of their arguments until the end of the hearing, on condition that the delay in offering it is duly justified.

Article 43

New pleas in law

1. No new plea in law may be introduced after the first exchange of pleadings unless it is based on matters of law or of fact which come to light in the course of the procedure.

2. If in the course of the procedure one of the parties puts forward a new plea in law, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur, allow the other party time to answer on that plea. Consideration of the admissibility of the plea shall be reserved for the final decision.

Article 44

Documents — Confidentiality — Anonymity

1. Subject to the provisions of Article 109(5), the Tribunal shall take into consideration only those documents which have been made available to the parties' representatives and on which they have been given an opportunity of expressing their views.

2. Where it is necessary for the Tribunal to verify the confidentiality, in respect of one or more parties, of a document that may be relevant in order to rule in a case, that document shall not be communicated to the parties before such verification is completed. The Tribunal may by way of order request the production of such a document.

3. Where a document to which access has been denied by a Community institution has been produced before the Tribunal in proceedings relating to the legality of that denial, that document shall not be communicated to the other parties.

4. On a reasoned application by a party or of its own motion, the Tribunal may omit the name of the applicant or of other persons mentioned in connection with the proceedings, or certain information, from the publications relating to a case if there are legitimate reasons for keeping the identity of a person or the information confidential.

Article 45

Preliminary report

1. After the final exchange of the parties' pleadings, the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Tribunal.

2. The preliminary report shall contain recommendations as to whether measures of organisation of procedure or measures of inquiry should be undertaken, as to the possibility of an amicable settlement of the dispute and as to whether the case should be referred to the full court, to the Chamber sitting with five Judges or to the Judge-Rapporteur sitting as a single Judge.

3. The Tribunal shall decide what action to take upon the recommendations of the Judge-Rapporteur.

Article 46

Connection — Joinder

1. In the interests of the proper administration of justice, the President may, at any time, after hearing the parties, order that two or more cases shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final decision. The cases may subsequently be disjoined. The President may refer these matters to the Tribunal.

2. Where cases assigned to different formations of the court are to be joined on account of the connection between them, the President of the Tribunal shall decide on their re-assignment.

3. The representatives of the parties to the joined cases may examine at the Registry the pleadings served on the parties in the other cases concerned. The President may, however, on application by a party, without prejudice to Article 44(1) and (2), exclude secret or confidential documents from that examination.

Article 47

Order in which cases are to be dealt with

1. The Tribunal shall deal with the cases before it in the order in which they become ready for examination.

2. The President may in special circumstances direct that a particular case be given priority.

3. The President may, after hearing the parties, in special circumstances, in particular with a view to facilitating an amicable settlement of the dispute, either on his own initiative or at the request of one of the parties, defer a case to be dealt with later.

Chapter 2

ORAL PROCEDURE

Article 48

Holding of hearings

1. Without prejudice to the special provisions of these Rules permitting the Tribunal to adjudicate by way of order, and subject to paragraph 2, the procedure before the Tribunal shall include a hearing.

2. Where there has been a second exchange of pleadings and the Tribunal considers that it is unnecessary to hold a hearing, it may, with the agreement of the parties, decide to proceed to judgment without a hearing.

Article 49

Date of the hearing

The President shall fix the date of the hearing.

Article 50

Absence of the parties from the hearing

The parties' representatives, duly invited to the hearing, shall be required to inform the Registry in good time if they do not wish to be present.

Where the representatives of all the parties have stated that they will not be present at the hearing, the Tribunal may decide that the oral procedure is closed.

Article 51

Conduct of the hearing

1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

2. The oral proceedings in cases heard in camera shall not be published.

3. A party may address the Tribunal only through his representative.

4. The President and each of the Judges may in the course of the hearing:

(a) put questions to the parties' representatives;

(b) invite the parties themselves to express their views on certain aspects of the case.

Article 52

Close of the oral procedure

1. The President shall declare the oral procedure closed at the end of the hearing.

2. The Tribunal may order the reopening of the oral procedure.

Article 53

Minutes of the hearing

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 3

MEASURES OF ORGANISATION OF PROCEDURE AND MEASURES OF INQUIRY

Article 54

General provisions

1. The purpose of measures of organisation of procedure and measures of inquiry shall be to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions.

Those measures may be adopted or varied at any stage of the proceedings.

2. Each party may, at any stage of the proceedings, propose the adoption or modification of measures of organisation of procedure or of inquiry. In that case, the other parties shall be heard before those measures are prescribed.

3. Where the procedural circumstances so require, the Judge-Rapporteur or, where appropriate, the Tribunal shall inform the parties of the measures envisaged in order to give them an opportunity to submit their observations orally or in writing.

Section 1 — Measures of organisation of procedure

Article 55

Purpose and types

1. Measures of organisation of procedure shall have as their purpose:

(a) to ensure efficient conduct of the written and oral procedure and to facilitate the taking of evidence;

(b) to determine the points on which the parties must present further argument or which would call for a measure of inquiry;

(c) to clarify the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them.

2. Measures of organisation of procedure may, in particular, consist of:

(a) putting questions to the parties;

(b) inviting the parties to make written or oral submissions on certain aspects of the proceedings;

(c) asking the parties for information or particulars;

(d) asking the parties to produce documents or any papers relating to the case;

(e) summoning the parties to meetings.

Article 56

Procedure

Without prejudice to Article 44(2), measures of organisation of procedure shall be prescribed by the Judge-Rapporteur unless he refers the matter to the Tribunal on account of the scope of the measures envisaged or of their importance to the disposal of the case. The Registrar shall be responsible for notifying them to the parties.

Section 2 — Measures of inquiry

Article 57

Types

Without prejudice to the provisions of Articles 24 and 25 of the Statute of the Court of Justice, the following measures of inquiry may be adopted:

(a) the appearance of the parties themselves;

(b) asking third parties for information or particulars;

(c) asking third parties to produce documents or any papers relating to the case;

(d) oral testimony;

(e) the commissioning of an expert's report;

(f) an inspection of the place or thing in question.

Article 58

Procedure

1. Measures of inquiry shall be prescribed by the Tribunal.

2. The decision concerning the measures referred to in Article 57(d), (e) and (f) shall be taken by means of an order setting out the facts to be proved, after the parties have been heard.

The decision concerning the measures referred to in Article 57(a), (b) and (c) shall be notified to the parties by the Registrar.

3. The parties may be present at the measures of inquiry.

4. Where the Tribunal decides to adopt a measure of inquiry but does not undertake such a measure itself, it shall entrust the task of so doing to the Judge-Rapporteur.

5. A party may always submit evidence in rebuttal or amplify previous evidence.

Section 3 — The summoning and examination of witnesses and experts

Article 59

Summoning of witnesses

1. The Tribunal may, either of its own motion or on application by one of the parties, order that certain facts be proved by witnesses.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. A witness whose examination is considered necessary shall be summoned by the Tribunal by means of an order containing the following information:

(a) the surname, forenames, description and residence of the witness;

(b) the date and place of the hearing;

(c) an indication of the facts about which the witness is to be examined;

(d) where appropriate, particulars of the arrangements made by the Tribunal for reimbursement of expenses incurred by the witness, and of the sanctions which may be imposed on defaulting witnesses.

3. The Tribunal may, in exceptional circumstances, make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Tribunal of a sum sufficient to cover the taxed costs thereof; the Tribunal shall fix the amount of the payment.

The cashier of the Tribunal shall advance the funds necessary in connection with the examination of any witness summoned by the Tribunal of its own motion.

Article 60

Examination of witnesses

1. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in paragraph 2 and in Article 63.

The witness shall give his evidence to the Tribunal, the parties having been given notice to attend. After the witness has given his main evidence the President and each of the Judges may, at the request of a party or of his own motion, put questions to him.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

2. Subject to the provisions of Article 63, the witness shall, before giving his evidence, take the following oath:

'I swear that I shall tell the truth, the whole truth and nothing but the truth.'

The Tribunal may, after hearing the parties, exempt a witness from taking the oath.

3. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

Article 61

Duties of witnesses

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Tribunal, the latter may impose upon him a pecuniary sanction not exceeding EUR 5 000 and may order that a further summons be served at the witness's own expense.

The same sanction may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.

3. If the witness proffers a valid excuse to the Tribunal, the pecuniary sanction imposed on him may be cancelled. The pecuniary sanction imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

4. Sanctions imposed and other measures ordered under this Article shall be enforced in accordance with Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

Article 62

Experts' reports

1. The Tribunal may, either of its own motion or on application by one of the parties, order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Tribunal may request the parties or one of them to lodge security for the costs of the expert's report.

3. At the request of the expert, the Tribunal may order the examination of witnesses. Their examination shall be carried out in accordance with Article 60.

4. The expert may give his opinion only on points which have been expressly referred to him.

5. After the expert has made his report, the Tribunal may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. Subject to the provisions of Article 63, the expert shall, after making his report, take the following oath before the Tribunal:

'I swear that I have conscientiously and impartially carried out my task.'

The Tribunal may, after hearing the parties, exempt the expert from taking the oath.

Article 63

Oath

1. The President shall instruct any person who is required to take an oath before the Tribunal, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. Witnesses and experts shall take the oath either in accordance with the first subparagraph of Article 60(2) and the first subparagraph of Article 62(6) or in the manner laid down by their national law.

3. Where the national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witnesses and experts may make such an affirmation under the conditions and in the form prescribed in their national law.

Where their national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in paragraph 1 shall be followed.

Article 64

Perjury

1. The Tribunal may decide to report to the competent authority, referred to in Annex III to the Rules supplementing the Rules of Procedure of the Court of Justice, of the Member State whose courts have criminal jurisdiction any case of perjury on the part of a witness or expert before the Tribunal, account being taken of the provisions of Article 63.

2. The Registrar shall be responsible for communicating the decision of the Tribunal. The decision shall set out the facts and circumstances on which the report is based.

Article 65

Objection

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the Tribunal shall adjudicate by way of reasoned order.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Article 66

Reimbursement of expenses — Compensation or fees

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Tribunal may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Tribunal shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

Article 67

Letters rogatory

1. The Tribunal may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.

2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their representatives, indicate their addresses and briefly describe the subject-matter of the proceedings.

3. The Registrar shall send the order to the competent authority named in Annex I to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the Member State to which it is addressed.

The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar.

The Registrar shall be responsible for the translation of the documents into the language of the case.

4. The Tribunal shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.

Chapter 4

THE AMICABLE SETTLEMENT OF DISPUTES

Article 68

Measures

1. The Tribunal may, at all stages of the procedure, examine the possibilities of an amicable settlement of the dispute between the applicant and the defendant, propose one or more solutions capable of putting an end to the dispute and adopt appropriate measures with a view to facilitating such settlement.

It may, amongst other things:

— ask the parties or third parties to supply information or particulars;

— ask the parties or third parties to produce documents;

— invite to meetings the parties' representatives, the parties themselves or any official or other servant of the institution empowered to negotiate an agreement.

2. Paragraph 1 shall apply to proceedings for interim measures also.

3. The Tribunal may instruct the Judge-Rapporteur, assisted by the Registrar, to seek the amicable settlement of a dispute or to implement the measures which it has adopted to that end.

Article 69

Agreement of the parties

1. Where the applicant and the defendant come to an agreement before the Tribunal or the Judge-Rapporteur as to the solution putting an end to the dispute, the terms of that agreement may be recorded in minutes signed by the President or the Judge-Rapporteur and by the Registrar. The agreement as entered in the minutes shall constitute an official record.

The case shall be removed from the register by reasoned order of the President.

At the request of the applicant and defendant, the President shall set out the terms of the agreement in the order removing the case from the register.

2. Where the applicant and the defendant notify the Tribunal that they have reached an agreement out of court as to the resolution of the dispute and state that they abandon all claims, the President shall order the case to be removed from the register.

3. The President shall give a decision as to costs in accordance with the agreement or, failing that, at his discretion.

Article 70

Amicable settlement and contentious proceedings

No opinion expressed, suggestion made, proposal put forward, concession made or document drawn up for the purposes of the amicable settlement may be relied on as evidence by the Tribunal or the parties in the contentious proceedings.

Chapter 5

STAY OF PROCEEDINGS AND DECLINING OF JURISDICTION IN FAVOUR OF THE COURT OF JUSTICE AND THE COURT OF FIRST INSTANCE

Article 71

Conditions and procedure for staying of proceedings

1. Without prejudice to Articles 117(4), 118(4) and 119(4), proceedings may be stayed:

(a) where the Tribunal and either the Court of First Instance or the Court of Justice are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, until the judgment of the Court of First Instance or the Court of Justice has been delivered;

(b) where an appeal is brought before the Court of First Instance against a decision of the Tribunal disposing of the substantive issues in part only, disposing of a procedural issue concerning a plea of lack of competence or inadmissibility or dismissing an application to intervene;

(c) at the joint request of the parties;

(d) in other particular cases where the proper administration of justice so requires.

2. The decision to stay the proceedings shall be made by reasoned order of the President after hearing the parties; the President may refer the matter to the Tribunal.

3. Any decision ordering the resumption of proceedings before the end of the stay or as referred to in Article 72(2) shall be adopted in accordance with the same procedure.

Article 72

Duration and effects of a stay of proceedings

1. The stay of proceedings shall take effect on the date indicated in the order of stay or, in the absence of such an indication, on the date of that order.

2. Where the order of stay does not fix the length of the stay, it shall end on the date indicated in the order of resumption or, in the absence of such indication, on the date of the order of resumption.

3. While proceedings are stayed time shall, except for the purposes of the time-limit prescribed in Article 109(1) for an application to intervene, cease to run for the purposes of procedural time-limits.

Time shall begin to run afresh from the beginning for the purposes of the time-limits from the date on which the stay of proceedings comes to an end.

Article 73

Declining of jurisdiction

1. In accordance with Article 8(2) of Annex I to the Statute of the Court of Justice, where the Tribunal finds that the action before it falls within the jurisdiction of the Court of Justice or of the Court of First Instance, it shall refer that action to the Court of Justice or to the Court of First Instance.

2. The Tribunal shall make its decision by way of reasoned order.

Chapter 6

DISCONTINUANCE, NO NEED TO ADJUDICATE AND PRELIMINARY ISSUES

Article 74

Discontinuance

If the applicant informs the Tribunal, in writing or at the hearing, that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 89(5).

Article 75

No need to adjudicate

If the Tribunal finds that an action has become devoid of purpose and that there is no longer any need to adjudicate on it, it may at any time, of its own motion, after hearing the parties, adopt a reasoned order.

Article 76

Action manifestly bound to fail

Where it is clear that the Tribunal has no jurisdiction to take cognisance of an action or of certain of the claims therein or where the action is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law, the Tribunal may, without taking further steps in the proceedings, give a decision by way of reasoned order.

Article 77

Absolute bar to proceeding

The Tribunal may at any time, of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with an action. If the Tribunal considers that it possesses sufficient information, it may, without taking further steps in the proceedings, give a decision by way of reasoned order.

Article 78

Application for a decision not going to the substance of the case

1. A party applying to the Tribunal for a decision on admissibility, on lack of competence or other preliminary plea not going to the substance of the case shall make the application by a separate document within a month of service of the application.

The application must contain the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing the form of order sought and the arguments of fact and law relied on.

Unless the Tribunal otherwise decides, the remainder of the proceedings shall be oral.

3. The Tribunal shall decide on the application by way of reasoned order or reserve its decision for the final judgment.

If the Tribunal refuses the application or reserves its decision, the President shall prescribe new time-limits for further steps in the proceedings.

4. The Tribunal shall refer the case to the Court of Justice or to the Court of First Instance if the case falls within the jurisdiction of either of those Courts.

Chapter 7

JUDGMENTS AND ORDERS

Article 79

Judgments

A judgment shall contain:

— the statement that it is the judgment of the Tribunal,

— the date of its delivery,

— the names of the President and the Judges taking part in it, with an indication as to the name of the Judge-Rapporteur,

— the name of the Registrar,

— the description of the parties,

— the names of the parties' representatives,

— a statement of the forms of order sought by the parties,

— a summary of the facts,

— the grounds for the decision,

— the operative part of the judgment, including the decision as to costs.

Article 80

Delivery of judgment

1. The judgment shall be delivered in open court. Due notice shall be given to the parties of the date of delivery.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a certified copy of the judgment.

3. The Registrar shall record on the original of the judgment the date on which it was delivered.

Article 81

Orders

1. Every order shall contain:

— the statement that it is the order of the Tribunal, of the President of the Tribunal or of the formation of the court,

— the date of its adoption,

— the names of the President and, where appropriate, the Judges taking part in its adoption, with an indication as to the name of the Judge-Rapporteur,

— the name of the Registrar,

— the description of the parties,

— the names of the parties' representatives,

— the operative part of the order, including, where appropriate, the decision as to costs.

2. Where, in accordance with these Rules, an order must be reasoned, it shall in addition contain:

— a statement of the forms of order sought by the parties,

— a summary of the facts,

— the grounds for the decision.

Article 82

Adoption of orders

The original of the order, signed by the President, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a certified copy of the order.

Article 83

Binding effect

1. Subject to the provisions of Article 12(1) of Annex I to the Statute of the Court of Justice, judgments shall be binding from the date of their delivery.

2. Orders shall be binding from the date of their service, save as otherwise provided in these Rules and in Article 12(1) of Annex I to the Statute of the Court of Justice.

Article 84

Rectification of decisions

1. The Tribunal may, by way of order, of its own motion or on application by a party made within a month after the decision to be rectified has been served, after hearing the parties, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The original of the rectification order shall be annexed to the original of the rectified decision. A note of this order shall be made in the margin of the original of the rectified decision.

Article 85

Omission of any decision as to costs

1. If the Tribunal should omit to give a decision on costs, any party may within a month after service of the decision apply to the Tribunal to supplement its decision.

2. The application shall be served on the opposite party and the President shall prescribe a period within which that party may present written observations.

3. After these observations have been presented, the Tribunal shall decide at the same time on the admissibility and on the substance of the application.

Chapter 8

COSTS

Article 86

Decision as to costs

A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

Article 87

Allocation of costs — General rules

1. Without prejudice to the other provisions of this Chapter, the unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

2. If equity so requires, the Tribunal may decide that an unsuccessful party is to pay only part of the costs or even that he is not to be ordered to pay any.

Article 88

Unreasonable or vexatious costs

A party, even if successful, may be ordered to pay some or all of the costs, if this appears justified by the conduct of that party, including before the proceedings were brought, especially if he has made the other party incur costs which are held to be unreasonable or vexatious.

Article 89

Allocation of costs — Special cases

1. Where there are several unsuccessful parties the Tribunal shall decide how the costs are to be shared.

2. Where each party succeeds on some and fails on other heads, the Tribunal may order that the costs be shared or that each party bear its own costs.

3. If costs are not applied for, the parties shall bear their own costs.

4. Interveners shall bear their own costs.

5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the observations of the other party on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.

6. Where a case does not proceed to judgment, the costs shall be in the discretion of the Tribunal.

7. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

Article 90

Costs of enforcing a judgment

Costs necessarily incurred by a party in enforcing a judgment or order of the Tribunal shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

Article 91

Recoverable costs

Without prejudice to the provisions of Article 94, the following shall be regarded as recoverable costs:

(a) sums payable to witnesses and experts under Article 66;

(b) expenses incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of the representative, if they are essential.

Article 92

Dispute as to costs

1. If there is a dispute concerning the amount and nature of the costs to be recovered, the Tribunal shall, on application by the party concerned and after hearing the opposite party, give its decision by way of reasoned order.

In accordance with Article 11(2) of Annex I to the Statute of the Court of Justice, no appeal may lie from that order.

2. The parties may, for the purposes of enforcement, apply for a copy of the order.

Article 93

Payment

1. Sums due from the cashier of the Tribunal and from debtors of the Tribunal shall be paid in euro.

2. Where expenses to be recovered have been incurred in a currency other than the euro or where the steps in respect of which payment is due were taken in a country of which the euro is not the currency, conversions of currency shall be made at the official rates of exchange of the European Central Bank on the day of payment.

Article 94

Court costs

Proceedings before the Tribunal shall be free of charge, except that:

(a) where a party has caused the Tribunal to incur avoidable costs, in particular where the action is manifestly an abuse of process, the Tribunal may order that party to refund them in whole or in part, but the amount of that refund may not exceed EUR 2 000;

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges in force referred to in Article 20.

Chapter 9

LEGAL AID

Article 95

Substantive conditions

1. In order to ensure effective access to justice, legal aid shall be granted for proceedings before the Tribunal in accordance with the following rules.

Legal aid shall cover, in whole or in part, the costs involved in legal assistance and representation by a lawyer in proceedings before the Tribunal. The cashier of the Tribunal shall be responsible for those costs.

2. Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs referred to in paragraph 1 shall be entitled to legal aid.

The financial situation shall be assessed, taking into account objective factors such as income, capital and the family situation.

3. Legal aid shall be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded.

Article 96

Formal conditions

1. An application for legal aid may be made before or after the action has been brought.

The application need not be made through a lawyer.

2. The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation.

If the application is made before the action has been brought, the applicant must briefly state the subject-matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard.

3. The Tribunal may provide, in accordance with Article 120, for the compulsory use of a form in making an application for legal aid.

Article 97

Procedure

1. Before giving its decision on an application for legal aid, the Tribunal shall invite the other party to submit its written observations unless it is already apparent from the information produced that the conditions laid down in Article 95(2) have not been satisfied or that those laid down in Article 94(3) have been satisfied.

2. The decision on the application for legal aid shall be taken by way of an order by the President of the Tribunal or, if the case has already been assigned to a Chamber, by its President. He may refer the matter to the Tribunal.

An order refusing legal aid shall state the reasons on which it is based.

3. In any order granting legal aid a lawyer shall be designated to represent the person concerned.

If the person has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar shall send a copy of the order granting legal aid and a copy of the application to the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice. The lawyer instructed to represent the applicant shall be designated having regard to the suggestions made by that authority.

An order granting legal aid may specify an amount to be paid to the lawyer instructed to represent the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed. It may provide for a contribution to be made by the person concerned to the costs referred to in Article 95(1), having regard to his financial situation.

4. The introduction of an application for legal aid shall suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, in the cases referred to in the second subparagraph of paragraph 3, of the order designating the lawyer instructed to represent the applicant.

5. If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned. He may refer the matter to the Tribunal.

An order withdrawing legal aid shall contain a statement of reasons.

6. No appeal shall lie from orders made under this article.

Article 98

Advances — Responsibility for costs

1. Where legal aid is granted, the President may, on application by the lawyer of the person concerned, decide that an amount by way of advance should be paid to the lawyer.

2. Where, by virtue of the decision closing the proceedings, the recipient of legal aid has to bear his own costs, the President shall fix the lawyer's disbursements and fees which are to be paid by the cashier of the Tribunal by way of a reasoned order from which no appeal shall lie. He may refer the matter to the Tribunal.

3. Where, in the decision closing the proceedings, the Tribunal has ordered another party to pay the costs of the recipient of legal aid, that other party shall be required to refund to the cashier of the Tribunal any sums advanced by way of aid.

In the event of challenge or if the party does not comply with a demand by the Registrar to refund those sums, the President shall rule by way of reasoned order from which no appeal shall lie. The President may refer the matter to the Tribunal.

4. Where the recipient of the aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision closing the proceedings, if equity so requires, order that one or more parties should bear their own costs or that those costs should be borne, in whole or in part, by the cashier of the Tribunal by way of legal aid.

Chapter 10

SERVICE

Article 99

Service

1. Where these Rules require a document to be served on a person, the Registrar shall ensure that service is effected:

— where the addressee has an address for service in the place where the Tribunal has its seat, by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt, or

— where, in accordance with Article 35(3) or the second subparagraph of Article 39(1), the addressee has agreed that service is to be effected on him by a technical means of communication available to the Tribunal, by such means.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with the second subparagraph of Article 34(1).

2. Where technical reasons connected with, in particular, the length of the document so require or where the document to be served is a judgment or an order, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in the first indent of paragraph 1. The addressee shall be so advised by telefax or other technical means of communication available to the Tribunal. Service shall then be deemed to have been effected on the addressee by registered post on the 10th day following the lodging of the registered letter at the post office of the place where the Tribunal has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or another technical means of communication, that the document to be served has not reached him.

Chapter 11

TIME-LIMITS

Article 100

Reckoning of time-limits — Single period of extension on account of distance

1. Any period of time prescribed by the EC and EAEC Treaties, the Statute of the Court of Justice or these Rules for the taking of any procedural step shall be reckoned as follows:

(a) Where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) A period expressed in weeks, months or years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) Where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;

(d) Periods shall include official holidays, Sundays and Saturdays;

(e) Periods shall not be suspended during the judicial vacations.

2. If the period would otherwise end on a Saturday, Sunday or official holiday, it shall be extended until the end of the first following working day.

The list of official holidays drawn up by the Court of Justice and published in the *Official Journal of the European Union* shall apply to the Tribunal.

3. The prescribed time-limits shall be extended on account of distance by a single period of 10 days.

Article 101

Extension — Delegation of power of signature

1. Any time-limit prescribed pursuant to these Rules may be extended by whoever prescribed it.

2. The President may delegate power of signature to the Registrar for the purpose of fixing certain time-limits which, pursuant to these Rules, it falls to the President to prescribe, or of extending such time-limits.

TITLE 3

SPECIAL FORMS OF PROCEDURE

Chapter 1

SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

Article 102

Application for interim measures

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 242 of the EC Treaty and Article 157 of the EAEC Treaty, shall be admissible only if the applicant is challenging that measure in proceedings before the Tribunal.

An application for the adoption of any other interim measure referred to in Article 243 of the EC Treaty and Article 158 of the EAEC Treaty shall be admissible only if it is made by a party to a case before the Tribunal and relates to that case.

Those applications may be presented as soon as the complaint provided for in Article 90(2) of the Staff Regulations has been submitted, in the conditions fixed in Article 91(4) of those Regulations.

2. An application of a kind referred to in the previous paragraph shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 34 and 35.

Article 103

Powers of the President of the Tribunal

1. The President of the Tribunal shall decide the applications submitted pursuant to Article 102(1).

2. If the President of the Tribunal is absent or prevented from dealing with any such application, he shall be replaced by another Judge in the conditions fixed by a decision adopted by the Tribunal and published in the *Official Journal of the European Union*.

Article 104

Procedure

1. The application shall be served on the opposite party, and the President of the Tribunal shall prescribe a short period within which that party may submit written or oral observations.

2. The President of the Tribunal shall, where appropriate, prescribe measures of organisation of procedure and measures of inquiry.

3. The President of the Tribunal may grant the application even before the observations of the opposite party have been submitted. This decision may subsequently be varied or cancelled, even of the President's own motion.

Article 105

Decision on interim measures

1. The decision on the application shall take the form of a reasoned order.

2. Enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision on the substance of the case by the Tribunal.

Article 106

Change in circumstances

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Article 107

Further application

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Article 108

Suspension of enforcement

The provisions of this Chapter shall apply to applications to suspend the enforcement of an act of an institution, submitted pursuant to Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

Chapter 2

INTERVENTION

Article 109

Application to intervene

1. Any application to intervene must be made within four weeks of the date of publication of the notice referred to in Article 37(2).

2. The application to intervene shall contain:

(a) the description of the case;

(b) the description of the parties;

(c) the name and address of the intervener;

(d) the intervener's address for service at the place where the Tribunal has its seat or an indication of the technical means of communication available to the Tribunal by which his representative agrees to accept service;

(e) the form of order sought by the intervener, in support of or opposing the form of order sought by the applicant;

(f) a statement of the circumstances establishing the right to intervene pursuant to the second paragraph of Article 40 of the Statute of the Court of Justice or on the basis of a specific provision.

3. Articles 34 and 35 shall apply.

4. The intervener shall be represented in accordance with Article 19 of the Statute of the Court of Justice.

5. The application to intervene shall be served on the parties, so as to permit them an opportunity to submit their written or oral observations and to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the interveners.

6. The President shall decide on the application to intervene by way of order or shall refer it to the Tribunal. The order must be reasoned if the application is dismissed.

Article 110

Conditions for intervention

1. If an intervention is allowed, the President shall prescribe a period within which the intervener may submit a statement in intervention.

2. The intervener shall receive a copy of all the pleadings served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.

3. The statement in intervention shall contain:

(a) a statement of the form of order sought by the intervener;

(b) the pleas in law and arguments relied on by the intervener;

(c) where appropriate, the nature of any evidence offered.

4. The statement in intervention is admissible only if it is made in support, in whole or in part, of the form of order sought by one of the parties.

5. After the statement in intervention has been lodged, the President shall prescribe a time-limit within which the parties may reply in writing to that statement or shall invite them to present their replies during the oral procedure.

6. For the purposes of these Rules, the intervener shall be treated as a party, save as otherwise provided.

Article 111

Invitation to intervene

1. At any stage in the proceedings the President may, after hearing the parties, invite any person, any institution or any Member State concerned by the outcome of the dispute to inform the Tribunal if he or it wishes to intervene in the proceedings. The notice referred to in Article 37(2) shall be mentioned in the invitation.

2. If the person, institution or Member State concerned informs the Tribunal within the period prescribed by the President that he or it wishes to intervene, the President shall inform the parties so as to permit them to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the person, institution or Member State concerned.

The provisions of Article 110(2) shall apply.

3. The person, institution or Member State concerned shall present its statement in intervention within a month of the communication of the pleadings.

The provisions of Articles 34, 35, 109(2)(a) to (e) and (4) and 110(3) to (6) shall apply.

Chapter 3

APPEALS AND CASES REFERRED BACK AFTER DECISION SET ASIDE

Article 112

Conditions for appeals against decisions of the Tribunal

On the conditions laid down in Articles 9 to 12 of Annex I to the Statute of the Court of Justice, an appeal may be brought before the Court of First Instance against judgments or orders of the Tribunal.

Article 113

Referral back after setting aside — Assignment of the case referred back

1. Where, after setting aside a judgment or order of the Tribunal, the Court of First Instance refers the case back to the Tribunal by virtue of Article 13 of Annex I to the Statute of the Court of Justice, the Tribunal shall be seised of the case by the judgment so referring it.

2. The President of the Tribunal shall assign the case either to the formation of the court which gave the decision which has been set aside or to another formation of the court.

However, where the decision set aside was given by a single Judge, the President of the Tribunal shall assign the case to a Chamber sitting with three Judges of which that Judge is not a member.

Article 114

Procedure for examining cases referred back

1. Within two months from the service upon him of the judgment of the Court of First Instance the applicant may lodge a statement of written observations.

2. In the month following the communication to it of that statement, the defendant may lodge a statement of written observations. The time allowed to the defendant for lodging that statement may in no case be less than two months from the service upon it of the judgment of the Court of First Instance.

3. In the month following the simultaneous communication to the intervener of the observations of the applicant and the defendant, the intervener may lodge a statement of written observations. The time allowed to the intervener for lodging it may in no case be less than two months from the service upon him or it of the judgment of the Court of First Instance.

4. By way of derogation from Article 114(1) to (3), where the written procedure before the Tribunal had not been completed when the judgment referring the case back to the Tribunal was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the Tribunal.

5. The Tribunal may, if the circumstances so justify, allow supplementary statements of written observations to be lodged.

6. The procedure shall be conducted in accordance with the provisions of Title 2 of these Rules.

Article 115

Costs

The Tribunal shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the Court of First Instance.

Chapter 4

JUDGMENTS BY DEFAULT AND APPLICATIONS TO SET THEM ASIDE

Article 116

Procedure

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply to the Tribunal for judgment by default.

The application shall be served on the defendant. The Tribunal may decide to open the oral procedure on the application.

2. Before giving judgment by default the Tribunal shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. It may order a preparatory inquiry.

3. A judgment by default shall be enforceable.

The Tribunal may, however, grant a stay of enforcement until it has given its decision on any application under paragraph 4 to set aside the judgment, or it may make enforcement subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment.

It must be lodged in the form prescribed by Articles 34 and 35.

5. After the application has been served, the President of the formation of the court shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with the provisions of Title 2 of these Rules.

6. The Tribunal shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

Chapter 5

EXCEPTIONAL REVIEW PROCEDURES

Article 117

Third-party proceedings

1. In accordance with Article 42 of the Statute of the Court of Justice, third-party proceedings may be brought against a decision rendered without the third party's having been heard, where the decision is prejudicial to his rights.

If the contested decision has been published in the *Official Journal of the European Union*, the application must be lodged within two months of the publication.

2. Articles 34 and 35 shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the decision contested;

(b) state how that decision is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case before the Tribunal.

The application must be made against all the parties to the original case.

The application initiating third-party proceedings shall be assigned to the formation of the court which delivered the contested decision.

3. The contested decision shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested decision. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested decision.

4. Where an appeal before the Court of First Instance and an application initiating third-party proceedings before the Tribunal contest the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the Court of First Instance has delivered its judgment.

5. The Tribunal may, on application by the third party, order a stay of enforcement of the contested decision. The provisions of Title 3, Chapter 1, shall apply.

Article 118

Interpretation of decisions of the Tribunal

1. In accordance with Article 43 of the Statute of the Court of Justice, if the meaning or scope of a decision is in doubt, the Tribunal may construe it on application by any party or any institution of the Communities establishing an interest therein.

Applications for interpretation shall not be subject to any condition as to time-limits.

2. Articles 34 and 35 shall apply to an application for interpretation. In addition such an application shall:

(a) specify the decision in question;

(b) indicate the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the decision of which interpretation is sought was given.

The application for interpretation shall be assigned to the formation of the court which gave the decision which is the subject of the application.

3. The Tribunal shall give its decision by way of judgment after having given the parties an opportunity to submit their observations.

The original of the interpreting judgment shall be annexed to the original of the decision interpreted. A note of the interpreting judgment shall be made in the margin of the original of the decision interpreted.

4. Where an appeal before the Court of First Instance and an application for interpretation before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the Court of First Instance has delivered its judgment.

Article 119

Revision

1. In accordance with Article 44 of the Statute of the Court of Justice, an application for revision of a decision of the Tribunal may be made only on discovery of a fact which is of such a nature as to be a decisive factor and which, before the decision was delivered or adopted, was unknown to the Tribunal and to the party claiming the revision.

Without prejudice to the period of 10 years prescribed in the third paragraph of Article 44 of the Statute of the Court of Justice, an application for revision shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.

2. Articles 34 and 35 shall apply to an application for revision. In addition such an application shall:

(a) specify the decision contested;

(b) indicate the points on which the decision is contested;

(c) set out the facts on which the application is based;

(d) indicate the nature of the evidence to show that there are facts justifying revision, and that the time-limits laid down in paragraph 1 of this article have been observed.

The application must be made against all the parties to the case in which the contested decision was given.

The application for revision shall be assigned to the formation of the court which gave the contested decision.

3. The Tribunal shall give its decision by way of judgment on the admissibility of the application in the light of the parties' written observations.

If the Tribunal finds the application admissible, the remainder of the procedure shall be oral, unless the Tribunal otherwise decides. It shall give its decision by way of judgment.

The original of the revising judgment shall be annexed to the original of the decision revised. A note of the revising judgment shall be made in the margin of the original of the decision revised.

4. Where an appeal before the Court of First Instance and an application for revision before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the Court of First Instance has delivered its judgment.

FINAL PROVISIONS

Article 120

The Tribunal's Practice Directions

The Tribunal may issue practice directions relating, in particular, to the preparations for and conduct of hearings before it, to the amicable settlement of disputes and to the presentation and lodging of pleadings and written observations.

Article 121

Publication of the Rules of Procedure

These Rules, which are authentic in the languages of the case mentioned in the Rules of Procedure of the Court of First Instance, shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the third month following the date of their publication.

Article 122

Transitional provisions relating to costs

The provisions of Title 2, Chapter 8, on costs shall apply only to cases brought before the Tribunal from the date on which these Rules enter into force.

The relevant provisions of the Rules of Procedure of the Court of First Instance on the subject shall continue to apply *mutatis mutandis* to cases pending before the Tribunal before that date.

Done at Luxembourg, 25 July 2007.

W. HAKENBERG
The Registrar

P.J. MAHONEY
The President

Table of Contents

RULES OF PROCEDURE

INSTRUCTIONS TO THE REGISTRAR OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

of 19 September 2007

THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL,

ON A PROPOSAL FROM THE PRESIDENT OF THE TRIBUNAL,

Having regard to the Rules of Procedure adopted on 25 July 2007 and in particular Article 19(4) thereof,

HAS LAID DOWN THE FOLLOWING:

INSTRUCTIONS TO THE REGISTRAR

Article 1

Interpretation

The definitions adopted in Article 1 of the Rules of Procedure shall apply equally for the purposes of these Instructions.

Article 2

The tasks of the Registrar

1. The Registrar shall be responsible for the maintenance of the register of the Tribunal and the files of pending cases, for the acceptance, transmission, service and custody of documents, for correspondence with the parties and third parties in relation to pending cases, and for the custody of the seals of the Tribunal. He shall ensure that registry charges are collected and that sums due to the Tribunal treasury are recovered. He shall be responsible for the publications of the Tribunal.

2. In carrying out the duties specified above, the Registrar may be assisted by an Assistant Registrar. In the absence of the Registrar or in the event of his being prevented from carrying out those duties, they shall be performed, where appropriate, by the Assistant Registrar who shall take the decisions reserved to the Registrar by the Rules of Procedure of the Tribunal or these Instructions or delegated to him pursuant to these Instructions.

Article 3

Opening hours of the Registry

1. The offices of the Registry shall be open to the public every working day. All days other than Saturdays, Sundays and the official holidays on the list referred to in Article 100(2) of the Rules of Procedure shall be working days.

2. If a working day as referred to in the preceding paragraph is a holiday for the officials and servants of the institution, arrangements shall be made for a skeleton staff to be on duty at the Registry during the hours in which it is normally open to the public.

3. The Registry shall be open to the public from 9.00 a.m. to 12 noon and from 2.30 p.m. to 4.30 p.m. The offices of the Registry shall be closed to the public on Friday afternoons during the vacations provided for in Article 28 of the Rules of Procedure.

4. When the Registry is closed, procedural documents may be validly lodged with the janitor at the entrances to the buildings of the Court of Justice of the European Communities (the Thomas More and Erasmus buildings of the Court of Justice, boulevard Konrad Adenauer and rue du Fort Niedergrünewald, Luxembourg) at any time of the day or night. The janitor shall make a record, which shall constitute good evidence, of the date and time of such lodgement and shall issue a receipt upon request.

Article 4

The register

1. Judgments and orders as well as all the documents placed on the file in cases brought before the Tribunal shall be entered in the register in the order in which they are lodged, with the exception of those drawn up for the purposes of an amicable settlement within the meaning of Article 70 of the Rules of Procedure, as referred to in Article 6(4) of these Instructions.

2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.

3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.

4. Entries in the register shall be numbered consecutively. They shall contain the information necessary for identifying the document, in particular the date of lodgement, the date of registration, the number of the case and the nature of the document.

5. For the purposes of the application of the preceding paragraph, the following dates shall be taken into account, depending on the circumstances,

— the date on which the procedural document was received by the Registrar or by a Registry official or employee,

— the date referred to in Article 3(4) above,

— or, in the cases provided for in the first paragraph of Article 54 of the Statute of the Court of Justice and Article 8(1) of Annex I to the Statute of the Court of Justice, the date on which the procedural document was lodged with the Registrar of the Court of Justice or with the Registrar of the Court of First Instance.

6. Where a correction is made to the register, a note to that effect shall be made therein. If the register is kept in electronic form, it shall be set up and maintained in such a way that no registration can be deleted therefrom and that following any amendment or rectification the original entry is preserved.

7. The registration number of every document drawn up by the Tribunal shall be noted on its first page. A note of the registration, indicating the registration number and the date of entry in the register, shall be made on the original of every procedural document lodged by the parties and on every copy which is notified to them. The note made on the original of the procedural document shall be signed by the Registrar.

Article 5

The case number

1. When an application initiating proceedings is registered, the case shall be given a serial number preceded by 'F-' and followed by an indication of the year. Where Article 34(6) of the Rules of Procedure applies, the indication of the year in the serial number shall correspond to the date deemed to be the date of lodging of the document for the purposes of compliance with the time limits for taking steps in proceedings.

2. Applications for interim measures, applications to intervene, applications for rectification or interpretation of judgments or orders, applications for revision or initiating third party proceedings, applications for the taxation of costs and applications for legal aid relating to pending cases shall be given the same serial number as the principal action, followed by a reference to indicate that the proceedings concerned are special forms of procedure. An action which is preceded by an application for legal aid in connection therewith shall be given the same case number as the latter. Where the Court of First Instance refers a case back to the Tribunal following an appeal, that case shall keep the number previously given to it when it was before the Tribunal.

Article 6

The file and access to the file

1. The case file shall contain the originals, including their annexes, of the procedural documents produced by the parties, with the exception of those whose acceptance is refused pursuant to Article 8 of these Instructions, the decisions taken in the case, including any decisions relating to refusal to accept documents, preparatory reports for the hearing, minutes of the hearing, notices served by the Registrar and any other documents or correspondence to be taken into consideration in deciding the case.

2. If in doubt the Registrar shall refer the question whether a document is to be placed on the case file to the President in order for a decision to be taken.

3. The documents contained in the file shall be given a serial number.

4. By way of derogation from paragraph (1), documents drawn up for the purposes of an amicable settlement within the meaning of Article 70 of the Rules of Procedure (see Article 4(1) of these Instructions) shall be kept in a separate part of the file.

5. The representatives of the parties to a case before the Tribunal or persons duly authorised by them may inspect the original case file, including administrative files produced before the Tribunal and documents drawn up for the purposes of an amicable settlement within the meaning of Article 70 of the Rules of Procedure, at the Registry and may request copies or extracts of procedural documents and of the register.

6. The representatives of parties granted leave to intervene and the representatives of all the parties to joined cases shall have the same right of access to case files, subject to the provisions of Article 7 relating to the confidential treatment of certain information or documents on the file.

7. The confidential and non-confidential versions of procedural documents shall be kept in separate sections of the file. Access to the confidential section of the file shall be confined to the parties in respect of whom no confidential treatment has been ordered.

8. A document which is produced in a case and placed on the file of that case may not be taken into account for the purpose of preparing another case for hearing.

9. At the close of the proceedings, the Registrar shall arrange for the case-file to be closed and archived. The closed file shall contain a list of the documents on the file (with the exception of those drawn up for the purposes of an amicable settlement within the meaning of Article 70 of the Rules of Procedure), an indication of their number, and a cover page showing the serial number of the case, the parties and the date on which the file was closed.

Article 7

Confidential treatment

1. Without prejudice to Article 44 of the Rules of Procedure, in respect of documents which the parties intend to produce on their own initiative or produce at the request of the Tribunal, the parties shall indicate, where appropriate, the existence of confidential information and shall lodge a version of the document from which that information has been omitted. In those circumstances, the party concerned shall simultaneously transmit to the Tribunal the relevant document in its entirety, to enable the Tribunal to check that the information omitted is indeed confidential and that the omissions are not prejudicial to the other party's right to a fair hearing or to the proper administration of justice. Where appropriate, the Tribunal shall request the production of an amended version. The full version of the document in question shall be returned by the Tribunal after examination.

2. A party may apply pursuant to Article 109(5) of the Rules of Procedure for certain information or documents on the case file to be treated as confidential in relation to an intervener or, where cases are joined in accordance with Article 46 of the Rules of Procedure, in relation to another party in a joined case. Such an application must be made in accordance with the provisions of the Practice Directions to parties.

Article 8

Non-acceptance of documents and regularisation

1. The Registrar shall ensure that documents placed on the file are in conformity with the provisions of the Statute of the Court of Justice, the Rules of Procedure, the Practice Directions to parties and these Instructions to the Registrar. If necessary, he shall allow the parties a period of time for making good any formal irregularities in the documents lodged. Service shall be delayed in the cases provided for by Article 36 of the Rules of Procedure. Service may be delayed in the case of other formal irregularities.

2. The Registrar shall refuse to register documents which are not provided for by the Rules of Procedure. If in doubt, or in the event of a challenge by the parties, the Registrar shall refer the matter to the President in order for a decision to be taken.

3. Without prejudice to Article 34(6) of the Rules of Procedure concerning the lodgement of documents by fax or other technical means of communication, the Registrar shall accept only documents bearing the original signature of the party's representative.

4. The Registrar shall ensure that the volume of procedural documents, including their annexes, does not exceed that which would preclude the proper administration of justice, and that they are lodged in accordance with the relevant provisions of the Practice Directions to parties.

5. Save in the cases expressly provided for by the Rules of Procedure, the Registrar shall refuse to accept pleadings or procedural documents of the parties drawn up in a language other than the language of the case. However, where duly justified, the Registrar may accept annexes in a language other than the language of the case. If in doubt, or in the event of a challenge by the parties, the Registrar shall refer the matter to the President in order for a decision to be taken.

6. Where an application to intervene originating from a third party other than a Member State is not drawn up in the language of the case, the Registrar shall require the application to be put in order before it is served on the parties. If a version of such an application drawn up in the language of the case is lodged within the period prescribed for this purpose by the Registrar, the date on which the first version, not in the language of the case, was lodged shall be taken as the date on which the document was lodged.

7. If the party concerned fails to make good the irregularity or challenges the request for regularisation, the Registrar shall refer to the matter to the President for a decision.

Article 9

Presentation of originating applications

1. Where the Registrar considers that an application initiating proceedings is not in conformity with Article 35(1) of the Rules of Procedure, he shall suspend service of the application in order that the Tribunal may give a decision on the admissibility of the action.

2. For the purposes of the production of the document required by Article 35(5) of the Rules of Procedure certifying that the lawyer acting for a party or assisting the party's agent is authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area, reference may be made to a document previously lodged at the Registry of the Tribunal. In every case, the document to which reference may be made must have been drawn up not more than five years before the date on which the application was lodged.

Article 10

Service

1. The Registrar shall ensure that, where the Statute of the Court of Justice or the Rules of Procedure provide for a document to be served, a notice to be given or a communication to be made, the steps are carried out in accordance with Article 99 of the Rules of Procedure.

2. In the procedures on applications for interim measures referred to in Articles 102 to 108 of the Rules of Procedure, the Registrar may send procedural documents by all appropriate means which urgency requires, and in particular by fax; in the event of such transmission, the Registrar shall nevertheless ensure that it is followed by a dispatch in the manner prescribed by Article 99 of the Rules of Procedure.

Article 11

Setting and extension of time limits

1. The Registrar shall prescribe and extend, where appropriate, the time limits provided for in the Rules of Procedure in accordance with the authority accorded to him by the President.

2. Documents received at the Registry after the period prescribed for their lodgement has expired may be accepted only with the authorisation of the President.

3. The time limits provided for in the Rules of Procedure may be extended only in special circumstances. Any application to that effect must be properly reasoned and must reach the Registry in sufficient time in relation to the expiry of the time limit initially prescribed. A time limit may not be extended more than once save for exceptional reasons.

Article 12

Hearings and minutes of hearings

1. Before every public hearing the Registrar shall draw up a cause list in the language of the case. The cause list shall contain the date, hour and place of the hearing, the competent formation of the Tribunal, an indication of the cases which will be called and the names of the parties.

2. The cause list shall be displayed at the entrance to the courtroom.

3. The Registrar shall draw up in the respective language of each case the minutes of every hearing. Those minutes shall contain an indication of the case, the date, hour and place of the hearing, if applicable an indication that the hearing was in camera, the names of the Judges and the Registrar present, the names and capacities of the representatives of the parties present, the surnames, forenames, status and permanent addresses of applicants in person, if applicable, and of the witnesses or experts examined, an indication of the evidence or documents produced at the hearing and, insofar as is necessary, the statements made at the hearing and the decisions pronounced at the hearing by the Tribunal or the President. The minutes shall be sent to the parties.

Article 13

Witnesses and experts

1. The Registrar shall take the measures necessary for giving effect to orders requiring the taking of expert opinion or the examination of witnesses.

2. The Registrar shall obtain from witnesses evidence of their expenses and loss of earnings and from experts a fee note accounting for their expenses and services.

3. The Registrar shall cause sums due to witnesses and experts under the Rules of Procedure to be paid from the Tribunal's treasury. In the event of a dispute concerning such sums, the Registrar shall refer the matter to the President in order for a decision to be taken.

4. The Registrar shall arrange for the costs of examining experts or witnesses advanced by the Tribunal in a case to be demanded from the parties ordered to pay the costs. If necessary, steps shall be taken pursuant to Article 15(2) of these Instructions.

Article 14

Originals of judgments and orders

1. Originals of judgments and orders of the Tribunal shall be kept in chronological order in the archives of the Registry. A certified copy shall be placed on the case file.

2. At the parties' request, the Registrar shall supply them with additional certified copies of the original of a judgment or of an order.

3. A note of judgments or orders of the Court of First Instance on appeal, or of the Court of Justice in the event of a review, shall be made in the margin of the judgment or order concerned and a certified copy annexed to the original of the judgment or order appealed against.

Article 15

Recovery of sums

1. Where sums paid out by way of legal aid or sums advanced to witnesses or experts are recoverable by the Tribunal's treasury, the Registrar shall, by registered letter, demand payment of those sums from the party which is to bear them in accordance with the decision by which the proceedings have been closed.

2. If the sums demanded are not paid within the period prescribed by the Registrar, he may request the Tribunal to make an enforceable decision and, if necessary, require its enforcement.

Article 16

Registry charges

1. Where a copy of a procedural document or an extract from the case file or from the register is supplied to a party on paper at its request, the Registrar shall impose a Registry charge of EUR 3,50 per page for a certified copy and EUR 2,50 per page for an uncertified copy.

2. Where the Registrar arranges for a procedural document or an extract from the case file to be translated at the request of a party, a Registry charge of EUR 1,25 per line shall be imposed.

3. The charges referred to in this Article shall, as from 1 January 2008, be increased by 10 % each time the weighted cost-of-living index published by the Government of the Grand Duchy of Luxembourg is increased by 10 %.

Article 17

Publication of documents and posting of documents on the Internet

1. The Registrar shall be responsible for the publications of the Tribunal and for posting on the Internet documents relating to the Tribunal.

2. The Registrar shall cause to be published in the *Official Journal of the European Union* the decisions provided for by the Rules of Procedure and these Instructions, as well as notices of proceedings brought and of decisions closing proceedings.

3. The Registrar shall ensure that the case law of the Tribunal is made public in accordance with any arrangements adopted by the Tribunal.

Article 18

Advice for lawyers and agents

1. The Registrar shall make known to the parties' representatives the Practice Directions to parties and these Instructions to the Registrar.

2. When requested by the parties' representatives, the Registrar shall provide them with information on the practice followed pursuant to the Rules of Procedure, pursuant to the Practice Directions to parties and pursuant to these Instructions to the Registrar in order to ensure that proceedings are conducted efficiently.

Article 19

Derogations from these Instructions

Where the special circumstances of a case and the proper administration of justice require, the Tribunal or the President may derogate from any of these Instructions.

Article 20

Entry into force of these Instructions

1. These Instructions to the Registrar, which are authentic in the languages referred to in Article 36(2) of the Rules of Procedure of the Court of First Instance, applicable to the Tribunal by virtue of Article 29 of its Rules of Procedure, shall be published in the *Official Journal of the European Union*.

2. They shall enter into force on the day on which the Rules of Procedure enter into force.

Done at Luxembourg, 19 September 2007.

W. HAKENBERG	P.J. MAHONEY
The Registrar	*The President*

RULES OF PROCEDURE

PRACTICE DIRECTIONS TO PARTIES ON JUDICIAL PROCEEDINGS BEFORE THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

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THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL,

Having regard to Article 120 of its Rules of Procedure;

Whereas:

It is in the interests of the efficient conduct of proceedings before the Civil Service Tribunal and the expeditious processing of cases that practice directions should be issued to the lawyers and agents of parties, dealing with the manner in which pleadings and other procedural documents relating to the written procedure are to be submitted so as to ensure the efficient conduct of the hearing;

Compliance with these directions reduces the number of requests for regularisation and the risk of inadmissibility as a result of failure to comply with the rules as to form;

Proceedings before the Civil Service Tribunal are subject to language arrangements appropriate to a multilingual Community;

It is in the interests of the parties to proceedings before the Civil Service Tribunal that the Tribunal provide concise responses to matters on which the parties' representatives wish to be better informed, and provide guidance to enable them to draft their pleadings appropriately;

There are certain inherent constraints in the electronic management of procedural documents within the Civil Service Tribunal;

It is in the interests of the efficient conduct of proceedings before the Civil Service Tribunal that practice directions should be given to persons concerned regarding the submission of applications for legal aid and the conduct of the oral procedure;

HEREBY DECIDES TO ADOPT THE FOLLOWING PRACTICE DIRECTIONS:

I. WRITTEN PROCEDURE

A. **Application**

1. *Lodging the application*

1. Every application shall be addressed to the Registry of the Tribunal. It must comply with the provisions of Article 34 of the Rules of Procedure.

2. The information to be included in the application and the documents required to be annexed to it are listed in Article 35(1), (2), (3) and (5) of the Rules of Procedure.

3. Article 35(5) and the third subparagraph of Article 39(1) of the Rules of Procedure concern the certificate required to be lodged at the Registry by the applicant's lawyer and by any lawyer who may be assisting the defendant's agent. It should be noted that the principle of compulsory representation before the Tribunal is laid down by Article 19 of the Statute of the Court of Justice. With the exception of the Member States, other States which are parties to the EEA Agreement (Norway, Iceland and Liechtenstein) and the Community institutions which are represented by their agents, the parties must therefore be represented by a lawyer authorised to practise before a court of a Member State or of another State party to the EEA Agreement. However, the obligation to be represented by a lawyer does not apply to the procedure for obtaining legal aid (see, in that regard, Title I, Chapter E).

4. In addition, although no written instructions from the applicant to the lawyer representing him are required on lodging the application, any change in the number or identity of lawyer(s) (e.g. replacement of one lawyer by another, presence of an additional lawyer, withdrawal of instructions from one of the lawyers who made the application) must be notified to the Registry in writing without delay.

5. The applicant's lawyer should state clearly on the first page of the application his address, telephone and fax numbers and email address. In the case of an address for service in Luxembourg pursuant to Article 35(3) of the Rules of Procedure, the applicant's own address cannot be accepted as an address for service.

6. The handwritten signature of the lawyer should be legible and appear at the end of the application. The absence of a signature cannot be rectified. A copy, such as a stamp, facsimile signature, photocopy, etc. will not be accepted. In the case of more than one representative, the signature of one of them will be sufficient. The signature by proxy of a person other than the applicant's representative(s) will not be accepted, even where that signatory is a member of the same chambers or practice as the representative(s).

2. *Mandatory information and rules on presentation of the application*

7. The language of the case shall be the language chosen for the drafting of the application, in accordance with Article 29 of the Rules of Procedure which, in relation to language arrangements, refers to Article 35 of the Rules of Procedure of the Court of First Instance.

8. In the interests both of the parties themselves and of the proper administration of justice, pleadings should be as concise as possible having regard to the nature of the facts and complexity of the issues raised. An application should not therefore, in principle, exceed 10 to 30 pages, depending on the circumstances of the case.

9. The form of order sought must be precisely worded and set out at the beginning or end of the application, and its heads of claim must be numbered.

10. In the case of 10 or more applicants, a list of all their names and addresses should be attached to the application and sent to the Registry by email to tfp.greffe@curia.europa.eu at the same time as the application, indicating clearly the case to which the list relates.

11. An application must be accompanied by a summary of the dispute, designed to facilitate the drafting of the notice prescribed by Article 37(2) of the Rules of Procedure, which will be prepared by the Registry. That summary, which should not be more than two pages long, should also be sent by email to tfp.greffe@curia.europa.eu, indicating clearly the case to which it relates. In principle, the summary will be available in its entirety on a special page on the website www.curia.europa.eu, to enable any person concerned to make enquiries. Accordingly, the summary of the case must satisfy certain requirements as to style which will be indicated on the relevant page of that website.

12. An application made pursuant to Article 44(4) of the Rules of Procedure for the name of the applicant or of other persons, or certain information, to be omitted from the publications relating to a case (anonymity), must give reasons and be clearly indicated in a letter accompanying the application.

13. If the application is lodged after the submission of an application for legal aid (see Title I, Chapter E), the effect of which, under Article 97(4) of the Rules of Procedure, is to suspend the period prescribed for the bringing of an action, this must be pointed out at the beginning of the application. If the application is lodged after notification of the order making a decision on an application for legal aid, reference must equally be made in the application to the date on which the order was served on the applicant.

14. An application must be submitted in such a way as to enable it to be processed electronically by the Tribunal, in particular by means of document scanning and character recognition. Accordingly, the following requirements must be complied with:

(a) the text must be easily legible and appear on one side of the page only ('recto', not 'recto verso');

(b) the paragraphs of the text must be numbered consecutively;

(c) documents must not be bound together or fixed to each other by any other means (e.g. glued or stapled);

(d) the text must appear in characters of a current type with sufficient line spacing and margins to ensure that a scanned version will be legible.

15. The pages of the application and annexes must in addition be numbered consecutively in the top right-hand corner, including any annexes and page dividers. This is intended to ensure that all pages of documents scanned by the Tribunal have been duly scanned.

16. In accordance with the second subparagraph of Article 34(1) of the Rules of Procedure, the application and any annexes must, like other pleadings, be lodged together with five paper copies for the Tribunal and a copy for every other party to the proceedings (thus normally seven paper copies). The first page of each set of copies must be endorsed by the lawyer to the effect that the copies are certified true copies of the original, and bear his signature or initials. Without prejudice to point 34 of these directions, electronic files of pleadings and/or their annexes will not therefore be accepted.

17. As regards the annexes, the Tribunal requests the parties to be rigorous in their selection of documents relevant for the purpose of the proceedings; this is desirable in view of the material and linguistic constraints on the Tribunal and the parties. In particular, information to which the Tribunal has access (e.g. case-law of the Community Courts cited in pleadings) is not to be produced. The following formal requirements must be complied with:

(a) annexes must be numbered and contain a reference to the pleading to which they are attached (e.g. Annex A.1, A.2 etc. in an application; Annex B.1, B.2 etc. in a defence; Annex C.1, C.2 etc. in a reply; Annex D.1, D.2 etc. in a rejoinder). In the case of more than three annexes, they should preferably be lodged with page dividers;

(b) annexes must be readily legible. An annex will not be accepted if the print quality is inadequate;

(c) annexes must be drawn up in the language of the case or be accompanied by a translation. Annexes which do not satisfy those requirements cannot in principle be accepted (see Article 29 of the Rules of Procedure which, in relation to language arrangements, refers to Article 35(3) of the Rules of Procedure of the Court of First Instance); under Article 8(5) of the Instructions to the Registrar, a derogation from that rule is possible only where it is duly justified;

(d) annexes must be preceded by a schedule of annexes containing, in respect of each document annexed, the number (e.g. A.1), an indication of the nature of the document (e.g. 'letter of … from X to Z'), the page reference or paragraph number in the application where the document is mentioned (e.g. 'p. 7, para. 17'), the number of pages of the document, and the page reference (within the consecutively numbered set of documents) for the first page of the particular document annexed. An example of a schedule of annexes is included in the 'model application' available on the website www.curia.europa.eu

3. *Putting the application in order*

18. In order to give parties the opportunity to make good any formal irregularities in an application, it is necessary, in certain circumstances, to put the application in order. Thus, in accordance with Article 36 of the Rules of Procedure and Article 8(1) of the Instructions to the Registrar, the Registrar will require an application to be put in order where the following information has not been provided, which could lead to the rejection of the application as being inadmissible:

— the name and address of the applicant (Article 35(1)(a) of the Rules of Procedure);

— the description and address of the lawyer representing the applicant (Article 35(1)(b) of the Rules of Procedure);

— designation of the party against whom the application is made (Article 35(1)(c) of the Rules of Procedure);

— production of the act of which annulment is sought, the complaint for the purposes of Article 90(2) of the Staff Regulations of Officials of the European Communities ('the Staff Regulations') and the decision responding to the complaint, together with the dates on which the complaint was submitted and the decision notified (Article 35(2) of the Rules of Procedure). The applicant is required to provide a clear explanation of the reasons for any failure to produce those documents (e.g. the fact that the administration did not reply to the complaint within the period prescribed by the Staff Regulations);

— production of a certificate of the lawyer's authority to practise (Article 35(5) of the Rules of Procedure).

19. Under Article 8(1) of the Instructions to the Registrar, a request for an application to be put in order may also be made, depending on the circumstances of the case, where an application is not in conformity with these practice directions.

20. The Registrar shall prescribe a period within which the applicant is to put the application in order, in accordance with Article 36 of the Rules of Procedure.

21. In the cases referred to in point 18 above, service of the application on the defendant will be delayed. Where the application is put in order within the prescribed period, the procedure will take its normal course. If the applicant fails to put the application in order, the Tribunal shall decide whether the application is inadmissible.

22. In the cases referred to in point 19 above, the Registrar shall decide whether or not service should be delayed. If the applicant fails to put the application in order or challenges the request for regularisation, the Registrar shall refer the matter to the President for a decision, in accordance with Article 8(7) of the Instructions to the Registrar.

4. *Interim measures*

23. An application to suspend the operation of the contested measure and other interim measures must be made in accordance with the provisions of Article 102 of the Rules of Procedure.

B. **Defence and other pleadings and documents relating to the written procedure**

24. The guidance notes provided in Title I, Chapter A in relation to applications shall apply *mutatis mutandis* to other pleadings and documents sent to the Tribunal under the written procedure.

25. The information required to be included in the defence is set out in Article 39(1) of the Rules of Procedure. The authority given by the defendant institution/agency to its agent(s) and/or to a lawyer in accordance with the first paragraph of Article 19 of the Statute of the Court of Justice must be produced together with the defence, but separately from any annexes.

26. The number of pages of a defence is subject to the same limit as an application, namely 10 to 30 pages, depending on the circumstances of the case. Other pleadings must, as a rule, be less than 15 pages.

27. The institutions and agencies are requested to attach systematically to the defence any measures of general application referred to in their observations which are not published in the *Official Journal*.

28. In addition, the following information must appear on the first page of any pleading:

(a) the category of pleading (defence, reply, rejoinder, application for leave to intervene, statement in intervention, plea of inadmissibility, observations on …, replies to questions, etc.);

(b) the case number in the list (F- …/…) where this has already been communicated by the Registry.

29. The rules, referred to in Chapter A of this title, governing the circumstances in which a request is or may be made to put an application in order shall apply *mutatis mutandis* to the defence and to other pleadings and documents relating to the written procedure.

C. **Use of technical means of communication**

30. All pleadings and procedural documents, and more generally any correspondence sent to the Tribunal, including applications for extensions of time, must be lodged at the Registry in original form.

31. Where, in order to comply with procedural time-limits, a copy of a document is sent to the Tribunal electronically before the original document is lodged (as allowed under Article 34(6) of the Rules of Procedure), it may be sent either:

— by fax to the Registry (fax number: (+352) 4303 4453), or

— by email (email address: tfp.greffe@curia.europa.eu).

The first page of each procedural document lodged following its electronic transmission must be marked 'Previously sent by fax/email on …' so that corresponding documents can be readily identified.

32. Under the abovementioned Article 34(6) of the Rules of Procedure, where a procedural document includes annexes, the copy sent to the Tribunal by fax or by email may comprise only the document itself and the schedule of annexes.

33. In the case of transmission by email, only a scanned copy of the signed original will be accepted. A document despatched in the form of an ordinary electronic file or one which bears an electronic signature or a facsimile signature generated by computer will not be treated as complying with Article 34(6) of the Rules of Procedure.

34. The lodging of a pleading or a procedural document by fax or email will be treated as complying with the relevant procedural time-limit only if the signed original of that document reaches the Registry no more than 10 days after such lodging, as specified in Article 34(6) of the Rules of Procedure. It should be borne in mind that the extension on account of distance of 10 days provided for under Article 100(3) of the Rules of Procedure does not apply to that time-limit. However, according to Article 100(2) of the Rules of Procedure, if the period of 10 days provided for under Article 34(6) of the Rules of Procedure would otherwise end on a Saturday, Sunday or official holiday (a list of which is annexed to the Rules of Procedure of the Court of Justice), it will be extended until the end of the first following working day.

35. The signed original of any procedural document must be sent without delay, immediately after the earlier electronic despatch, without any corrections or amendments, even of a minor nature, being made to it, except for the correction of clerical errors which must however be listed on a separate sheet and sent with the original. Subject to that exception, in the event of any discrepancy between the signed original and the copy previously lodged, only the date on which the signed original was lodged will be taken into consideration for the purposes of compliance with procedural time-limits.

D. **Applications for confidential treatment**

36. Without prejudice to the provisions of Article 44(2) and (3) of the Rules of Procedure, the Tribunal shall take into consideration only those documents which have been made available to the parties' representatives and on which they have been given an opportunity of expressing their views (Article 44(1) of the Rules of Procedure).

37. Nevertheless, a party may apply for any part of the contents of the case-file which are secret or confidential:

— not to be made available to a party in a joined case (Article 46(3) of the Rules of Procedure);

— to be omitted from the documents served on an intervener (Article 110(2) of the Rules of Procedure).

38. Any application for confidential treatment made pursuant to Article 46(3) or Article 110(2) of the Rules of Procedure must be made by separate document.

39. Such an application must be specific and limited to what is strictly necessary. It may not in any event cover the entirety of a pleading and may only exceptionally extend to the entirety of an annexed document.

40. An application for confidential treatment must accurately identify the particulars or passages concerned and briefly state the reasons for which each of those particulars or passages is regarded as secret or confidential.

41. The application must be accompanied by a non-confidential version of each pleading or document concerned, with the confidential material deleted.

E. **Applications for legal aid**

42. The use of the form annexed to these practice directions is compulsory in making an application for legal aid. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration and will give rise to a reply from the Registrar reiterating that the use of the form is compulsory and attaching a copy of the form.

43. The form can be downloaded from the website www.curia.europa.eu. It can also be requested from the Registry of the Tribunal by email, post or telephone (see details below).

44. The duly completed and signed form, together with supporting documents, should be sent to the following address: Registry of the Civil Service Tribunal, L-2925 Luxembourg (telephone number: (+352) 4303-1; fax number: (+352) 4303 4453; email address: tfp.greffe@curia.europa.eu).

II. ORAL PROCEDURE

A. **Location**

45. The public hearings of the Civil Service Tribunal take place,

— where the language of the case is French, in the 'Allegro' courtroom at the seat of the Tribunal, at 35A Avenue J.F. Kennedy, Luxembourg, 1st floor;

— where the language of the case is a language other than French, in the 'Dalsgaard' courtroom in the Erasmus building of the Court of Justice of the European Communities, rue du Fort Niedergrünewald, Luxembourg.

46. The notice to attend the hearing always states the place where it will be held. Whereas the 'Dalsgaard' room has technical equipment for simultaneous interpretation into all the official languages of the European Communities, the 'Allegro' room does not, and hearings there are held only in French. Nevertheless, if, in the latter case, the presence of interpreters for the whole hearing or for some purposes is regarded as essential for specific reasons (for example, if the Tribunal has summoned a party to give evidence, who cannot express himself in French), a reasoned request to that effect must be sent to the Tribunal as soon as the notice to attend the hearing is received, so that any change of room or the presence of interpreters can be organised as quickly as possible.

47. There is a map of the buildings on the website of the Court of Justice of the European Communities www.curia.europa.eu. There is ample parking around both buildings, although it is metered; the 'Erasmus' building also has an underground car park which visitors may use.

48. As a security measure, access to the buildings is controlled. Parties and their representatives are requested to produce their identity card, passport, professional card or some other form of identification.

B. **Preparation for the hearing**

49. The representatives of the parties are given notice to attend the hearing by the Registry a few weeks before it takes place. Requests to postpone the date of a hearing are granted only in very exceptional circumstances. Such requests must be duly reasoned, accompanied by appropriate supporting documents, and submitted to the Tribunal without delay.

50. With the notice to attend the hearing, the parties receive the preparatory report for the hearing, drawn up by the judge-rapporteur. That report normally describes the subject-matter of the proceedings, the forms of order sought, the aspects on which the parties are requested to concentrate in their oral arguments, the issues of fact and of law which need to be explored in greater depth etc., and indicates the time allowed for the opening arguments of the parties' representatives. The Tribunal may also indicate its intention to examine the possibilities of an amicable settlement of the dispute at the hearing.

51. If the representative of a party intends not to be present at the hearing, he is requested to notify the Tribunal of this without delay. In those circumstances, the hearing will take place in his absence. This will also apply should the Tribunal find that a party is absent from the hearing without due notification.

52. If the representative of a party wishes to be replaced by a qualified person not initially instructed by his client, he is also requested to notify the Tribunal of this without delay and to ensure that the appropriate authorisation for that person and, where appropriate, certification of the rights of audience held by the lawyer or adviser standing in for him have been submitted prior to the hearing.

C. **Conduct of the hearing**

53. The parties' representatives are required to appear before the Tribunal in their robes. The Tribunal always has some plain robes available should they be needed; the court usher at the hearing should be asked about this.

54. A few minutes before the start of the hearing, the parties' representatives are escorted by the court usher to the judges' deliberation room behind the courtroom to meet the judges hearing the case in order to settle arrangements for the conduct of the hearing.

55. Everyone present must stand when the members of the Tribunal enter the room. The hearing then begins by the Registrar calling the case.

56. As the judges have perused the written observations, the parties' representatives are requested not to repeat in their oral arguments the content of the written statements exchanged, but to concentrate on the issues referred to in the preparatory report for the hearing and to answer the judges' questions. The same applies, where appropriate, to the parties themselves, if they have been asked to address the Tribunal. As the aim of the hearing is to clarify the issues of fact and of law required to give judgment on the case, the conduct of the hearing must facilitate a dialogue between the judges and the parties and their representatives.

57. In any event, the parties' representatives have the opportunity to put forward an opening argument, for which the preparatory report for the hearing gives guidance as to the time allowed (normally between 15 minutes for each party in cases heard by a Chamber composed of three judges or a single judge, and 30 minutes in cases heard by the Chamber composed of five judges or where the Tribunal is sitting as a full Court). That period does not include the time used to answer the questions put by the judges or to reply to the other party's oral submissions.

58. As the courtrooms are equipped with an automatic amplification system, each person addressing the Tribunal is requested to press the button on the microphone before starting to speak. The parties' representatives are likewise requested, when citing a court judgment, to give its full reference, including the names of the parties, and to specify, where appropriate, the page of the publication on which the passage in question appears.

59. It must be borne in mind that documents must be lodged before the Tribunal during the written procedure. The Tribunal can accept documents submitted at the hearing only in very exceptional circumstances. The same rule applies to any evidence offered in support at the hearing.

D. **Specific features of simultaneous interpretation**

60. In cases in which simultaneous interpretation is required, parties' representatives are reminded that it is generally preferable to speak freely on the basis of notes rather than to read out a text. Likewise, a series of short sentences is preferable to a long, complicated construction.

61. If, however, oral submissions are prepared in writing, it is advisable when drafting the text to take account of the fact that it must be presented orally and should therefore resemble an oral address as closely as possible. In that situation, in order to facilitate interpretation, the parties' representatives are requested to send any written text or reference documents for their oral submissions to the interpreting department in advance, so that the interpreters may include it in their preparatory study of the file (Interpreting Directorate, fax number: (+352) 4303 3697; email address: interpret@curia.europa.eu). That text will not, of course, be forwarded to the other parties or to members of the bench.

E. **Amicable settlement**

62. At the request of the parties' representatives or on its own initiative, the Tribunal can decide to suspend the hearing for a short time where the parties' representatives wish to discuss a proposal for amicable settlement with their clients or with the other party's representative, if necessary before one or more judges. Should a discussion *in camera* be desired, a separate room can be made available. Any requests to this effect should be addressed to the Registrar or the court usher.

F. **End of the hearing**

63. The presiding member of the bench announces the end of the hearing. The parties subsequently receive brief minutes of the hearing and are subsequently notified in writing of the next steps to be taken in the proceedings, in particular of the date of delivery of the judgment.

III. ENTRY INTO FORCE OF THESE DIRECTIONS

64. These practice directions revoke the 'Notes for the guidance of parties and their representatives for the hearing of oral argument before the European Union Civil Service Tribunal'. They shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the second month following their publication.

65. For the assistance of the parties, the Registry of the Tribunal will make various checklists and models available on the website www.curia.europa.eu

Done at Luxembourg, 25 January 2008.

Registrar	*President*
W. HAKENBERG	P.J. MAHONEY

ANNEX

GUIDE FOR LEGAL AID APPLICANTS AND COMPULSORY FORM

EUROPEAN UNION
CIVIL SERVICE TRIBUNAL

APPLICATION FOR LEGAL AID

GUIDE FOR APPLICANTS AND COMPULSORY FORM

I. GUIDE FOR LEGAL AID APPLICANTS [1]

A. **Legal background**

1. *Jurisdiction of the Tribunal*

Admissibility of actions before the Tribunal

Legal aid applicants should note the following provisions:

— Article 236 of the EC Treaty and Article 152 of the EAEC Treaty, and Article 1 of Annex I to the Statute of the Court of Justice, concerning the jurisdiction of the Tribunal;

— Articles 90 and 91 of the Staff Regulations, which specify a number of requirements as to the admissibility of actions before the Tribunal.

2. *Legal background in relation to legal aid*

The rules concerning legal aid are contained in the Rules of Procedure.

In particular, they provide as follows:

a. Requirements for the grant of legal aid

— Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Tribunal is to be entitled to legal aid (first subparagraph of Article 95(2) of the Rules of Procedure).

— The financial situation is to be assessed, taking into account objective factors such as income, capital and the family situation (second subparagraph of Article 95(2) of the Rules of Procedure).

— The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation (first subparagraph of Article 96(2) of the Rules of Procedure).

— An application for legal aid may be made before or after the action has been brought. The application need not be made through a lawyer (Article 96(1) of the Rules of Procedure).

— If the application is made before the action has been brought, the applicant must briefly state the subject matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard (second subparagraph of Article 96(2) of the Rules of Procedure).

— Legal aid is to be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded (Article 95(3) of the Rules of Procedure).

[1] This guide is an integral part of the legal aid application form. The information which it contains is taken from the Rules of Procedure of the Civil Service Tribunal and the Practice Directions to parties.

— If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned (Article 97(5) of the Rules of Procedure).

— The Tribunal may provide, in accordance with Article 120 of the Rules of Procedure, for the compulsory use of a form in making an application for legal aid (Article 96(3) of the Rules of Procedure). The Tribunal has taken the opportunity to do so in the Practice Directions to parties.

b. Procedure

— If the person concerned has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar is to send a copy of the order granting legal aid and a copy of the application to the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice. The lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by that authority (second subparagraph of Article 97(3) of the Rules of Procedure).

— The introduction of an application for legal aid is to suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, where that order does not designate a lawyer to represent the person concerned, until the date of notification of the order designating a lawyer to represent the applicant (Article 97(4) of the Rules of Procedure).

c. Partial legal aid

An order granting legal aid may specify an amount to be paid to the lawyer instructed to represent the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed. It may provide for a contribution to be made by the person concerned to the costs referred to in Article 95(1) of the Rules of Procedure, having regard to his financial situation (third subparagraph of Article 97(3) of the Rules of Procedure).

d. Responsibility for costs

— Where, by virtue of the decision closing the proceedings, the recipient of legal aid has to bear his own costs, the President shall fix the lawyer's disbursements and fees which are to be paid by the cashier of the Tribunal by way of a reasoned order from which no appeal shall lie (Article 98(2) of the Rules of Procedure).

— Where, in the decision closing the proceedings, the Tribunal has ordered another party to pay the costs of the recipient of legal aid, that other party shall be required to refund to the cashier of the Tribunal any sums advanced by way of aid (Article 98(3) of the Rules of Procedure).

— Where the recipient of the aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision closing the proceedings, if equity so requires, order that one or more parties should bear their own costs or that those costs should be borne, in whole or in part, by the cashier of the Tribunal by way of legal aid (Article 98(4) of the Rules of Procedure).

B. **Procedure for submission of an application for legal aid**

In accordance with point 42 of the Practice Directions to parties, every application for legal aid must be submitted using the form below. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration.

The application for legal aid may be lodged by fax or by email. An application lodged by either means will, however, be taken into consideration only upon receipt of the original at the Tribunal.

In the event of transmission by email, only a scanned copy of the signed original will be accepted.

The original of the application for legal aid must be signed by the applicant himself or by his lawyer, failing which the application will not be taken into consideration and the document will be returned.

If the application for legal aid is submitted by the applicant's lawyer before the application initiating proceedings is lodged, the legal aid application must be accompanied by documents certifying that the lawyer is authorised to practice before a court of a Member State or of another State party to the EEA Agreement.

C. **Effect of proper lodging of an application for legal aid before the action has been brought**

Where an application for legal aid is properly lodged before the action has been brought, the period prescribed for the bringing of the action will be suspended until the date of notification of the order making a decision on that application or of the order designating a lawyer to represent the applicant for legal aid. Time for bringing an action will not run, therefore, while the application for legal aid is being considered by the Tribunal.

If the original of the application for legal aid is received at the Registry of the Tribunal within a period of 10 days after the lodgement of that application by fax or email, the date of the lodgement by fax or email will be taken into account in the suspension of the time limit for bringing an action.

If the original application for legal aid is received at the Tribunal more than 10 days after lodgement by fax or email, the date of such lodgement by fax or email will not be taken into consideration; it is the date of lodgement of the original application for legal aid that will be taken into account.

D. **Contents of the application for legal aid and supporting documents**

1. *Applicant's financial situation*

The application must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation.

Documents may include, for example:

— certificates issued by social security or unemployment benefit authorities;

— declarations of income or tax notices;

— salary slips;

— bank statements.

Sworn statements made and signed by the applicant himself are not sufficient proof that he is wholly or partly unable to meet the costs of the proceedings.

The information given on the form concerning the applicant's financial situation and the documents lodged in support of the information provided should give a complete picture of his financial situation.

Applicants should note that they should not confine themselves to providing the Tribunal with details of their resources; they should also provide the Tribunal with information which will enable the Tribunal to assess the capital held.

An application which does not establish to the requisite legal standard the applicant's inability to meet the costs of the proceedings will be rejected.

The applicant is required to notify the Tribunal at the earliest possible opportunity of any change in his financial situation which might justify the application of Article 97(5) of the Rules of Procedure, according to which, if the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned.

2. *Subject matter of the proposed action, facts of the case and arguments in support of the action*

If the application for legal aid is made before the action has been brought, the applicant must briefly state the subject matter of the proposed action, the facts of the case and the arguments which he intends to put forward in support of his action. The form includes a section for that purpose.

A copy of any supporting document that is relevant for the purposes of assessing whether the proposed action is admissible and well founded must be annexed to the form; for example:

— if applicable, the measure which the applicant seeks to have annulled;

— if applicable, the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint, together with the dates on which the complaint was submitted and the decision notified;

— if applicable, the request within the meaning of Article 90(1) of the Staff Regulations and the decision responding to the request, together with the dates on which the request was submitted and the decision notified;

— correspondence with the prospective defendant.

3. *Other useful information*

No original documents will be returned. The applicant is therefore advised to supply photocopies of supporting documents.

An application may not be supplemented by the subsequent lodging of addenda. Such addenda will be returned, unless they have been lodged at the request of the Tribunal. It is essential, therefore, to supply all necessary information on the form and to attach copies of any documentary proof of the information supplied. In exceptional cases, documents intended to establish that the legal aid applicant is wholly or partly unable to meet the costs of the proceedings may nevertheless be accepted subsequently, subject to the delay in their production being justified.

If the space available in any section of the form is insufficient, that section may be completed on a separate page attached to the application.

E. **Address**

The form may be downloaded at www.curia.europa.eu. It may also be requested from the Registry of the Civil Service Tribunal by email, post or telephone (see details below).

The duly completed and signed form, together with supporting documents, should be sent to the following address:

Registry of the Civil Service Tribunal
L-2925 Luxembourg
Tel.: (+ 352) 4303-1
Fax: (+ 352) 4303 4453
Email: tfp.greffe@curia.europa.eu

II. LEGAL AID APPLICATION FORM

APPLICATION FOR LEGAL AID

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

APPLICANT

Ms ☐	Mr ☐	
Surname (at birth):		
Married name, if applicable:		
First name(s):		
Date of birth (dd/mm/yyyy): ...../...../.....		
Place of birth:		
Address:		
Postcode:		Town/City: .....
Country:		
Telephone (optional):		
Fax (optional):		
Email (optional):		
Occupation or current position:		

PROPOSED ACTION

If this application for legal aid is made before an action has been brought, state the name of the party against whom you propose to bring the action:

Describe the subject matter of the action which you wish to bring, the facts of the case and the arguments in support of the action:

APPLICANT'S FINANCIAL SITUATION

A. FINANCIAL RESOURCES

— The resources which will be taken into account are those which you have declared to the national authorities in respect of the period from 1 January to 31 December of last year (or the period in respect of which you are legally obliged to declare your resources) (Table 1).

— If there has been a significant change in your financial situation since last year, you are also required to specify your resources for the period from 1 January of this year (or from the beginning of the current financial period) until the date of your application (Table 2).

1. **Table 1: Resources in the reference period**

		Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify: .....
a.	**No income**	☐***	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g. rent received, income from capital, income from securities, stocks and shares, etc.)			

*** If this box is marked, please provide details of means of support below:

2. **Table 2: Resources in the current financial period**

		Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify: .....
a.	**No income**	☐***	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g. rent received, income from securities, stocks and shares, etc.)			

*** If this box is marked, please provide details of means of support below:

B. CAPITAL

State the nature and value of any movable property (shares, liabilities, capital, etc.) and the address and value of any immovable property (buildings, land, etc.), including non-income-producing property, which you own:

C. OUTGOINGS

Complete the following table with details of persons who are dependent on you or who normally live with you (e.g. children):

Surname(s) and first name(s)	Relationship to you (e.g. son, nephew, mother)	Date of birth (dd / mm / yyyy)
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.....	.....	...../...../ .....
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State the amount(s) of any maintenance payments which you make to third parties:

State the amount of rent payable on your main residence or the amount of any repayments which you make to banks or other banking institutions under the terms of any loan incurred for the purpose of acquiring your main residence:

D. MISCELLANEOUS

In the following section you may include any additional information about your circumstances – resources or outgoings (e.g. repayments of loans other than those incurred for the purpose of acquiring your main residence, etc.):

PROPOSED LEGAL REPRESENTATION

You may indicate to the Tribunal the name of a lawyer who will represent you, by completing the following section.

If you do not complete the following section, the Tribunal will invoke the second subparagraph of Article 97(3) of its Rules of Procedure, which provides that the lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice.

Title (e.g. Maître) and name:	
Address:	
Postcode:	Town/City: .....
Country:	
Telephone:	
Fax (optional):	
Email (optional):	

SOLEMN DECLARATION

I, the undersigned, hereby declare that the information given in this application for legal aid is correct and complete:

Date: ...../...../.....	Signature of the applicant/applicant's lawyer:

LIST OF SUPPORTING DOCUMENTS

Supporting documents to enable your financial situation to be assessed:

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If the action has not yet been brought, supporting documents relevant for the purposes of assessing whether the proposed action is admissible and well founded:

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COURT OF JUSTICE

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Constitution and composition of the Chambers, election of their Presidents and assignment of the Judges to Chambers

(2005/C 322/08)

On 30 November 2005, in accordance with Article 3(3) and (4) and Article 4 of Council Decision 2004/752/EC, Euratom of 2 November 2004 establishing the European Union Civil Service Tribunal [1] and Article 4(2) and (3) of Annex I to the Statute of the Court of Justice and Article 10 of the Rules of Procedure of the Court of First Instance, the Civil Service Tribunal decided to sit in three Chambers and as a full Court. In addition, for the period from 30 November 2005 to 30 September 2008, it elected as Presidents of Chambers Judges H. KREPPEL and S. VAN RAEPENBUSCH and assigned the Judges to the Chambers as follows:

First Chamber

H. KREPPEL, President of Chamber,

H. TAGARAS and S. GERVASONI, Judges,

Second Chamber

S. VAN RAEPENBUSCH, President of Chamber,

I. BORUTA and H. KANNINEN, Judges,

Third Chamber, sitting with three Judges

P. MAHONEY, President of the Tribunal [2];

I. BORUTA, H. KANNINEN, H. TAGARAS and S. GERVASONI, Judges.

In the Third Chamber, the President will sit, alternately, either with Judges I. BORUTA and H. TAGARAS or with Judges H. KANNINEN and S. GERVASONI, subject always to connections between cases.

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[1] OJ 2004 L 333, p. 7.
[2] OJ 2005 C 271, p. 27.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Designation of the judge to replace the President of the Civil Service Tribunal for the purpose of dealing with applications for interim measures

(2007/C 235/50)

On 19 September 2007, in accordance with Article 3(4) of Decision 2004/752 and Article 106 of the Rules of Procedure of the Court of First Instance, the Tribunal decided that, for the period from 1 October 2007 to 30 September 2008, Judge Van Raepenbusch, President of the Second Chamber, shall replace the President of the Tribunal for the purpose of dealing with applications for interim measures in the event of the President's absence or his being prevented from attending.

Criteria for the assignment of cases to chambers

(2007/C 235/51)

On 19 September 2007, in accordance with Article 4 of Annex I to the Statute of the Court of Justice and Article 12 of the Rules of Procedure of the Court of First Instance, the Civil Service Tribunal decided to maintain in force until 30 September 2008 the following conditions for the assignment of cases to chambers:

— the First Chamber shall hear all cases, with the exception of those principally concerning questions of recruitment, assessment/promotion and final termination of service, which shall be heard by the Second Chamber;

— a number of cases shall be assigned to the Third Chamber, regardless of the subject-matter involved, at regular intervals to be determined at a plenary meeting of the Tribunal;

— derogations from the above rules on assignment may be made for reasons of connections between cases and to ensure a balanced and reasonably varied workload within the Tribunal.

Action brought on 5 June 2007 — Marcuccio v Commission

(Case F-84/06)

(2007/C 235/52)

Language of the case: Italian

Parties

Applicant: Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul the decision rejecting the claim of 20 June 2005 submitted by the applicant on 21 June 2005 to the office responsible for settling claims of the Joint Sickness Insurance Scheme of the European Communities;

— annul, in so far as is necessary, the statement of reimbursement of 18 July 2005;

— annul, in so far as is necessary, the implied decision of the Appointing Authority rejecting the applicant's claim of 23 December 2005;

— order the defendant to pay the applicant, by way of reimbursement of the additional sum needed to make up 100 % reimbursement of medical expenses incurred by him and in respect of which he claimed reimbursement from the Joint Scheme on 20 June 2005, or by way of compensation for the damage arising as a result of the defendant's unlawful conduct in relation to the applicant, the difference between the sum already paid to the applicant by way of reimbursement of medical expenses and the total cost of the medical expenses, namely the sum of EUR 89,56, or such other sum as the Tribunal may consider just in respect of either or both of those heads;

— order the defendant to pay the applicant default interest at the rate of 10 % per annum, to be compounded annually from 21 June 2005 until actual payment, or at a rate to be compounded and from the starting date which the Tribunal may consider just, on the sum of EUR 89,56 or such other sum as the Tribunal may consider just in order to make up 100 % reimbursement of medical expenses;

— order the defendant to pay the costs.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Designation of the judge to replace the President of the Civil Service Tribunal for the purpose of dealing with applications for interim measures

(2007/C 235/50)

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— a number of cases shall be assigned to the Third Chamber, regardless of the subject-matter involved, at regular intervals to be determined at a plenary meeting of the Tribunal;

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Applicant: Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul the decision rejecting the claim of 20 June 2005 submitted by the applicant on 21 June 2005 to the office responsible for settling claims of the Joint Sickness Insurance Scheme of the European Communities;

— annul, in so far as is necessary, the statement of reimbursement of 18 July 2005;

— annul, in so far as is necessary, the implied decision of the Appointing Authority rejecting the applicant's claim of 23 December 2005;

— order the defendant to pay the applicant, by way of reimbursement of the additional sum needed to make up 100 % reimbursement of medical expenses incurred by him and in respect of which he claimed reimbursement from the Joint Scheme on 20 June 2005, or by way of compensation for the damage arising as a result of the defendant's unlawful conduct in relation to the applicant, the difference between the sum already paid to the applicant by way of reimbursement of medical expenses and the total cost of the medical expenses, namely the sum of EUR 89,56, or such other sum as the Tribunal may consider just in respect of either or both of those heads;

— order the defendant to pay the applicant default interest at the rate of 10 % per annum, to be compounded annually from 21 June 2005 until actual payment, or at a rate to be compounded and from the starting date which the Tribunal may consider just, on the sum of EUR 89,56 or such other sum as the Tribunal may consider just in order to make up 100 % reimbursement of medical expenses;

— order the defendant to pay the costs.

Model Application *

[Previously sent by fax/email on …]

[Place], [Date]

TO THE PRESIDENT AND MEMBERS
OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

APPLICATION

submitted, pursuant to Article 236 of the EC Treaty and Article 152 of the Euratom Treaty, and to Article 91 of the Staff Regulations of Officials of the European Communities,

by

Mr/Ms [first name and SURNAME], official [or: member of the temporary/contract/auxiliary staff] of the [Institution/Agency] [or: candidate in EPSO competition ……], residing at [home address/country],

represented by [first name and SURNAME of lawyer(s)], whose business address is [address of firm/Chambers, including telephone and fax numbers, and email address], who will accept service of procedural documents by fax/email at the following fax number/email address: [fax number/email address]

– applicant –

v

[defendant Institution/Agency, including address]

– defendant –

for annulment of the decision … [briefly describe the subject-matter of the application]

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* N.B. : This model, the use of which is not compulsory, is intended as a drafting guide. For any additional information, please refer to the Tribunal's Rules of Procedure, the Instructions to the Registrar of the Tribunal, and the Practice Directions to parties on proceedings before the Civil Service Tribunal. See also the Application Checklist.

I. INTRODUCTION

1. The applicant is an official of …

2. The applicant seeks, in essence, …

II. LEGAL BACKGROUND

3.

III. STATEMENT OF THE FACTS GIVING RISE TO THE ACTION

4.

IV. ADMISSIBILITY [*indicate the various stages of the pre-litigation procedure*]

5.

V. LAW

6.

7.

FIRST PLEA IN LAW, ALLEGING …

8.

9.

SECOND PLEA IN LAW, ALLEGING …

10.

11.

VI. FORM OF ORDER SOUGHT

12. For the reasons set out above, the applicant claims that the European Union Civil Service Tribunal should:

(1) annul the decision …;

(2) [form of order sought as to costs].

[Handwritten signature(s) of lawyer(s) to be added and to be legible]

Summary of the application

brought by X against institution Y on (date)

Membership of Bar/Law Society

Schedule of annexes

to the application brought by X against institution Y on …

No	Description of document	Page reference and/or paragraph number in the pleading where the annex is mentioned	Total number of pages of each annex (excluding dividers)	Page reference (within consecutively numbered documents) for first page of annex
A. 1	Contested decision of the Commission of the EC of …, received by the applicant on …	p. 2, para. 3	5	p. 27
A. 2	Complaint lodged on ….	p. 5, para. 15	6	p. 32
A. 3	Decision rejecting the complaint, received on …	p. 7, para. 17	7	p. 38
etc.				

Checklist: Application *

General information:

☐ **Address** for any postal communication, parcel delivery etc.: European Union Civil Service Tribunal, Court of Justice of the EC, Boulevard Konrad Adenauer, L-2925 Luxembourg. The Tribunal and Registry are located at: ALLEGRO Building, 35A, Avenue J.F. Kennedy, L-1855 Luxembourg. Registry opening hours: 09.00 hrs to midday and 14.30 hrs to 16.30 hrs, Monday to Friday; closed on Friday afternoons during the judicial vacations.

☐ **Length of the application: in principle, not to exceed 10 to 30 pages** (excluding annexes).

☐ **Pagination:** the pages of the application and annexes together, to be numbered consecutively in the top right-hand corner.

☐ **Language of the case:** language in which the application has been drawn up.

☐ **Prescribed copies:** seven complete sets of the **application** and **annexes** (no CD, electronic delivery etc.); first page of each set to be endorsed 'certified copy' and signed/initialled by the lawyer.

First page of the application:

☐ **In the case of prior transmission by fax or email: this should be specified** with a reference to the date of transmission. NB: prior electronic transmission of the application (by fax or in PDF format) is treated as complying with the time-limit for lodging the application only if the original application is lodged at the Registry no later than 10 days after such transmission. In those circumstances, it is sufficient to send the text of the signed application and schedule of annexes electronically, without the annexes themselves.

☐ **Applicant:** name (Mr/Ms) – post held – address (private residential; country). If the application is lodged by 10 or more applicants, a list of all applicants to be attached and sent by email (tfp.greffe@curia.europa.eu).

☐ **Defendant:** name and address of the defendant institution or agency to be specified.

☐ **Lawyer:** status – name – address and, preferably, telephone and fax numbers, email address.

☐ **Indication of the method of service chosen:** whether or not address for service is in Luxembourg – and/or use of electronic methods of service (fax/email) accepted. If no indication given, all service

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* N.B.: The checklists are practical guides and are not exhaustive. For further information, please refer to the Tribunal's Rules of Procedure, the Instructions to the Registrar of the Tribunal, and the Practice Directions to parties on proceedings before the Tribunal. See also the model application.

will be effected by registered letter to the lawyer's address; service will thus be deemed to have been effected by the lodging of the registered letter at the post office in Luxembourg.

Structure of the application:

☐ **Subject-matter of the dispute:** brief description of the subject-matter of the application.

☐ **Structured presentation:** legal background – facts – admissibility – substance of the case, presenting and clarifying the various pleas in law individually.

☐ **Numbered paragraphs.**

☐ **Form of order sought (and heads of claim numbered) at the beginning or end.**

☐ **Signature of the lawyer (handwritten and legible)** at the end (no stamp, photocopy etc. or signature by proxy). In the case of more than one representative, the signature of one is sufficient.

Mandatory annexes:

☐ **Summary** of the pleas in law and main arguments (no more than two pages) to facilitate drafting of notice for the *Official Journal of the European Union* and for inclusion in its entirety on a page of the website www.curia.europa.eu, enabling enquiries to be made. Simultaneous delivery by email to tfp.greffe@curia.europa.eu.

☐ Document certifying **the lawyer's membership of a Bar or Law Society.**

☐ **The contested measure.**

☐ **Complaint** pursuant to Article 90(2) of the **Staff Regulations of Officials of the European Communities.**

☐ Either the decision **expressly rejecting** the complaint or information about its **implicit rejection.**

Other annexes:

☐ **Rigorous selection** of relevant documents.

☐ **Must be legible.**

☐ **Preceded by a schedule of annexes** (see model application).

☐ Submission, if more than 3 annexes, with **dividers.**

☐ All annexes to be in the **language of the case** (with translations, where necessary): exceptions must be requested and duly justified to the Tribunal. Documents in English or French normally accepted, unless opposed by the other party.

Checklist: Defence *

General information:

☐ **Address** for any postal communication, parcel delivery etc.: European Union Civil Service Tribunal, Court of Justice of the EC, Boulevard Konrad Adenauer, L-2925 Luxembourg. The Tribunal and Registry are located at: ALLEGRO Building, 35A, Avenue J.F. Kennedy, L-1855 Luxembourg. Registry opening hours: 09.00 hrs to midday and 14.30 hrs to 16.30 hrs, Monday to Friday; closed on Friday afternoons during the judicial vacations.

☐ **Length of the defence: in principle, not to exceed 10 to 30 pages** (excluding annexes).

☐ **Pagination:** the pages of the defence and annexes together, to be numbered consecutively in the top right-hand corner.

☐ **Language of the case:** defined by the application; it cannot be changed by the defendant.

☐ **Where the language of the case is a language other than French:** send the Tribunal a translation into French of any procedural document (pursuant to Article 34(2) of the Rules of Procedure) without delay.

☐ **Prescribed copies:** seven complete sets of the **defence** and **annexes** (no CD, electronic delivery etc.); first page of each set to be endorsed ‘certified copy’ and signed/initialled by the representative.

First page of the defence:

☐ **In the case of prior transmission by fax or email: this should be specified** with a reference to the date of transmission. NB: prior electronic transmission of the defence (by fax or in PDF format) is treated as complying with the time-limit for lodging the defence only if the original defence is lodged at the Registry no later than 10 days after such transmission. In those circumstances, it is sufficient to send the text of the signed defence and schedule of annexes electronically, without the annexes themselves.

☐ **Case number in the list and names of the parties.**

☐ **Representative(s) of the defendant:** status – name – address and, preferably, telephone and fax numbers, email address.

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* N.B.: The checklists are practical guides and are not exhaustive. For further information, please refer to the Tribunal’s Rules of Procedure, the Instructions to the Registrar of the Tribunal, and the Practice Directions to parties on proceedings before the Tribunal.

☐ **Indication of the method of service chosen:** whether or not address for service is in Luxembourg (specify whether or not deliveries must be made by courier) – and/or use of electronic methods of service (fax/email) accepted.

Structure of the defence:

☐ **Structured presentation:** legal background – facts (state clearly whether any facts included in the application are disputed) – substance of the case, presenting and clarifying the various pleas in law individually.

☐ **Numbered paragraphs.**

☐ **Form of order sought (and heads of claim numbered) at the beginning or end.**

☐ **Signature of the representative (handwritten and legible)** at the end (no stamp, photocopy etc., or signature by proxy). In the case of more than one representative, the signature of one is sufficient.

Mandatory annexes:

☐ **Authority given to the agent representing the defendant** (Article 19(1) of the Statute of the Court of Justice), if not **previously** notified**.**

☐ Where the agent is assisted by a lawyer: document certifying his **membership of a Bar or Law Society**.

Other annexes:

☐ **Rigorous selection** of relevant documents**.**

☐ **Must be legible.**

☐ **Preceded by a schedule of annexes** (see, mutatis mutandis, 'Model application').

☐ Submission, if more than 3 annexes, with **dividers.**

☐ All annexes to be in the **language of the case** (with translations, where necessary): exceptions must be requested and duly justified to the Tribunal. Documents in English or French normally accepted, unless opposed by the other party.

Checklist: Hearing of oral argument *

Before the hearing:

- ☐ **Notice to attend the hearing:** sent by the Registry of the Civil Service Tribunal a few weeks before the hearing.
- ☐ **General diary of hearings before the Tribunal**: available on the website www.curia.europa.eu under 'News\Judicial proceedings'.
- ☐ **Preparation of oral argument:** dependent on the information contained in the **preparatory report for the hearing,** sent to the parties' representatives by the Registry at the same time as the notice to attend the hearing or at a later stage.
- ☐ **Warn** the Registry of any **delay** or possible difficulty in relation to the attendance of a party's representative or of other persons summoned to the hearing (telephone: (+352) 43 03 44 51; fax: (+352) 43 03 44 53; email: tfp.greffe@curia.europa.eu); ensure that the Registry has **appropriate telephone numbers** to enable it to contact the parties' representatives**.** If a representative does not arrive in time for the hearing, it will proceed in his absence.
- ☐ **Location of the hearing:** stated in the notice to attend the hearing, **either the Allegro courtroom** (without technical interpretation facilities): ALLEGRO Building, 35A, Avenue J.F. Kennedy, 1st floor, L-1855 Luxembourg, **or the Dalsgaard courtroom** (with technical interpretation facilities): Erasmus Building, Court of Justice of the EC, entrances in Boulevard Konrad Adenauer or rue du Fort Niedergrünewald, L-2925 Luxembourg.
- ☐ **Map of the buildings:** can be found on the website www.curia.europa.eu under 'The Institution\Further information\Access to the buildings'.
- ☐ **Parking: Allegro courtroom:** metered parking in the roads around the building; **Dalsgaard courtroom:** free parking in the car park of the Court of Justice.

Arrival at the hearing:

- ☐ **At least 15 minutes** before the scheduled time of the hearing.
- ☐ **Identity document** to be shown to security staff.
- ☐ **Contact the court usher** who records attendance; inform him, if appropriate, of the presence of the applicant himself, members of the administration, etc.

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* N.B. : The checklists are practical guides and are not exhaustive. For further information, please refer to the Tribunal's Rules of Procedure, the Instructions to the Registrar of the Tribunal, and the Practice Directions to parties on proceedings before the Tribunal.

☐ Approximately 5 to 10 minutes before the hearing begins, **the Judges** meet the parties' representatives in the judges' deliberation room (follow the court usher's directions).

Conduct of the hearing:

☐ The parties' representatives **must** present **oral argument in their robes**; contact the court usher for spare robes.

☐ **The parties are seated** as follows, seen from the audience:

- table on the right: applicant's representative(s);
- table on the left: defendant's representative(s);
- table in the centre: if applicable, intervener's representative(s).

☐ Speakers must always use the **microphone**; it can be switched on and off using the red button at the base of the microphone.

☐ The use of **mobile telephones** or **laptops** is prohibited, as is the use of any electronic recording equipment.

☐ **Order of events** (save in special cases)**:**

- the President opens the hearing;
- if appropriate, delivery of judgments in other cases;
- the case in question is called by the Registrar;
- opening argument of the applicant's representative(s);
- opening argument of the defendant's representative(s);
- if appropriate, opening argument of the intervener's representative(s);
- if appropriate, replies to the Judges' questions;
- final reply of the applicant's representative(s);
- final reply of the defendant's representative(s);
- final reply of the intervener's representative(s);
- the President closes the hearing.

☐ **Time allowed for oral argument:** comply with the time allowed for opening argument indicated in the preparatory report for the hearing (normally 20 minutes for each party).

☐ **Aspects of oral argument:** concentrate on the aspects of oral argument indicated in the preparatory report for the hearing.

☐ **Lodgment of documents:** if it is intended to lodge documents at the hearing (only possible with the Tribunal's approval), sufficient copies should preferably be brought for all the Judges, the Registry and the other parties.

☐ **Interpreters:** if interpreters are expected to attend, any written text may be sent in advance to the interpreting department of the Court of Justice (the text will not be forwarded to the Tribunal), fax: (+352) 43 03 36 97; email: interpret@curia.europa.eu.

☐ **Amicable settlement:** if appropriate, obtain the authority to reach an amicable settlement at the hearing.

Civil Service Tribunal > Legal aid application form

Registry of the Civil Service Tribunal
L-2925 Luxembourg

Tel: (+352) 4303-1
Fax: (+352) 4303 4453
Email: tfp.greffe@curia.europa.eu

Downloading the legal aid application form

The form can be downloaded in Word or PDF format. The completed form must be printed, signed by hand and sent with any supporting documents to the above address.

Downloading the form in Word format

Downloading the form in PDF format

EUROPEAN UNION
CIVIL SERVICE TRIBUNAL

APPLICATION FOR LEGAL AID

GUIDE FOR APPLICANTS AND COMPULSORY FORM

I. GUIDE FOR LEGAL AID APPLICANTS [1]

A. Legal background

1. Jurisdiction of the Tribunal
Admissibility of actions before the Tribunal

Legal aid applicants should note the following provisions:

– Article 236 of the EC Treaty and Article 152 of the EAEC Treaty, and Article 1 of Annex I to the Statute of the Court of Justice, concerning the jurisdiction of the Tribunal;

– Articles 90 and 91 of the Staff Regulations, which specify a number of requirements as to the admissibility of actions before the Tribunal.

2. Legal background in relation to legal aid

The rules concerning legal aid are contained in the Rules of Procedure.

In particular, they provide as follows:

a. Requirements for the grant of legal aid

– Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Tribunal is to be entitled to legal aid (first subparagraph of Article 95(2) of the Rules of Procedure).

[1] This guide is an integral part of the legal aid application form. The information which it contains is taken from the Rules of Procedure of the Civil Service Tribunal and the Practice Directions to parties.

– The financial situation is to be assessed, taking into account objective factors such as income, capital and the family situation (second subparagraph of Article 95(2) of the Rules of Procedure).

– The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation (first subparagraph of Article 96(2) of the Rules of Procedure).

– An application for legal aid may be made before or after the action has been brought. The application need not be made through a lawyer (Article 96(1) of the Rules of Procedure).

– If the application is made before the action has been brought, the applicant must briefly state the subject-matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard (second subparagraph of Article 96(2) of the Rules of Procedure).

– Legal aid is to be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded (Article 95(3) of the Rules of Procedure).

– If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned (Article 97(5) of the Rules of Procedure).

– The Tribunal may provide, in accordance with Article 120 of the Rules of Procedure, for the compulsory use of a form in making an application for legal aid (Article 96(3) of the Rules of Procedure). The Tribunal has taken the opportunity to do so in the Practice Directions to parties.

b. Procedure

– If the person concerned has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar is to send a copy of the order granting legal aid and a copy of the application to the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice. The lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by that authority (second subparagraph of Article 97(3) of the Rules of Procedure).

– The introduction of an application for legal aid is to suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, where that order does not designate a lawyer to represent the person concerned, until the date of notification of the order designating a lawyer to represent the applicant (Article 97(4) of the Rules of Procedure).

c. Partial legal aid

An order granting legal aid may specify an amount to be paid to the lawyer instructed to represent the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed. It may provide for a contribution to be made by the person concerned to the costs referred to in Article 95(1) of the Rules of Procedure, having regard to his financial situation (third subparagraph of Article 97(3) of the Rules of Procedure).

d. Responsibility for costs

– Where, by virtue of the decision closing the proceedings, the recipient of legal aid has to bear his own costs, the President shall fix the lawyer's disbursements and fees which are to be paid by the cashier of the Tribunal by way of a reasoned order from which no appeal shall lie (Article 98(2) of the Rules of Procedure).

– Where, in the decision closing the proceedings, the Tribunal has ordered another party to pay the costs of the recipient of legal aid, that other party shall be required to refund to the cashier of the Tribunal any sums advanced by way of aid (Article 98(3) of the Rules of Procedure).

– Where the recipient of the aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision closing the proceedings, if equity so requires, order that one or more parties should bear their own costs or that those costs should be borne, in whole or in part, by the cashier of the Tribunal by way of legal aid (Article 98(4) of the Rules of Procedure).

B. Procedure for submission of an application for legal aid

In accordance with point 42 of the Practice Directions to parties, every application for legal aid must be submitted using the form below. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration.

The application for legal aid may be lodged by fax or by email. An application lodged by either means will, however, be taken into consideration only upon receipt of the original at the Tribunal.

In the event of transmission by email, only a scanned copy of the signed original will be accepted.

The original of the application for legal aid must be signed by the applicant himself or by his lawyer, failing which the application will not be taken into consideration and the document will be returned.

If the application for legal aid is submitted by the applicant's lawyer before the application initiating proceedings is lodged, the legal aid application must be accompanied by documents certifying that the lawyer is authorised to practice before a court of a Member State or of another State party to the EEA Agreement.

C. Effect of proper lodging of an application for legal aid before the action has been brought

Where an application for legal aid is properly lodged before the action has been brought, the period prescribed for the bringing of the action will be suspended until the date of notification of the order making a decision on that application or of the order designating a lawyer to represent the applicant for legal aid. Time for bringing an action will not run, therefore, while the application for legal aid is being considered by the Tribunal.

If the original of the application for legal aid is received at the Registry of the Tribunal within a period of 10 days after the lodgment of that application by fax or email, the date of the lodgment by fax or email will be taken into account in the suspension of the time-limit for bringing an action.

If the original application for legal aid is received at the Tribunal more than 10 days after lodgment by fax or email, the date of such lodgment by fax or email will not be taken into consideration; it is the date of lodgment of the original application for legal aid that will be taken into account.

D. Contents of the application for legal aid and supporting documents

1. Applicant's financial situation

The application must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation.

Documents may include, for example:

– certificates issued by social security or unemployment benefit authorities;

– declarations of income or tax notices;

– salary slips;

– bank statements.

Sworn statements made and signed by the applicant himself are not sufficient proof that he is wholly or partly unable to meet the costs of the proceedings.

The information given on the form concerning the applicant's financial situation and the documents lodged in support of the information provided should give a complete picture of his financial situation.

Applicants should note that they should not confine themselves to providing the Tribunal with details of their resources; they should also provide the Tribunal with information which will enable the Tribunal to assess the capital held.

An application which does not establish to the requisite legal standard the applicant's inability to meet the costs of the proceedings will be rejected.

The applicant is required to notify the Tribunal at the earliest possible opportunity of any change in his financial situation which might justify the application of Article 97(5) of the Rules of Procedure, according to which, if the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned.

2. Subject-matter of the proposed action, facts of the case and arguments in support of the action

If the application for legal aid is made before the action has been brought, the applicant must briefly state the subject-matter of the proposed action, the facts of the case and the arguments which he intends to put forward in support of his action. The form includes a section for that purpose.

A copy of any supporting document that is relevant for the purposes of assessing whether the proposed action is admissible and well founded must be annexed to the form; for example:

– if applicable, the measure which the applicant seeks to have annulled;

– if applicable, the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint, together with the dates on which the complaint was submitted and the decision notified;

– if applicable, the request within the meaning of Article 90(1) of the Staff Regulations and the decision responding to the request, together with the dates on which the request was submitted and the decision notified;

– correspondence with the prospective defendant.

3. Other useful information

No original documents will be returned. The applicant is therefore advised to supply photocopies of supporting documents.

An application may not be supplemented by the subsequent lodging of addenda. Such addenda will be returned, unless they have been lodged at the request of the Tribunal. It is essential, therefore, to supply all necessary information on the form and to attach copies of any documentary proof of the information supplied. In exceptional cases, documents intended to establish that the legal aid applicant is wholly or partly unable to meet the costs of the proceedings may nevertheless be accepted subsequently, subject to the delay in their production being justified.

If the space available in any section of the form is insufficient, that section may be completed on a separate page attached to the application.

E. Address

The form may be downloaded at www.curia.europa.eu. It may also be requested from the Registry of the Civil Service Tribunal by email, post or telephone (see details below).

The duly completed and signed form, together with supporting documents, should be sent to the following address:

Registry of the Civil Service Tribunal
L-2925 Luxembourg

Tel.: (+352) 4303-1
Fax: (+352) 4303 4453
Email: tfp.greffe@curia.europa.eu

II. LEGAL AID APPLICATION FORM

APPLICATION FOR LEGAL AID

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

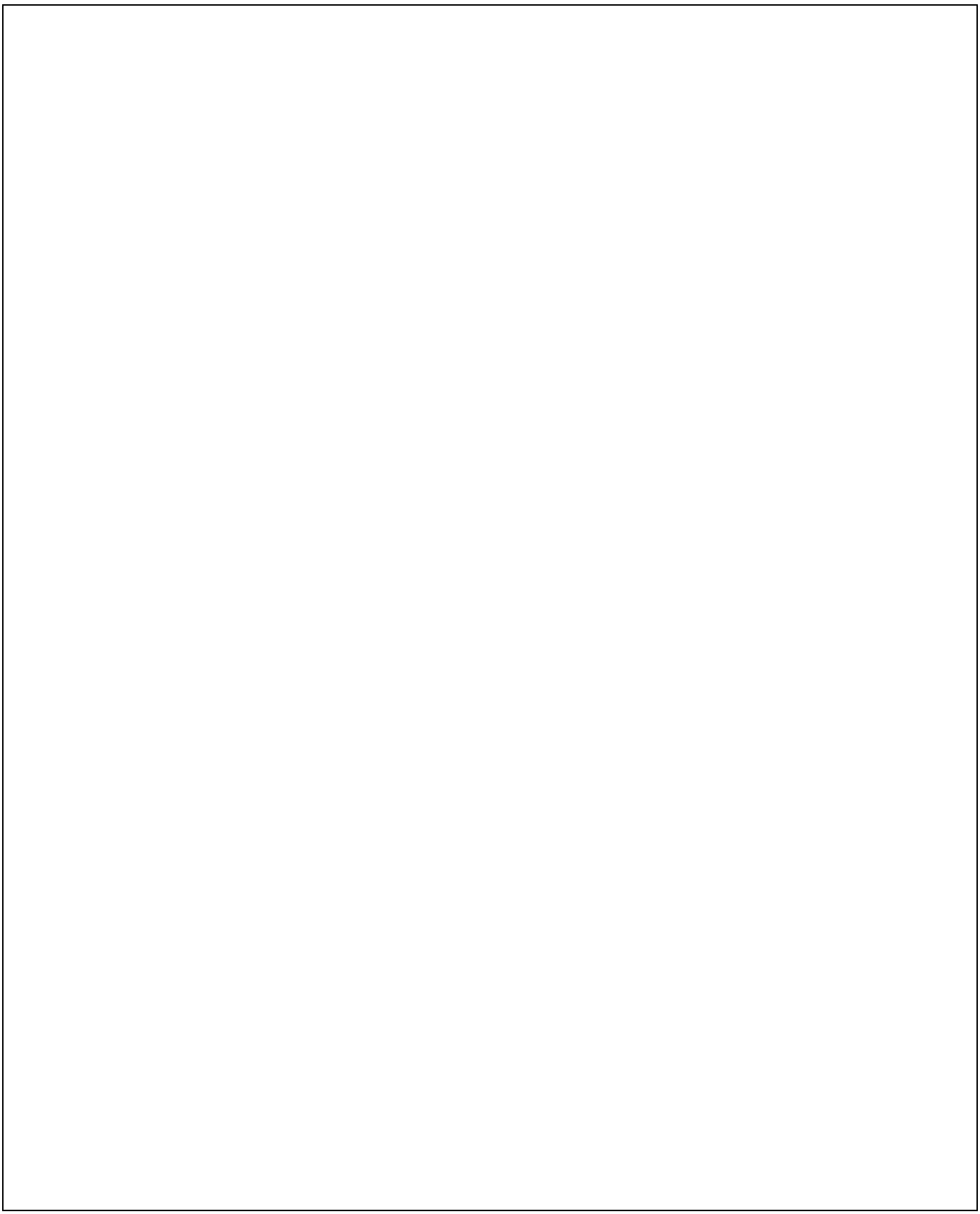
APPLICANT

Ms ☐	Mr ☐	
Surname (at birth):		
Married name, if applicable:		
First name(s):		
Date of birth (dd / mm / yyyy): .... / .... /		
Place of birth:		
Address:		
Postcode:	Town/City:	
Country:		
Telephone (optional):		
Fax (optional):		
Email (optional):		
Occupation or current position:		

PROPOSED ACTION

If this application for legal aid is made before an action has been brought, state the name of the party against whom you propose to bring the action:

Describe the subject-matter of the action which you wish to bring, the facts of the case and the arguments in support of the action:



APPLICANT'S FINANCIAL SITUATION

A. FINANCIAL RESOURCES

– The resources which will be taken into account are those which you have declared to the national authorities in respect of the period from 1 January to 31 December of last year (or the period in respect of which you are legally obliged to declare your resources) (Table 1).

– If there has been a significant change in your financial situation since last year, you are also required to specify your resources for the period from 1 January of this year (or from the beginning of the current financial period) until the date of your application (Table 2).

1. Table 1: Resources in the reference period

		Your resources	**Resources of your spouse or cohabitee**	**Resources of any other person who normally lives with you (child or other dependant). Specify:** ----------
a.	**No income**	☐ ***	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g.: rent received, income from capital, income from securities, stocks and shares, etc.)			

***: If this box is marked, please provide details of means of support below:

2. Table 2: Resources in the current financial period

		Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify: ----------
a.	**No income**	☐ ***	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g.: rent received, income from capital, income from securities, stocks and shares, etc.)			

***: If this box is marked, please provide details of means of support below:

B. CAPITAL

State the nature and value of any movable property (shares, liabilities, capital, etc.) and the address and value of any immovable property (buildings, land, etc.), including non-income-producing property, which you own:

C. OUTGOINGS

Complete the following table with details of persons who are dependent on you or who normally live with you (e.g. children):

Surname(s) and first name(s)	Relationship to you (e.g.: son, nephew, mother)	Date of birth (dd / mm / yyyy)
.....	.....	..../ ..../ .....
.....	.....	..../ ..../ .....
.....	.....	..../ ..../ .....
.....	.....	..../ ..../ .....
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State the amount(s) of any maintenance payments which you make to third parties:

State the amount of rent payable on your main residence or the amount of any repayments which you make to banks or other banking institutions under the terms of any loan incurred for the purpose of acquiring your main residence:

D. MISCELLANEOUS

In the following section you may include any additional information about your circumstances – resources or outgoings (e.g.: repayments of loans other than those incurred for the purpose of acquiring your main residence, etc.):

PROPOSED LEGAL REPRESENTATION

You may indicate to the Tribunal the name of a lawyer who will represent you, by completing the following section.

If you do not complete the following section, the Tribunal will invoke the second subparagraph of Article 97(3) of its Rules of Procedure, which provides that the lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice.

Title (e.g. Maître) and name:	
Address:	
Postcode:	Town/City: .....
Country:	
Telephone:	
Fax (optional):	
Email (optional):	

SOLEMN DECLARATION

I, the undersigned, hereby declare that the information given in this application for legal aid is correct and complete:

Date: ..... / ..... /	Signature of the applicant/applicant's lawyer:

LIST OF SUPPORTING DOCUMENTS

Supporting documents to enable your financial situation to be assessed:

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If the action has not yet been brought, supporting documents relevant for the purposes of assessing whether the proposed action is admissible and well founded:

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Civil Service Tribunal > Summaries of applications

Point 1-A-11 of the Practice Directions to Parties, which entered into force on 01/05/2008, requires summaries of applications to be made available on a special page of the Curia Website.

Under those Directions, all applications must be accompanied by a summary of the dispute, intended to facilitate the drafting of the notice provided for by Article 37(2) of the Rules of Procedure, which will be prepared by the Registry. It should be noted that the posting of the summary on the Curia Website is not taken into account in the calculation of the time limit for the submission of an application to intervene, pursuant to Article 109(1) of the Rules of Procedure.

The summary,
- must not exceed two pages,
- must indicate clearly the case to which it relates, by identifying the parties,
- must be drafted in the language of the case (the language chosen for the application), and
- must also be sent in Word format to the following email address: tfp.greffe@curia.europa.eu

The summary of the case will be available in full in the language of the case via a link on the "Summaries of pending cases" page of this site, and the page will give the number of the case, the names of the parties and the subject matter of the case as determined by the Registry, to enable interested parties to search.

However, the Registry reserves the right to amend the summary if its content is not appropriate.

Registry of the Civil Service Tribunal

Postal address:
L-2925 Luxembourg

Tel: (352) 4303-1
Fax: (352) 4303-4453
E-mail: tfp.greffe@curia.europa.eu

Procedural documents and correspondence relating to cases brought before the Tribunal are to be sent to the Registry of the Tribunal using only the above postal address.

They may also be delivered directly to the Registry offices at 35A avenue J.-F. Kennedy, L 1855 Luxembourg. The Registry is open to the public from 9.00 a.m. to 12 noon and from 2.30 p.m. to 4.30 p.m, Monday to Friday. The offices of the Registry are closed on Friday afternoons during the judicial vacations. Outside the Registry's opening hours, procedural documents may be delivered to the security guards present round the clock at the entrances to the 'Thomas More' and 'Erasmus' buildings of the Court of Justice, at boulevard Konrad Adenauer and rue du Fort Niedergrünewald respectively, both Luxembourg-Kirchberg.

The prior transmission of a procedural document by fax or by electronic mail is taken into consideration for the purpose of the time-limits for taking steps in proceedings only if it is a copy of the signed original and provided that the original itself is received at the Registry no later than ten days afterwards.

Transmission by electronic mail of messages larger than 4Mb causes technical difficulties. In order to ensure the correct transmission of such messages, you are advised to send the scanned document in several parts or to send it by fax.

See also:

- Rules of Procedure of the Civil Service Tribunal
- Instructions to the Registrar of the Civil Service Tribunal
- Practice directions to parties on judicial proceedings before the Civil Service Tribunal
- Model Application
- Checklist: Application
- Checklist: Defence
- Checklist: Hearing of oral argument
- Legal aid application form
- Summaries of applications

Draft amendments and discussion documents

- DRAFT AMENDMENTS TO THE RULES OF PROCEDURE OF THE COURT OF JUSTICE (31.1.2008)

- DRAFT DECISION OF THE COUNCIL amending the Rules of Procedure of the Court of Justice of the European Communities as regards the rules governing the language arrangements applicable to the review procedure (31.1.2008)

DRAFT AMENDMENTS
TO THE RULES OF PROCEDURE
OF THE COURT OF JUSTICE

Article 225(2) of the EC Treaty and Article 140a(2) of the EAEC Treaty provide that, where the Court of First Instance has given a ruling on an action brought against a decision of a judicial panel set up under Article 225a of the EC Treaty or Article 140b of the EAEC Treaty, the decision of the Court of First Instance ('the decision on appeal') may, exceptionally, be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

Article 225(3) of the EC Treaty and Article 140a(3) of the EAEC Treaty provide, in similar terms, that, where the Court of First Instance has given a ruling on questions referred for a preliminary ruling under Article 234 of the EC Treaty or Article 150 of the EAEC Treaty in specific areas laid down by the Statute, the decision of the Court of First Instance may, exceptionally, be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

Articles 62 to 62b of the Statute specify the conditions and limits applying to the review by the Court of Justice of decisions on appeal and of decisions on references for a preliminary ruling delivered by the Court of First Instance and lay down certain detailed rules governing the review procedure.

Article 62 of the Statute thus provides that the First Advocate General may, in the month following the delivery of the decision by the Court of First Instance, propose that Court

of Justice review the decision where he considers that there is a serious risk of the unity or consistency of Community law being affected, and that, within one month of receiving the proposal, the Court of Justice is to decide whether or not the decision should be reviewed.

If the Court of Justice decides that a decision should be reviewed, Article 62a of the Statute provides that it is to give a ruling on the questions which are subject to review by means of an urgent procedure on the basis of the file forwarded to it by the Court of First Instance. Those referred to in Article 23 of the Statute and, where the decision to be reviewed is a decision on appeal, the parties to the proceedings before the Court of First Instance, are entitled to lodge statements or written observations relating to the questions which are subject to review within a period prescribed for that purpose. The Court of Justice may decide that there is to be an oral procedure before giving a ruling.

Lastly, Article 62b of the Statute provides essentially that the proposal of the First Advocate General and the decision of the Court of Justice to review a decision of the Court of First Instance are to have suspensory effect where the decision in question is a decision on a reference for a preliminary ruling, but not in cases involving a decision on appeal, and the article specifies the effects of the decision of the Court of Justice on conclusion of the review procedure.

The European Union Civil Service Tribunal was established by Council Decision (2004/752/EC, Euratom) of 2 November 2004 (OJ 2004 L 333, p. 7) and took up its duties on 12 December 2005. Accordingly, appeals against the decisions of the Civil Service Tribunal may already be brought before the Court of First Instance.

The purpose of these draft amendments is to insert in the Rules of Procedure, in a new Title IVa to be entitled “Review of decisions of the Court of First Instance”, the provisions necessary to govern the conduct of the review procedure provided for in the above-mentioned provisions of the Treaties and the Statute, together with a number of detailed rules not set out in the Statute. The proposed provisions concern the review of

decisions given by the Court of First Instance both on appeal and on references for a preliminary ruling, although decisions of the latter kind are not yet adopted.

First, it is necessary at an organisational level to determine the formation which, in the month following the proposal of the First Advocate General, is to decide whether or not a decision of the Court of First Instance is to be reviewed (Article 123b).

Secondly, it is necessary to lay down detailed rules governing the arrangements under which the Court of First Instance is to inform the Court of Justice of decisions which may be subject to review (Article 123c).

Thirdly, it is necessary to lay down detailed rules governing the submission of a proposal of the First Advocate General that a decision of the Court of First Instance should be reviewed, the detailed rules governing any decision whether or not to act on such a proposal, and the detailed rules governing the provision of information to the Court of First Instance, the parties and, where appropriate, the national court (Article 123d).

Fourthly, it is necessary to lay down detailed rules governing the urgent procedure referred to in Article 62a of the Statute as regards the service of the decision of the Court of Justice on the parties and other persons having an interest, the period for the presentation by those parties and other persons of any statements or written observations and the subsequent stages of the procedure leading to the adoption of the decision of the Court of Justice on the questions subject to review (Article 123e).

Lastly, it is appropriate to specify the rules governing the language arrangements applicable to the review procedure, and a draft decision of the Council amending the Rules of Procedure of the Court of Justice for that purpose has been sent to the Council (Article 123a).

THE COURT,

Having regard to the Treaty establishing the European Community, and in particular the sixth paragraph of Article 223 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the sixth paragraph of Article 139 thereof,

Whereas:

(1) Article 225(2) and (3) of the EC Treaty and Article 140a(2) and (3) of the EAEC Treaty provide that there is to be a procedure for the review by the Court of Justice of decisions of the Court of First Instance where that Court has ruled on an appeal brought against a decision of a judicial panel or has given a ruling on questions referred for a preliminary ruling in specific areas laid down by the Statute;

(2) The conditions and limits applying to the review procedure have been laid down in Articles 62 to 62b of the Protocol on the Statute of the Court of Justice;

(3) The Rules of Procedure should regulate the conduct of the review procedure and lay down certain detailed rules to govern it.

With the Council's approval given on …….,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The Rules of Procedure of the Court of Justice of the European Communities of 19 June 1991 (OJ L 176, 4.7.1991, p. 7, with corrigendum in OJ L 383, 29.12.1992, p.

117), as amended on 21 February 1995 (OJ L 44, 28.2.1995, p. 61), 11 March 1997 (OJ L 103, 19.4.1997, p. 1, with corrigendum in OJ L 351, 23.12.1997, p. 72), 16 May 2000 (OJ L 122, 24.5.2000, p. 43), 28 November 2000 (OJ L 322, 19.12.2000, p. 1), 3 April 2001 (OJ L 119, 27.4.2001, p. 1), 17 September 2002 (OJ L 272, 10.10.2002, p. 24, with corrigendum in OJ L 281, 19.10.2002, p. 24), 8 April 2003 (OJ L 147, 14.6.2003, p. 17), 19 April 2004 (OJ L 132, 29.4.2004, p. 2), 20 April 2004 (OJ L 127, 29.4.2004, p. 107), 12 July 2005 (OJ L 203, 4.8.2005, p. 19), 18 October 2005 (OJ L 288, 29.10.2005, p. 51) and 18 December 2006 (OJ L 386, 29.12.2006, p. 44) are hereby amended as follows:

1. The following shall be inserted after Article 123:

"TITLE IVA

REVIEW OF DECISIONS OF THE COURT OF FIRST INSTANCE

[Article 123a]

It is intended to make provision in this article for the language arrangements which are to apply to the review procedure. Article 64 of the Statute of the Court of Justice provides that the rules governing the language arrangements applicable at the Court of Justice may be amended only in accordance with the procedure laid down for amending the Statute, that is to say, by decision of the Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission. A draft decision of the Council amending the Rules of Procedure of the Court of Justice and inserting a new Article 123a in those Rules has been sent to the Council at the same time as this draft.

Article 123b

A special Chamber shall be set up for the purpose of deciding, in accordance with Article 123d, whether a decision of the Court of First Instance is to be reviewed in accordance with Article 62 of the Statute.

That Chamber shall be composed of the President of the Court and of four of the Presidents of the Chambers of five Judges designated according to the order of precedence laid down in Article 6 of these Rules.

It appears indispensable that the decision as to whether or not a proposal of the First Advocate General is to be acted upon should be taken by a restricted formation of five Judges.

The Statute provides that such a decision must be taken within one month of receipt of the proposal of the First Advocate General, and that proposal must itself be made within one month of delivery of the decision of the Court of First Instance. Under the Court of Justice's normal procedures, the decision would fall to be taken by a formation of the Court to which the general meeting had referred the decision on the basis of a preliminary report drawn up by the Judge-Rapporteur. Given the time-limits imposed by the Statute, however, it does not appear realistic to seek to operate such a procedure, which would involve all the Members of the Court.

For that purpose, it is proposed to establish a special Chamber composed of the President of the Court and four Presidents of Chambers of five Judges, four being the current number of Chambers of five Judges. The Presidents of the Chambers of five Judges are elected for three years, take part in all the decisions of their Chamber and

take part with the President of the Court in all the decisions of the Grand Chamber. They accordingly constitute a stable formation, fully familiar with the case-law of the Court.

Article 123c

As soon as the date for the delivery of a decision to be given under Article 225(2) or (3) of the EC Treaty or Article 140a(2) or (3) of the EAEC Treaty is fixed, the Registry of the Court of First Instance shall inform the Registry of the Court of Justice. The decision shall be communicated immediately upon its delivery.

It is proposed to provide that the Registry of the Court of First Instance is to inform the Registry of the Court of Justice as soon as the date of delivery of a decision which may be subject to review is fixed. That information will allow the First Advocate General to start his consideration of the case forthwith on the basis, in particular, of the decision of the judicial panel, in the case of a decision delivered by the Court of First Instance on appeal.

It is proposed to provide also that the Registry of the Court of First Instance should communicate a copy of the decision in question, which may be an order disposing of the case, not delivered in open Court.

Article 123d

The proposal of the First Advocate General to review a decision of the Court of First Instance shall be forwarded to the President of the Court of Justice and notice of that transmission shall be given to the Registrar at the same time. Where the decision of the Court of First Instance has been given under Article 225(3) of the EC Treaty or Article 140a(3) of the EAEC Treaty, the Registrar shall forthwith inform the Court of First Instance, the national court and the parties to the proceedings before the Court of First Instance of the proposal to review.

As soon as the proposal to review has been received, the President shall designate the Judge-Rapporteur from among the Judges of the Chamber referred to in Article 123b.

That Chamber, acting on a report from the Judge-Rapporteur, shall decide whether the decision of the Court of First Instance is to be reviewed. The decision to review the decision of the Court of First Instance shall indicate the questions which are to be reviewed.

Where the decision of the Court of First Instance has been given under Article 225(2) of the EC Treaty or Article 140a(2) of the EAEC Treaty, the Court of First Instance and the parties to the proceedings before it shall forthwith be informed by the Registrar of the decision of the Court of Justice to review the decision of the Court of First Instance.

Where the decision of the Court of First Instance has been given under Article 225(3) of the EC Treaty or Article 140a(3) of the EAEC Treaty, the Court of First Instance, the national court and the parties to the proceedings before that Court shall forthwith be informed by the Registrar of the decision of the Court of Justice as to whether or not the decision of the Court of First Instance is to be reviewed.

Notice of a decision to review the decision of the Court of First Instance shall be given in the *Official Journal of the European Union*.

The proposed article concerns the first stage of the review procedure, that is to say, the detailed rules relating to the submission of a proposal of the First Advocate General and those relating to a decision by the Court of Justice as regards that proposal. For that first stage of the procedure, which is internal to the Court, Article 62 of the Statute imposes mandatory time-limits: the proposal of the First Advocate General must be made within one month of delivery of the decision by the Court of First Instance and the decision of the Court of Justice on the proposal must be made within one month of receiving the proposal. In order for those time-limits to be met, the procedure must be straightforward.

It is therefore proposed to provide that the First Advocate General is to forward his proposal to review a decision of the Court of First Instance directly to the President of the Court of Justice. On receipt of that proposal, the President will designate a Judge-Rapporteur from among the Presidents of Chamber forming part of the Chamber referred to in Article 123b and will forward the proposal to him. As soon as possible thereafter, the Judge-Rapporteur will prepare a report on that proposal, proposing the action to be taken, and will submit the report to that Chamber.

It is necessary, however, to provide at this stage of the procedure for certain information to be made available to the courts and the parties concerned by the review procedure.

In cases involving a decision of the Court of First Instance on a reference for a preliminary ruling, under the second paragraph of Article 62b of the Statute, both the proposal of the First Advocate General to review the decision and the decision of the Court of Justice to undertake a review have a suspensory effect on the answers given by the Court of First Instance to the questions referred. It is accordingly necessary to inform the Court of First Instance and the national court which made the reference for a preliminary ruling, as well as the parties to the proceedings before the national court, of

a proposal for review by the First Advocate General (the first paragraph of the proposed article) and of the decision taken by the Court of Justice in relation to that proposal, whatever its terms may be (the fifth paragraph of the proposed article). Because of its suspensory effect, the decision of the Court of Justice to initiate the review procedure should also be publicised by way of a notice in the Official Journal.

Where, by contrast, a decision of the Court of First Instance on appeal is involved, the proposal of the First Advocate General and the decision of the Court of Justice to review a decision of the Court of First Instance do not, in terms of the first paragraph of Article 62b of the Statute, have suspensory effect. In that case, it appears appropriate merely to inform the Court of First Instance and the parties to the proceedings before it of the decision of the Court of Justice to review the decision of the Court of First Instance (the fourth paragraph of the proposed article). Notification of that decision, which starts the period for lodging statements or written observations, can be given only once the requisite translations of the decision have been prepared (see the first paragraph of Article 123e).

Article 123e

The decision to review a decision of the Court of First Instance shall be notified to the parties and other persons referred to in the second paragraph of Article 62a of the Statute. The notification to the Member States, and the States, other than the Member States, which are parties to the EEA Agreement, as well as the EFTA Surveillance Authority, shall be accompanied by a translation of the decision of the Court of Justice in accordance with the provisions of the first and second subparagraphs of Article 104(1) of these Rules. The decision of the Court of Justice shall also be communicated to the Court of First Instance and, in cases involving a decision given by that Court under Article 225(3) of the EC Treaty or Article 140a(3) of the EAEC Treaty, to the national court concerned.

Within one month of the notification referred to in the preceding paragraph, the parties and other persons to whom the decision of the Court of Justice has been notified may lodge statements or written observations on the questions which are subject to review.

As soon as a decision to review a decision of the Court of First Instance has been taken, the First Advocate General shall assign the review to an Advocate General.

After designating the Judge-Rapporteur, the President shall fix the date on which the latter is to present a preliminary report to the general meeting of the Court. That report shall contain the recommendations of the Judge-Rapporteur as to whether any preparatory steps should be taken, as to the formation of the Court to which the review should be assigned and as to whether a hearing should take place, and also as to the manner in which the Advocate General should present his views. The Court shall decide, after hearing the Advocate General, what action to take upon the recommendations of the Judge-Rapporteur.

Where the decision of the Court of First Instance which is subject to review was given under Article 225(2) of the EC Treaty or Article 140a(2) of the EAEC Treaty, the Court of Justice shall make a decision as to costs."

The article proposed here concerns the second stage of the review procedure, that is to say, the procedure following a decision of the Court of Justice to review a decision of the Court of First Instance. This part of the procedure is no longer internal to the Court and involves the participation, in particular, of the Member States and the institutions.

In accordance with Article 62a of the Statute, the decision to initiate the review procedure must thus be notified to the persons referred to in Article 23 of the Statute, that is to say, the Member States, the European Parliament, the Council and the Commission, the States, other than the Member States, which are parties to the EEA Agreement and the EFTA Surveillance Authority, together with the parties to the proceedings before the Court of First Instance in cases involving a decision on appeal, and the parties to the main proceedings in cases involving a decision given on a reference for a preliminary ruling. In order to facilitate the participation of the Member States in the review procedure, it is proposed to provide that notification of the decision to review is to be accompanied by translations of that decision in the same way as is currently the case with the notification of a reference for a preliminary ruling.

Article 62a of the Statute provides that the Court of Justice is to give a ruling on the review by means of an urgent procedure and it is proposed to specify a period of one month for the submission of statements or written observations.

As regards the formation of the Court called upon to give a ruling on the questions which are subject to review, there may be some circumstances in which this should be the Full Court, notwithstanding the difficulty of addressing complex situations in such a large formation. In other circumstances, however, it would be appropriate for a smaller formation, such as the Grand Chamber, or a Chamber of three or five Judges, to decide

the legal points at issue. For those reasons, it is proposed to retain the normal system of assigning cases to a formation of the Court and to provide that the formation having jurisdiction to give a ruling on the questions which are subject to review will be determined by the Court in general meeting, acting on a proposal from the Judge-Rapporteur and after hearing the Advocate General.

With respect to the role of the Advocate General in the review procedure, two partly contradictory requirements must be reconciled, namely, first, the fact that that procedure is initiated when there is, in the Court's view, a serious risk of the unity or consistency of Community law being affected – which, because of the very existence of such a risk, could mean that the Advocate General should deliver a formal Opinion in every case – and, secondly, the need to give a ruling on the questions which are subject to review under an urgent procedure which, in some cases, might leave insufficient time for the delivery of a formal Opinion at a hearing. For those reasons, it is proposed to incorporate a degree of flexibility into the provision and to leave it to the Court in general meeting, acting on a proposal from the Judge-Rapporteur and after hearing the Advocate General, to decide in each case whether an Opinion should be delivered or whether the Advocate General should present his views in closed session.

Lastly, it is appropriate to provide that, where the decision for review is a decision on appeal, the Court of Justice should make a decision as to costs.

2. Article 123a shall become Article 123f and Article 123b shall become Article 123g.

The provision is necessary because of the insertion of the new provisions as Articles 123a to 123e.

Article 2

These amendments to the Rules of Procedure, which are authentic in the languages referred to in Article 29(1) of these Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the first day of the second month following their publication.

DRAFT
DECISION OF THE COUNCIL

Amending the Rules of Procedure of the Court of Justice of the European Communities as regards the rules governing the language arrangements applicable to the review procedure

Article 225(2) and (3) of the EC Treaty and Article 140a(2) and (3) of the EAEC Treaty provide for an exceptional review procedure by the Court of Justice of decisions of the Court of First Instance where the latter has given a ruling on actions brought against a decision of a judicial panel or has given a ruling on questions referred for a preliminary ruling in specific areas laid down by the Statute of the Court of Justice.

The conditions and limits applying to the review procedure are laid down by Articles 62 to 62b of the Statute of the Court of Justice.

The conduct of that procedure, and some of the relevant detailed rules, including in particular those governing the applicable language arrangements, must be specified in the Rules of Procedure.

Article 64 of the Statute provides that the rules governing the language arrangements applicable at the Court of Justice may be amended only in accordance with the procedure laid down by the Treaties for amending the Statute, that is to say, by decision of the Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission.

The object of the proposed Council Decision is to insert a provision in the Rules of Procedure of the Court of Justice relating to the use of languages in the review procedure.

THE COUNCIL OF THE EUROPEAN UNION

Having regard to Article 64 of the Protocol on the Statute of the Court of Justice,

In accordance with the procedure laid down in the second paragraph of Article 245 of the Treaty establishing the European Community and the second paragraph of Article 160 of the Treaty establishing the European Atomic Energy Committee,

Having regard to the request of the Court of Justice of ……

Having regard to the opinion of the European Parliament of ……..

Having regard to the opinion of the Commission of ……..

Whereas the Rules of Procedure should specify certain detailed rules governing the review procedure laid down in Article 225(2) and (3) of the Treaty establishing the European Community and Article 140a(2) and (3) of the Treaty establishing the European Atomic Energy Committee, the principles governing which are set out in Articles 62 to 62b of the Protocol on the Statute of the Court of Justice, and, in particular, should lay down the detailed rules governing the language arrangements applicable to that procedure.

HAS DECIDED AS FOLLOWS

Article 1

The Rules of Procedure of the Court of Justice of the European Communities of 19 June 1991 (OJ L 176, 4.7.1991, p. 7, with corrigendum in OJ L 383, 29.12.1992, p. 117), as amended on 21 February 1995 (OJ L 44, 28.2.1995, p. 61), 11 March 1997 (OJ L 103, 19.4.1997, p. 1, with corrigendum in OJ L 351, 23.12.1997, p. 72), 16 May 2000 (OJ L 122, 24.5.2000, p. 43), 28 November 2000 (OJ L 322, 19.12.2000, p. 1), 3

April 2001 (OJ L 119, 27.4.2001, p. 1), 17 September 2002 (OJ L 272, 10.10.2002, p. 24, with corrigendum in OJ L 281, 19.10.2002, p. 24), 8 April 2003 (OJ L 147, 14.6.2003, p. 17), 19 April 2004 (OJ L 132, 29.4.2004, p. 2), 20 April 2004 (OJ L 127, 29.4.2004, p. 107), 12 July 2005 (OJ L 203, 4.8.2005, p. 19), 18 October 2005 (OJ L 288, 29.10.2005, p. 51) and 18 December 2006 (OJ L 386, 29.12.2006, p. 44) are hereby amended as follows:

1. After Article 123, there shall be inserted in the Title headed "Title IVa: Review of Decisions of the Court of First Instance" an Article 123a, to be worded as follows:

"Article 123a

Without prejudice to the arrangements laid down in Article 29(2)(b) and (c) and the fourth and fifth subparagraphs of Article 29(3) of these Rules, where, in accordance with the second paragraph of Article 62 of the Statute, the Court decides to review a decision of the Court of First Instance, the language of the case shall be the language of the decision of the Court of First Instance which is subject to review."

The proposed provision is similar to the provision set out in Article 110 of the Rules of Procedure, which relates to appeals against decisions of the Court of First Instance.

Article 2

This decision shall enter into force on the first day of the second month following its publication.