The Swedish Competition Law was modelled on EC competition rules (Articles 81 and 82 of the Treaty of Amsterdam) and is to be interpreted on the basis of EC legislation and the case-law of the Court of Justice, while taking account of national conditions to some degree.

The matter has now been settled in Sweden by the judgment of the Market Court (there is no provision for appeal). However, does the Commission consider that publishers should be allowed to print recommended retail prices on books and is it acceptable, in the Commission's view, for the Member States to apply Articles 81 and 82 differently in this case?

Answer given by Mr Monti on behalf of the Commission

(14 June 2002)

The Commission takes the view that recommended retail prices printed on books may constitute, subject to the particular circumstances of the case, a restriction of competition within the meaning of Article 81(1) of the EC Treaty (1). However, the Commission has repeatedly made it clear — in line with the case law, in particular, the 'Leclerc' Court's judgment of 10 January 1985 (2) — that it does not object to national book price fixing based on agreements as long as they do not appreciably affect trade between Member States (3). On the other hand, national price fixing agreements might well violate the national competition rules since the latter — even if shaped in line with Articles 81 and 82 of the EC Treaty — do not foresee the criterion of affectation of intra-Community trade. This is also true for Article 6 of the Swedish Competition Act. However, in so far as the national courts directly apply Articles 81 and 82 of the EC Treaty to national book price fixing agreements they are invariably bound by the relevant case law of the European Court of Justice.

The application of national competition rules to book price fixing agreements may well differ from one Member State to the other. In this context, it is important to emphasise that the Swedish Market Court appears to have based its judgment exclusively on Article 6 of the Swedish Competition Act rather than Article 81 of the EC Treaty.

More importantly, potential differences in the application of national competition law to printed book price recommendations also flow from the respective Member States' acceptance or rejection of national book price maintenance systems. The majority of the Member States have adopted laws on nation-wide book price fixing or explicitly allowed publishers to agree on fixed retail prices for books for essentially cultural reasons. For instance, the French 'Loi Lang' on fixed book prices even explicitly foresees an obligation by the publishers clearly to set out the retail price on the book cover, whereas the German competition rules contain an exception according to which publishers may agree on fixed retail prices (including the printing of that price on the book). Thus, only some Member States, such as Sweden, in which no price maintenance system exists, apply their competition rules to book price fixing agreements.

(3) See recently Directorate General Competition’s press release of 22 March 2002, IP/02/461.

(2003/C 28 E/087) WRITTEN QUESTION P-1182/02
by Marco Cappato (NI) to the Commission

(22 April 2002)

Subject: Worrying political situation on the island of Madagascar

Following the presidential election of 16 December 2001, which was called by Admiral Didier Ratsiraka, President of Madagascar since 1975, there have been reports from different sources of rigging of polls and falsification of returns from polling stations.
The opposition party has formally called for returns to be checked by the Madagascan High Constitutional Court and this request has been supported by the OAU (Organisation of African Unity). Representatives of AREMA, Ratsiraka’s party, have rejected this request on the pretext that such checks would entail excessively lengthy procedures.

On 22 February 2002 the people of Madagascar declared Marc Ravalomanana new President of the Republic. In response to this, Admiral Didier Ratsiraka placed the capital, Antananarivo, under siege and blocked off all access routes.

What political and diplomatic measures has the European Union taken to seek to resolve the serious political crisis which has arisen on the island?

Is the Commission prepared to send to Madagascar a delegation of European observers who, in cooperation with OAU officials, could set up a tripartite commission comprising the EU, the OAU and Madagascan political forces to check the results of the December 2001 elections with a view to restoring democratic law and order on the island?

Answer given by Mr Nielson on behalf of the Commission
(28 May 2002)

The Commission is monitoring developments in Madagascar closely. It deplores the violence that has occurred in the aftermath of the December 2001 presidential election and has supported the mediation efforts of the Organisation of African Unity and of the United Nations to encourage the parties involved to enter into a democratic dialogue and to demonstrate moderation.

The Union has welcomed, in its declaration of 22 April 2002, the agreement signed by the two candidates in Dakar on 18 April 2002.

The two candidates agreed to a transitional reconciliation government and to a referendum, to be organised within six months with the help of the United Nations, the Organisation of African Unity (OAU), the Union and the international community, if no clear winner emerged from a recount of votes cast in the December 2001 presidential poll.

The Commission deplores that, notwithstanding the Dakar agreement, the confrontation continues. Marc Ravalomanana, declared on 29 April 2002 by the High Constitutional Court the winner of last December’s disputed election after a recount, assumed the presidency on 6 May 2002, however the incumbent President rejected the High Constitutional Court ruling.

The Union declared on 8 May 2002 to remain convinced that only an agreement between the parties, and national reconciliation, will make it possible to resolve the present crisis and that the Dakar agreement remains the appropriate framework for the achievement of a solution.

The Union is prepared to offer political and technical support for the implementation of the objectives of the Dakar agreement in order to restore civilian peace and the principle of democracy and to find a political solution to the crisis. In this respect it welcomes the initiative of President Wade to organise a new meeting between the two leaders.

A solution of the crisis will enable the Union to continue implementing its assistance and co-operation programmes.

(2003/C 28E/088)

WRITTEN QUESTION P-1183/02
by María Izquierdo Rojo (PSE) to the Commission
(22 April 2002)

Subject: Amina Lawal sentenced to death by stoning

What information has the Commission concerning Amina Lawal, who has been accused of adultery and sentenced by an Islamic court in Katsina State (Nigeria) to death by stoning?