

## Case C-266/96

Corsica Ferries France SA

v

Gruppo Antichi Ormeggiatori del Porto di  
Genova Coop. arl and Others

(Reference for a preliminary ruling  
from the Tribunale di Genova)

(Freedom to provide services — Maritime transport — Undertakings  
holding exclusive rights — Mooring services for vessels in ports —  
Compliance with the competition rules — Tariffs)

Opinion of Advocate General Fennelly delivered on 22 January 1998 ..... I - 3952  
Judgment of the Court (Fifth Chamber), 18 June 1998 ..... I - 3981

### Summary of the Judgment

1. *Preliminary rulings — Reference to the Court — Procedure not involving an inter partes hearing — Possibility of making a reference — Need to provide the Court with sufficient information regarding the factual and legal context*  
(EC Treaty, Art. 177)
2. *Preliminary rulings — Jurisdiction of the Court — Limits — Question manifestly irrelevant*  
(EC Treaty, Art. 177)

3. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — National rules requiring maritime transport undertakings established in another Member State to use the services of local mooring groups — Whether permissible — Conditions (EC Treaty, Art. 30)*
4. *Competition — Community rules — Obligations of the Member States — National rules conferring on undertakings established in that State an exclusive right to provide a mooring service — Compatibility — Conditions (EC Treaty, Arts 5, 85, 86 and 90)*
5. *Transport — Maritime transport — Freedom to provide services — National rules requiring maritime transport undertakings established in another Member State to use the services of local mooring groups — Whether permissible — Conditions (EC Treaty, Arts 56 and 59; Council Regulation No 4055/86)*

1. Article 177 of the Treaty does not make reference to the Court subject to there having been an *inter partes* hearing in the proceedings in the course of which the national court refers a question for a preliminary ruling. However, in the context of a procedure where there has been no *inter partes* hearing, it is equally necessary that the national court give the Court a detailed and complete account of the factual and legal context.

that the interpretation of Community law sought by that court bears no relation to the actual nature of the case or the subject-matter of the main action.

2. In the context of references for a preliminary ruling under Article 177 of the Treaty, it is for the national courts alone, before which the proceedings are pending and which must assume responsibility for the judgment to be given, to determine, having regard to the particular features of each case, both the need for a preliminary ruling to enable them to give judgment and the relevance of the questions which they refer to the Court. A request for a preliminary ruling from a national court may be rejected only if it is quite obvious
3. Article 30 of the Treaty does not preclude legislation of a Member State requiring shipping companies which are established in other Member States and whose vessels make port stops in the first-mentioned Member State to have recourse to the services of local mooring groups holding exclusive concessions, at a charge higher than the actual cost of the service provided, where such legislation makes no distinction according to the origin of the goods transported, its purpose is not to regulate trade in goods with other Member States and the restrictive effects which it might have on the free movement of goods are too uncertain and indirect for the obligation which it imposes to be

regarded as being capable of hindering trade between Member States.

4. The combined provisions of Articles 5, 85, 86 and 90(1) of the Treaty do not preclude legislation of a Member State

- which confers on undertakings established in that State an exclusive right to provide a mooring service,
- which requires the service to be used at a price which, in addition to the actual cost of the service provided, includes a supplement to cover maintenance of a universal mooring service, and
- which provides for tariffs that vary from one port to another in order to take into account each port's particular characteristics,

where the undertakings referred to have in fact been entrusted by the Member

State with managing a service of general economic interest within the meaning of Article 90(2) of the Treaty, and the other conditions for applying that provision are satisfied, and where there is no agreement, decision or concerted practice within the meaning of Article 85 of the Treaty.

5. The provisions of Regulation No 4055/86, applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, and Article 59 of the Treaty do not preclude legislation of a Member State which requires shipping companies established in another Member State, when their vessels make port stops in the first Member State, to have recourse to the services which local mooring groups holding exclusive concessions supply for a charge where, first, such legislation contains no overt or covert discrimination contrary to those provisions and, second, even if it constituted an impediment to freedom to provide mooring services or freedom to provide maritime transport services, in the former case, the conditions for application of Article 90(2) would be satisfied and, in the latter case, the legislation would be justified by considerations of public security within the meaning of Article 56 of the Treaty.