

JUDGMENT OF THE COURT
OF 22 NOVEMBER 1978¹

Lothar Mattheus
v Doego Fruchtimport und Tiefkühlkost eG
(preliminary ruling requested
by the Amtsgericht Essen)

Case 93/78

1. *References for a preliminary ruling — Respective powers of the Court and of the national courts — Division by the Treaty — Mandatory nature (EEC Treaty, Article 177)*
2. *EEC — Admission of new Member States — Conditions for admission — Definition by the authorities referred to in the Treaty (EEC Treaty, Article 237)*

1. The division of powers between the Court of Justice and the courts of the Member States provided for in Article 177 of the EEC Treaty is mandatory; it cannot be altered, nor can the exercise of those powers be impeded, in particular by agreements between private persons tending to compel the courts of the Member States to request a preliminary ruling, by depriving them of the independent exercise of the discretion which they are given by the second paragraph of Article 177.
2. Article 237 of the EEC Treaty lays down a precise procedure encompassed within well-defined limits for the admission of new Member States, during which the conditions of accession are to be drawn up by the authorities indicated in the article itself; thus the legal conditions for such accession remain to be defined within the context of that procedure without its being possible to determine the context judicially in advance.

In Case 93/78

REFERENCE to the Court under Article 177 of the EEC Treaty by the Amtsgericht Essen for a preliminary ruling in the action pending before that court between

LOTHAR MATTHEUS, merchant, Windeck/Opperzau,

¹ — Language of the Case: German.