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VOLUME I

**EIGHTEENTH ANNUAL REPORT ON MONITORING THE
APPLICATION OF COMMUNITY LAW (2000)**

INTRODUCTION

SITUATION SECTOR BY SECTOR

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Each year the European Commission draws up a report on the monitoring of the application of Community law, in response to requests made by the European Parliament (Resolution of 9 February 1983) and the Member States (point 2 of Declaration No 19 annexed to the Treaty signed at Maastricht on 7 February 1992). The report also responds to the requests expressed by the European Council or the Council in relation to specific sectors.

1. INTRODUCTION

The task of monitoring the application of Community law is vital in terms of the rule of law generally, but it also helps to make the principle of a Community based on the rule of law a tangible reality for Europe's citizens and economic operators.

The importance of complaints in the process of detecting infringements (table 1.1) is clear evidence of the trust placed by the public in the Commission's exercise of this basic function.

It is also evidence of the Commission's concern to give complainants an important role in the infringement procedure, in which they previously played no role at all by reason of the nature of the procedure as organised by Article 226 of the Treaty establishing the European Community (and Article 141 of the Euratom Treaty). This status for complainants took the practical form of the following procedures: registration of complaint, respect for confidentiality, information for the complainant and possibility of making views known before a decision is taken to close the case.

The Commission has embarked on the codification of the current administrative rules to ease contacts with complainants.

But the primary objective of the infringement procedure is still, as before, to cause the offending Member State to come into line with Community law. Nor does it have any effect on the discretionary power that the Commission is acknowledged to have by the Court of Justice as regards commencing infringement proceedings.

This is all the more important as the nature of the procedure may sometimes leave complainants feeling frustrated: they, of course, are aiming for a different result – the satisfaction of their individual interests which they see as threatened by the Member State's alleged unlawful conduct.

The Commission is therefore constantly at pains to remind complainants that if they wish to obtain compensation for the loss they sustain, they must proceed in the national courts. Since the national courts are the first stage in the Community legal order, they are the best placed to hear and determine disputes as to specific individual cases of violation of Community law. While such cases can constitute genuine infringements of Community law, it is extremely difficult to come up with a solution that will satisfy the complainant in infringement proceedings brought by the Commission. It will always be up to the Member State and the national courts to remedy the effects of the infringement.

Consequently, while paying special attention to complainants, whose procedural rights are expressly acknowledged at the pre-litigation stage, the Commission endeavours to combine proceedings wherever it can in the interests of uniform monitoring of Community law and to give priority to situations where there is evidence of a recurring tendency of the relevant Member State to violate Community law. In so doing it discharges its fundamental responsibility for defending the Community legal order under Article 211 of the EC Treaty.

The eighteenth report on monitoring the application of Community law is the first produced since the Commission was reorganised. It fully reflects the reorganisation, and the layout of this report will thus be more consistent and will better highlight the action taken by the Commission under Articles 226 and 228 of the EC Treaty (Articles 141 and 143 of the Euratom Treaty), as requested by the Resolution of the European Parliament on the sixteenth report.

The Commission endeavours to discharge this vital function of monitoring the application of Community law more and more efficiently by making use of modern communication and management techniques and by simplifying infringement procedures.

The way in which the Commission proceeds against infringements is described in the following ways:

- a statistical overview of the various stages involved in monitoring the application of Community law, comparing the 1999 figures with last year's (point 1.1);
- improvements in the pre-litigation procedure (point 1.2);
- progress in transposing Community directives in the Member States (point 1.3);
- applications for derogations from harmonisation measures – Article 95 of the EC Treaty (point 1.4);
- a graphical overview showing, by Member State, all the infringement procedures commenced or handled by the Commission during the year (point 1.5); and
- an overview of the Commission's use of the penalty procedure of Article 228 of the EC Treaty since the Maastricht Treaty came into force (point 1.6).

1.1. STATISTICS FOR 2000

The statistics for 2000 reflect a degree of stabilisation in the number of complaints registered by the Commission. For the first time, the total is actually down slightly. Even so, complaints are still the privileged means of detecting infringements, though the Commission has also boosted the efficiency of its machinery for monitoring the transposal of directives and is extending its own capacity to detect infringement situations through an increased number of proceedings opened on the basis of its staff's investigations.

Procedures are also being accelerated. The Commission is particularly keen to reduce the time taken to act in infringement proceedings. In the current situation 29 calendar days elapse between the adoption of decisions to issue letters of formal notice or reasoned opinions and their execution in the form of notification to the relevant

Member State. The current delay between a decision to refer a case to the Court of Justice and the actual filing of the action is far more difficult to measure in aggregate terms, since contacts with the Member State tend to intensify at this stage. The primary objective of the infringement procedure being to cause the offending Member State to come into line with Community law, the Commission commonly gives priority to such contacts and suspends implementation of its decision to go to the Court. There is consequently little statistical significance to be attached to the longer time taken to move on.

For the sake of transparency, since January 2001 decisions to issue letters of formal notice and reasoned opinions, to refer cases to the Court of Justice or to close cases have been announced forthwith on the Commission's Europa website. This may actually have a deterrent effect on Member States, who are immediately informed of the Commission's decisions on specific cases.

The statistics for 2000 can be summed up as follows:

- the number of **complaints** registered by the Commission in 2000 is down slightly (by 6.13%) on 1999.

The Commission also opened a far greater number of cases based on its own investigations than in previous years. In 2000 there were 896 such cases: this figure was last seen in 1996. Out of this total of 896, cases commenced on the basis of parliamentary questions (15, as against 16 in 1999) and petitions (5, as against 10 in 1999) are down slightly, which suggests that the Commission's investigation activity is accounting for a rising share of cases concerning the incorrect application of Community law and the conformity of national measures implementing directives.

- **1317 letters of formal notice** were issued in 2000, 22.51% up on the figure of 1075 for 1998. But it must be emphasised that the rise in the total number of letters of formal notice is primarily the result of the rising number of letters of formal notice for failure to notify national measures implementing directives (925 in 2000, up by 31% from 706 in 1999) and the number of letters of formal notice for non-conformity of such measures or for incorrect application of Community law (from 369 in 1999 to 392 in 2000). The latter increase is evidence of the increased effort made by the Commission to check conformity (see point 1.2 regarding the reinforcement of the qualitative approach).

Letters of formal notice based on failure to notify have felt the full effects of automation and modernisation of the procedure based on empowerment decisions. The growing use of computerised instruments and the ongoing development of Asmodée II, the directives database, have substantially cut the time taken to issue letters of formal notice, which are now all within the rule of one month after the transposal deadline provided for by the Commission's internal rules for operation infringement proceedings.

This modernisation in the procedure for formal notice in the event of failure to notify has helped to absorb the delays that built up in 1999, which has certainly helped to increase the number of letters of formal notice served in 2000.

- the number of **reasoned opinions** issued in 2000 was 460, the same as in 1999. This figure reveals the extent to which the procedure has been stabilised since the

delays accumulated in the years preceding 1998 were caught up. As has been seen, the time currently taken to serve this kind of decision averages 29 days. New adaptations to operational procedures relating to infringements are currently under study with a view to cutting the periods substantially.

- the number of **cases referred to the Court of Justice** is down slightly (by 3.5%) in 2000, with 172 decisions against 178 in 1999. At the same time the share accounted for by the cases referred in relation to letters of formal notice also fell from 16.5% in 1999 to 13.05% in 2000. It might be logically deducted, then, that the pre-litigation procedure is becoming more efficient.

- the **speed of handling cases** continued to rise in 2000: 1083 of the 1317 letters of formal notice sent to Member States in 1999 related to infringement procedures commenced in the course of the year, i.e. 82% as against 73% in 1999. But the speed of handling cases fell as regards reasoned opinions, since only 14% of reasoned opinions served in 2000 concerned proceedings commenced in 2000, against 26% in 1999 and 19% in 1998, the number of reasoned opinions remaining stable. this can be explained by the difficulty for the Commission of obtaining the information it needs to pursue the proceedings, and in particular by the delays in responding to letters of formal notice in some Member States.

- at the same time, this efficiency of the pre-litigation procedure was confirmed by the number of **termination** decisions, which stabilised at 1899 in 2000 (1900 in 1999);

- lastly, the Commission's policy of transparency intensified in 2000, chiefly through greater use of the Internet as a means of disseminating information (see below). Since 17 January 2001, the Commission has been announcing all recent decisions to issue letters of formal notice and reasoned opinions, to refer cases to the Court of Justice and to terminate cases on the Europa server, its Secretariat-General's website at:

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm - infractions

All this information is now freely accessible, whereas it used to be available only to the Member State concerned. The Commission issued 178 press releases in 2000.

1.2. IMPROVEMENTS IN THE PRE-LITIGATION PROCEDURE

- The ongoing development of the Asmodée (directives) and infringements databases are an important aspect of this improvement.

The productivity gains from modernisation and the improvement of procedures are essential means of improving the monitoring of the application of Community law in a way that is more quality-oriented and less dependent on the unpredictable aspects of current detection techniques, which proceed primarily from complaints filed by citizens and firms.

For one thing, the level of development of the Asmodée II directives database now makes it possible to systematise the letters giving Member States formal notice for failure to notify national implementing measures with greater reliability.

This systematisation corresponds to the very nature of an infringement in the form of failure to notify, where there is no discretionary room for assessment, since the Member State either has or has not notified measures, and if it has, they are either complete or not.

For another, the infringements database has now become so reliable that it can be used as the basic tool for the pre-litigation procedure; the procedure now operates more smoothly, more transparently and more reliably.

In combination with the tools already established by the Commission to monitor the effect given to its infringement decisions and the effort to achieve minimum standardisation of letters of formal notice and reasoned opinions, the intensified use of the infringements database should further reduce the time needed to give effect to decisions ordering letters of formal notice and reasoned opinions.

- The web-based utilisation of the data available in the infringements and Asmodée II databases should also help to increase the frequency of the information currently put out on the European Communities' Europa server.

In 2000, part of the information given in this report on the transposal of directives was already analysed in the monthly statistics published in the website.

As already stated, since 17 January 2001, the Commission has been announcing all recent decisions to issue letters of formal notice and reasoned opinions, to refer cases to the Court of Justice and to terminate cases on the Europa server. Since this information is freely accessible, it means that complainants and the general public now have information that used to be reserved for the Member State concerned.

While the public has an interest in having access to information such as this, there is no doubt that public dissemination immediately after the Commission has taken its decision will give the national authorities an incentive to come quickly into line with Community law, especially in cases where there is little room for genuine dispute, such as failure to notify.

The Commission is currently wondering how to optimise and expand the information available to the public on the Europa server with an eye to setting up a genuine platform of information on Community law.

1.3. TRANSPOSAL OF DIRECTIVES IN 2000

The table below gives an overall picture of the rate of notification of national measures implementing all the directives applicable on 31 December 2000.

On 31 December 2000 the Member States had on average notified 96.59 % of the national measures needed to implement the directives. This figure represents a sharp improvement in the transposal situation, as it is the highest rate achieved since 1992.

It must be emphasised that the overall improvement is the result of an improvement in the situation in every Member State.

It was presumably encouraged by the acceleration of procedures for giving formal notice in cases of failure to notify in 2000 (see point 1.2).

In particular the efforts of four Member States are noteworthy:

– Belgium and Luxembourg, where the transposal rate is up by nearly 3%; in terms of rankings, Belgium rises from 9th to 3rd. This improvement is without doubt the initial statistical reflection of that Member State's declared intention of reducing the volume of litigation in Community matters, further borne out by the figures below at point 1.5.

– to a lesser but no more negligible extent, Greece and Portugal have improved their transposal rate by 2% or so, catching up some of the delays accumulated in 1999. But Greece is still the Member State with the lowest transposal rate.

	Member State	Directives applicable on 31.12.2000	Directives for which implementing measures have been notified	Percentage notification rate on 31.12.2000	Percentage notification rate on 31.12.1999
1	Denmark	1489	1466	98,46	97,13
2	Spain	1491	1461	97,99	96,47
3	Belgium	1497	1465	97,86	94,88
4	Finland	1496	1461	97,66	95,86
5	Sweden	1490	1452	97,45	95,80
6	Germany	1496	1449	96,86	95,49
7	United Kingdom	1493	1446	96,85	95,41
8	Netherlands	1495	1445	96,66	96,15
9	Austria	1490	1439	96,58	94,94
10	Luxembourg	1491	1434	96,18	93,28
11	Ireland	1488	1427	95,90	94,13
12	Portugal	1497	1433	95,72	93,36
13	Italy	1495	1430	95,65	94,15
14	France	1496	1422	95,05	93,82
15	Greece	1488	1398	93,95	92,02
	EUR total or average	1493	1442	96,59	94,85

The **summary table** at the end of Part 1 of Annex IV to this report shows the detailed transposal rate for each Member State and each sector in 2000.

1.4. APPLICATIONS FOR DEROGATIONS FROM HARMONISATION MEASURES – ARTICLE 95 OF THE EC TREATY

In 2000, only one Member State made a notification under Article 95. By letter dated 21 February 2000 Belgium applied under Article 95(5) of the EC Treaty for authorisation to apply from 1 January 2003 national provisions derogating from Directive 1999/51/EC concerning limitations on the marketing and use of organotin compounds.

Under Article 95(5) and (6) the Commission must approve or reject these national provisions within six months after checking whether:

- they are justified on the basis of new scientific evidence relating to the protection of the environment or the working environment on grounds of a

problem specific to that Member State arising after the adoption of the harmonisation measure,

- they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

The national provisions are implicitly deemed to have been approved if the Commission does not adopt a decision within six months. When considering the justification for measures notified under Article 95(5), the Commission must have regard to the reasons put forward by the Member State. In accordance with the Treaty, the responsibility for proving that these measures are justified lies with the applicant Member State. In the light of an analysis of the reasons put forward by the Belgian authorities, it was not possible to conclude that the application made by them satisfied the tests of Article 95(5). By decision dated 25 July 2000 the Commission accordingly rejected the draft national implementing measures of which it had been notified.

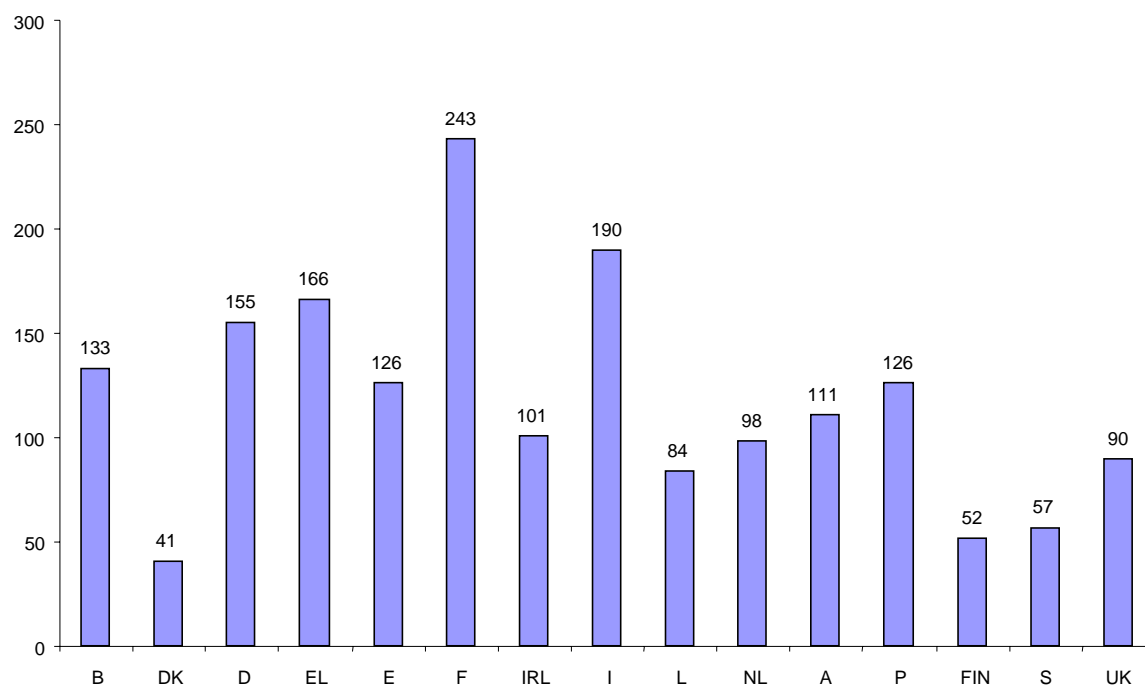
1.5. GRAPHICAL OVERVIEW OF ALL THE INFRINGEMENT PROCEEDINGS COMMENCED OR HANDLED BY THE COMMISSION DURING 2000

The three tables below show the numbers of infringement proceedings in motion on 31 December 2000, at the three separate stages: letter of formal notice, reasoned opinion and referral to the Court of Justice. The same trio – France, Italy and Greece – headed the lists in 2000 as in 1999, at all three stages of the procedure.

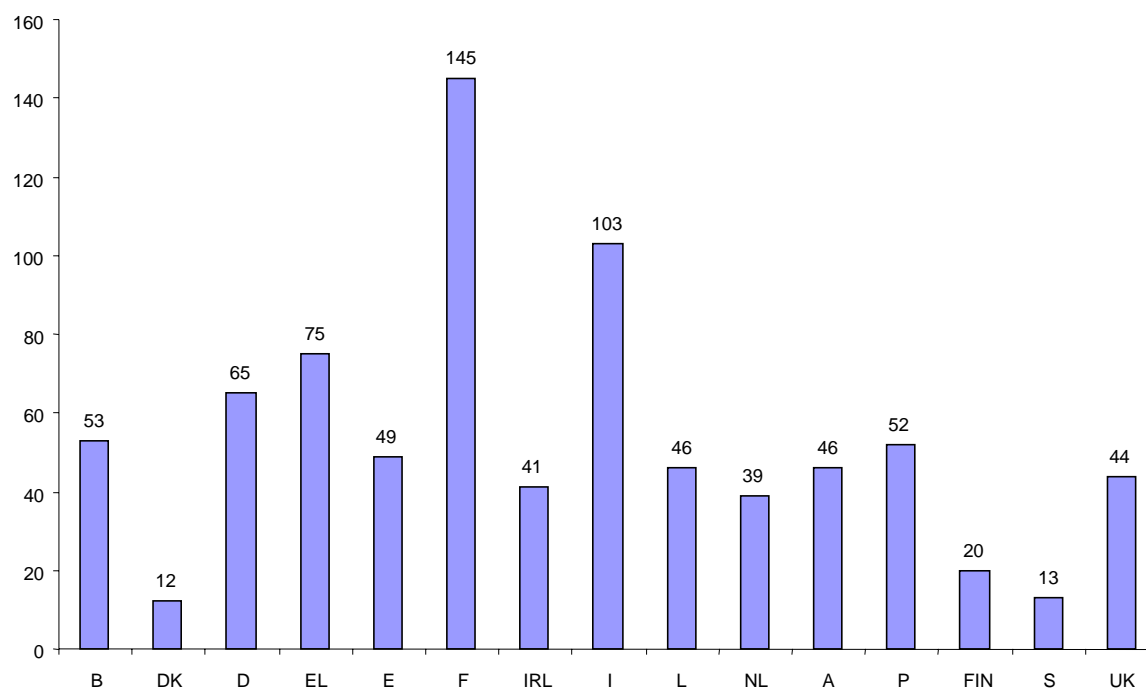
The fourth place in the ranking for letters of formal notice is again occupied by Germany this year, but Germany has moved up the table for reasoned opinions, taking over the fourth place occupied by Belgium in 1999.

But the most spectacular movements are in the ranking by number of cases referred to the Court of Justice, where Germany moves up from 7th to 4th place while Belgium moves exactly the opposite way from 4th to 7th, having only 19 cases referred in 2000 as against 29 in 1999, a fall of 34.48%.

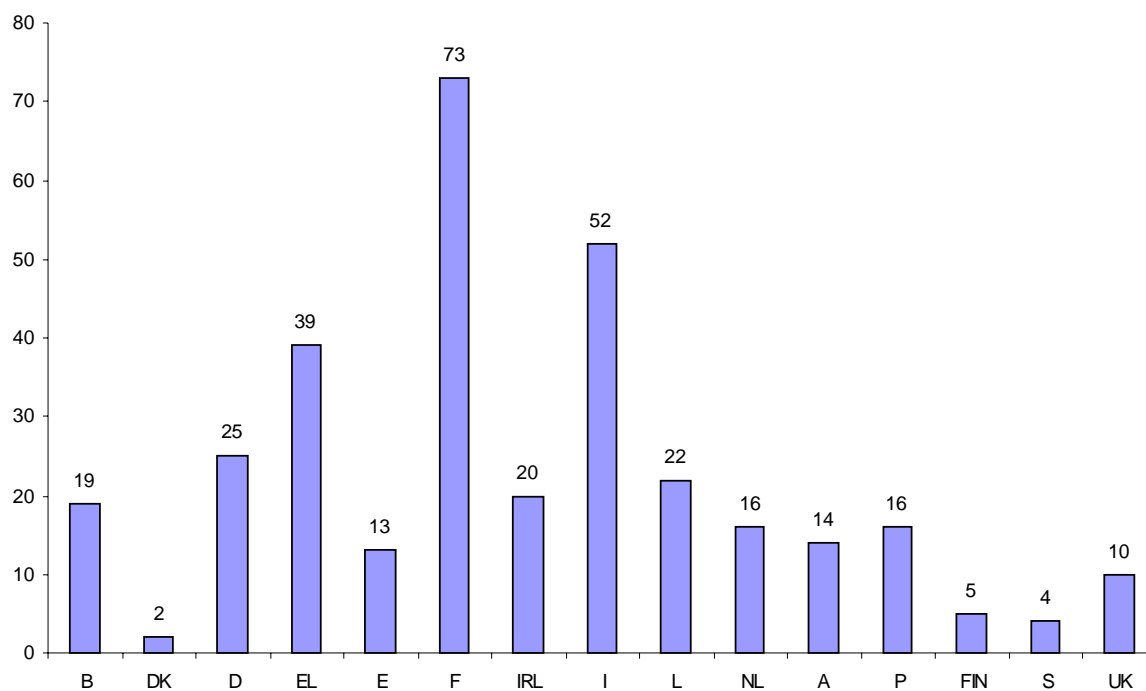
Table 2.3.1. Cases in motion on 31.12.2000 in which infringement proceedings have been commenced, by Member State



**Table 2.3.2. Cases in motion on 31.12.2000 before the Court of Justice,
by Member State**



**Tableau 2.3.3. Dossiers en cours au 31/12/2000, pour lesquels une saisine de la Cour de justice
a été effectuée, par Etat membre (graphique)**



1.6. APPLICATION BY THE COMMISSION OF ARTICLE 228 OF THE EC TREATY (DEVELOPMENTS IN 2000)

In 2000 the Commission adopted three decisions to refer cases to the Court of Justice for a second time with requests for imposition of a penalty payment, against Germany, Italy and the United Kingdom. Two of the cases (D and UK) concern the environment, and the third (I) concerns sea transport. The case against Germany was referred to the Court on 31 January 2001. The case against the United Kingdom is now in preparation. Italy has notified the Commission of implementing measures, which are now under scrutiny.

In 2000 the Court of Justice for the first time ordered a Member State, Greece, to pay a penalty payment in a second action under Article 228 of the EC Treaty. The Court gave judgment on 4 July 2000 (Case C-387/97, not yet reported), ordering the Hellenic Republic to pay into the Commission's EC Own Resources account an amount of €20 000 per day of delay in implementing the measures needed to comply with its judgment of 7 April 1992 (*Commission v Greece*, C-45/91).

It will be remembered that in that case it was held that Greece had failed to discharge its obligation to take the necessary measures for the elimination of toxic and dangerous waste in the Khania region of Crete (in particular, the closure of the illegal dump on the estuary of the Kouroupitos stream), under Council Directives 75/442/EEC of 15 July 1975 on waste and 78/319/EEC of 20 March 1978 on toxic and dangerous waste.

In compliance with the second judgment, the Commission demands payment of a monthly sum corresponding to the daily penalty of €20 000 imposed by the Court from the date on which judgment was given, i.e. 5 July 2000.

By 31 December 2000, Greece had still not adopted the measures required to comply with the judgment given by the Court on 7 April 1992.

Regarding the other cases pending in the Court in 1999, the other three infringement proceedings against Greece were terminated. The Court of Justice authorised the suspension of the proceedings against France concerning night work until 30 April 2001 to allow the French authorities to bring their legislation into line with Community law.

The Commission also decided to stay execution of the second referral of Belgium to the Court to allow continuation of the contacts in motion for a settlement of the question of reimbursement of enrolment charges wrongly ordered and other discriminatory measures against students with Community nationalities other than Belgian.

The case against Luxembourg concerning medical assistance on board vessels was terminated in 2000, when the Member State at last came into line with the Court's judgment of 2 July 1992.

The judgment given against Greece bears witness to the effectiveness of the Article 228 procedure but is none the less preoccupying as the Member State had to have judgment given against it in the first place. Moreover, at the time of writing the infringement situation has still not been cleared up, and the penalty payments are

being regularly paid by Greece into the Commission's EC Own Resources account to comply with the judgment of 4 July 2000. On 22 December 2000, for example, Greece paid €1 760 000, representing the full amounts due at the daily rate of €20 000 for the period from 5 July to 30 September 2000.

The summary table below lists the decisions taken by the Commission for second referrals since the procedure was introduced by the Maastricht Treaty (and the outcome in each case).

MS	Subject-matter	Year/ No	Initial judgment (226/EC)	Proposed penalty (€ per day)	Date of Commission decision	Status
B	Wild birds	1990/0291	08/07/87	7.750	10/12/1997	Terminated
	Financing of students (nationality)	1989/0457	03/05/1994	43.400	22/12/1999	Suspended
DE	Surface water	1987/0372	17/10/1991	158.400	29/01/1997	Terminated
	Wild birds	1986/0222	03/07/1990	26.400	29/01/1997	Terminated
	Groundwater	1986/0121	28/02/1991	264.000	29/01/1997	Terminated
	Impact Directive	1990/4710	22/10/1998	237.600	21/12/2000	In motion
EL	Private schools (nationality)	1989/0165	15/03/1988	61.500	10/12/1997	Terminated
	Certificates of higher education	1991/0668	23/03/1995	41.000	11/10/2000	Terminated
	Public service contracts	1993/0711	02/05/1996	39.975	24/06/1998	Terminated
	Kouroupitos waste dump	1989/0138	07/04/1992	24.600	26/06/1997	Judgment 4.7.2000: € 20.000
	Acces to public service jobs	1991/0583	02/07/1996	57.400	21/12/2000	Terminated
F	Defective products	1989/0146	13/01/1993	158.250	31/03/1998	Terminated
	Wild birds	1984/0121	27/04/1988	105.500	24/06/1998	Terminated
	Night work (women)	1990/2109	13/03/1997	142.425	21/04/1999	C-99/224 procedure suspended
I	Radiation protection	1990/0240	09/06/1993	159.300	29/01/1997	Terminated
	Waste management plan	1988/0239	13/012/1991	123.900	29/01/1997	Terminated
	Urban waste water	1993/0786	12/12/1996	185.850	02/12/1998	Terminated
	Safety at sea: ; prevention of pollution and living and working on board vessels	1996/0997	11/11/1999	88.500	21/12/2000	implementing measures under scrutiny
L	Acces to public service jobs	1991/0222	02/07/1996	14.000	02/12/1998	Terminated
	Medical assistance on board vessels	1995/0142	29/10/1998	6.000	21/12/2000	Terminated
UK	Quality of bathing waters (Blackpool & Southport)	1986/0214	14/07/1993	106.800	21/12/2000	in motion

2. SITUATION SECTOR BY SECTOR

2.1. ECONOMIC AND FINANCIAL AFFAIRS

Broadly speaking, freedom of movement of capital is satisfactorily secured both within the European Community and in relation to non-member countries. There were relatively few complaints from economic operators during the report period, and certain restrictions earlier identified were removed. The number of infringement cases is really quite limited, though certain of them concern substantial barriers to the smooth operation of the single market.

New infringement proceedings were commenced as a result of monitoring the Member States' application of the principles of the Communication on certain legal aspects of intra-EU investment (OJ C 220/15, 19.7.1997). All the proceedings commenced on the basis of that Communication concern the special rights conferred by the Member States to control firms in the public utilities sector (energy, telecoms, airports, etc.). On 23 May 2000 the Court of Justice gave its first judgment¹ in such a case, against Italy, which had taken for itself special rights under the legislation on the privatisation of public enterprises. The Commission referred a number of similar infringement cases to the Court, and proceedings are continuing in others. These infringements in relation to special rights concern several Member States.

Certain restrictions on the investment activities of pension funds (Belgium, Finland) have been removed, but a new case has been commenced regarding the investment rules for pension-saving funds in Belgium.

Regarding the acquisition of securities, the Court gave judgment against Belgium on 26 September 2000 for prohibiting persons residing in Belgium from acquiring loan certificates issued by Belgium abroad.²

In a preliminary ruling given on 6 June 2000,³ the Court held that certain provisions of Dutch tax legislation which make the grant of an exemption from the income tax payable on dividends paid to natural persons who are shareholders subject to the condition that those dividends are paid by a company whose seat is in that Member State constituted barriers to the free movement of capital.

Most of the complaints received in the course of the year, although limited in scope, concerned the acquisition by non-residents of real property in, chiefly, Denmark and Austria. These cases are now under supplementary investigation by the Commission. On 13 July 2000 the Court of Justice held that national legislation exempting exclusively nationals of the relevant Member State from the authorisation procedure applicable to acquisitions of real property in an area of military importance was incompatible with the free movement of capital.⁴

¹ Case C-58/99 – Privatisation of public undertakings - Grant of special powers.

² Case C-478/98 – Loans issued abroad - Prohibition of acquisition by Belgian residents.

³ Case C-35/98 – Free movement of capital - Direct taxation of share dividends - Exemption - Limitation to shares in companies whose seat is within national territory.

⁴ Case C-423/98 – Authorisation procedure for the purchase of immovable property.

2.2. BUSINESSES

2.2.1. *Preventive rules provided for by Directive 98/34/EC (formerly 83/189/EEC)*

The notification procedure introduced by Directive 98/34/EC is an essential tool for preventing barriers to trade from being raised and for sharing information. The Directive obliges Member States to submit to the Commission, and to each other, their drafts of new technical regulations for monitoring of compliance with internal market rules before they are finally adopted.

This procedure, which previously applied only to products, has been extended since 5 August 1999 to information society services.⁵ This is a sector where technological and legal progress also justify the establishment of an effective prior information, administrative partnership and review mechanism, notably with a view to securing fundamental rights and freedoms.

In 2000, the Commission received 751 drafts of technical regulations (of which 23 relating to rules on information society services and the rest relating to products) which were scrutinised by the relevant departments. The number involved was 604 in 1998 and 591 in 1999. These figures show that, despite the completion of the single market, the Member States are still adopting a wide range of technical regulations and even reverting to earlier regulatory patterns, partly on grounds of technical progress and of the concern to step up general health protection and food protection in particular. These initiatives must be kept under control so that they do not jeopardise the smooth operation of the internal market and so that sectors where Community rules might be necessary can be identified.

Of the drafts received by the Commission in 2000, 45⁶ required a detailed opinion recommending changes to the planned measure in order to eliminate any unjustified barriers to the free movement of information-society goods or services which might arise as a result. The Member States issued 92 opinions.⁷ The tendency for the number of detailed opinions to fall is broadly confirmed, which shows that the educational effort made in the context of the procedure is producing beneficial effects and that the quality of national rules is improving.

In a dozen or so cases the directive also helped to facilitate Community harmonisation by precluding the adoption of national measures that could have rigidified the positions of certain Member States when common solutions were being sought. Five notifications⁸ were held over for a year since they concerned matters

⁵ Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 which extends the information procedure to the rules on information society services (OJ L 217 p. 18).

⁶ As at 31 December 2000. The time-limit for issuing detailed opinions on draft regulations reported in 2000 ends on 31 March 2000. The figure also includes certain notifications dating from 1999 for which the time-limit ended on 31 March 2000.

⁷ As at 31 December 2000. The time-limit for issuing detailed opinions on draft regulations reported in 2000 ends on 31 March 2000. The figure also includes certain notifications dating from 1999 for which the time-limit ended on 31 March 2000.

⁸ As at 31 December 2000. The time-limit for notifying Member States of requests for postponements of 1999 notifications ends on 31 March 2000. The figure does not include notifications from 1999 for which the time-limit ended on 31 March 2000, as there were no requests for postponements of such notifications.

covered by a proposal for a Council directive, and four⁹ were held over for a year since the Commission had announced its intention of legislating.

In response to the judgment given by the Court of Justice in 1996 in *CIA Security*,¹⁰ the Member State were more scrupulous in the discharge of their obligations under Directive 98/34/EC. In that case the Court of Justice had held that the national court which must decline to apply a national technical regulation which has not been notified. On 26 September 2000, in Case C-443/98 *Unilever*, the Court of Justice further clarified the position, holding that a national court is also required to refuse to apply a national technical regulation which was adopted during a period of postponement of adoption prescribed in Article 9 of Council Directive 98/34/EC.

But in certain cases, when it discovers a breach of Directive 98/34/EC, the Commission starts a dialogue with the Member State concerned in order to rectify the situation, or even commences infringement proceedings under Article 226 of the EC Treaty. At the end of 2000, preparatory work was under way on around ten procedures of this type.

Other important judgments given by the Court in 2000 include Case C-37/99 *Donkersteeg* (judgment given on 16 November 2000), where the Court clarified the concept of technical specification in agricultural matters and the mandatory nature of the concept of technical regulation.

To improve the dialogue with firms and persons eligible for the procedure, projects notified are accessible at <http://europa.eu.int/comm/entreprise/tris>.

2.2.2. *Pharmaceutical products*

During 2000, almost all the measures implementing directives applicable to pharmaceuticals were notified to the Commission. Only France has yet to complete the transposal of Directive 93/41/EC in veterinary matters. As for the directives adopted by the Commission in 1999 and due for transposal, most Member States have already notified national implementing measures: Italy has yet to complete the transposal of Directives 1999/82/EC and 1999/83/EC, and Portugal has to complete Directive 1999/104/EC.

As in previous years, certain general problems remain with the interpretation and application of the pharmaceuticals directives by the Member States. The infringements here chiefly concern different interpretations put by the Member States on the term "medicine" (with the consequence sometimes of raising barriers to the free movement of goods) and complaints about the alleged failure of the relevant national authorities to comply with the transparency directive 89/105/EEC. The transposal of Article 4(8)(a)(i)-(iii) of Directive 65/65/EEC by Member States and the management of the re-authorisation of "old" medicinal products are also the subject of ongoing infringement proceedings. The Commission is carefully considering these problems and complaints.

⁹ As at 31 December 2000. The time-limit for notifying Member States of requests for postponements of 1999 notifications ends on 31 March 2000. The figure does not include notifications from 1999 for which the time-limit ended on 31 March 2000, as there were no requests for postponements of such notifications.

¹⁰ Case C-194/94 [1996] ECR I-2201 (Judgment given on 30 April 1996).

2.2.3. *Cosmetic products*

In 2000, the Commission observed real progress in the application of Community rules on cosmetics, having had to handle only a few infringement cases based on *incorrect application*.

Regarding cases of *failure to notify* national measures transposing directives, the Commission was able to terminate a large number of infringement proceedings against Member States. Only France has yet to publish its Ministerial Orders and thus complete the transposal of Council Directive 93/35/EEC amending for the sixth time Directive 76/768/EEC and Commission Directive 98/62/EC (23rd Directive adapting to technical progress Directive 76/768/EEC).

National measures implementing Directives 2000/6/EC and 2000/11/EC adapting to technical progress Directive 76/768/EEC have been notified by 12 and 11 Member States respectively, and the other Member States have transmitted drafts at an advanced stage. Certain Member States have not yet transposed Directives 97/18/EC and 2000/41/EC postponing the date from which experiments on animals are prohibited for ingredients or combinations of ingredients in order to ensure that economic operators enjoy a degree of certainty as to the law. The fact that the Commission has presented a proposal for a Council and European Parliament Directive amending for the seventh time Council Directive 76/768/EEC, to prohibit tests on animals of finished cosmetic products and their ingredients does not release the Member States from their obligations to transpose the directives.

2.2.4. *Chemicals*

In the chemicals sector, 27 infringement cases *for failure to report measures* were closed in 2000. These were concerned with fertilisers (Directives 1997/63, and 1998/3), restrictions on the marketing and use of dangerous substances and preparations (Directives 1994/27 and 1999/43) and good laboratory practice (GLP) (Directives 1999/11 and 1999/12). After that five reasoned opinions had been sent with regard to the Directives for which the deadline for transposal had expired in 1999 (Directives 1999/11 and 1999/12), most of the Member States transposed the legislation.

There is still a total of twelve infringement proceedings under way for failure to give notification of transposal measures. Some of these cases have been brought to the Court of Justice, and relate to good laboratory practice (GLP) (Directives 1999/11 and 1999/12).

The deadline for transposal of three directives relating to restrictions on marketing and use of dangerous substances and preparations (Directives 1994/27, 1999/51, 1999/43) ran out during the first half of the year 2000. 8 Member States had not transposed the first two Directives on time, whereas 12 Member States failed to meet the deadline to transpose Directive 1999/43.

Two infringement cases are pending *for failure to properly transpose* Directive 93/15/EEC on the placing on the market and supervision of explosives for civil use.

2.2.5. *Motor vehicles, tractors and motor-cycles*

A satisfactory pace has been observed in the transposition of the numerous directives governing motor vehicle, component or technical system type-approval of in the field of passenger vehicles, light and heavy commercial vehicles, two or three-wheel motor vehicles and agricultural or forestry tractors. The comparatively large number of Directives adopted in these areas have nonetheless created evident difficulties for certain Member States to transpose punctually. The initiation of infringement proceedings in such cases is, as has been stated in the past, normally sufficient to bring about transposition within short time-frames.

In terms of the directives in the field of pollutant emissions, Directive 98/69/EC, in the field of passenger cars and light commercial vehicles, has now been transposed by all Member States. A similar result has not yet been achieved, however, with regard to Directive 1999/96/EC governing pollutant emissions of heavy duty vehicles which, as at 30 November 2000, had not been transposed by seven Member States.

The transposition into national law of Directive 97/54/EC relating to the maximum design speed of agricultural or forestry tractors has been completed by all Member States. With regard to the other Directives mentioned specifically in the 17th Annual Report concerning agricultural or forestry tractors, Directives 98/38/EC, 98/39/CE, 98/40/EC have been transposed by all Member States. Only 1 Member State has failed to transpose Directive 98/89/EC.

The numbers (in parentheses) of Member States still having failed to transpose Directives in the field of motor vehicles are 98/77/EC (0), 98/90/EC (1), 1999/0007/EC (1). Corresponding numbers for directives 1999/0023/EC, 1999/0024/EC, 1999/0025/EC and 1999/0026/EC on two- or three-wheeled vehicles are 2, 0, 1 and 3.

The majority of directives coming into force during the year 2000 were Commission directives adapting to technical progress previous Council directives. Certain Member States have introduced highly efficient mechanisms permitting the speedy transposition of such directives into national law. In other cases, delays appear to result from the relatively lengthy period required for the preparation, endorsement and publication of delegated legislative instruments rather than any complexities contained in the texts of the directives in question.

In respect of directives requiring to be transposed during the year under review, the numbers (in parentheses) of Member States failing to transpose are as follows:

1998/0091/EC: (5) / Directive of the European Parliament and of the Council

1999/0040/EC: (3) / Commission Directive

1999/0055/EC: (2) / Commission Directive

1999/0056/EC: (1) / Commission Directive

1999/0057/EC: (1) / Commission directive

1999/0058/EC: (1) / Commission Directive

1999/0086/EC: (9) / Council Directive

1999/0096/EC: (7) / Directive of the European Parliament and of the Council

1999/0098/EC: (2) / Commission Directive

1999/0101/EC: (3) / Commission Directive

2000/0001/EC: (6) / Commission Directive

2000/0002/EC: (7) / Commission Directive

2000/0003/EC: (4) / Commission Directive

With the exception of directives 1999/86/EC and 2000/0002/EC, the requisite action under article 226 has been instigated by Commission services.

2.2.6. *Construction products*

The infringement proceedings commenced against Austria for *incorrect transposal* of Directive 98/106/EEC were terminated in 2000 as a result of explanations supplied by the Austrian authorities on points raised by the Commission in the course of the procedure.

In the infringement proceedings against Greece regarding quality controls on certain steel imports, the Greek authorities notified new draft measures in October to be adopted and published at any early date, thus putting an end to the infringement. In its most recent A Report (2/2000) the Commission accordingly decided to defer its referral to the Court pending the adoption of the relevant instrument.

2.2.7. *Machinery*

(mechanical engineering, electronics, personal protection equipment, gas equipment, pre-packaging, measuring equipment, medical devices and pleasure craft)

Regarding cases of *failure to notify national transposal measures*, the situation is as follows:

For Directive 97/23/EC on pressure vessels, all the Member States have notified national transposal measures except Germany, which should be in a position to complete transposal in 2001.

Regarding Directive 95/16/EC on lifts, France was the last Member State (in 2000) to notify its transposal measures.

For Directive 98/79/EC on in vitro diagnostic medical devices, the following Member States have notified national transposal measures: Italy, United Kingdom, Denmark, Sweden, Portugal and Spain. Austria and Finland have also notified national transposal measures, but additional documents are still awaited. The transposal of the directive in France, Luxembourg, Belgium, the Netherlands, Germany and Greece is in the final stages. Ireland has notified no information and it has been decided that a reasoned opinion will be sent.

As regards cases of incomplete implementation of the directives or where national law conflicts with the directives, the situation is as follows.

Five cases concerning incorrect application of Directive 98/37/EC (machinery) were terminated in 2000. But several complaints relating to the market surveillance obligation imposed by that directive are still under scrutiny.

Complaints on similar subjects are still outstanding as regards Directive 73/23/EEC (low-voltage equipment). The referral of Italy to the Court¹¹ in a case concerning incorrect application of the directive proceeded in 2000.

A case against France concerning Directive 89/686/EEC (personal protective equipment) was terminated. The decision was taken to refer Germany to the Court for incorrect application of the Directive.

A supplementary letter of formal notice was sent to Italy concerning non-conformity of national legislation with Directive 89/336/CEE (to electromagnetic compatibility) for aspects covered by Directive 1999/5 (radio equipment).

In 2000 decisions were taken to send an additional letter of formal notice **on the basis of Article 228** to Italy and a reasoned opinion to Germany concerning the non-conformity of national rules with Directive 90/396/EEC (appliances burning gaseous fuels).

2.2.8. *Radio and telecommunications terminal equipment*

Directive 1999/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (R&TTE-Directive) which entered into force on 7 April 1999 had to be transposed into national law by the Member States not later than 7 April 2000. Nevertheless, several Member States had difficulties in adopting the national legislation in time in order to meet the transposition deadline foreseen by the Directive.

So far, only 10 Member States have notified to the Commission their national transposition laws enabling the Commission to close 6 non-notification proceedings. However, France, Germany, Ireland and Italy which have not yet transposed the Directive have put into place interim measures allowing to apply the Directive pending adoption of the legislation. Greece announced the adoption of interim measures for the beginning of 2001. As a result, the Commission continues *non-notification* proceedings against all aforementioned five Member States which have not yet fully transposed the R&TTE-Directive. In addition to these non-notification proceedings there are still 2 other infringements proceedings open under the R&TTE-Directive.

2.2.9. *Tourism*

The infringement procedure against Italy concerning concessions on entrance fees for Italian museums and monuments applicable only to Italian nationals was continued in 2000 (see 17th Annual Report). The Commission sent a reasoned opinion in February 2000. Further examination of the case is currently on-going.

¹¹ Case C2000/100.

2.3. COMPETITION

The number of new proceedings for suspected or established infringements opened in competition matters in 2000 was unchanged in 1999 at 36. On 31 December 2000, 67 infringement files were being dealt with by the Directorate-General for Competition.

Regarding the areas of activity, the number of new telecommunications cases hardly changed (1999: 11 new cases; 10 in 2000). The trend observed in 1999 for the number of new cases to fall sharply in transport but to rise in social insurance was confirmed in 2000.

2.3.1. Telecommunications.

The transposal and effective application of the directives on competition in the telecommunications industry were again closely monitored by the joint team, together with each Member State, in conjunction with the preparation of the sixth report, adopted by the Commission on 7 December 2000, on the implementation of the telecommunications regulatory package.¹² At the same time the Commission pushed ahead with ongoing Article 226 proceedings against certain Member States, and started a number of new ones.

Three new proceedings were terminated after reasoned opinions had been sent. They all concerned Greece. The cases closed concerned the transposal of Directive 94/46/EC (liberalisation of satellite communications services) and Directive 96/19/CE (alternative infrastructures).¹³

The Commission commenced infringement proceedings against Austria, Spain, Finland, France, Greece, Italy, Luxembourg and Portugal *for failure to notify* measures implementing Directive 1999/64/EC¹⁴ within the time allowed. These measures were subsequently notified by the Austrian, Finnish, French and Luxembourg authorities, and the proceedings against them were terminated.

In 2000 the Commission issued three reasoned opinions regarding national measures which were not consistent with directives on competition in the telecommunications industry or did not transpose these directives correctly.

In 2000, the question of the **tariff adjustments** prescribed by Directive 96/19/EC¹⁵ attracted considerable attention. The Commission sent Italy a reasoned opinion on 1 September 2000 concerning the measure preventing the historic operator from adjusting its tariffs – the price cap scheme in force since August 1999. But the Commission responded to the decisions modifying the price-cap scheme taken by the Italian authorities on 11 December 2000 with a decision postponing the case on 14

¹² COM(2000)814 final.

¹³ Two infringements: the authorities issued a licence for the construction of alternative infrastructures (measures taken in response to a reasoned opinion issued on 21 December 1998); no further state measures restricting cross-border interconnection of mobile networks (reasoned opinion issued on 22 December 1998).

¹⁴ Commission Directive 1999/64/EC of 23 June 1999 amending Directive 90/388/EEC in order to ensure that telecommunications networks and cable TV networks owned by a single operator are separate legal entities (OJ L 74, 10.7.1999, p. 39)

¹⁵ Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in the telecommunications markets, OJ L 74, 22.3.1996, p. 13.

December 2000, pending confirmation in the second half of 2002 that the adjustments required by the commitments entered into by the Member State have been completed. Still on the subject of tariff adjustments, but in Spain this time, the Commission continued the procedure commenced in 1998 by adopting a supplementary reasoned opinion on 21 December 2000. On 3 August the Commission sent Luxembourg a reasoned opinion concerning its failure to properly transpose the provisions of Directive 96/19/EC relating to the non-discriminatory grant of **rights of way** for telecommunications operators.

On 17 April the Commission referred the financing of the universal service in France to the Court of Justice.¹⁶ The Commission accuses France of imposing on mobile operators contributions to the net cost of the universal service provided by France Télécom in 1997 even though France Télécom still had a monopoly of voice telephony at the time. It also criticises the method of calculating the various components of the cost of the universal service, which may have led to an over-estimation. And it accuses France of not having given proper assurances as to the reality of the completion of the tariff adjustment process. The written procedure was completed in November.

On 30 November 2000 the Court of Justice gave judgment against Belgium¹⁷ since the Belgian rules provided for universal service financing in favour of the press, contrary to Directive 97/33/EC.¹⁸ The Commission withdrew its other heads of action – the absence of a method of calculating operators' contributions to financing the universal service and of a method for calculating the estimated net cost of the service – following notification of a Royal Order governing these two aspects.

2.3.2. *Postal services*

In relation to postal services, the Commission adopted a decision on 21 December 2000 on the provision in Italy of new postal services with high value added, notably the guarantee that a transmission generated electronically arrives on a specific date or at a specific time.¹⁹ This decision is the response to a complaint concerning the fact that the delivery of hybrid mail services (where postal items are generated electronically) are reserved for the historic operator. This prevents private providers from providing the full hybrid mail service. The Commission considered that Italian Legislative Decree No 261 of 22 July 1999, which introduced the system, was contrary to Article 86(1) of the EC Treaty, read with Article 82. Delivery on a specific date or at a specific time constitutes a market that is very different from traditional services (universal service). There is accordingly no reason for reserving it for the universal service provider, who does not provide this service. And this operator offers no guarantee as to delivery on a specific date or at a specific time. The decision obliges the Italian Government to make clear that the service consisting of delivery on a specific date or at a specific time is not one of the services that can be reserved. It aims to establish the certainty as to the law that private operators need regarding delivery on a specific date or at a specific time.

¹⁶ Case C-146/00.

¹⁷ Case C-384/99.

¹⁸ Directive of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP).

¹⁹ OJ L 63, 3.3.2001, p. 59.

2.3.3. *Liberal professions*

In relation to the liberal professions, the Commission was able to terminate the infringement proceedings against Italy for violation by Act No 1612 of 22 December 1960, of Articles 5 and 85 of the EC Treaty (now renumbered as Articles 10 and 81). By judgment given on 18 June 1998,²⁰ the Court of Justice held that by adopting and maintaining in force an Act requiring the Consiglio nazionale degli spedizionieri doganali - CNSD (National Council of Customs Agents), by a provision conferring the corresponding decision-making power, to adopt a decision of an association of undertakings contrary to Article 85 (now Article 81) of the EC Treaty setting mandatory charges for all customs agents, the Italian Republic had failed to comply with its obligations under those Articles. Since contacts between the Commission and the Italian authorities for the purpose of bringing the relevant legislation into line remained fruitless, the Commission had to send Italy a letter of formal notice under Article 228 in February 2000 and then a reasoned opinion on 3 August. But on 13 September Italy notified Act No 213 of 25 July 2000, published in the Gazzetta Ufficiale on 1 August, updating the rules governing the activities of customs agents. The Act repeals the provisions of the Act of 1960 contrary to the Treaty provisions, thus putting an end to the infringement established by the Court.

2.3.4. *Transport.*

In the field of transport, the Commission continued the proceedings commenced by the decision adopted under Article 86(3) on 10 February 1999 to the effect that the Portuguese system of discounts on landing charges and the differentiation of charges according to the origin of flights constituted discrimination incompatible with Article 86(1) in conjunction with Article 82. But it stayed the execution of its decision to refer the case to the Court of Justice since the action brought by Portugal against the Commission decision in May 1999 and already at the investigation stage also concerned the legality of the system.

There was a second Article 86(3) decision on the question of landing charges. On 26 July 2000, the Commission considered that the system of variable discounts and fees depending on the origin of the flight in Spain discriminated in favour of Spanish airlines. For all categories of planes, the Spanish system provides for higher fees for intra-Community flights than for domestic ones. It also provides for discounts ranging from 9% to 35%, depending on the monthly number of landings. The system in practice works for the benefit of Spanish airlines, which receive average discounts of between 20% and 25 %. There are no objective considerations in support of this discrimination. The Spanish Government has announced that corrective measures will be taken in due course.

2.3.5. *Merger cases*

The infringement proceedings against Portugal commenced in 1999 following a decision by the Portuguese authorities to oppose the merger between the Spanish bank BSCH and the Portuguese group Champalimaud was terminated. A new merger operation, whereby the Spanish bank acquired two banks from the Portuguese group, was notified on 29 November 1999 and authorised on 11 January 2000. the

²⁰ Case 35/96 [1998] ECR I-3851.

Portuguese authorities stated that they did not oppose the new operation, which replaced the one on which the earlier infringement proceedings had been opened.

2.3.6. *State aids*

The Commission was able to terminate a very old state aid case. On 20 September 1990 the Court of Justice upheld²¹ the Commission's final negative decision of 17 November 1987²² ordering repayment of a grant of DEM 2 million made by the Land Baden-Württemberg to BUG-Alutechnik, a firm manufacturing finished and semi-finished products in aluminium, in 1985. The grant had not been repaid despite Commission requests, so in 1991 the Commission commenced proceedings against Germany for infringement of Article 171 of the EC Treaty (now Article 228). In 1992, the "Staatsschuldenverwaltung Baden-Württemberg" ordered the firm to repay the grant. But BUG-Alutechnik applied to the Verwaltungsgericht Sigmaringen for judicial review of this order, with suspensory effect. The Court dismissed the application in 1994, and the firm appealed to the Verwaltungsgerichtshof Mannheim; the appeal also had suspensory effect. The Verwaltungsgerichtshof Mannheim upheld the first judgment in 1996, and the firm, now called Hoogovens Aluminium Profiltechnik, was given leave to apply for revision of the appeal judgment to the Bundesverwaltungsgericht. The application for revision was dismissed on 26 August 1999. The grant was finally repaid on 14 October 1999. Once the Commission had been officially notified, it terminated the case at the beginning of 2000.

2.4. EMPLOYMENT AND SOCIAL AFFAIRS

2.4.1. *Freedom of movement for workers*

The Commission has initiated and/or is continuing with a number of infringement proceedings against several Member States concerning the application of Regulations (EEC) Nos 1612/68 and 1408/71.

It is continuing with infringement proceedings against Belgium for failing to implement the Court's judgment in Case C-47/93 concerning the allocation of funding to Belgian universities for students who have come from other Member States solely to follow a university course.

Infringement proceedings have been terminated against Germany, first of all regarding the granting of welfare benefits to migrant workers when their families join them, and secondly concerning the rule making welfare benefits conditional on the presentation of a residence permit. In the first case, a, interpretative circular has been issued, calling on the relevant authorities to see that Community law is properly applied. The situation in the second has been regularised following amendment of the relevant legislation.

Infringement proceedings continue against Denmark concerning its rules and practices restricting the use by frontier workers in Denmark of vehicles registered in another Member State and belonging to their employer based in that country. Denmark has now amended its rules, but the Commission is not entirely satisfied, so a supplementary reasoned opinion has been sent.

²¹ Case 5/89 [1990] ECR I-3437.

²² OJ L 1998, 30.8.1993, p. 29.

Greece as been sent a reasoned opinion regarding its legislation which requires members of the family of Union citizens who are not Greek nationals to obtain a work permit if they wish to work in Greece.

A reasoned opinion has also been addressed to Austria on the basis that Austrian legislation is discriminatory to the detriment of citizens of the Union exercising their right of freedom of movement of workers as well as of nationals of non-member countries with whom the Community has concluded co-operation or association agreements (for example. Morocco, Turkey, Poland etc.). In particular, on one hand, the Austrian provisions on elections to Chambers of Labour make all foreign workers ineligible to stand for election to these bodies and, on the other hand, the provisions of the Labour Constitution Act exclude from eligibility to stand for election to works councils the nationals of non-member countries with whom the Community has concluded co-operation or association agreements.

The infringement proceedings against Greece on the basis of Article 228 of the EC Treaty and against Spain on the basis of Article 226 concerning the nationality requirement for access to public service posts have been terminated now that the two countries have taken the measures needed to comply with Community rules.

The Commission sent reasoned opinions to Austria and Belgium regarding the reckoning of periods served in the public service in another Member State. The infringement proceedings against Germany and Ireland commenced on the same subject in 1999 are continuing.

In the field of coordination of national security systems, the European Court of Justice held in the cases against France concerning the payment of contributions for "Contribution Sociale Généralisée"²³ and "Cotisation pour le remboursement de la dette sociale"²⁴ that these contributions, which according to the French authorities should be categorised as taxes, are falling within the scope of Regulation 1408/71. Therefore they can not be levied on persons residing in France but working in another Member State, like e.g. French frontier workers working in Belgium, as they are not subject to French social security legislation. Not having received satisfactory information concerning the necessary measures to be taken to comply with these rulings, these procedures continue on the basis of article 228 of the EC-Treaty.

In the case which the Commission had brought before the Court of Justice against Germany in 1999 concerning the levying of contributions under a special law on social security benefits for artists (*Künstlersozialversicherungsgesetz*)²⁵, the Advocate General has delivered his opinion on 24 October 2000.

The case against Belgium²⁶ concerning the deduction of a personal contribution of 13,07 % where the claimants reside in another Member State is still pending before the European Court of Justice. The Advocate General has delivered his opinion on 23 January 2001.

²³ Case C-169/98

²⁴ Case C-34/98

²⁵ Case C-68/99

²⁶ Case C-347/98

The Commission decided to continue a case against the Netherlands by bringing it to the Court of Justice. According to the Commission the refusal from the Dutch authorities to export a former frontier worker's unemployment benefit during a maximum period of three months to another Member State, contradicts Article 69 of Regulation 1408/71 since the latter does not make a distinction between frontier workers and other workers.

A reasoned opinion has been sent to France concerning the refusal by the French sickness institution to reimburse, according to French tariffs, costs for glasses which an insured person had bought in Germany. The Commission is of the opinion that this position contradicts the provisions of the EC Treaty on free movement of goods, notably Articles 28 and 30, as they had been interpreted by the Court of Justice in the case C-120/95 Decker²⁷ where the court offered persons the right to receive reimbursement for this type of medical product according to the tariffs of the Member State where the person is insured, without prior authorisation.

The Dutch government agreed with a reasoned opinion which the Commission had sent to the Netherlands concerning the calculation of a Dutch old age pension in situations where, while being compulsory insured, at the same time voluntary contributions have been paid in another Member State and is currently revising the respective administrative policy rules. Despite Article 15 (1b) of Regulation 574/72 which states clearly that periods of compulsory insurance prime over periods of voluntary contributions, the Dutch authorities had refused to take into account a certain employment period in the Netherlands because voluntary contributions had been made at the same time to the scheme of another Member State referring to Annex VI, J, 2 h of the Regulation. This interpretation from the authorities was shared by the national judge.

In an infringement procedure against France concerning the calculation of unemployment benefits for a person whose last employment had not been in France, the French government modified the respective circular letter to comply with Community law, after the Commission had brought the case before the Court of Justice. The case has been filed.

Following a reasoned opinion sent by the Commission concerning the refusal to apply the Danish social security legislation to workers of other Member States who work on oil rigs on the Danish continental shelf, the Danish government has modified its legislation and the infringement procedure has been filed.

2.4.2. *Equal treatment of men and women*

The Commission action before the Court against France under Article 228 of the EC Treaty²⁸ for failing to take the necessary measures to comply with the judgment of 13 March 1997 in Case C-197/96,²⁹ in which the Court ruled against France for maintaining a ban on night work by women in industry whereas no such prohibition exists in relation to men, is still in motion.

²⁷ Judgment Court of Justice 28.4.98

²⁸ Case C-224/99.

²⁹ Case C-197/96 *Commission of the European Communities v French Republic* [1997] ECR I-1489 (judgment given on 13 March 1997).

Regarding Directive 92/85/EEC on the protection of pregnant workers, the Irish authorities have amended their legislation in line with Community rules after a reasoned opinion was sent, and have notified new national measures. Proceedings against Ireland have accordingly been terminated. The Swedish and Luxembourg authorities also notified new legislation, now under scrutiny, after reasoned opinions were sent. The proceedings continue. The Commission decided to refer a case against France for incorrect transposal to the Court of Justice,³⁰ and the action against Italy continues.

Following notification of national transposal measures, the action against Italy in the Court of Justice for failure to notify measures transposing Directive 96/34/EEC on parental leave³¹ was withdrawn.

The Commission brought Article 228 actions in the Court against France for failing to comply with the judgment given against it on 8 July 1999³² for failure to notify it of measures implementing Council Directive 96/97/EC amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes. The Directive required the Member States to adopt transposal measures by 1 July 1997. The Court of Justice gave judgment against Greece on the same question on 14 December 2000.³³ Following notification of transposal measures by the Luxembourg authorities, the action in the Court of Justice for failure to notify measures transposing Directive 96/97/EC amending Directive 86/378/CEE on the implementation of the principle of equal treatment for men and women in occupational social security schemes³⁴ was withdrawn.

The Commission commenced new Article 228 proceedings against Greece for failure to comply with the judgment given on 28 October 1999³⁵ for non-conformity of its legislation relating to the grant of the marriage allowance and the reckoning of that allowance for the calculation of old-age and retirement pensions with Directive 79/7/EEC, Article 141 of the Treaty and Directive 75/117/EEC. The rules had no retroactive effect as regards the marriage allowance as from 1 January 1981 (when Article 141 of the Treaty and Directive 75/117/EEC became applicable in Greece), or as regards the calculation of old-age and retirement pensions as from 23 December 1984 (when Directive 79/7/EEC entered into force).

2.4.3. *Working conditions*

In the proceedings for failure to adopt measures implementing Directive 93/104/EC concerning certain aspects of the organisation of working time, the Court of Justice gave judgment against Italy and France.³⁶ No measures to give effect to the Court's judgment have been notified and the infringement proceedings under Article 228

³⁰ The French legislation does not specifically include the possibility for pregnant women to be released from work if necessary in order to protect their health;

³¹ Case C-445/99.

³² Case C-354/98.

³³ Case C-457/98.

³⁴ Case C-438/98. Mr Advocate General La Pergola delivered his opinion on 24 June 1999.

³⁵ Case C-187/98.

³⁶ Case C-386/98 *Commission v Italy* (judgment given on 9 March 2000) and Case C-46/99 *Commission v France* (judgment given on 8 June 2000).

continue. Following late notification of measures transposing Directive 93/104/CE the action against Luxembourg³⁷ for failure to notify was withdrawn.

In its judgment of 18 May 2000, the Court ruled against France for failing to notify transposal of Directive 94/33/EC concerning the protection of young people at work.³⁸ No measures to give effect to the Court's judgment have yet been notified and the proceedings under Article 228 continue.

Following Court of Justice judgments given against Luxembourg for failure to notify measures transposing Directive 94/33/EC on the protection of young people at work³⁹ and for failure to transpose Directive 94/45/EC on the establishment of a European Works Council,⁴⁰ the Luxembourg authorities notified transposal measures now under scrutiny.

As the Italian authorities did not give a satisfactory reply to the Commission's reasoned opinion for incorrect transposal of Directive 77/187/EEC on the safeguarding of employees' rights in the event of transfers of undertakings, the Commission decided to refer the case to the Court. In contrast with the preceding case, the Commission decided to defer the infringement proceedings for incorrect transposal in Greece of Directive 98/59/EC regarding collective redundancies, needing time for detailed analysis of the Greek authorities' reply before taking a decision.

Portugal and Italy received reasoned opinions for incorrect transposal of Directive 98/59/EC relating to collective redundancies.

The Commission decided to refer Ireland to the Court for incorrect transposal of Directives 98/59/EC relating to collective redundancies and 77/187/EEC on the safeguarding of employees' rights in the event of transfers of undertakings. At the end of December 2000, the Irish authorities notified transposal measures and undertook to take others. There is no further need for a referral to the Court.

2.4.4. *Health and safety at work*

Luxembourg having notified national measures implementing Directive 92/29/EEC on medical treatment on board vessels, all the Member States have transposed framework Council Directive 89/391/EEC and its implementing Directives,⁴¹ as well as the independent Directive 92/29/EEC.

As for the directives amending the specific directives or adapting them to technical progress,⁴² the rate of notification of national implementing measures improved again in 2000 (notably following Italy's notification of measures implementing Directives 95/30/EC,⁴³ 97/59/EC and 97/65/EC⁴⁴), though the position is still not

³⁷ Case C-48/99. Mr Advocate-General Alber delivered his conclusions on 16 November 1999,

³⁸ Case C-45/99.

³⁹ Case C-430/98 (judgment given on 21 October 1999).

⁴⁰ Case C-47/99 (judgment given on 16 December 1999).

⁴¹ Directives 89/654/EEC, 89/655/EEC, 89/656/EEC, 90/269/EEC, 90/270/EEC, 90/394/EEC, 90/679/EEC, 92/57/EEC, 92/58/EEC, 92/91/EEC, 92/104/EEC and 93/103/EC.

⁴² Directives 93/88/EC, 95/30/EC, 97/59/EC, 97/65/EC, 95/63/EC and 97/72/EC.

⁴³ Case C-439/98 (judgment given on 16 March 2000)

⁴⁴ Case C-312/99 (following this notification the action was withdrawn in the Court of Justice).

wholly satisfactory. Consequently, infringement proceedings are continuing against Member States which have not yet notified the Commission of their national implementing measures. Decisions have already been taken to refer some of these to the Court of Justice, such as the cases against Austria for failing to transpose Directives 95/30/EC,⁴⁵ 97/59/EC and 97/65/EC.⁴⁶ A reasoned opinion for failure to notify measures implementing Directive 95/63/EC was also sent to Ireland. The decision was taken to send reasoned opinions to France and Ireland for failure to notify measures transposing Directive 97/42/EC, the deadline for which was 27 June 2000.

Concerning the conformity of national measures implementing Framework Directive 89/391/EEC, the Commission has sent reasoned opinions, for incorrect transposal, to Portugal and Sweden. The Commission referred cases to the Court of Justice against Germany⁴⁷ and Italy⁴⁸ for incorrect transposal and decided to proceed likewise against Belgium as regards the framework Directive.

Proceedings against Sweden regarding the conformity of national measures implementing the specific directives⁴⁹ were terminated following notification of new measures implementing Directive 90/269/EEC, and Denmark received a reasoned opinion concerning incorrect transposal of Directive 89/654/EEC. The Commission decided to refer two cases against Italy for incorrect transposal of Directives 89/655/EEC and 90/270/EEC to the Court of Justice.

2.5. AGRICULTURE

2.5.1. *Free movement of agricultural produce*⁵⁰

Freedom of movement for agricultural products in a single market is one of the principles underpinning the operation of the common agricultural policy and its common market organisations.

The Court of Justice has had regular occasion to recall that Articles 28 and 29 of the EC Treaty are an integral part of the common organisation of markets, even if express reference to them has been superfluous since 1 January 1970.

The Commission has maintained a permanent open eye to the task of rapidly removing all barriers to trade in agricultural produce in the Community.

The downward trend in recent years in the number of new cases involving traditional barriers to trade in agricultural produce - such as routine import checks and demands for import licences - has been further confirmed this year.

⁴⁵ Case C-473/99.

⁴⁶ Cases C-110/00 and C-111/00.

⁴⁷ Case C-5/00.

⁴⁸ Case C-49/00.

⁴⁹ Directives 89/654/EEC, 89/655/EEC, 89/656/EEC, 90/269/EEC, 90/270/EEC, 90/394/EEC, 90/679/EEC, 92/57/EEC, 92/58/EEC, 92/91/EEC, 92/104/EEC and 93/103/EC.

⁵⁰ Further to the re-organisation in Commission services, legislation and questions related to human, animal and plant health affairs have been lodged in Directorate-General Health and Consumer Protection. From the last quarter 1999 onwards, this Directorate-General is in charge of the instruction and management of infringement files relating to these matters, including questions relating to obstacles to free circulation of agricultural products for health protection reasons.

Certain countries' persistence in reserving "quality labels or descriptions" for products of their own regions or countries led the Commission to press ahead with the infringement proceedings commenced against France, Spain and Germany. The Commission considers that, pursuant to Article 28 of the EC Treaty, as interpreted by the Court of Justice in Cases C-13/78 Eggers⁵¹ and C-321/94 Montagne,⁵² a quality description or quality label should not be reserved for products from a particular geographical entity but should be based exclusively on the intrinsic characteristics of the product. That being the case, any national quality label or description should, pursuant to Articles 12 and 34 of the EC Treaty, as of right be accessible to any potential Community producer or user whose products meet the objective and verifiable criteria required.

In the case of France the infringement proceedings concern the following regional quality labels: "Normandie", "Nord-Pas-de-Calais", "Ardenne de France", "Limousin", "Languedoc-Roussillon", "Lorraine", "Savoie", "Franche-Comté", "Corse", "Midi-Pyrénées", "Salaisons d'Auvergne" and "Qualité France". The continued use of these labels caused the Commission to issue reasoned opinions. The French authorities are at present disposed to change the legal arrangements governing such labels.

Reasoned opinions were issued concerning the following quality descriptions used in Spain: "La Conca de Barbera", "El Valles Occidental", "El Ripolles", "Alimentos de Andalucia", "Alimentos de Extremadura" and "Calidad Cantabria". In the wake of these reasoned opinions, the competent regional authorities have now scrapped these contested descriptions.

Finally, faced with the refusal by the German authorities to make the CMA quality label (Markenqualität aus deutschen Ländern), given exclusively to products processed in Germany without specific requirements as to the original environment or geographical place, available to products from other Member States, the Commission referred Germany to the Court of Justice. The Commission considers that the label in question constitutes a mandatory restriction as to the place where processed products can come from.

Regarding the less traditional forms of barriers to trade, such as the repeated acts of violence by individuals in France against fruit and vegetable imports from other Member States, in particular from Spain, and the authorities' failure to take measures to prevent such acts, it is worth recalling the judgment given by the Court of Justice on 9 November 1997 in Case C-265/95,⁵³ where it held that "by failing to adopt all necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Republic has failed to fulfil its obligations under Article 30 of the EC Treaty (now Article 28 EC), in conjunction with Article 5 of that Treaty (now Article 10), and under the common organisations of the markets in agricultural products." The fact that the marketing of fruit and vegetables from Spain was untrammelled in 1998 suggests that the measures taken by the French Government to give effect to the Court's judgment worked better than those taken in previous years. The same was

⁵¹ Judgment given on 12.10.1978 [1978] ECR 1935.

⁵² Judgment given on 7.5.1997 [1997] ECR I-2343.

⁵³ Judgment given on 6.11.1997 [1997] ECR I-6959.

true in 1999 and 2000, with the exception of a few isolated incidents. The Commission trusts that the marketing campaigns in the years ahead will proceed smoothly.

2.5.2. *The market*

In addition to its efforts to remove barriers to the freedom of movement of produce, the Commission also sought to ensure that the other provisions of the Community's agricultural legislation are effectively and correctly applied.

In monitoring the application of specific market organisation mechanisms, the Commission continued to keep a close watch on the use of production control mechanisms, particularly in the milk sector, where it conducted a systematic analysis of national measures to implement Regulations (EEC) Nos 3952/92 and 536/93.

The Commission addressed reasoned opinions to Italy and Spain because of deficiencies in their implementation of the milk quotas scheme. The main concern was the persistent failure by the relevant authorities to pass the supplementary levy on to the producers responsible for the excesses.

In February 1997 the Italian government instructed a commission of inquiry to conduct a special inquiry into milk production during 1995-96 and 1996-97. Pending the conclusions of this inquiry, and subject to the reimbursement of an estimated excess in relation to the levy actually due, the accounts relating to the levy advances received by the purchasers for the periods in question have been frozen. In the light of widespread allegations concerning fraud and irregularities, the Italian authorities had taken the view that payments to the competent authority could not be made until there had been a new in-depth inquiry into the level of actual production and the level of the reference quantity for each producer. These circumstances formed the subject of the infringement proceedings.

The Commission has been kept informed of the progress of each successive inquiry and has itself carried out control visits to all the bodies concerned.

The indications seem to be that this exceptional exercise will help to clarify a previous situation based on doubts concerning actual production in Italy. The production level initially declared by purchasers has been confirmed (the figures are out by less than 1%, and part of this may yet be confirmed). The inquiry results have also clarified the situation of each individual producer, except in instances where lawsuits are involved. In November 1999 the results of the new scheme for offsetting deliveries were notified to those concerned. The Commission is keeping a close watch on trends in the actual collection of amounts due. A mission has just taken place for the purpose of ascertaining precise figures for amounts immediate recovery is not possible on account of actions brought in regional courts which have the power to order suspension. Detailed verification of these cases is in progress. The Commission will not hesitate to continue the infringement proceedings regarding any amount that is left unrecovered without good reason.

In Spain, only a fraction of the levy payable for 1993/94, 1995/96 and 1996/97 has actually been paid by producers. Both producers and purchasers have commenced large-scale actions against decisions affecting them.

Following commencement of infringement proceedings, the Spanish authorities have adopted new measures for managing the scheme, aimed at avoiding large-scale recourse to the courts in the future. The key elements consist of an obligatory scheme for collecting advance payments from producers who exceed their quota during the period and the imposition of restrictive conditions governing the approval of purchasers. The scheme's management in 1998-99 did not produce the widespread problems that had been encountered in previous years.

Regarding actions commenced earlier, the Spanish authorities caused sureties to be established for the sums in dispute in the numerous cases where this had not already been done. They now consider that the levy still due is fully covered, either by these sureties or by compulsory recovery orders.

The Commission has also had occasion to look into cases of failure to comply with Community rules governing the designation of agricultural products.

Regarding spirit drinks, the Commission addressed a reasoned opinion to France for authorising the marketing of spirits made by adding a percentage of water to whisky and using the word "whisky" as a generic sales description. Under Regulation (EEC) No 1576/89, whisky must have an alcoholic strength of at least 40% and no water may be added to an alcoholic drink so that the nature of the product will not be changed.

A preliminary ruling was requested on the same subject by the Paris Tribunal de Grande Instance (Case C-136/96). The Court of Justice ruled on 16 July 1998⁵⁴ that Community rules prohibited such product designations.

In their reply to the reasoned opinion the French authorities continued to support the marketing of the relevant product under the designation contested by the Commission, which accordingly referred the case to the Court of Justice.

The Commission has worked on persuading the Greek authorities to fully implement the integrated management and control system for certain Community aid schemes under Regulation (EEC) No 3508/92, which establishes an integrated administration and control system for certain Community aid schemes, in particular for arable farming and meat production (beef and veal, sheepmeat and goat's meat) to boost efficiency and profitability by means of a policy of preventing and punishing irregularities in EAGGF-financed operations. Article 2 of Regulation No 3508/92 as amended requires each Member State to establish by 1 January 1997 an integrated system comprising: a computerised data base, an alphanumeric identification system for agricultural parcels, an alphanumeric system for the identification and registration of animals, aid applications and an integrated control system. The Greek authorities have not fully met all these requirements, the aim of which is to ensure that payments made by Community bodies are in accordance with the regulations. The fact is that the identification and numbering of agricultural land parcels has not been commenced and the procedure for registering and identifying animals is no more than embryonic. High-performance databases do not exist. The Commission has accordingly issued a reasoned opinion.

⁵⁴ Judgment given on 16.07.1998 [1998] ECR I-4571.

Implementation of Directive 98/34/EC (technical standards and regulations) in the field of agriculture

In 2000 as in previous years, the Commission received notification of a great many draft instruments pursuant to Directive 98/34/EC, which requires the Member States to give notice prior to the adoption of any draft rules containing technical standards or regulations which might impede intra-Community trade.

In agriculture, **135** draft instruments notified by the Member States and the EFTA countries were scrutinised in 2000 against Article 28 of the EC Treaty and relevant secondary legislation

2.6. ENERGY AND TRANSPORT

The Commission monitors three aspects of the implementation of Community energy law: notification of the national measures implementing the directives, conformity of these measures and practical application of directives, regulations and Treaty provisions.

2.6.1. Internal market for electricity and natural gas

Parliament and Council Directive 96/92/EC of 19 December 1996 concerning common rules for the internal market in electricity was transposed by all the Member States. The infringement proceedings against Luxembourg were terminated. Belgium should have transposed the directive by 19 February 1999 but had not done so *entirely*, as implementing decrees are still awaited. Likewise there are infringement proceedings against France for *incomplete and incorrect transposal* of this directive, but recent should remove obstacles to the opening up of the electricity market to competition in France.

Directive 98/30/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas must be transposed by 10 August 2000. France, Luxembourg and Portugal *have not transposed* it. On 20 December the Commission decided to send France and Luxembourg a reasoned opinion. Germany has *transposed only part* of the directive, and infringement proceedings have been commenced accordingly.

The Commission continues to analyse the conformity of national measures implementing the two directives in all the Member States.

2.6.2. Energy efficiency

Italy has now transposed Directive 96/57/EC of the European Parliament and the Council on energy requirements for household electric refrigerators, freezers and combinations thereof. So all the Member States have now transposed it.

All the directives implementing Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances⁵⁵ have now been transposed by

⁵⁵ -Directive 94/2/EC implementing Council Directive 92/75/EEC with regard to energy labelling of household electric refrigerators, freezers and their combinations;

all the Member States (except Italy for Directive 98/11/EC with regard to the energy labelling of household lamps).

The Commission has commenced infringement proceedings against eight Member States for *incorrect application* of Council Directive 93/76/EEC of 13 September 1993 to limit carbon dioxide emissions by improving energy efficiency (Save).

2.6.3. *Oil and gas*

Council Directive 98/93/EC of 14 December 1998 amending Directive 68/414/EEC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, due to be transposed by 31 December 1999, has been transposed by all the Member States except Italy and Portugal, against which infringement proceedings are in motion.

2.6.4. *Transport*

The Commission monitors three aspects of the implementation of Community transport law: notification of the national measures implementing the directives, conformity of these measures and practical application of directives, regulations and Treaty provisions.

In 2000, eight new transport directives became due for transposal. Regrettably, as in previous years, most of the Member States are very late in adopting national measures. This has resulted in a very poor rate of notification of national measures implementing directives due for transposal in the second half of 2000. There is only a slight improvement in the average rate of transposal of transport directives – from 86% at the end of 1999 to a little over 88% at the end of 2000.

However, notification speeded up once infringement proceedings were started. Failure to notify thus accounted for over three quarters of the 111 instances in which proceedings were dropped by the Commission in 2000.

The year-on-year figures for complaints received and cases identified on the Commission's own initiative have remained stable.

But the number of infringement proceedings which the Commission has referred to the Court of Justice continues to rise (from 30 in 1999 to 39 in 2000), with a large proportion of cases of failure to notify national measures transposing directives (30 cases), bringing to 69 the total number of cases that the Commission has decided to refer to the Court of Justice. The case against Italy for failure to transpose Directive 95/21/EC (port State control) has been referred a second time, with a request for a penalty payment, for failure to comply with an earlier judgment (given on 11.11.1999).

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- Directive 95/12/EC with regard to energy labelling of household washing machines;
 - Directive 95/13/EC with regard to energy labelling of household electric tumble dryers;
 - Directive 96/60/EC with regard to energy labelling of household combined washer-dryers;
 - Directive 96/89/EC with regard to energy labelling of household washing machines;
 - Directive 97/17/EC with regard to energy labelling of household dishwashers, as amended as regards the transposal deadline by Directive 1999/9/EC;
 - Directive 98/11/EC with regard to energy labelling of household lamps;

2.6.5. Road transport

The transposal of Directive 98/76/EC, which seeks to promote the exercise of the freedom of establishment of road haulage operator in national and international transport by amending Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator, is still worrying as seven proceedings are in motion for failure to notify, and the Commission has decided to refer the cases against Luxembourg, Belgium, Italy and Greece to the Court of Justice. The Finnish authorities have still to notify provisions transposing Directive 96/26/EC in the Åland Islands.

But there has been progress in the *notification* of legislation on the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (Directive 96/53/EC) and roadworthiness tests for motor vehicles and their trailers (Directive 96/96/EC), as all the proceedings have been terminated.

Regarding safety in the transport of dangerous substances by road, the Court gave two judgments against Ireland⁵⁶ for *failure to notify* the Commission of national measures implementing Directives 94/55/CE and 96/86/CE on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road or Directive 95/50/CE on uniform procedures for checks on the transport of dangerous goods by road. Ireland has not transposed any of the directives on road or rail transport of dangerous goods (*cf. infra*, point 2.8.4). But the proceedings against Greece were terminated in 2000.

In the same area, the rules on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway (Directives 96/35/EC and 2000/18/EC) *have not been transposed* by Greece or Ireland (or by Portugal in the case of the amending directive).

Greece has transposed none of the surface transport directives adopted since 1998 and falling due for transposal in 1998-2000. The situation is much the same in Ireland.

As for road taxation, the infringement proceedings against Belgium for *non-conformity* of measures implementing Directive 93/89/EEC (taxes, tolls and charges) are still at the investigation stage, but the Court has given judgment in the case against Austria regarding tolls at the Brenner pass.⁵⁷ Parliament and Council Directive 99/62/EC of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures *has not been transposed* in 13 Member States, and infringement proceedings for *failure to notify* national implementing measures have been commenced.

⁵⁶ Case C-408/99 *Commission v Ireland* [2000] ECR 0000 - Judgment given by the Court on 26 September 2000.

Case C-347/99 *Commission v Ireland* [2000] ECR 0000 - Judgment given by the Court on 14 December 2000.

⁵⁷ Case C-205/98 *Commission v Austria* [2000] ECR 0000 - Judgment given by the Court on 26 September 2000.

Concerning driving licences, the *conformity of measures transposing* Directive 91/439/EC still gives serious cause for concern. The proceedings against Italy were terminated in 2000 but examination of national transpositional measures reveals that in eight other Member States there are many discrepancies in such matters as the minimum age for a vehicle category, renewal of licences for EU citizens no longer residing in the Member State of issue, criteria for test vehicles, the duration of the practical test and minimum requirements in terms of physical and mental aptitude. The procedures for automatic registration of licences belonging to drivers who move from one country to another are incompatible with the principle of mutual recognition of driving licences.

2.6.6. *Combined transport*

The proceedings against Finland for *non-conformity* of national measures implementing Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States were terminated in 2000 following notification of Act No 440/2000 of 19 May 2000, which correctly transposes the Directive. But the proceedings against Italy for incorrect application of the Directive continue and the case is still before the Court of Justice.

2.6.7. *Inland waterways*

Transposal of Directive 96/50/EC on harmonisation of the conditions for obtaining national boatmasters' certificates for inland waterway navigation, which was due for transposal in 1998, has given rise to non-notification proceedings. The Commission decided to refer to the Court of Justice the cases against France and the Netherlands, which have not yet adopted and published national measures transposing the directive, even though both Member States have announced drafts of measures to be adopted in the near future.

Proceedings against Germany and Luxembourg, which concluded bilateral inland waterways agreements with third countries, are continuing with the Commission's decision to refer the two cases to the Court of Justice on the grounds that this is exclusively a matter for the Community.

2.6.8. *Rail transport*

In the field of carriage of dangerous goods by rail, Directive 96/49/EC as amended by Directive 96/87/EC provides for the approximation of the laws of the Member States with regard to the transport of goods, laying down uniform safety rules in this sector to improve safety and facilitate movement of rolling stock and equipment throughout the Community. These directives, which apply to transport of dangerous goods by rail in or between Member States, have still to be transposed in Ireland and Greece, and the Commission has decided to refer the two Member States to the Court of Justice. Directive 99/48 adapting for the second time to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail, has not been transposed by Italy, Ireland or Greece, and the Commission has accordingly decided to issue a reasoned opinion for *failure to notify* national measures implementing it in the three Member States.

The situation regarding Directive 96/48/EC on the interoperability of the trans-European high-speed rail system, the purpose of which is to promote interconnection and interoperability between national high-speed rail networks at different stages of conception, construction and entry into service, but also of operation and access to networks, remains preoccupying. Seven Member States have still *not notified* transposal measures, and the Commission has felt the need to refer the cases against them to the Court of Justice (France, United Kingdom, Greece, Ireland, Austria, Sweden and Finland).

2.6.9. *Transport by sea*

The Commission notes that there has been considerable progress in implementing Community sea transport law in the whole area of safety at sea, but the situation regarding freedom to provide services is less satisfactory.

In 1999 the Commission regretted the general delay in properly transposing the directives of safety of sea transport and the prevention of pollution of the sea in the Member States. In 2000 there was a great improvement in the situation regarding the transposal of directives though it is still the case that the most recent directives have not been fully incorporated in national legal orders. This is the case in particular of Directive 99/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services and Directive 99/97/EC (port State control) which fell due for transposal in December 2000 but *have not been transposed* in most of the Member States.

But the progress made by the Member States in transposing the safety at sea directives is perfectly illustrated by the example of Directive 96/98/EC on marine equipment, as amended by Directive 98/85/CE, for all the proceedings for *failure to notify* measures implementing these two Directives were terminated in 2000. Likewise the directives on minimum standards for vessels transporting dangerous or polluting goods have now been transposed by all the Member States (Directive 93/75/EEC and the amending Directives 96/39/EC, 97/34/EC, 98/55/EC and 98/74/EC).

Regarding the safety of passenger transport by sea; directives 98/18/EC and 98/41/EC on safety rules and standards for passenger ships seek to improve safety and likelihood of rescue for passengers and crew on passenger ships bound for or leaving Community ports and to ensure more effective action in the event of an accident. Delays in notifying national measures transposing these two directives prompted twenty new infringement proceedings in 1999 but have been substantially made up – only four proceedings are still running, three of them in the Court of Justice (Luxembourg and Portugal for Directive 98/18/EC and the Netherlands for Directive 98/41/EC). But proceedings for *incorrect transposal* were commenced against three Member States, one of them, Belgium, being referred to the Court.

But three of the four infringement proceedings for incorrect transposal of Directive 94/57/EC, and its amending Directive 97/58/EC, on common rules and standards to be observed by the Member States and ship-inspection, survey and certification organisations so as to ensure compliance with international conventions on maritime safety and marine pollution, are still running. The proceedings against France were terminated but the cases against Italy, Ireland and Portugal continue, with a decision to refer Portugal to the Court.

As regards Directive 95/21/EC (port state control), which harmonises ship inspection criteria, including rules for detention and/or refusal of access to Community ports, the Court of Justice gave judgment against Italy.⁵⁸ The Commission not having been notified of measures to give effect to the judgment, the Commission decided to refer the case back to the Court of Justice under Article 228 of the Treaty with a request for a penalty payment. Italy is also the last Member States that has *not yet transposed* the amending Directives 98/25/EC and 98/42/EC (port State control), and the Commission has decided to refer the two cases to the Court.

The Commission recently commenced four cases concerning *incorrect application* of Directive 95/21/EC against Member States which have not met their obligation in the inspection field to inspect at least 25% of all ships flying foreign flags that land in their ports or navigate waters under their jurisdiction.

As for the human element, the Commission decided to refer to the Court the five Member States that have *not yet notified* full measures transposing Directive 98/35/EC amending Directive 94/58/EC on the minimum level of training of seafarers (Luxembourg, Netherlands, Italy, Portugal and Austria).

The transposal of Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, as amended by Directive 99/19/EC, is still creating difficulties in the Netherlands, which has *still not transposed* the two directives, and the case concerning Directive 97/70/EC has been referred to the Court. Proceedings are in motion against France and Italy for *non-conformity* and against Belgium for *failure to notify* measures transposing the amending directive.

Compliance with Community legislation on registration and flag rights continues to be a problem. While it has finally been possible to drop the proceedings against Greece and Finland, arrangements for entering vessels in shipping registers and granting flag rights remain discriminatory in France and the Netherlands, against which proceedings are continuing. France has notified draft legislation that is in order and is to be approved by the Joint Parliamentary Committee, promulgated and published in the *Journal officiel*, but the action in the Court of Justice continues.

As regards right of establishment, the Commission has decided to refer to the Court the case against Italy for non-conformity with Articles 43 and 48 of the Treaty of its national legislation specifying the conditions on which shipping lines legally established in another Member State may participate on the same terms as Italian shipping lines in the Italian conference traffic quota.

As regards maritime cabotage, proceedings have been taken against several Member States (France, Spain, Denmark, Portugal, Germany and Greece) for maintaining or adopting national regulations in contravention of Regulation (EEC) No 3577/92, which provides for maritime cabotage to be opened up to Community shipowners operating ships registered in and flying the flag of a Member State. The Court gave

⁵⁸ Case C-315/98 *Commission v Italy* [1999] ECR I-8001 - Judgment of the Court (Fifth Chamber) given on 11 November 1999.

judgment against France⁵⁹ for *incorrect transposal* of the maritime cabotage rules, but the French legislation is now being adapted.

The principle of freedom to provide services where cargo-sharing agreements between Member States and third countries are concerned, enshrined in Regulation (EEC) No 4055/86, is not yet respected by all Member States. Fresh proceedings for *incorrect application* were commenced in 2000. Proceedings are continuing against Belgium⁶⁰ (but might be terminated in 2001 when protocols with the relevant non-member countries enter into force and are published), Luxembourg⁶¹ and Portugal⁶² following the judgments given by the Court in 1999 and 2000.

The Commission also pays special attention to the application of Regulation (EEC) No 4055/86, given the possible forms of nationality between operators and types of transport and the barriers they can raise. Two infringement proceedings for *incorrect application* are in motion concerning the discriminatory dock dues imposed in Italy and Greece. The dues vary in accordance with the port of destination. The amounts are lower for shipping between two ports in national territory than for international shipping. The Commission referred to the Court of Justice the case against Italy concerning dock dues at Genoa, Naples and Trieste. Several comparable cases are under scrutiny.

2.6.10. Air transport

The rate of transposal of air transport directives is most satisfying at nearly 98% by the end of 2000. There are two reasons for the improvement of the previous year: for one thing, the fact that no new directives fell due for transposal in 2000, and for another, the fact that the Member States that had fallen behind finally came into line with Community law.

The rate of transposal is actually 100% for all Member States except Greece, Luxembourg and Ireland. Ireland has still not transposed Directives 98/20/EC and 1999/28/EC on the limitation of the operation of subsonic civil aeroplanes; but the two directives are expected to be transposed in the next few weeks, according to the Irish authorities.

Directive 94/56/CE establishing the fundamental principles governing the investigation of civil aviation accidents and incidents has still not been transposed in Greece or Luxembourg. In the case of Luxembourg the decision has been taken to send a letter of formal notice under Article 228 of the treaty following the judgment given on 16 December 1999.⁶³ The Court proceedings against Greece for *failure to transpose* the directive are still running.

⁵⁹ Case C-160/99 *Commission v France* [2000] ECR 0000 - Judgment of the Court (Fifth Chamber) given on 13 July 2000.

⁶⁰ Cases C-170/98 and C-171/98 *Commission v Belgium* [1999] ECR I-5493 - Judgment of the Court (First Chamber) given on 14 September 1999.

⁶¹ Case C-202/98 *Commission v Luxembourg* [1999] ECR I-5493 - Judgment of the Court (First Chamber) given on 14 September 1999.

⁶² Cases C-62/98 and C-84/98 *Commission v Austria* [2000] ECR 0000 - Judgment given by the Court on 4 July 2000.

⁶³ Case C-138/99 *Commission v Luxembourg* [1999] ECR I-9021 - Judgment of the Court (First Chamber) given on 16 December 1999.

Regarding air traffic control, the only proceedings still running for failure to notify measures transposing Directive 97/15/EC (adopting Eurocontrol standards) were dropped. In 2000 this Directive was amended by Commission Regulation (EC) No 2082/1999 of 6 September 2000.

In recent years there were several proceedings for *incorrect application* of Directive 91/670/EEC on mutual acceptance of personnel licences for the exercise of functions in civil aviation. The proceeding against Belgium has been terminated but the proceeding against France is still in motion.

Directive 96/67/EC on groundhandling at airports has been transposed by all the Member States. But complaints about *incorrect application* of Directive 96/67/EC in two Member States have prompted infringement proceedings.

The infringements noted in connection with airport taxes also continued. Imposition by Member States of varying rates of tax depending on passenger destinations (internal flights/intra-Community and/or international routes) is incompatible with the principle of freedom to provide services stipulated in the field of air transport by Regulation (EEC) No 2408/92 and with EU citizens' freedom of movement under Article 18 of the Treaty. Proceedings against Italy, Portugal and Greece for *incorrect application* of the Regulation are continuing in the Court of Justice. Although the proceedings against Ireland and the United Kingdom were terminated, those against the Netherlands and Spain are to be referred to the Court of Justice.

The infringement proceedings against Belgium, Denmark, Germany, Finland, Luxembourg, Austria, Sweden and the United Kingdom relating to bilateral open-skies agreements with the United States are continuing in the Court of Justice. Pre-litigation proceedings against France and the Netherlands are still in motion.

Lastly, proceedings were commenced against a Member State for *incorrect application* of Regulation 3922/1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation.

2.7. INFORMATION SOCIETY

In March 2000 the European Council set the European Union a new objective for the decade ahead – to become the world's most competitive and most dynamic economy. One of the things that needs is a fully integrated and liberalised telecommunications market.

In this context the Commission has stressed the need for Europe to play its trump cards and act rapidly to remedy its weaknesses. One of those trump cards is manifestly the legal framework to liberalise telecoms services and define the conditions for the establishment of a single European market in this sector.

To open markets up to effective competition, the EU's framework requires the Member States to integrate into their national law a full set of principles aiming in particular to ensure that all players are not all subject to the same right and obligations – the heaviest obligations should be on those with the greatest market power. The EU framework is much broader but fully encompasses the reference framework annexed to the General Agreements on Trade in Services (GATS).

On 7 December 2000, the Commission adopted its Sixth Report on the implementation of the telecommunications regulatory package.⁶⁴ The main conclusion in regulatory terms is that the current position regarding implementation provides a solid basis for the redeployment of the European electronic communications industry and the attainment of the broader objectives of the eEurope initiative. The basic framework is in place in all the Member States; but there are still a number of weak points to be tackled.

In parallel with the monitoring activities set out in the Report, the Commission commences infringement proceedings whenever it considers that Member States are not discharging their Treaty obligations by failing to transpose, notify or apply the principles laid down by the directives.

The Commission's method of looking in detail at the implementation of the EU's regulatory framework ensures full compliance with the general principles of the GATS.

Since total liberalisation was introduced on 1 January 1998, a significant number of infringement proceedings has now reached the final stage of Court of Justice action. Of a total of 53 proceedings running at the end of 2000, 17 are at the reasoned opinion stage (12 for non-conformity, 5 for incorrect application), and the Commission has already decided to refer nine cases to the Court (six for failure to notify, three for non-conformity). In 2000 the Court gave judgment in four cases concerning the regulatory framework. However, 22 cases (8 for failure to notify and two for incorrect application) were dropped in 2000 when the Member States took action to comply. On the same grounds the Commission withdrew two actions in motion in the Court (one for failure to notify and one for non-conformity).

The position with regard to implementation of the various directives and decisions and the proceedings brought under Article 226 of the EC Treaty is as follows.

The Framework Directive 90/387/EEC laying down the principles to be applied to open network provision (ONP) had already been transposed by all the Member States in 1998.

All the Member States have notified the Commission of national measures implementing Directive 92/44/EEC (leased lines). Portugal has been sent a reasoned opinion on the grounds that the national provisions notified are not in conformity with the directive. In December 2000 the Commission decided to refer a case against Luxembourg to the Court.

Directive 97/51/EC amended the two foregoing directives to adapt them to a competitive environment in telecommunications. All but two of the Member States have notified the Commission of national transposal measures. The Commission had already refer its cases against France and Italy for failure to notify to the Court of Justice in 1999. On 30 November 2000, in Case C-422/99, the Court of Justice held that by failing to adopt the requisite provisions by way of legislation, regulation or administrative action within the time allowed, Italy had failed to meet its obligations

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COM(2000) 814 final.

under the directive. Three proceedings for non-conformity of national legislation were terminated in 2000.

All the Member States have notified measures transposing Directive 95/62/EC on the application of open network provision (ONP) to voice telephony. The infringement proceedings against Belgium for failure to notify national implementing measures were discontinued in March 2000.

Measures transposing the new Voice Telephony Directive (98/10/EC), which had repealed Directive 95/62/EC as from 30 June 1998, have been notified by all Member States except France and Italy. The Commission had already refer its cases against France for failure to notify to the Court of Justice in 1999. On 7 December 2000, in Case C-423/99, the Court held that Italy had failed to meet its obligations under the directive. The Commission has also decided to send reasoned opinions to Belgium, Austria and Luxembourg since the national rules notified were not in conformity with the Directive. The infringement proceedings against Belgium for non-conformity of national implementing measures were terminated in 2000.

All the Member States have notified the Commission of national measures implementing Directive 97/13/EC (licences). The Commission sent reasoned opinions to Germany and Italy on the grounds that the national provisions notified were not in conformity with the directive; France was sent a supplementary reasoned opinion. Two cases had already been referred to the Court in 1999, against Luxembourg and Austria. The Advocate-General presented his conclusions in the case against Luxembourg (C-448/99) on 21 September 2000; the case against Austria (C-446/99) was withdrawn following amendment of the national legislation. The proceedings against Belgium and Spain were terminated for the same reason.

All Member States have notified measures implementing the Interconnection Directive (97/33/EC). Since the national rules received were not in conformity with the Directive, the Commission decided in 1999 to institute court proceedings against Belgium, France and Luxembourg. For the same reason, it sent a reasoned opinion to Germany. The proceedings against France were suspended in 2000; but Luxembourg received a supplementary reasoned opinion. On 30 November 2000, in Case C-384/99, the Court of Justice held that by failing to bring into the requisite provisions by way of legislation, regulation or administrative action within the time allowed, Italy had failed to meet its obligations under the directive. Two proceedings for incorrect application were terminated in 2000.

By the end of 2000, all Member States had notified implementing measures for the Numbering Directive (98/61/EC) amending Directive 97/33/EC with regard to operator number portability and carrier preselection. The infringement proceedings against Belgium and Italy for failure to notify national implementing measures were discontinued in March 2000. The Commission sent reasoned opinions to France and Finland on the grounds that the national provisions notified were not in conformity with the directive; Two proceedings for non-conformity of national legislation were terminated in 2000. Reasoned opinions for incorrect application of the directive were sent to Belgium, Germany, the Netherlands and Austria. The Commission also decided to send a reasoned opinion to the United Kingdom in December 2000.

All Member States but three have notified measures implementing the data-protection Directive (97/66/EC). The proceedings against Belgium, Denmark,

Greece and the United Kingdom were terminated in 2000; the Commission is studying the measures of which it has been apprised. But in July 2000 the Commission decided to refer its case against Ireland for failure to notify full transposal measures to the Court; it had taken the same decision in relation to France and Luxembourg in 1999. The Advocate-General presented his conclusions in the case against France (C-151/00) on 26 October. Regarding Article 5 of the directive, which was due to be transposed by 24 October 2000, letters of formal notice were sent to France, Ireland, Italy, Luxembourg and the United Kingdom for failure to notify the Commission of implementing measures. Eleven Member States had notified implementing measures by the end of 2000.

All the Member States had already notified national measures implementing the three directives on frequencies - Directives 87/372/EEC (GSM), 90/544/EEC (Ermes) and 91/287/EEC (DECT).

Finally, all the Member States except France and the Netherlands have notified national measures transposing Directive 95/47/EEC on the use of standards for the transmission of television signals. Proceedings against Belgium for failure to notify were withdrawn when measures were notified in 2000. For the same reason, the Commission withdrew its action against Austria (C-411/99). But in June 2000 the Commission referred its case against the Netherlands for failure to notify to the Court of Justice. On 23 November 2000, in Case C-319/99, the Court of Justice held that by failing to adopt the requisite provisions by way of legislation, regulation or administrative action within the time allowed, France had failed to meet its obligations under the directive. Portugal was sent a reasoned opinion for non-conformity of national legislation.

All the Member States have adopted measures required under Decision 91/396/EEC on the introduction of "112" as the standard emergency services number throughout the Union. The infringement proceedings against Greece for incorrect application were terminated in July 2000.

All the Member States had already transposed Decision 92/264/EEC on adopting "00" as the standard code for access to the international network in the Community.

Three proceedings for failure to transpose Parliament and Council Decision 710/97/EC of 24 March 1997 concerning a coordinated approach to authorisations in the field of satellite personal communications in the Community were terminated in 2000.

2.8. ENVIRONMENT

During the year 2000 the number of new cases (complaints, own initiative cases and infringements) in the environmental sector continued to show a rising trend (755 in 2000, compared to 612 in 1999). The Commission brought 39 cases against Member States before the Court of Justice (none on the basis of Article 228 of the Treaty) and delivered 122 reasoned opinions or supplementary reasoned opinions (eight of them under Article 228). In this respect, it must be borne in mind that the Commission aims at the settlement of suspected infringements as soon as they are identified without it being necessary to initiate formal infringement proceedings.

The Article 228 (ex Article 171) procedure has continued to prove effective as a last resort to force Member States to comply with the judgments given by the European Court of Justice. In 2000, in two cases a decision to go to the Court was taken and several letters of formal notice or reasoned opinions were sent for failure to notify, non-conformity or incorrect application. Further details are given below in the discussion of the various sectors.

For the first time since the possibility to fine a Member State for not complying with the ECJ judgments entered into force in 1993, the Court has taken a decision on the basis of Article 228. This was Case C-387/97 *Commission v Greece* on waste disposal in Crete (see section on “waste” below).

The Commission is continuing the practice of using Article 10 of the Treaty, which requires Member States to cooperate in good faith with the Community institutions, in case of a consistent lack of reply to Commission letters of request for information. This lack of cooperation prevents the Commission from acting effectively as guardian of the Treaty.

The Commission continued work in 2000 as a follow up to the Communication adopted in October 1996 (“Implementing Community Environmental Law”) in particular with regard to environmental inspections where the Commission tabled a proposal for a European Parliament and Council Recommendation on minimum criteria for environmental inspections based on Article 175 of the Treaty. In the final stage of the conciliation procedure, launched in September 2000 as a result of diverging views between the European Parliament and the Council on the form of the act, agreement was reached in early January 2001 on a recommendation for environmental inspections in the Member States. It was largely based on a compromise put forward by the Swedish Presidency and a few additional amendments made by the European Parliament.

On the basis of reports to be provided by Member States, the Commission may possibly propose a directive in 2003 in the light of the experience gained from the recommendation and additional work to be carried out by IMPEL (“Implementation and Enforcement of EU Environmental Law” network) on minimum criteria for qualifications for inspectors and training programmes. IMPEL will also, by way of contribution, elaborate a scheme under which Member States report and offer advice on inspectorates and inspection procedures which could be described as a peer review.

The IMPEL network continued its work. Particularly worthy of note was the Conference on Implementation and Enforcement of Environmental Law held in Villach, Austria in October 2000 where, among other things, the idea of developing national networks under the umbrella of IMPEL was thoroughly discussed

In 2000, the Commission also took certain initiatives to develop the principles of Community environmental policy. In 9 February 2000, the Commission adopted a White Paper on Environmental Liability⁶⁵. The objective of the Paper is to explore various ways in which an EC-wide environmental liability regime could be shaped. The purpose of such a regime is: (a) to improve the application of the environmental

⁶⁵ COM(2000)66 final.

principles in the EC Treaty (i.e. the polluter pays principle, the prevention principle and the precautionary principle); (b) to improve implementation of EC environmental law; and (c) to ensure adequate restoration of the environment. The White Paper concludes that the most appropriate form of action would be an EC Framework Directive on Environmental Liability. The Commission intends to adopt a proposal in the course of 2001. In 2 February 2000, the Commission adopted a Communication on the precautionary principle⁶⁶. The objective of the Communication is to inform all interested parties how the Commission intends to apply the principle and to establish guidelines for its application.

No major developments have occurred since last year's report in the *notification by Member States of measures implementing environmental legislation*. Several directives fell due for transposition in 2000. As before, the Commission was forced to start proceedings in several cases of failure to notify it of transposing measures, involving in many cases all Member States. Details of these cases are given in the sections on individual sectors and directives.

Proceedings are in hand in all areas of environmental legislation and against all the Member States in connection with the *conformity of national transposing measures*. Monitoring the action taken to ensure conformity of Member States' legislation with the requirements of the environmental directives is a priority task for the Commission. In connection with transposition of Community provisions into matching national provisions, there has been some improvement as regards the provision, along with the statutory instruments transposing the directives, of detailed explanations and concordance tables. This is done by Germany, Finland, Sweden, the Netherlands, France and sometimes Denmark and Ireland.

The Commission is also responsible for checking that *Community environmental law* (directives and regulations) *is properly applied*, and this is a major part of its work. This means checking Member States' practical steps to fulfil certain general obligations (designation of zones, production of programmes, management plans etc.) and examining specific cases in which a particular administrative practice or decision is alleged to be contrary to Community law. Complaints and petitions sent to the European Parliament by individuals and non-governmental organisations, and written and oral parliamentary questions and petitions, generally relate to incorrect application.

The number of complaints continued to rise in 2000, following the trend already apparent in previous years (1998 : 432, 1999 : 453 : 2000 : 543). Spain, France, Italy and Germany were the countries most often concerned. While complaints often raise more than one problem, a broad classification of those registered in 2000 shows that one in every three is concerned with nature conservation and one in every four with environmental impact, whereas waste-related problems were raised in one in six cases and water pollution one in ten; the remaining sectors account for between 1-4%.

As stated in the previous report, the Commission must, when considering individual cases, assess factual and legal situations that are very tangible and are of direct concern to the public. It thus encounters certain practical difficulties. Without

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COM(2000)1 final.

abandoning the pursuit of incorrect application cases (especially those which highlight questions of principle or general interest or administrative practices that contravene the directives) the Commission therefore concentrates on problems of communication and conformity.

2.8.1. Freedom of access to information

Directive 90/313/EEC on the freedom of access to information on the environment is a particularly important piece of general legislation: keeping the public informed ensures that all environmental problems are taken into account, encourages enlightened and effective participation in collective decision-making and strengthens democratic control. The Commission believes that, through this instrument, ordinary citizens can make a valuable contribution to protecting the environment.

Although all Member States have notified national measures transposing the Directive, there are several cases of non-conformity where national law still has to be brought into line with the requirements of the Directive.

The Commission issued a reasoned opinion based on Article 228 of the Treaty against Germany for not having implemented the judgment in Case C-217/97 where it was found that Germany had failed to provide for access to information during administrative proceedings where the public authorities have received information in the course of those proceedings, to provide in the Umweltinformationsgesetz for information to be supplied in part where it is possible to separate out confidential information and to provide that a charge is to be made only where information is in fact supplied. The Commission also brought an action (Case C-29/00) before the Court against the same Member State because of non-respect of the deadline to provide a response to the request for information within two months.

Several cases of non-conformity could be closed during the year 2000. A court action brought against Belgium in 1999 (Case C-402/99) over several aspects in which transposition was incorrect, both at federal and regional levels, was dropped as Belgium has corrected the relevant national measures. The Commission decided to close also another case against Belgium before the Court, because the measures were adopted to transpose the obligation to provide a formal explanation of any refusal of access to the information mentioned in Article 3(4) of the Directive. Having received notification of new measures by Spain, the Commission was able to withdraw the court action brought earlier against that Member State (Case C-189/99) over several inconsistencies between the Spanish law and the Directive. Also proceedings for non-conformity of the Portuguese legislation transposing the Directive were closed during 2000 after examining the measures notified by Portugal.

The Commission started court proceedings against France (Case C-233/00), since the French measures did not ensure formal, explicit and correct transposition of several aspects of the Directive, including the obligation to provide a formal explanation of refusal of access to the information.

The Commission decided to start court proceedings against Austria for not having completely transposed Directive 90/313/EEC (failure of six Austrian Länder to correctly transpose the provisions concerning free access to information and the exceptions from it as well as concerning the definitions of public authorities and bodies).

Among the most common subjects of complaint brought to the Commission's notice are refusal by national authorities to provide the information requested, slowness of response, excessively broad interpretation by national government departments of the exceptions to the principle of disclosure, and unreasonably high charges. Directive 90/313/EEC is unusual in containing a requirement for Member States to put in place national remedies for improper rejection or ignoring of requests for access to information or unsatisfactory response by the authorities to such requests. When the Commission receives complaints about such cases, it advises the aggrieved parties to use the national channels of appeal established to allow the Directive's aims to be achieved in practice. The Commission therefore does not generally follow up such individual complaints by infringement proceedings unless they reveal the existence of a general administrative practice in the Member State concerned.

In June 1998, the Community and the Member States signed the Convention of the United Nations Economic Commission for Europe on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the "Aarhus Convention"). Community practice does not allow the Community to ratify the Convention until the pertinent provisions of Community law, including those of Directive 90/313/EEC, have been duly amended to take account of these international obligations.

The Commission adopted on 29 June 2000 a proposal for a Directive of the European Parliament and of the Council on public access to environmental information.⁶⁷ The proposal is designed to replace Directive 90/313/EEC on the freedom of access to information on the environment, and is based on the experience gained in the application of that Directive. The proposal incorporates the obligations arising from the Aarhus Convention in relation to access to environmental information. It will therefore also pave the way for Community ratification of this Convention. Its third purpose is to adapt the 1990 Directive to the so-called electronic revolution to reflect the changes in the way information is created, collected, stored and made available to the public. A Report from the Commission to the Council and European Parliament on the experience gained in the application of Council Directive 90/313/EEC⁶⁸ accompanies Commission's proposal.

2.8.2. *Environmental impact assessment*

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC, remains the prime legal instrument for general environmental matters. The Directive requires environmental issues to be taken into account in many decisions which have a general impact.

The deadline for transposition of Directive 97/11/EC amending Directive 85/337/EEC was 14 March 1999. By the end of 2000, six Member States (Belgium, France, Germany, Greece, Luxembourg and Spain) still had not notified the Commission of transposing measures and therefore the Commission decided to take these Member States to Court. Non-communication proceedings opened earlier

⁶⁷ COM(2000) 402 final.

⁶⁸ COM(2000) 400 final.

against Austria, Finland, Denmark, Portugal and the United Kingdom could be dropped during 2000.

Following the European Parliament's opinion of 20 October 1998 on the proposal for a directive adopted by the Commission in December 1996 on the assessment of the effects of certain plans and programmes on the environment,⁶⁹ the Commission adopted an amended proposal in February 1999.⁷⁰ The aim of this proposal is to ensure that environmental considerations are taken into account when preparing and adopting plans and programmes setting out the context for future projects. On 30 March 2000 a common position on this proposal for a Directive was adopted. The European Parliament finalised its second reading on the common position on 6 September 2000 and adopted 17 amendments. The Council started its second reading based on the opinion of the European Parliament in the second half of the year 2000. The Directive is expected to be finalised in the first half of 2001.

As already mentioned in previous Reports on Monitoring of the Application of Community Law, many complaints received by the Commission and petitions presented to Parliament relate, at least incidentally, to incorrect application by national authorities of Directive 85/337/EEC as amended. These complaints about the quality of impact assessments and the lack of weight given to them are a major problem for the Commission, since it is extremely difficult to verify compliance by the national authorities and the basically formal nature of the Directive provides a limited basis for contesting the merits of a choice taken by the national authorities if they have complied with the procedure it lays down. As the Commission has already pointed out, most of the cases brought to its attention concerning incorrect application of this Directive revolve around points of fact (existence and assessment). The most effective check on any infringements is therefore very likely to be at a decentralised level, particularly through the national courts.

On 22 October 1998, the Court had found against Germany (Case C-301/95), holding that it had failed to discharge its obligations on several counts. Since Germany had not taken sufficient measures to comply with this judgment, the Commission decided to initiate court proceedings under Article 228 of the Treaty against Germany. The point at issue is an incomplete transposition of the Directive in relation to the projects listed in Annex II. The Court held that Germany had failed to discharge its obligations by excluding entire classes of projects so listed from the requirement for environmental impact assessments. Germany had transmitted several legislative drafts with time-tables during the procedure, but still failed however to adopt and notify the required laws to the Commission.

On 21 January 1999 the Court had ruled in Case C-150/97 that Portugal's failure to adopt the provisions of law, regulation or administrative action needed for full compliance with Directive 85/337/EEC constituted a failure to meet its obligations under Article 12(1) of the Directive. Following the opinion of Advocate General Mischo, the Court found not only that Portugal had failed to comply with the deadline for transposition but also that the Portuguese legislation⁷¹ transposing the

⁶⁹ COM(96) 511 final.

⁷⁰ COM(1999) 73 final.

⁷¹ Decree-Law 278/97, 8.10.1997.

Directive after the due date had passed did not apply to projects for which the authorisation procedure was in progress when it entered into force, on 7 June 1990.

The Commission therefore asked the Portuguese authorities to inform it of the measures taken to comply with the judgments. Since the measures taken by Portugal were not sufficient, it continued proceedings under Article 228 of the Treaty against Portugal.

In case C-392/96 the Court had found that, by not adopting all the necessary measures for proper transposition of Article 4(2) as regards projects falling within points 1(d) and 2(a) of Annex II to Directive 85/337/EEC, and only partly transposing Article 2(3), (5) and (7), Ireland had failed to fulfil its obligations under Article 12 of the Directive. The case related particularly to Ireland's setting of thresholds for certain types of projects, i.e. initial reforestation where there was a potential negative ecological impact, land reclamation and peat extraction. The thresholds were so high that in practice a large number of projects with a considerable environmental impact were taken out of the assessment procedure provided for by the Directive. Ireland did not contest that it had failed to transpose Article 2(3), (5) and (7). Since Ireland however did not take the necessary measures to comply with the judgment, the Commission submitted a letter of formal notice to Ireland under Article 228 of the Treaty.

The Commission brought a court case (C-230/00) against Belgium over the possibility to grant tacit approvals for many types of plans and projects falling under the Directive. The Commission also sent a reasoned opinion to Italy, in some regions of which there were excluded, from the impact assessment procedures, the projects for which a request for development consent had been introduced before the entry into force of certain recent regional impact assessment acts although the Directive is applicable in Member States since 3 July 1988, which was the deadline for Member States to transpose it in their internal legal systems.

The Commission is continuing proceedings against Italy for insufficient regional legislation to transpose Annex II of the Directive and is studying the new information provided by Italy in 2000.

Proceedings are also being taken in certain cases of incorrect application. The Commission has sent a reasoned opinion to Luxembourg for not following the impact assessment procedure required by the Directive in the authorisation of a motorway project in Luxembourg, to Portugal for insufficient public consultation concerning certain expressway projects and to Spain on infringement of the Directive in the context of the expressway project Oviedo-Llanera (Asturias) as well as the modification project of the railway Valencia-Tarragona.

In a preliminary ruling of 19 September 2000 requested by a court in Luxembourg (Case C-287/98), the Court of Justice held that a national court, called on to examine the legality of a procedure for the expropriation in the public interest, in connection with the construction of a motorway, of immovable property belonging to a private individual, may review whether the national legislature kept within the limits of the discretion set by Directive 85/337/EEC, in particular where prior assessment of the environmental impact of the project has not been carried out, the information gathered has not been made available to the public and the members of the public

concerned have not had an opportunity to express an opinion before the project is initiated, contrary to the requirements of Article 6(2) of the Directive.

2.8.3. *Air*

Council Directive 96/62/EC on ambient air quality was due to be transposed by 21 May 1998. This Directive forms the basis for a series of Community instruments to set new limit values for atmospheric pollutants, starting with those already covered by existing directives, lay down information and alert thresholds, harmonise air quality assessment methods and improve air quality management in order to protect human health and ecosystems. By the end of 2000, all Member States except Spain had fully complied with their obligation to notify transposing measures. During 2000, the Commission was able to close the non-communication proceedings against Belgium following a reasoned opinion sent in 2000 and against Greece following a court action initiated in 1999 (Case C-463/99). On the other hand, the court action against Spain (Case C-417/99) had to be continued.

Directive 97/68/EC of the European Parliament and of the Council on the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery was due to be transposed by 30 June 1998. By the end of 2000, all Member States except France had communicated the transposition measures for this Directive and therefore court actions against Italy (Case C-418/99) and Ireland (Case C-355/99) could be dropped. Court action against France (Case C-320/99) had to be continued.

Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC⁷² was due for transposition by 1 July 1999. After receiving the notifications of transposing measures, proceedings which were started in 1999 against Luxembourg, Belgium, the Netherlands, Germany, Ireland, Denmark, Greece, Spain, Portugal, Austria, Sweden and Finland could be dropped in 2000. Italy has also adopted the transposing decree, but it has not yet been published. On the other hand, the Commission decided to continue infringement actions for non-communication against the United Kingdom (as far as Gibraltar is concerned).

Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC⁷³ was due for transposition by 1 July 2000. Sweden, Denmark, Finland and the Netherlands have communicated the transposition measures while the transposition by the United Kingdom and Austria does not cover the whole of their territory. Other Member States had not yet communicated their transposition measures by the end of the year 2000.

The following directives adopted in 1999 relevant to air quality are to be transposed during 2001, but earlier transposition is possible :

⁷² OJ L 350, 28.12.1998, p. 58.

⁷³ OJ L 121, 11.5.1999 p.13.

- Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations⁷⁴;
- Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air⁷⁵;
- Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars⁷⁶.

The Commission also took several measures because of incorrect application of Directives relevant to air quality, but as these measures essentially concern other environmental directives, they are mentioned in the context of other sectors (see section 10.8. *Waste* and section 10.9. *Environment and industry*).

2.8.4. *Water*

Monitoring implementation of Community legislation on water quality remains an important part of the Commission's work. This is due to the quantitative and qualitative importance of the responsibilities imposed on the Member States by Community law and by growing public concern about water quality.

There are several cases under way over infringements of Directive 75/440/EEC concerning the quality required of surface water intended for the abstraction of drinking water. Some of the proceedings concern the preparation of systematic action plans (Article 4(2)) as an essential part of the effort to safeguard water quality (nitrates, pesticides, etc.) Others are concerned with the criteria for exemptions under Article 4(3).

In the judgment of 17 June 1998 (C-214/97) against Portugal, the Court held that the documents provided by the Portuguese authorities did not constitute a systematic action plan, despite their title and the projects described, because there was no timetable for water improvement, they did not cover all waterways and did not provide a framework for improving water quality. Following a reasoned opinion against Portugal for not submitting an appropriate systematic action plan even after the Court's judgment, the Commission was able to close the case after Portugal had finally in 2000 submitted a systematic action plan which fully complied with the requirements of the Directive.

The Commission brought a court action (Case C-375/00) against Italy over its lack of a systematic action programme for Lombardy.

With regard to Directive 76/160/EEC concerning the quality of bathing water, monitoring of bathing areas is becoming increasingly common and water quality is improving. Despite this progress, however, proceedings are still under way against

⁷⁴ OJ L 85, 29.3.1999, p. 1.

⁷⁵ OJ L 163, 29.6.1999, p. 41.

⁷⁶ OJ L 12, 18.1.2000, p.16.

most Member States since implementation still falls far short of the Directive's requirements.

The Commission decided to bring a court action under Article 228 against the United Kingdom over bathing waters on the Fylde Coast in North West England, where certain of the designated beaches have not met the Directive's standards. The Commission therefore considers that the UK has not fully complied with the Court judgment of 14 July 1993 (Case C-56/90).

The Commission continued Article 228 proceedings against Spain following the Court ruling of 12 February 1998 that Spain had failed to act to bring the quality of inland bathing waters into line with the binding values set by the Directive (Case C-92/96). The reply by Spain to Commission's reasoned opinion which was issued during 2000 is being examined.

On 8 June 1999, the Court had ruled in Case C-198/97 that Germany had failed to fulfil its obligations with respect to water quality and sampling frequency. Given the still existing non-compliance with the Court judgment, the Commission decided to open proceedings under Article 228 of the Treaty against Germany.

In a judgment of 25 May 2000 (Case C-307/98), the Court found against Belgium for excluding, without proper justification, from the scope of the Directive numerous inland bathing areas and not adopting, within 10 years of notification of the Directive the measures needed to comply with the limit values fixed by the Directive. The Commission decided to send a letter of formal notice to Belgium under Article 228 of the Treaty for non-compliance with the above judgment.

The Commission brought court proceedings against France (Case C-147/00), the Netherlands (Case C-268/00), United Kingdom (Case C-427/00) and Sweden (Case C-368/00) over water quality and/or sampling frequency. It also decided to bring Court action against Denmark and send a reasoned opinion to Finland for the same reason. Also court proceedings against Portugal are continuing. Italy's reply to the reasoned opinion issued in 1999 is being examined. The court action decided in 1999 against France over the failure to measure "total coliforms" parameter required by the Directive was combined with the above mentioned Court proceedings against France.

Proceedings have been started against most Member States over their implementation of Directive 76/464/EEC on dangerous substances discharged into the aquatic environment and of the directives setting levels for individual substances.

Court proceedings have been started in many cases and there were new rulings by the Court against the Member States in 2000 because of their failure to produce programmes incorporating quality objectives in order to reduce pollution by substances on List II in the Annex to the Directive.

Following the Court judgments of 11 June 1998 against Luxembourg (Case C-206/96), of 25 November 1998 against Spain (Case C-214/96) and of 1 October 1998 against Italy (Case C-285/96), ruling that these States had failed to establish programmes incorporating quality objectives to reduce pollution by these substances, the countries concerned have notified measures intended to ensure

compliance with Article 7 of the Directive. These measures are complex and they are still being examined.

The Commission intends to facilitate the adoption by the Member States of programmes under Article 7 of Directive 76/464/EEC by drafting a guidance document on this issue. By this document the Commission aims to support Member States in the implementation of both the existing Directive and (Article 7 of Directive 76/464/EEC) and the new Water Framework Directive 2000/60/EC. The document will identify eight elements to be included in the programmes on pollution reduction.

Court judgments against Belgium on 21 January 1999 (Case C-207/97) and against the Federal Republic of Germany (Case C-184/97) on 11 November 1999 over the same issue were followed by two new judgments during 2000 : judgment of 25 May 2000 against Greece (Case C-384/98) and judgment of 13 July 2000 against Portugal (Case C-261/98). The similar case against the Netherlands is still pending (Case C-152/98). The Commission decided to bring a Court action also against France and Ireland.

Following two Court of Justice rulings in 1998 (cases C-208/97 and C-213/97) that Portugal had not fulfilled its obligations to implement directives based on Directive 76/464/EEC on discharges of certain dangerous substances into the aquatic environment, Portugal notified the adequate measures to comply with the judgments and thus both cases could be closed.

Inadequacy of pollution reduction programmes leads to many specific cases of incorrect application of this Directive (pollution of specific waterways by agricultural or industrial effluent). These local difficulties can be solved only by an overall approach to the problem. Furthermore, there are still problems in several Member States where prior authorisation is not always required for discharges.

Thus the Article 228 proceedings against Greece following the judgment of 11 June 1998 (Joined Cases C-232/95 and C-233/95) are continuing, since Greece has not put in place programmes to reduce pollution by the substances on List II of Directive 76/464/EEC for Lake Vegoritis or the Gulf of Pagasaí. The measures notified by Greece were not considered to be sufficient, therefore a reasoned opinion under Article 228 of the Treaty was submitted.

Article 226 proceedings are also continuing against Portugal over effluent from an agri-food plant at Santo Tirso and the Commission is studying the measures taken by the Portuguese authorities. After sending a reasoned opinion to Portugal to the effect that the operating conditions for a herbicide plant which discharges untreated effluent into the Capa Rota river may constitute incorrect application of Directive 76/464/EEC, the Commission was able to close the case during 2000.

The Commission decided to bring a Court action against the United Kingdom for inadequate designation of the waters covered by Directive 79/923/EEC on shellfish waters as well as for the failure to draw up improvement programmes and adequately monitor the waters in question. The application to the Court in this case is still pending following the communication by the UK authorities of a significant number of newly designated shellfish waters and corresponding improvement programmes which are being investigated by the Commission.

Following notification by Finland of measures concerning designation of the waters concerned, setting of quality objectives, establishment of pollution reduction programmes and sampling, the Commission was able to close proceedings against Finland for incorrect application of Directive 78/659/EEC on waters supporting fish life.

The Commission was also able to close Article 228 proceedings against Portugal following the judgment of 18 June 1998 (Case C-183/97) on non-conformity of the Portuguese legislation with Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances.

The Court had ruled on 22 April 1999 in Case C-340/96 that the United Kingdom, by accepting non-binding undertakings from the water companies, had failed to fulfil its obligations under Directive 80/778/EEC relating to the quality of water intended for human consumption. In 2000 the Commission was able to close proceedings under Article 228 of the Treaty, as the United Kingdom communicated the adopted necessary measures to the Commission.

The Commission brought a court action (Case C-2000/316) against Ireland for incorrect application of Directive 80/778/EEC following widespread detection by the Irish Environmental Protection Agency of microbiological contaminants in drinking water, especially rural water supplies.

The Commission decided to go to court against Portugal for not fixing, as far as Azores are concerned, limit values for the parameters listed in Annex I to Directive 80/778/EEC.

The Commission issued a reasoned opinion to Spain for the bad quality of drinking water in several towns of the Alicante Province (Javea, Denia, Teulada-Moraira, Benitachell, Muchamiel, Bussot and Aigues). The response by the Spanish authorities is under assessment.

Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, which will replace Directive 80/778/EEC as from 2003⁷⁷ was due to be transposed into national law by 25 December 2000. Member States may have to take steps immediately to ensure compliance with the new limit values under the new directive. It must be noted with dissatisfaction that no Member State had notified complete transposition measures by 25 December 2000. The Commission has received notifications from Finland, the Netherlands and the United Kingdom, but they either do not cover the whole territory of the Member State at issue and/or do not transpose all parts of the Directive.

The European Parliament and the Council have adopted on 23 October 2000 a new Directive (2000/60/EC) establishing a framework for Community action in the field of water policy⁷⁸. The Member States have three years to transpose its provisions into national law.

The Community has two legislative instruments aimed specifically at combating pollution from phosphates and nitrates and the eutrophication they cause.

⁷⁷ OJ L 330, 5.12.1998, p. 32.

⁷⁸ OJ L 327, 22.12.2000, p.1.

The first, Directive 91/271/EEC, concerns urban waste-water treatment. Member States are required to ensure that, from 1998, 2000 or 2005, depending on population size, all cities have waste water collection and treatment systems. In addition to checking notification and conformity of the transposing measures, the Commission must therefore now follow up cases of incorrect application. Since this Directive plays a fundamental role in the campaign for clean water and against eutrophication, the Commission is particularly eager to ensure that it is implemented on time.

By a judgment of 6 June 2000 (Case C-236/99) the Court found against Belgium for failure to fulfil its obligations under Article 17 of the Directive by communicating to the Commission a programme for the implementation of the Directive which does not comply with the Directive as regards the Brussels-Capital. The Commission continued infringement proceedings against Spain over insufficient and incorrect designation of vulnerable zones under Article 5 of the Directive.

The Commission brought a Court action against Italy (Case C-396/00) over failure to treat urban waste water in the Milan area and against Austria over non-conformity of transposition of the Directive as regards the delays for the establishment of both collection and treatment of urban waste water. The procedure concerning the failure of Germany to fulfil several requirements under the Directive was continued during 2000. The Commission also sent a reasoned opinion to Belgium for several infringements of the Directive.

The second anti-eutrophication measure is Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. The Commission has continued to lay great stress on enforcing this Directive.

Following the judgment of 1 October 1998 in Case C-71/97, by which the Court found that Spain had failed to draw up codes of practice or designate vulnerable zones, the Commission has been able to drop proceedings under Article 228 of the Treaty after notification by Spain of the necessary measures. On the other hand, the Court condemned Spain in a judgment of 13 April 2000 (C-274/98) for not establishing action programmes referred to in Article 5 of the Directive.

The Commission continued a pending court action against Italy over action programmes and reporting requirements (Case C-127/99).

The Commission also brought action before the Court (Case C-258/00) against France for failure to designate vulnerable zones adequately and against Germany (Case C-161/00) over non-conformity of the action programmes carried out. Court action decided against Greece in 1999 over lacking establishment of action programmes, non-adoption of codes of good agricultural practice and certain control measures was continued but not yet executed in view of certain measures notified to the Commission by Greece. Court action was brought against the Netherlands (Case C-322/00) for several insufficiencies of action programmes. On the other hand, the Commission was able to drop the case against Austria over non-mandatory character of action programme after changing the national law on the issue and notification of the Commission thereof. The Commission also closed proceedings against the United Kingdom after it had designated the Ythan estuary as a nitrate vulnerable zone following the reasoned opinion of the Commission.

Two cases remain open against Belgium, one for non-conformity of transposition as regards the national implementing measures, the production of codes of practice and the designation of vulnerable zones, and the other for incorrect application of the Directive. The Commission decided to refer both cases to the Court.

In its judgment of 7 December 2000 (Case C-69/99), the Court condemned the United Kingdom over failure to adopt all measures necessary to comply with the obligations laid down in Article 3(1) and (2) (designation of vulnerable zones) and Article 5 (drawing up of action programmes) of the Directive.

The Commission brought an action before the Court (Case C-266/00) against Luxembourg over codes of practice, programmes and reporting.

The Commission also sent a reasoned opinion to Finland concerning insufficiencies in action programmes relating to prohibition periods, capacity of storage vessels and rules for land application of manure. New measures adopted by Finland following the reasoned opinion are being examined by the Commission.

The Commission also started proceedings against several Member States concerning Directive 91/692/EEC on the standardisation and rationalisation of reports in the water sector. Certain Member States had failed to send in the reports they were required to produce on the implementation of certain directives or had sent them in late or incomplete. As a result, the Commission in turn has not been able to draw up properly the Community reports it is required to produce. The Commission has therefore taken court action against Portugal (Case C-435/99). Proceedings against Belgium are continuing as the Commission is examining the reply received at the end of 2000. On the other hand, in the course of the year 2000 the Commission was able to drop proceedings against Spain, Italy and Ireland as they had earlier provided the Commission with reports in response to the reasoned opinions they had received. Also, proceedings against France were dropped after examining the French reply to Commission's earlier reasoned opinion.

2.8.5. *Nature*

The two main legal instruments aimed at protecting nature are Directive 79/409/EEC on the conservation of wild birds and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

Regarding the transposition of Directive 79/409/EEC several conformity problems remain unresolved, particularly concerning hunting and derogations (Article 7(4) and Article 9). Thus, in a judgment of 7 December 2000 against France in relation to the opening and closing dates of the hunting season for migratory birds (Case C-38/99), the Court found that France had failed correctly to transpose Article 7(4) of the Directive, by having omitted to communicate all the transposition measures relating to the whole of its territory and by having failed correctly to implement the aforesaid provision. The Commission also continued the action before the Court against Italy (Case C-159/99) for non-transposition of Article 9 (derogations from the protection schemes resulting from Articles 5, 6, 7 and 8). The Commission also decided to bring court action against Greece concerning the duration of the hunting period. Furthermore, the Commission decided to bring court action against Sweden for its failure to correctly transpose certain provisions of Directive 79/409/EEC, including

Article 9. This case also concerns Article 4 (as replaced by Articles 6, paragraphs 2,3 and 4 of Directive 92/43/EEC) and Article 6(3) of Directive 79/409/EEC.

The Commission decided to bring an action before the Court against Finland concerning the non-conformity of the Finnish hunting legislation with the Directive (hunting of certain waterfowl species in the spring time, hunting season for certain other bird species). Following the reasoned opinion sent to Spain in the beginning of 2000 over the hunting of certain migratory bird species, the Commission is examining the reply sent by Spain. Infringement proceedings concerning hunting practices in two special protection areas (Baie de Canche and Platier d'Oye) in France are still under examination by the Commission.

Also other non-conformity issues under Directive 79/409/EEC were addressed during 2000. The Commission decided to bring a Court action against Belgium for the absence of transposition of Article 5 (c) and (e) and Article 6(1) of Directive 79/409/EEC. Another case against Belgium concerning the incorrect transposition of Article 4(1), (2), (4) and Annex I of Directive 79/409/EEC was referred to the Court.

By the end of 2000, i.e. about six and a half years after the deadline which expired in June 1994, the last Member States had finally notified the Commission of their transposition measures for Directive 92/43/EEC. However, in many cases the transposition is insufficient, particularly concerning Article 6 on the protection of habitats in the special conservation sites which are to be set up, and Articles 12 to 16 on protection of species. Thus, in its judgment of 6 June 2000 (Case C-256/98) the Court ruled against France for failure to adopt within the prescribed period all the laws, regulations and administrative measures necessary to comply with Article 6(3) and (4) of the Directive. Since France had not adopted the necessary measures to comply with the judgment, the Commission sent a letter of formal notice and subsequently decided to send also a reasoned opinion under Article 228 of the Treaty to France. The Commission also decided to refer Luxembourg and Belgium to the Court for failure to implement a number of provisions of the Directive properly. A Court action was also brought against Sweden for its failure to correctly transpose Articles 4(5), 5(4), 6(2)-(4), 15 and 16 of Directive 92/43/EEC.

As in the past, the main problems with the implementation of Directives 79/409/EEC and 92/43/EEC relate to the nomination and protection of sites of natural interest, either in connection with the designation of sites for birds and the selection of other sites for inclusion in the Natura 2000 network, or the protection of such sites.

As mentioned in the last report, problems still arise in several Member States with Article 4 of Directive 79/409/EEC, which requires that sites shall be designated as special protection areas (SPAs) for wild birds wherever the objective ornithological criteria are met.

The Commission is pressing ahead with infringement proceedings in certain key cases.

The Court had in 1999 given two judgments against France. In the first one (Case C-166/97), the Court found against France for failing to classify a sufficiently large area of the Seine estuary as a special protection area (SPA) and for failing to adopt measures to provide the classified SPA with an adequate legal regime under Article 4(1) and (2) of the Directive. But the Court dismissed the complaint relating to the

building of an industrial plant in the middle of the SPA, finding that the Commission had not furnished sufficient proof to contradict the information provided by the French authorities. In the course of the year 2000, Article 228 proceedings remained open against France to oblige the French authorities to take all necessary measures to comply with the judgment.

In the second one (Case C-96/98), the Court found against France for failing, within the prescribed period, to classify a sufficient area in the Poitevin Marsh as special protection areas, failing to adopt measures conferring a sufficient legal status on the special protection areas classified in the Poitevin Marsh, and failing to adopt appropriate measures to avoid deterioration of the sites in the Poitevin Marsh classified as special protection areas and of certain of those which should have been so classified. As France did not take the necessary measures to comply with this judgment, the Commission decided in 2000 to send a letter of formal notice under Article 228 of the Treaty to France.

In 7 December 2000 the Court gave one more judgment (Case C-374/98) against France concerning similar complaints, finding that France has failed to fulfil its obligations under Article 4(1) of the Directive by not classifying any part of the Basses Corbières site as a special protection area and by not adopting special conservation measures for that site sufficient in their geographical extent.

The Commission was able to close proceedings against Austria, as that Member State had notified the Commission of the measures concerning designation of Lech valley in the Tyrol as a SPA.

Although areas should have been designated SPAs when the Directive entered into force in 1981, existing sites in a number of Member States are still too few in number or cover too small an area. The Commission's present strategy revolves around initiating general infringement proceedings, rather than infringement proceedings on a site by site basis.

Thus, the Commission decided to bring an action before the Court against France for insufficient designation of special protection areas under Article 4(1) and 4(2) of the Directive. Proceedings opened earlier in relation to two individual areas (the Plaine des Maures and the Basses Vallées de l'Aude) were combined with this case.

The Commission is also pursuing proceedings against other Member States on the same grounds. It continued proceedings against Germany, Italy, Luxembourg, Portugal and Finland. Of these, the Commission brought a court action against Finland (Case C-240/00), but is at present still examining measures communicated by Germany and Portugal before deciding to what extent to press ahead against these two Member States. The Commission also brought Spain to the Court for failure to designate a sufficient number of SPAs in the Murcia region (Case C-354/00). The Commission has also decided to send a reasoned opinion to Spain for insufficient designation of SPAs in the whole country.

The Commission is examining a significant number of new special protection areas designated by the Netherlands after Commission's reasoned opinion under Article 228 to oblige that Member State to comply with the Court's judgment of 19 May 1998 (Case C-3/96).

Member States continued to propose conservation sites within the meaning of Directive 92/43/EEC. The United Kingdom has undertaken to identify additional sites under the Directive and has started sending in newly designated sites to the Commission. These new sites are now under evaluation and the Commission has decided to suspend the execution of the Court action decided in 1999 against the United Kingdom until the assessment of the newly notified sites is complete. In 2000 the Commission also decided to prolong the suspension of infringement proceedings against the Netherlands, having received a substantial list from that Member State. That list will be assessed in the framework of the Atlantic biographical region, together with the lists of sites that are provided by other Member States in that region. The situation with the list submitted by Austria is still not completely satisfactory, but further proceedings will depend on the biogeographical seminars planned for 2001. Also the complementary list submitted by Portugal during 2000 following the infringement proceedings opened by the Commission is under examination. With regard to the substantial list submitted by Finland in 1998, the Commission decided to suspend the Court action opened in 1998 against Finland to examine the measures taken by Finland in the course of the year 2000.

The Commission continued Court actions against Ireland (Case C-67/99), Germany (Case C-71/99) and France (Case C-220/99).

Having decided to prolong the execution of the Court action against Sweden in order to assess the 'indicative list' submitted by Sweden, the Commission decided by the end of 2000 to press ahead with this case because of the insufficiencies in the 'indicative list'. Finally, the Commission decided to send Belgium a reasoned opinion since the national list transmitted did not contain any sites representative of numerous types of habitat present on Belgian territory, including priority habitats. Having examined the new list of sites submitted by Belgium during 2000, the Commission decided to continue the procedure against Belgium.

On 7 November 2000, the Court of Justice gave an important preliminary ruling requested by a British court under Article 234 in the Bristol Port case (Case C-371/98). The Court held that a Member State may not take into account economic, social and cultural requirements or regional and local characteristics, when selecting and defining the boundaries of the sites to be proposed to the Commission as eligible for identification as sites of Community importance.

As mentioned in the last report, in many cases the details provided by Member States on sites and the species they support are neither complete nor appropriate. This makes it more difficult to proceed to the subsequent stages of the plan laid down in Directive 92/43/EEC and to the setting up of the Natura 2000 network.

The Commission has maintained its strict policy with regard to the granting of Community funding for conservation of sites under the LIFE Regulation on sites being integrated or already integrated into the Natura 2000 network. Furthermore, it scrutinises requests for cofinancing from the Cohesion Fund very thoroughly for compliance with environmental regulations. In June 1999, the competent Commissioners for environment and regional policy sent the Member States a letter reminding them of their obligations under Directives 79/409/EEC and 92/43/EEC. Those Member States that had not submitted adequate lists for the setting up of the Natura 2000 network were warned that the Commission might not be able to evaluate the plans and cofinancing programmes submitted. During 2000, conditions were

inserted in Structural Funds plans and programmes and rural development programmes requiring Member States to submit outstanding Natura 2000 site lists.

Problems remain concerning unsatisfactory application of the special protection regime under Article 4(4) of Directive 79/409/EEC and Article 6(2) to (4) of Directive 92/43/EEC, i.e. failure to designate areas fulfilling the objective ornithological criteria as special protection areas and/or by setting aside the special protection regime in relation to projects affecting sites. In April 2000 the Commission published an interpretation guide in order to provide guidelines for the Member States on the interpretation of certain key concepts used in Article 6 of Directive 92/43/EEC.

The Commission sent a reasoned opinion to Austria for infringing Article 6(3) and (4) of Directive 92/43/EEC in the context of an extension of a golf course in the Enns valley and decided to bring a Court action against Belgium for its failure to protect the SPA in the Zwarte Beek valley. The Commission referred Ireland to the Court of Justice for failure to adopt measures to protect against overgrazing of habitats populated by species of wild birds covered by the Directive 79/409/EEC in the West of Ireland (Case C-117/00).

Finally, the Commission decided to refer Portugal to the Court concerning the "Abrilongo" dam project affecting the Campo Maior SPA and species required to be protected under Directive 79/409/EEC and sent a reasoned opinion to the same Member State for authorisation of an expressway project without appropriate impact assessments.

Problems with the implementation of Directive 92/43/EEC may also arise with regard to the protection, not of designated or nominated sites, but of species. For example, the Commission has brought a court action against Greece for threats to a species of turtle (*Caretta caretta*) on the island of Zakynthos (Case C-103/00). It also decided to send a reasoned opinion to Germany for failure to properly protect the habitats of an endangered hamster (*Cricetus cricetus*) population at Horbacher Börde near Aachen close on the frontier with the Netherlands, one of the most important sites for this species in the North West Germany. Another reasoned opinion was decided against the United Kingdom for its failure to ensure the proper protection of the Great Crested Newt (*Triturus cristatus*).

Regarding the implementation of Regulation (EEC) No 338/97 on the implementation in the Community of the 1973 Washington Convention on international trade in endangered species of wild fauna and flora (the Cites convention), the infringement procedures against Greece resulted in Greece notifying the Commission in 1999 of various measures and Ministerial decisions supplementing Act 2637 of 27 August 1998. The decision to refer the matter to the Court has been deferred pending verification of the Greek legislation's conformity with the Community requirements.

2.8.6. Noise

As in the past, implementation of Directives on noise poses few problems, since these Directives set standards for new products. However, the complaints received by the Commission in fact relate to ambient noise and consequently cannot be addressed at Community level.

On 8 May 2000, the European Parliament and the Council adopted Directive 2000/14/EC on the approximation of laws of the Member States relating to noise emission in the environment by equipment for use outdoors⁷⁹.

2.8.7. *Chemicals and biotechnology*

Community legislation on chemicals and biotechnology covers various groups of directives relating to products or activities which have certain characteristics in common: they are technically complex, require frequent changes to adapt them to new knowledge, apply both to the scientific and industrial spheres and deal with specific environmental risks.

One of the features of Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances is the frequency with which it has to be amended, to keep up with scientific and technical developments. Thus, Directive 98/98/EC of 15 December 1998⁸⁰ adapting Directive 67/548/EEC to technical progress for the 25th time, fell due in July 2000. In addition, the European Parliament and the Council Directive 99/33/EC of 10 May 1999 amending Directive 67/548/EEC as regards the labelling of certain dangerous substances in Austria and Sweden fell due on 30 July 2000 for those two Member States.

In this context, Member States are still frequently late in communicating their transposition measures, but the Commission automatically commences proceedings in order to make Member States meet their obligations.

In 2000 the Commission decided to send a reasoned opinion to Germany concerning the definition and handling of man-made vitreous (silicate) fibres (MMMF) in contravention of Directive 67/548/EEC. The Commission also decided to send a reasoned opinion to the United Kingdom, and subsequently to bring a court action against that Member State, for excluding the territory of Gibraltar from the scope of application of the transposition measures for Directive 67/548/EEC and subsequent amending Directives.

Directive 96/56/EC provides for the abbreviation "EEC" to be replaced by "EC", for the purpose of labelling dangerous substances, by 1 June 1998. The Commission sent reasoned opinions to Belgium, Germany, Portugal and Greece in 1998 for failure to transpose the Directive. All Member States have now transposed it, as the only remaining action against Germany (Case C-406/99) could be withdrawn and closed in 2000.

With regard to Directive 97/69/EC (23rd adaptation to the Directive) on dangerous substances, measures have recently been notified to the Commission by Austria and the Netherlands against whom the proceedings have therefore been set aside.

Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing on the market of biocidal products⁸¹ was due to be transposed by the Member States by no later than 14 May 2000. Proceedings for

⁷⁹ OJ L 162, 3.7.2000, p.1.

⁸⁰ OJ L 355, 30.12.1998, p.1.

⁸¹ OJ L 123, 24.4.1998 p.1.

non-communication of transposition measures had to be opened against twelve Member States : Austria, Belgium, Finland (as far as the Province of Åland is concerned), France, Germany, Greece, Ireland, Luxembourg, Portugal, the Netherlands, Spain and the United Kingdom, of which proceedings against Austria could be dropped during 2000.

As regards Directive 86/609/EEC on the protection of animals used for experimental and other scientific purposes, the Commission was able to close proceedings against Belgium under Article 228 of the Treaty, after Belgium had implemented the Court of Justice judgment against Belgium of 15 October 1998 for failure to transpose the Directive (Case C-268/97). However, the Commission decided to send a reasoned opinion to Belgium for having too many exemptions for using non-purpose bred cats and dogs in experiments.

The Commission also continued a court action against Ireland (Case C-354/99), brought a court action against France (Case C-152/00) and decided to refer the Netherlands to the Court for incorrect transposition of the Directive. The court action against Austria was withdrawn after Austria had notified the Commission of the required measures.

The use of genetically modified micro-organisms (GMMs) is governed by Directive 90/219/EEC (relating to their contained use). The use of genetically modified organisms (GMOs) is governed by Directive 90/220/EEC (relating to their release). The existing legislative framework (Directive 90/220/EEC of 23 April 1990) is under revision. The European Parliament and the Council achieved an agreement on a joint text on 20 December 2000. Final adoption of the new system is expected in February 2001. The revised Directive seeks to introduce a more transparent and efficient framework for the approval procedure for the marketing of GMOs, to set out common principles for risk assessment and a mandatory monitoring plan and to adapt administrative procedures to the risks involved, including indirect ones.

The Commission sent a reasoned opinion to France concerning incorrect transposition of several provisions of Directive 90/219/EEC into its national law.

Directive 90/219/EEC was amended by Council Directive 98/81/EC of 26 October 1998 (contained use of genetically-modified micro-organisms)⁸², which had to be transposed by 5 June 2000. By the end of 2000, proceedings for non-communication of transposition measures for this Directive were open against all Member States excluding Sweden, Finland and Denmark.

Finally, two cases of incorrect application of Directive 90/220/EEC remain open against France.

The first failing concerns the subsequent stages of the authorisation procedure for the placing on the market of products consisting of or containing GMOs. The Directive stipulates that when a decision has been taken approving the placing on the market of such a product, the competent authority of the Member State which received the initial notification must give its consent in writing so as to permit the product to be placed on the market. France has not given its consent in respect of two favourable

⁸² OJ L 330, 5.12.1998, p.13.

decisions adopted in 1997. However, in a similar case regarding maize, the French *Conseil d'Etat* (supreme administrative court) asked the Court of Justice for a preliminary ruling (Case C-6/99) as to whether the national authorities had any power of discretion following the adoption of a favourable decision by the Commission pursuant to Article 13(4) of Directive 90/220/EEC. In its judgment of 21 March 2000, the Court held that after an application for placing a GMO on the market has been forwarded to the Commission and no Member State has raised an objection, or if the Commission has taken a 'favourable decision', the competent authority which forwarded the application must issue the consent in writing, allowing the product to be placed on the market. However, if in the meantime the Member State concerned has new information that the product may constitute a risk to human health and the environment, it will not be obliged to give its consent, provided that it immediately informs the Commission and the other Member States about the new information. In a recent judgment of 4 November 2000, the French *Conseil d'Etat* has followed the decision of the Court of Justice, and has considered that without new information regarding the risks, the French Ministry could not call into question the decision taken by the Commission and based on the opinion of the three scientific committees. The procedure against France is still open (reasoned opinion stage), while the Commission is considering the possible application of the safeguard clause in Article 16 of Directive 90/220/EEC.

The Commission also decided to bring a court action against France for non-transposition and incorrect transposition of several provisions of the Directive 90/220/EEC.

2.8.8. *Waste*

Infringement proceedings in relation to waste continue to abound, concerning both formal transposition and practical application. As mentioned in the last report, the most likely explanations for the difficulties in enforcing Community law in these matters are as much the need for changes in the conduct of private individuals, public services and business firms as the costs of such changes.

Regarding the framework directive on waste (Directive 75/442/EEC, as amended by Directive 91/156/EEC), most of the implementation difficulties concern its application to specific installations. This is at the root of the large number of complaints primarily concerned with waste dumping (uncontrolled dumps, controversial siting of planned controlled tips, mismanagement of lawful tips, water pollution caused by directly discharged waste). The Directive requires that prior authorisation be obtained for waste-disposal and waste-reprocessing sites; in the case of waste-disposal, the authorisation must lay down conditions to contain the environmental impact.

The adoption by the Council on 26 April 1999 of Directive 1999/31/EC on the landfill of waste⁸³ should help to clarify the legal framework in which sites employing this method of disposal are authorised in the Member States.

As mentioned previously, the Commission uses individual cases of this type to detect more general problems concerning incorrect application of Community law, such as

⁸³ OJ L 182, 16.7.1999, p.1.

the absence or inadequacy of waste management plans, based on the assumption that an illegal dump may provide evidence of an unsatisfied need for waste management.

This was the spirit behind the Commission's second referral of Greece to the Court of Justice in 1998 (C-387/97), asking the Court to impose a daily fine of € 24 600 on Greece, on the basis of Article 228 of the Treaty, for failure to give effect to the Court's judgment in Case C-45/91 (7 April 1992). This case concerns the existence and the functioning of an illegal solid waste dump in Kouroupitos in the region of Chania where domestic waste, limited quantities of dangerous waste (for example, waste oils and batteries) and of different kind of commercial and industrial waste were illegally dumped. In line with the Advocate-General's conclusions of 28 September 1999, the Court declared in its judgment of 4 July 2000 that by failing to take the necessary measures to ensure that in the area of Chania waste is disposed of without endangering human health and without harming the environment in conformity with Articles 4 and 6 of Directive 75/442/EEC on waste and Article 12 of Directive 78/319/EEC on toxic and dangerous waste, Greece has not taken measures to comply with the judgment of 7 April 1992 and has failed to fulfil its obligations under Article 171 (now 228) of the Treaty. The Court decided to impose a financial penalty of € 20.000 per day on Greece for non-compliance. In December 2000 the Greek Government has paid the sum of 1.760.000 € covering the daily penalty from July to September 2000. The Commission has requested Greece to carry out payments on a monthly basis.

As previously stated, this is the first time that the European Court of Justice has taken a decision to fine a Member State under Article 228 of the Treaty. This constitutes a significant milestone for the European Union in terms of enforcement of Community environmental law *vis-à-vis* the Member States.

In a judgment of 9 November 1999 (Case C-365/97), the Court had found against Italy for failing to take measures necessary to dispose of the waste discharged into the watercourse running through the San Rocco valley without endangering human health or the environment, and for failing to take measures to ensure that the waste collected in an illegal tip is handed over to a private or public waste collector or a waste disposal company. The Commission is examining the measures to comply with the judgment that Italy communicated to the Commission during 2000.

The Commission decided to refer Austria to the Court for the failure to transpose correctly the Community definition waste into Austrian law (for providing for exceptions which are not covered by the Community definition, and for failure to transpose certain Annexes under Directives 75/442/EEC and 91/689/EEC). A reasoned opinion was issued to Belgium because of the Walloon Region's failure to provide a correct definition of waste in its implementation legislation. The Commission also sent a reasoned opinion to Luxembourg, and subsequently decided to refer this Member State to the Court, for incorrect transposition of the waste catalogue under Commission Decision 94/3/EC based on Directive 75/442/EEC.

Problems with the actual application of Directive 75/442/EEC were also identified during 2000. Thus, the Commission referred Greece to the Court concerning uncontrolled waste dumping in the Peloponnese and decided to bring a court action against Spain for several illegal landfills. A court action was brought against Italy for lack of communication of the report under Directive 75/439/EEC (waste oils) and Directive 75/442/EEC (Case C-376/00).

In 2000 the Commission brought a court action against Italy (Case C-65/00) for Italian legislation on hazardous waste not being in conformity with EC legislation as for the exemption from the permit requirement imposed by Directives 91/156/EEC and 91/689/EEC to undertakings carrying out hazardous waste recovery.

Given that planning is such an important part of waste management - a point illustrated by the examples above - the Commission decided in October 1997 to start infringement proceedings against all Member States except Austria, the only State to have established a planning system for waste management. These proceedings cover a range of failings, relating variously to plans as required by Article 7 of the framework Directive, plans for management of dangerous waste as required by Article 6 of Directive 91/689/EEC, and special plans for packaging waste, as required by Article 14 of Directive 94/62/EC.

In 2000 the Commission continued court actions against France (Case C-292/99), Ireland (Case C-461/99) and Italy (Case C-466/99) in respect of all three categories of plans, and brought court actions also against Greece (Case C-132/00), Luxembourg (C-401/00) and the United Kingdom (Case C-35/00). The Commission decided to press ahead with the court action against Spain.

On the other hand, proceedings opened earlier against Sweden and Portugal were dropped in 2000. Having received a notification of a plan for non-dangerous waste and waste packaging from Niedersachsen (Lower Saxony), the only *Land* not previously to have had such a plan, the Commission was able to close also this procedure.

As regards Directive 91/689/EEC on hazardous waste, the Commission had commenced infringement proceedings in 1998 against a number of Member States which had failed to provide the Commission with particular information required in relation to establishments or undertakings carrying out disposal and/or recovery of hazardous waste. In 2000 Greece was referred to the Court on this point. The Commission was able to drop proceedings against Portugal and the United Kingdom, having received the required information after sending a reasoned opinion to these Member States. The Commission continued to proceed against France for still incomplete information submitted under the Directive.

Regarding the implementation of the Directives on batteries and accumulators containing certain dangerous substances (91/157/EEC and 93/86/EEC), the Commission is pursuing infringement proceedings against those Member States which have not yet established the programmes called for by Article 6 of the Directive. The year 2000 has seen some progress in this respect. Following a reasoned opinion under Article 228 to Spain in order to implement the Court's judgment against Spain of 28 May 1998 (Case C-298/97) the Commission decided to drop the proceedings having received notification of compliance measures from Spain. For similar reasons the Commission decided to close Article 228 proceedings against Greece for failure to give effect to the Court's judgment of 8 July 1999 (Case C-215/98) and draw up a battery waste plan, an obligation it has been required to fulfil since September 1992. Court action against Portugal was also dropped after examining the measures implemented by that Member State. The Commission is examining the sufficiency of the measures taken by Austria after the reasoned opinion.

Commission Directive 98/101/EC of 22 December 1998 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances⁸⁴ was due for transposition by 1 January 2000. During 2000 the Commission was able to close the proceedings for non-communication of transposition measures for this directive against Belgium, Denmark and Spain. By the end of the year 2000, non-communication proceedings had been opened against seven Member States : Germany, Ireland, Italy, Portugal, the United Kingdom, Greece and the Netherlands.

In its judgment of 13 April 2000 (Case C-123/99), the Court held that Greece has failed to adopt the laws, regulations and administrative provisions necessary to comply with Directive 94/62 on packaging and packaging waste. The Commission sent a reasoned opinion to the Netherlands for several issues where the Dutch law is not in conformity with the Directive. On the other hand, proceedings against the United Kingdom (Case C-455/99) for their failure to provide notification of measures transposing the Directive were dropped after the latter provided notification of its measures⁸⁵. Proceedings were continuing against Germany concerning its packaging Regulation (commonly referred to as the 'Töpfer' regulation), which promote the re-use of packaging materials. The Commission decided to issue a reasoned opinion to Germany since the reuse quota as set up by the German Regulation leads to a barrier to trade and indirect discrimination of imported natural mineral waters to be filled at source.

Not only must transposition measures be notified to the Commission, they must also conform with the relevant Community legislation. The Commission considers that this is not the case in Denmark, and thus the Commission is continuing proceedings before the Court of Justice (Case C-246/99) in relation to Denmark's ban on metal cans for drinks and other types of non-reusable packaging.

The Commission brought a court action against Germany (Case C-228/00) for setting up different criteria to distinguish waste for recovery from waste for disposal and to raise accordingly objections against shipment of waste which contravene Regulation 259/93/EEC on the supervision and control of shipments of waste within, into and out of the European Community. Proceedings were also brought against Luxembourg as a consequence of its failure to comply with Regulation 259/93/EEC in refusing to allow waste to be transported to French incinerators equipped for energy purposes.

Infringement proceedings were commenced in 1999 against various Member States for failure to submit the annual reports required by Article 41 of Regulation 259/93/EEC. The proceedings against Greece, Italy and Ireland were dropped in view of the satisfactory responses received from these countries. The Commission sent a reasoned opinion to the Netherlands concerning shipments of waste from the Netherlands to other countries.

Regarding Directive 75/439/EEC on the disposal of waste oils, the Commission started proceedings under Article 228 against Germany for not complying with the ruling of the Court of Justice of 9 September 1999 (Case C-102/97), concerning

⁸⁴ OJ L 1, 5.1.1999, p. 1.

⁸⁵ The Producer Responsibility Obligations (Packaging Waste)(Amendment) Regulations (Northern Ireland) 1999 S.R.N.I. No. 496.

Germany's failure to take the measures necessary to give priority to the processing of waste oils by regeneration, notwithstanding that technical, economic and organisational constraints so allowed. The Commission also continued the Court action against Portugal for incorrect transposition of the Directive (Case C-392/99).

With regard to the disposal of PCBs and PCTs, two particularly dangerous products, Directive 96/59/EC, which supersedes Directive 76/403/EEC, was due to be transposed by the Member States by 16 March 1998. During the year 2000, the Commission was able to close proceedings against all Member States who had not notified their transposition measures by the above deadline, including proceedings in the Court of Justice against Greece (Case C-464/99) and the United Kingdom (Case C-468/99). The Directive stipulates that Member States shall draw up, within three years of its adoption, namely by 16 September 1999, plans for the decontamination and/or disposal of inventoried equipment and PCBs contained therein and outlines for the collection and subsequent disposal of certain equipment under Article 11 of the Directive, as well as inventories under Article 4(1) of the Directive. However, many Member States have still not communicated to the Commission the necessary measures. Thus, in the course of the year 2000 the Commission sent a reasoned opinion to the United Kingdom, Denmark, Germany, Sweden, Portugal, Greece, France, Spain, Italy, Ireland and Luxembourg. It also decided subsequently to bring court action against the six last mentioned Member States.

Finally, in relation to the sewage sludge Directive 86/278/EEC, the Commission decided to send letters of formal notice to Sweden, Belgium, Ireland, Italy and Portugal for non-compliance with the information and monitoring obligations established under the Directive. According to Article 10 of the Directive, Member States have to ensure that up to date records are kept which register the quantities of sludge produced and the quantities supplied for the use in agriculture, the composition and properties of sludge and the type of treatment carried out. This is necessary to verify that the use of sewage sludge in agriculture does not compromise food production and long term soil quality.

2.8.9. Environment and industry

It should be mentioned first that the procedure against Italy for non-compliance with the Court's judgment of 17 June 1999 (Case C-336/97) was dropped by the end of the year 2000 after Italy had corrected its failure to organise emergency plans, inspections, and control measures as required by the Directive 82/501/EEC – "the Seveso Directive".

Directive 96/82/EC (« Seveso II »), replacing Directive 82/501/EEC from 3 February 2001 (« Seveso I »), was due to be transposed by no later than 3 February 1999. In the absence of notifications of their transposition measures, the Commission decided to refer the following five Member States to the Court : Austria, Belgium, Germany, Ireland and Portugal. On the other hand, non-communication proceedings opened earlier against Luxembourg, the United Kingdom and Greece could be dropped.

The Commission decided to refer Ireland to the Court for non-conformity of their measures implementing Directive 87/217/EEC (prevention and reduction of environmental pollution by asbestos). New legislation later made it possible to withdraw this case. Also similar proceedings opened earlier against Belgium could be closed during 2000.

Regarding the two Directives on the prevention of air pollution from municipal waste incineration plants, namely 89/369/EEC (new plants) and 89/429/EEC (existing plants), the Commission was able to withdraw the court action against Belgium for non-conformity of its transposing legislation (Case C-287/99). On the other hand, the Commission brought court action (Case C-2000/139) against Spain for permitting the Canary Islands to operate incinerators not complying with Directive 89/369/EEC, and decided to bring court action against France for allowing numerous incinerators to operate in contravention of Community legislation, with substantial dioxin emissions.

Directive 94/67/EC on the incineration of hazardous waste fell due for transposition on 31 December 1996. Court proceedings against Belgium (Case C-338/99) and Italy (Case C-421/99) for failure to notify transposition measures could be dropped in the course of the year 2000, as the Member States at issue had adopted the necessary measures and notified the Commission thereof. The Commission decided to send a reasoned opinion to Austria for incorrect transposition of the Directive.

Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), adopted on 24 September 1996, was due to be implemented by 30 October 1999. Proceedings for non-communication of the transposition measures to the Commission were continued against Spain, Greece, the United Kingdom (as far as Northern Ireland and Gibraltar are concerned), Luxembourg, Germany, Finland (as far as the Province of Åland is concerned) and Belgium. Non-communication proceedings opened earlier against Austria and Portugal were closed during 2000, as the necessary transposition measures were notified to the Commission by those Member States.

The Commission continued the court action against Belgium with regard to the use of the tacit authorisation scheme mentioned in last year's report, since Belgium's responses to the reasoned opinion offered no evidence that the national legislation had been brought into line with the Directive.

2.8.10. Radiation protection

The Community legislation on radiation protection is based on Chapter 3 "Health and Safety" of the Euratom Treaty. It covers all aspects of the protection of the health of workers and the general public against the dangers arising from ionising radiation, not only those related to nuclear energy. In fact, people are mostly exposed to radiation by its medical use. Furthermore, it protects indirectly the air, water and soil of the Community from the impacts of radiation. The Commission controls the implementation of the radiation protection legislation on the basis of Article 124 and according to the procedure of Articles 141 and 143 of the Euratom Treaty, which correspond to Article 211 and respectively to Articles 226 and 228 of the EC Treaty.

The primary legislation, the Euratom Treaty itself sets in Articles 33-37 certain obligations to the Member States, for example relating to the training and education, environmental monitoring and disposal of radioactive waste. In addition, there are five main directives and three regulations currently in force concerning radiation protection.

The speciality of the Euratom based legislation is that the Commission examines the conformity of the national transposing measures before those measures are adopted

in a final way. According to Article 33 of the Euratom Treaty, the Member States shall communicate to the Commission any draft provisions, which it has made to ensure compliance with the basic standards in the area of radiation protection. The Commission shall make appropriate recommendations for harmonising these measures. These recommendations are similar to conformity checks in the other areas of Community environmental law which may lead to a letter of formal notice. In 2000, the number of submissions of national draft legislation under Article 33 of the Euratom Treaty increased highly, because the deadline for transposition of two main radiation protection directives 96/29/Euratom and 97/43/Euratom was in May 2000. The Commission received 20 submissions (compared to 11 in 1999) under Article 33 of the Euratom Treaty, which have been examined and commented on, although no formal recommendation was issued during 2000. Even if the recommendations issued under Article 33 are not binding, the Member States follow them usually very well. Therefore, there is less need for infringement cases concerning non-conformity in the area of radiation protection.

Article 35 of the Euratom Treaty provides that each Member State shall establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with basic standards. The Commission can verify the operation and efficiency of such facilities. During 2000, the Commission carried out two verifications under Article 35.

Under Article 36 of the Treaty, Member States provide information on the measured levels of radioactivity in the environment. This allows the Commission to judge whether the basic standards are complied with. The Commission adopted in 2000 Recommendation 2000/476/Euratom on the application of Article 36 of the Euratom Treaty concerning the monitoring of the levels of radioactivity in the environment for the purpose of assessing the exposure of the population as a whole (OJ L 191, 27.7.2000, p. 37).

According to Article 37 of the Euratom Treaty, Member States must provide the Commission with general data relating to any plan for the disposal of radioactive waste. The Commission assesses the data in order to determine whether the implementation of the plan could cause radioactive contamination of the environment of another Member State. The Commission issues an opinion on the subject, which the Member State has to take into account when granting an authorisation for the project. Article 37 aims to forestall any possibility of radioactive contamination of the environment in another Member State, thereby protecting the general public against the dangers arising from ionising radiation. The Commission issued 12 opinions under Article 37 of the Euratom Treaty in 2000. There was one infringement case pending relating to Article 37 in 2000: the Commission considered that the United Kingdom had failed to fulfil its obligations under Article 37, because it had not submitted the general data related to dismantling of Windscale Pile I nuclear reactor. Thus the Commission decided to refer the UK to the Court. The Windscale Number 1 Pile reactor was built and operated within the current Sellafield site as an experimental and production facility for the UK weapon programme. According to the information available to the Commission, its dismantling was being prepared. Because dismantling operations are considered as 'a plan for disposal of radioactive waste', the UK authorities should have submitted the general data related to dismantling plans to the Commission. However, the United Kingdom argued in principle that the Euratom Treaty does not apply to the use of nuclear energy for military purposes. Therefore, the UK considered first that Article 37 was not

applicable to the plans concerning Windscale Pile 1. The Commission does not share this opinion but is of the view that the provisions (including Article 37) of Chapter 3 “Health and Safety” of the Euratom Treaty apply to activities in both civil and military spheres. The protection of the health and the safety of general public in the field of radiation protection is an indivisible objective and extends to all dangers arising from ionising radiation, irrespective of their source. The UK authorities then accepted that the proposed operations to dispose of the waste from within the reactor were not related to the national defence programme and indicated their willingness to submit the data, once a plan for disposal is ready. The case was closed.

As mentioned above, the deadline for transposition of two main directives in the area of radiation protection, Council Directive 96/29/Euratom laying down basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation (OJ L 159, 29.6.1996, p. 1) and Council Directive 97/43/Euratom on health protection of individuals against dangers of ionising radiation in relation to medical exposure (OJ L 180, 9.7.1997, p. 22), expired on 13 May 2000. By the same date, all the old basic safety standards directives (adopted since 1959) were repealed.

Directive 96/29/Euratom on the Basic Safety Standards introduced a new dosimetric concept in order to protect the health of workers and general public soundly and comprehensively. For this purpose, the Directive reduced the dose limits, set new requirements for the justification for all practices involving ionising radiation and introduced an extended ALARA-principle, according to which doses must be kept As Low As Reasonable Achievable. The Directive covers practices, work activities and intervention situations. It also introduces the new concept of clearance and exemption for materials containing radioactivity. Besides man-made radiation, it also regulates natural radiation in the work place. Finally, the Directive includes new requirements for the assessment of population dose.

Only two Member States had notified a complete set of national transposing measures as regards Directive 96/29/Euratom on the Basic Safety Standards to the Commission within the deadline set by the Directive. Therefore, the Commission opened infringement cases against Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom in summer 2000 because of failure to communicate the final transposing measures. However, Austria later communicated the national measures, and the Commission was able to close this infringement case before the end of 2000.

Directive 96/29/Euratom on the Basic Safety Standards repealed the previous Directive 80/836/Euratom on the Basic Safety Standards as from 13 May 2000. The only pending infringement case in relation to Directive 80/836/Euratom was against the Netherlands for failure to comply with basic standards concerning e.g. nursing mothers, internal exposure and received doses. This was closed in 2000 because the definitive correction of these infringements can be ensured in the framework of the case opened against the Netherlands under Directive 96/29/Euratom (see above).

Directive 97/43/Euratom on Medical Exposures improves the level of radiological protection for patients and medical staff. It takes into account the new developments in medical procedures and equipment. It is built onto the experience gained from the operational implementation of former directives and supplements Directive 96/29/Euratom on the Basic Safety Standards. The new Directive lays down a more

precise description for the justification principle, regulates the distribution of responsibilities and sets requirements for qualified experts in the medical area.

As regards this Directive, three Member States had notified a complete set of national transposing measures to the Commission within the deadline set by the Directive. Therefore, the Commission opened infringement cases against Belgium, Denmark, France, Germany, Greece, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom in summer 2000 because of failure to communicate the final transposing measures. However, Sweden later communicated the national measures, and the Commission was able to close this infringement case before the end of 2000.

The previous Directive 84/466/Euratom on Medical Exposures was repealed by the new Directive 97/43/Euratom. The infringement case C-96/21 against Spain related to Directive 84/466/Euratom was closed, when Spain communicated to the Commission new, published transposing measures. Another case pending was that against Belgium. The Belgian legislation as notified did not fully meet the requirements of Directive 84/466/Euratom concerning e.g. training, qualified experts and acceptability and surveillance of radiological installations. This was closed because the definitive correction of these infringements can be ensured in the framework of the new case opened against Belgium under Directive 97/43/Euratom (see above).

Directive 89/618/Euratom on Informing the Public includes requirements on informing the general public about health protection measures to be applied and steps to be taken in the event of radiological emergency. Sweden had failed to communicate transposing measures for several provisions of Directive 89/618/Euratom, such as on informing the public in emergency and on procedures for circulation of information. In 2000, the Commission received notification concerning the new Swedish transposing measures and the case was closed. The conformity check of the French legislation had revealed that it fails to fully comply with the Directive as regards definitions, prior information to the public and information to the public in the event of emergency and as regards information to the emergency staff. On this basis, the Commission sent a reasoned opinion to France in 2000. Proceedings against Germany are going on, because the German legislation does not ensure that if a radiological emergency occurs, the population affected is informed without delay on the facts of the emergency and of the steps to be taken. Furthermore, the German legislation does not fully transpose the requirements concerning information for rescue workers. Lastly, the procedures for circulating necessary information are not arranged as required by the Directive. It appears that Germany is preparing new legislation, which would solve these problems. However, the Commission has not received notification concerning new adopted legislation and the infringement subsists. Therefore, the Commission has decided to refer Germany to the Court.

The infringement case against France for failure to comply with Directive 90/641/Euratom on the operation protection of outside workers exposed to the risk of ionising radiation during their activities in controlled areas was closed in 2000, because the assessment of the new measures received in 1999 proved them satisfactory. This Directive provides outside workers with operational radiation protection equivalent to that offered to the operator's established workers. Outside workers are workers employed by undertaking other than the operator of a facility

licensed under the radiation protection legislation, who are exposed to the risk of radiation. Outside workers can work in several facilities in succession in one or more Member States. They are thus liable to be exposed to radiation in several controlled areas (where exposures are significant). These specific working conditions require a specific radiological monitoring system, important to their health protection. According to the analysis of the Commission, Belgium has failed to establish a uniform system, which fully complies with the Directive. Therefore it decided to refer Belgium to the Court in 2000.

2.9. FISHERIES

The Commission continued to monitor the resource conservation and management measures put in place by the Member States in areas covered by the common fisheries policy.

The Commission continued its systematic scrutiny of national fisheries and aquaculture legislation. These are the measures analysed under Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy,⁸⁶ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁸⁷ and Council Regulation (EC) No 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean.⁸⁸ The Commission has identified no cases of national measures incompatible with Community rules warranting infringement proceedings.

2.9.1. Resources

In the course of the infringement proceedings for failure to inspect, given the excesses over certain quotas in Denmark in 1988, 1990, 1991, 1992, 1994, 1995 and 1996, the Commission sent the Danish Government a reasoned opinion on 15 May. In the course of the infringement proceedings against the United Kingdom for excesses over certain quotas in 1991, 1992, 1993, 1994, 1995 and 1996, the Commission commenced an action in the Court of Justice on 10 April. On 10 November the Commission commenced two actions in the Court against France for excesses over certain quotas in 1991, 1992, 1993, 1994, 1995 and 1996.

A supplementary reasoned opinion was addressed to France on 6 June 2000 in the course of the proceedings for failure to comply with Community fisheries and marketing rules governing the minimum sizes for certain species.

The proceedings against France, Ireland and the United Kingdom concerning the reduction in the number of fishing vessels using drifting gill nets were terminated as the initial complaints were unfounded.

The proceedings against France concerning compliance with time-limits for introducing satellite-based surveillance of fishing vessels were terminated when the system was set up.

⁸⁶ OJ L 261, 20.10.1993, p. 1.

⁸⁷ OJ L 125, 27.4.1998, p. 1.

⁸⁸ OJ L 171, 6.7.1994, p. 1.

In addition, the proceedings against France concerning the conditions for the exercise of fishing activities in relation to species for which national quotas had been allocated were terminated when the French authorities took measures to bring those conditions into line with Community law.

2.9.2. *Grant of flag rights and fishing licences*

In 2000 the Commission continued to scrutinise national legislation on the granting of flag rights to fishing vessels for compatibility with Community law.

The infringement proceedings against Greece and Portugal in connection with the granting of flag rights were terminated following the enactment of national legislation compatible with Community law.

2.9.3. *Markets*

The infringement proceedings against Germany concerning the common rules for the marketing of preserved sardines were terminated when measures application them properly were enacted.

2.10. **INTERNAL MARKET**

2.10.1. *General strategy for the internal market*

On 3 May the Commission presented a communication entitled “2000 Review of the Internal Market Strategy”,⁸⁹ which, on the basis of an initial document published in November 1999, identifies the priority areas of action regarded as having the heaviest and most immediate impact on endeavours to improve the operation of the internal market. The review also meets the wish expressed by the Lisbon European Council for modernisation and simplification of the internal market so that the European Union can be the world’s most competitive and most dynamic knowledge-based economy.

In May and November the Commission published updates to the “*Single Market Scoreboard*”, which takes stock of progress made by the Member States in the application and implementation of single-market legislation. In November, the scoreboard⁹⁰ showed that the efforts made by Member States in recent years to give priority to the transposal of the internal-market directives are bearing fruit: the average rate of failure to transpose has been halved in three years. Even so, one directive in eight is untransposed in at least one Member State, which means that nearly 13% of internal-market legislation is not fully effective throughout the Union. It is more and more obvious that the Member States’ authorities can catch up on the backlog only if their efforts are backed up by political support at the very highest level.

Simpler and better-quality legislation are still among the most important political priorities. The SLIM initiative (Simpler Legislation for the Internal Market) is vital here. Small teams of civil servants from the Member States and users of legislation

⁸⁹ COM (2000) 257 final; Bull. 5-2000, point 1.3.26.

⁹⁰ Single-market scoreboard No 7, dated November 2000, can be consulted on the Internal Market Directorate-General website at http://europa.eu.int/comm/internal_market/.

are working of practical proposal for simplifying Community legislation is specific areas. Fourteen sectors have been reviewed since 1996. In 2000, the Commission published the results of the fourth phase of the SLIM exercise,⁹¹ with a set of recommendations for simplifying legislation in three areas – company law, dangerous substances and pre-packing.

In a communication dated 28 February entitled “*Review of SLIM: Simpler Legislation for the Internal Market*”,⁹² the Commission, on the basis of the first three phases of the SLIM exercise, defined ways of improving transparency and proposed principles for selecting sectors to be covered. It called for parallel efforts by the Member States to simplify their rules in the relevant sectors and hoped that the European Parliament and the Council would adopt, at the earliest opportunity, such proposals as were extensively based on SLIM recommendations.

The Commission and the Member States also agreed on three new legislative sectors to be included in the fifth phase of SLIM: transfers of radioactive substances (Directive 92/3/Euratom,⁹³ Regulation (Euratom) No 134/93,⁹⁴) trade in cosmetics (Directive 76/768/EEC⁹⁵) and pesticide residues (Directives 76/895/EEC,⁹⁶ 86/362/EEC,⁹⁷ 86/363/EEC⁹⁸ and 90/642/CEE⁹⁹). The Commission will issue a working paper on the fifth phase in April 2001, and the SLIM teams will examine the relevant legislation and present their recommendations in September.

In its dialogue with citizens and firms, the Commission introduced a new guide to exercising rights in the single market and launched a mechanism for feedback from firms so that their practical experience could be better reflected in decision-making processes.¹⁰⁰

And to improve the application of internal market legislation, and in particular to help citizens and firms solve their problems in exercising their rights, the Commission worked with the Member States on improvements to the operation of the network of internal market coordination centres and contact points set up in all the Member States.¹⁰¹

2.10.2. Free movement of goods

2.10.2.1. Application of Articles 28 et seq. EC (ex Articles 30 et seq. of the EC Treaty)

There was a slight downward trend in the volume of trade-barrier cases in 2000. In 2000, 151 new cases were commenced (there were 257 in 1999, but a good quarter of

⁹¹ COM (2000) 56 final, 4.2.2000.

⁹² COM (2000) 104 final.

⁹³ OJ L 35, 12.2.1992, p. 24.

⁹⁴ OJ L 148, 19 Jun 1993, p. 1.

⁹⁵ OJ L 262, 27 September 1976, p. 169.

⁹⁶ OJ L 340, 9 December 1976, p. 26.

⁹⁷ OJ L 221, 7 Aug 1986, p. 37.

⁹⁸ OJ L 221, 7 Aug 1986, p. 43.

⁹⁹ OJ L 350, 14 December 1990, p. 71.

¹⁰⁰ Visit the following Europa sites:

<http://europa.eu.int/citizens> and <http://europa.eu.int/business>.

¹⁰¹ Visit http://europa.eu.int/comm/internal_market/, and go to Contact points for citizens and Contact points for business.0

the 1999 cases were linked to the dioxin crisis, which rather hampers comparisons). As at 31 December 2000, there were 345 infringement cases pending, up from 318 in 1999.

The trend for free movement of goods cases to become more complex was confirmed. The Commission departments responsible for proceedings here continued as throughout recent years to give priority to dialogue with the national authorities and commenced infringement proceedings only where there was still real disagreement with them.

Package meetings were again organised with most of the Member States (except Belgium, Finland, Germany and Luxembourg). They proved once again how useful and effective they are, since 56 of the 138 cases discussed were settled and only 18 can be considered to be conflictual. Practical seminars on the application of the principle of mutual recognition were also organised in five Member States on the fringes of these package meetings. Given their acknowledged success and usefulness, other seminars will probably be organised in 2001 to improve the familiarity of Member States' authorities with mutual recognition. A fresh meeting of chairmen of package meetings was organised in February 2000.

In addition to the package meetings, the Commission agreed with the Member States to test a new method for the rapid settlement of problems met by Community citizens by entrusting to the network of contact points set up under the Internal Market Advisory Committee a series of cases concerning the registration of motor vehicles. The new mechanism places responsibility for finding either a justification or a solution within three months with the contact point of the Member State in which a registration problem arises, if necessary in conjunction with the contact point in the citizen's country of origin. The Commission will take the case over for handling by the usual infringement procedure only after that period has expired and if the network fails to solve the problem. There will be a first stock-taking of the new mechanism, which will begin to run on an experimental basis in 2000, in 2001. If the outcome is positive, the functions of the network could be extended to other types of problems connected with the free movement of goods.

\ As regards the sectors where the Commission was most frequently called on to act in 2000, there is a tendency for the subject-matter of complaints to diversify. The food and motor industries still make frequent appearances, but the pharmaceutical and phyto-pharmaceutical sectors are also regularly cited, especially in terms of parallel imports.

The Commission's success stories in 2000 include the liberalisation of trade in radio scanners in Belgium, the establishment of simplified rules governing parallel imports of medicines in Spain and simplified rules governing parallel imports of phyto-sanitary products in Greece.

In 2000, the Commission referred to the Court of Justice an infringement proceeding against the Netherlands concerning the rules relating to the addition of nutritional ingredients to foodstuffs (prohibition in the absence of prior authorisation). These rules prohibit as a general rule the addition of certain ingredients, such as vitamins A and D and folic acid to foodstuffs, except for certain specific products. The only possibility for operators to obtain an exception is the prior authorisation procedure for individual products.

This year the Commission sent 17 reasoned opinions to Austria (imports of medicines), Belgium (medical devices for disabled persons, reimbursement of cost of medical devices), Denmark (vitamin drinks), Spain (legislation on fairs and exhibitions, registration of motor-cycles with trailers, liquid bleach), Finland (vitamin food supplements), France (imports of medicines, imports of camping cars), Ireland (parallel imports of medicines), Italy (imports of ships' fittings, components and characteristics of agricultural trailers), Greece (price of medicines, marketing of hemp-based products), the Netherlands (parallel imports of plant-health products) and Sweden (parallel imports of medicines).

In 2000, the Court of Justice gave judgment in the Commission infringement proceedings against Member States in the following cases:

- Case C-23/99 *Commission v France* (judgment given on 29 September 2000), in which the Court held that France was not entitled to implement procedures for withholding by customs authorities in relation to goods lawfully manufactured in a Member State and intended for transit via France and marketing in another Member State where it was lawful to market them;
- Case C-217/99 *Commission v Belgium* (judgment given on 16 November 2000), in which the Court held that Article 28 EC was violated by Belgian rules whereby the labels of foodstuffs containing added ingredients must bear a notification number (procedure laid down for this type of foodstuffs);
- Case C-55/99 *Commission v France* (judgment given on 14 December 2000), in which the Court held that Article 28 EC was violated by French rules whereby the outside packaging of medical reagents of must bear the registration number, and the registration must be mentioned on the Notice; the Court rejected the Commission's application regarding the reference to a registration procedure valid for all reagents.

As regards judgments of the Court of Justice, a number of preliminary rulings tying in with cases of infringement being dealt with the Commission should be mentioned:

- Case C-254/98 *Schutzverband* (judgment given on 13 January 2000), in which the Court confirmed that a discriminatory national measure could not be regarded as a term of sale and was accordingly caught by Article 28 CE. The case concerned an Austrian measure requiring fixed premises in Austria for the ambulant sale of bakery products;
- Case C-366/98 *Geffroy* (judgment given on 12 September 2000), in which the Court again held that Article 28 of the EC Treaty and Article 14 of Directive 79/112/EEC on the labelling of foodstuffs (as amended)¹⁰² precluded national rules imposing the use of a specific language for the labelling of foodstuffs, without allowing another language that was easy for consumers to understand to be used or for consumers to be provided with information by other means;
- Case C-3/99 *Cidrerie Ruwet* (judgment given on 12 October 2000), in which the Court held that Article 28 precludes a Member States from prohibiting the marketing of pre-packaging of a nominal volume not included within the

¹⁰²

OJ L33, 8 February 1979, p. 1.

Community range (Directive 75/106/EEC as amended¹⁰³), lawfully manufactured and marketed in another Member State, unless the purpose of the prohibition was to protect the consumer, was necessary and was in proportion to that objective;

- Case C-448/98 *Guimont* (judgment given on 5 December 2000), in which the Court held that Article 28 precludes the application to products from other Member States of rules whereby only cheeses with a rind may be marketed as “emmental”.

The Commission also boosted its action in favour of transparency and the application of Parliament and Council Decision 3052/95/EC,¹⁰⁴ pursuant to which the Member States are required to notify the Commission of the national measures constituting exceptions to the principle of the free movement of goods. Although the number of notifications received more than doubled over the 1999 figure (65 over 26), it is still insufficient. The Commission report on the application of the decision in 1997 and 1998, published on 7 April 2000, highlights this point, along with a set of proposals for improvements.

As for the arrangements for rapid action on serious barriers to the free movement of goods, the early warning system provided for by Article 3 of Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States¹⁰⁵ was activated 18 times in 2000. This was the case, for instance, at the time of the protests against the 35-hour week in France and the protests against oil price rises in several Member States.

2.10.2.2. Measures to accompany the abolition of internal borders on 1 January 1993

Having been notified in 2000 of all the national measures transposing Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State¹⁰⁶ and Directive 96/100/EEC¹⁰⁷ amending the Annex to Directive 93/7/EEC, the Commission commenced an investigation into the conformity of the measures taken by Germany and France.

2.10.2.3. Liability for defective products (Directive 85/374/EEC,¹⁰⁸ as amended

The Commission brought infringement proceedings in the Court of Justice against France and Greece for non-conformity of national measures transposing the Directive.

Directive 99/34/EC¹⁰⁹ aims to extend the rules on liability without fault to agricultural primary products. The Member States were to introduce the laws, regulations and administrative provisions necessary to comply with the Directive by 4 December 2000 at the latest. The national rules of certain Member States (Greece,

¹⁰³ OJ L42, 15 February 1975, p. 1.

¹⁰⁴ OJ L321, 30 December 1995, p. 1.

¹⁰⁵ OJ L337, 12 December 1998, p. 8.

¹⁰⁶ OJ L74, 27 Mar 1993, p. 74.

¹⁰⁷ OJ L60, 1.3.1997, p. 59.

¹⁰⁸ OJ L 210, 7.8.1995, p. 29.

¹⁰⁹ OJ L141, 4.6.1999, p. 20.

France, Luxembourg, Austria, Finland and Sweden) already applied to agricultural products and required no adaptation. Denmark notified transposal measures.

Two referrals to the Court for preliminary rulings relate to the interpretation of Directive 85/374/EEC. Case C-203/99 is concerned with the liability of the public authorities running a hospital in Denmark in which a patient was unable to have an organ for transplant because it had been damaged. Case C-183/00 concerns the interpretation of Article 13 of the Directive.

2.10.3. Free movement of services and right of establishment

2.10.3.1. Articles 43 et seq. and Articles 49 et seq.

The Commission issued a reasoned opinion to Belgium regarding its legislation on trade practices and consumer information and protection. The legislation prohibits bonus-based customer fidelity schemes where either they are not organised by the seller of the goods or services or they do not offer the consumer benefits of the same nature as the goods or services purchased. Such conditions constitute restrictions on freedom to provide services within the meaning of Article 49 of the EC Treaty; the discriminatory effects of the Belgian legislation in practice contradict the need for such restrictions for the purposes of consumer protection and fair competition.

Under Austrian legislation on hospitals, foreigners not domiciled in Austria nor affiliated to a social security scheme there are charged higher rates for a hospital stay than Austrian nationals in the same situation. This nationality condition is a form of discrimination contrary to Articles 12, 39, 43 and 49 of the EC Treaty, and the Austrian authorities were accordingly sent a reasoned opinion.

Under Irish, Italian, Luxembourg and Portuguese rules, only accredited patent agents may represent clients before the national patent office. One of the conditions for exercising this representation activity is to have a domicile or professional establishment in the Member State. Such conditions raise problems of compatibility with the principle of freedom to provide services laid down by Article 49 of the EC Treaty and the principle of freedom of establishment laid down by Article 43, and the Commission accordingly sent reasoned opinions to the relevant Member States.

On 8 June 2000 the Court of Justice gave judgment in Case C-99/264 concerning an Italian Act laying down lists of licences for forwarding agents, requiring all natural or legal persons engaging in that business to be entered in a specific register at the local chamber of commerce; it held, as argued by the Commission, that this condition for registration impeded the exercise of his business by an operator not established in Italy and wishing to do occasional business there as entitled by Article 49 of the EC Treaty.

The Court also upheld the Commission's argument when it held that the obligation imposed by Italian law on a firm in the cleaning business to be entered in a national or regional register was contrary to the principle of freedom to provide services, not justified by considerations of the general interest (Case C-98/358, judgment given on 9 March 2000).

Following the Commission's decision to refer a case to the Court of Justice, the Portuguese authorities removed the nationality discrimination from rules governing aerial photography services, and the Commission withdrew its action.

On 9 March 2000 the Court of Justice gave judgment in Case C-98/355 concerning private security services, holding that the requirement under Belgian rules for an operational headquarters in Belgium was not compatible with Articles 43 and 49 of the EC Treaty, again accepting the Commission's argument. In relation to the same line of business, the Commission sent Portugal a reasoned opinion as only firms with a large share capital and having an establishment in the country can be issued with the requisite licence, which not only restricts a number of firms but also excludes natural persons.

2.10.3.2. Financial services

Dialogue with the national authorities

In an effort to consolidate administrative cooperation and find rapid solutions to the problems encountered, the Commission has maintained regular contacts with the national authorities in 2000, through institutional committees (Banking Advisory Committee, Insurance Committee, the UCITS - Undertakings for Collective Investment in Transferable Securities - Contact Committee), ad hoc interpretation groups (group of national experts on payment systems, the banking directives group, the insurance group and the "capital adequacy" Directive group, etc.) and high-level working parties (HLSSC - High-Level Security Supervisors Committee for negotiable securities).

National implementing measures

Three banking directives came into force in 2000 – Parliament and Council Directive 98/31/EC of 22 June 1998 amending Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions,¹¹⁰ Directive 98/32/EC of the European Parliament and of the Council of 22 June 1998 amending, as regards in particular mortgages, Council Directive 89/647/EEC on a solvency ratio for credit institutions¹¹¹ and Directive 98/33/EC of the European Parliament and of the Council of 22 June 1998 amending Article 12 of Council Directive 77/780/EEC on the taking up and pursuit of the business of credit institutions, Articles 2, 5, 6, 7, 8 of and Annexes II and III to Council Directive 89/647/EEC on a solvency ratio for credit institutions and Article 2 of and Annex II to Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions.¹¹²

Letters of formal notice were sent to France and Greece for failure to notify measures for these three directives. Portugal was given notice for failure to notify measures relating to Directives 98/31/EC and 98/32/EC, and Spain was given notice for failure to transpose Directive 98/32/EC.

Turning to insurance, the Commission sent reasoned opinions to the nine Member States (Austria, Belgium, Finland, France, Greece, Italy, Luxembourg, Portugal and

¹¹⁰ OJ L 204, 21 July 1998, p. 13.

¹¹¹ OJ L 204, 21 July 1998, p. 26.

¹¹² OJ L 204, 21 July 1998, p. 29.

the United Kingdom) that have not yet transposed Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group.¹¹³ The Directive should have been transposed by 5 June 2000 and its principles applied to the financial year beginning on 1 January 2001 or during that financial year. As for the Member States that already adopted, published and notified the measures transposing the Directive (Ireland, the Netherlands and Spain before the final date for transposal; Denmark and Sweden after a letter of formal notice; Germany, which also received a letter of formal notice but is apparently on the point of enacting legislation), the Commission is scrutinising the text of which it was notified.

In the securities sector, the Commission terminated the proceedings commenced in 1998 against Austria, France and Portugal for failure to transpose Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes.¹¹⁴ It suspended its decision to refer to the Court of Justice its case concerning the same Directive against Luxembourg, which notified its transposal Act, but commenced proceedings against the United Kingdom, deciding in December 2000 to send a reasoned opinion for failure to transpose it in Gibraltar.

As regards payment systems, two directives were due to be transposed in 1999: Directive 97/5/EC on cross-border credit transfers¹¹⁵ and Directive 98/26/EC on settlement finality in payment and securities settlement systems.¹¹⁶

Directive 97/5/EC aims to speed up and reduce the cost of low-value cross-border transfers (up to € 50 000), and obliges banks to observe transparency rules prior and subsequent to transfers; it also lays down conditions for transfers (time-limit, ban on double-charging, refund in the event of sums transferred failing to reach the beneficiary). The directive was to be transposed by 14 August 1999. All the Member States that had not notified implementing measures in 1999 did so in 2000. The infringement proceedings were accordingly terminated.

The purpose of Directive 98/26/EC is to limit the systemic risk in payment and securities settlement systems. Reducing this risk is essential for the smooth operation of systems and boosting their efficiency. The Directive lays down rules governing compensation and guarantees. It determines what bankruptcy law applies to rights and obligations in a system and provides that insolvency proceedings may not have retroactive effects.

Directive 98/26/EC was to be transposed by 11 December 1999. By 31 December 2000, all the Member States except Luxembourg, France and Italy had notified the Commission of implementing measures. Infringement proceedings were launched against these three Member States on 13 July 2000, when formal letters of notice were sent out.

Cases of non-conformity

¹¹³ OJ L 330, 5 December 1998, p. 1.

¹¹⁴ OJ L 84, 26 Mar 1997, p. 22.

¹¹⁵ OJ L 43, 14 February 1997, p. 25.

¹¹⁶ OJ L 166, 11 June 1998, p. 45.

In banking the Court of Justice gave judgment in the Ambry case¹¹⁷ on 1 December 1998. French law requires a financial guarantee that can be mobilised on first demand for the issuance of an administrative licence (to exercise the occupation of travel agent). But it provides that if the establishment giving the guarantee is in a Member State other than France, the establishment must have an agreement with a banking establishment or insurance company established in France. The Court held that this constitutes an unwarranted restriction on the principle of freedom to provide services. Since the French authorities did not react to a letter of formal notice, a reasoned opinion was sent. France then took the requisite measures to come into the line with the judgment and the Commission terminated the case.

The Court gave judgment in two cases concerning incorrect transposal of insurance directives in 2000. In the first it held that Belgium had not correctly transposed the third non-life directive,¹¹⁸ by excluding from the scope of the transposal Act all insurance funds and companies covering occupational accidents, even where they pursued a gainful object on their own risk;¹¹⁹ Belgium responded to a letter of formal notice issued under Article 228 EC by adding a Bill adapting insurance against occupational accident, which should bring Belgian law into line with the Directive. In the second judgment, given against France,¹²⁰ the Court held that the obligation to systematically notify the general and special terms of insurance policies that a firm proposes to use in its territory in relations with insured parties is a requirement contrary to the freedom to sell insurance products in the Community that the third insurance directives aim to secure;¹²¹ the French authorities were then sent a letter of formal notice under Article 228, and they confirmed that they intended to comply with the judgment (“fiches signalétiques” are no longer required by the relevant institutions in practice).

In the case against France for failure to notify measures to adapt the Code of Mutual Societies to Community law,¹²² the French authorities stated in reply to the Article 228 reasoned opinion that once the Government had had the requisite powers conferred on it, it would need no more than four months to adopt the new legislation applicable to mutual societies, which should be done early in 2001.

When the Italian Government adopted Decree-Law No 70/2000 on 28 March 2000 (it was subsequently converted into an Act of Parliament by Conversion Act No 137 on 26 May 2000), freezing the scales of charges for automobile third-party liability insurance contracts, the Commission immediately responded with proceedings to restore the freedom to sell insurance products provided for by the third non-life Directive (92/49/EEC), which gives effect to freedom of establishment and freedom to provide services. The Commission considered that the price freeze was out of

¹¹⁷ Case C-410/96, rec. 1998, p. I-7875.

¹¹⁸ Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) – OJ L 228, 11.8.1992, p. 1.

¹¹⁹ Case C-206/98 *Commission v Belgium* (Judgment given on 18 May 2000, not yet reported).

¹²⁰ Case C-296/98 *Commission v France* (Judgment given on 11 May 2000, not yet reported).

¹²¹ Council Directive 92/49/EEC and Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 79/267/EEC and 90/619/EEC (third non-life insurance Directive) – OJ L 360, 9.12.1992, p. 1.

¹²² Judgment of 16 December 1999 in Case C-239/98 *Commission v France* [1999] ECR. I-8935.

place in a general price controls system and was not justified by considerations of the general interest.

Luxembourg responded to infringement proceedings concerning the rules of the motor insurance bureau and guarantee fund – which required that at the beginning of each business year non-reimbursable flat-rate contributions be paid by all member insurers, whether established in Luxembourg or operating there as service providers from other Member States – by amending the rules in line with Directive 90/618/EEC,¹²³ the calculation now being based on actual premium income or risks covered in Luxembourg. The proceedings were accordingly dropped. Another proceeding against the United Kingdom, concerning the obligation to have third-party liability insurance, was terminated on account of changes to the legislation.

In the insurance sector, proceedings continue against Spain concerning the requirement - in contravention of the EC Treaty's provisions on freedom to provide services (Article 49) - that prior authorisation be obtained by professionals wishing to work in Spain as insurance brokers. But on 20 September the Commission presented a proposal for a Directive on insurance intermediaries to replace the Directive that has been in force since 1976.¹²⁴

Incorrect application

There were four cases of incorrect application of the banking legislation in 2000.

Two cases involved Italy. The first involved apparent discrimination on grounds of nationality in the refunding of tax credits to banks established in Italy. A reasoned opinion was sent to Italy enquiring about the criteria used to draw up the list on the basis of which the credits were refunded. The second case concerned withholding tax on interest income from loans. The Commission investigated the matter in order to determine whether Italian legislation discriminates according to whether the credit institution is based in Italy or another Member State. A letter was sent to the Italian authorities requesting further information. No reply has been received to date.

After sending a letter of formal notice to the Greek authorities in 1999, the Commission wrote asking for further information in 2000, in connection with State guarantees for loans to firms in certain disadvantaged regions of the country. It emerged from information provided to the Commission that such guarantees are only issued to credit institutions established in Greece. Loans granted by institutions based in other EU Member States on the basis of the freedom to provide services are not eligible for such guarantees. The reply is currently being scrutinised.

Lastly, there is a suspected infringement concerning France. The Commission sent a letter requesting information because it appears that France does not allow French credit institutions - or branches of foreign institutions - to pay interest on current accounts. No reply has been received to date.

A reasoned opinion was sent to Greece to draw the attention of the Greek authorities to the application of the rules relating to the supply of breakdown insurance in

¹²³ OJ L 330, 29 November 1990, p. 44.
¹²⁴ COM (2000) 511 final.

Greece by insurers in other Member States. The rules impede the smooth operation of the internal market in insurance and are contrary not only to the insurance directives but also to EC Treaty provisions on freedom of establishment and freedom to provide services. Proceedings are also still under way against Germany concerning the ban on combining sickness insurance with other forms of insurance, which is deemed to be incompatible with the third Directive on insurance other than life assurance.

Finally, the Champalimaud case, in which proceedings were commenced against Portugal in response to the Portuguese authorities' refusal to accept an agreement under which a Spanish banking group was to acquire a qualifying holding in this Portuguese group, was settled and closed.

The Commission terminated the proceedings commenced in 1998 against Italy (Articles 49 and 56) and France (Articles 43, 49 and 56) for tax measures that had the effect of putting home-based securities exchanges at an advantage over exchanges elsewhere in the European Union. At the beginning of 2000 the two Member States responded to the reasoned opinions sent to them simultaneously in October 1999 by notifying the Commission of amending legislation enacted in December 1999. In another case dating from 1999, involving broadly comparable principles (Articles 49 and 56), the Commission sent Austria a reasoned opinion.¹²⁵ The relevant provisions were for forms of tax exemptions and relief available only to investment funds based in Austria and not those in other Member States.

2.10.3.3. Postal services

The infringement proceedings against Ireland and Luxembourg for failure to transpose Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of quality of service are terminated.¹²⁶ All the Member States have now transposed the directive and notified their national implementing measures.

2.10.3.4. Commercial communications

The Commission also continued its examination of ongoing infringement proceedings. It has started top-level discussions with the French authorities on the interpretation of the Evin Act prohibiting television advertising of alcoholic drinks in the particular case of sporting events held abroad but broadcast in France. A reasoned opinion on this matter was sent in 1997.

The Commission sent Germany a reasoned opinion concerning its legislation on premiums and discounts. The Commission was subsequently informed of a Bill which would end the provisions justifying the reasoned opinion.. It is following events closely.

The Commission responded to a complaint on 24 July 2000 by sending France a reasoned opinion concerning the French legislation on the distribution of auction catalogues. It considered that the legislation favoured auctions held in France, contrary to Articles 49 et seq. of the Treaty.

¹²⁵ IP/00/1203, 24 October 2000.

¹²⁶ OJ L 15, 21.1.1998, p. 14.

2.10.3.5. The media

The Commission observed that following the reasoned opinion sent to Belgium concerning barriers to the free provision of services resulting from the imposition of taxes on dish aerals by many local authorities, most local authorities abolished the tax. The question of reimbursement of taxes already paid arises in some areas.

2.10.4. *The business environment*

2.10.4.1. Public procurement

To ensure that the internal market operates properly as regards public procurement, it is essential that the rules be applied and complied with uniformly in all Member States. In its Communication on public procurement,¹²⁷ the Commission announced a series of measures to enforce Community law.

Among these measures, the Commission recognised the need to follow a more systematic, horizontal approach in handling cases of infringement of the public procurement rules rather than just reacting case-by-case to complaints received. The Commission has accordingly approached Member States to have infringements prevented, for example when they are preparing major events (Olympic Games, major exhibitions and cultural events, etc.) or are planning large-scale infrastructure projects with special interest in public-procurement terms. When particularly serious infringements come to its notice by whatever means, the Commission now commences the Article 226 procedure. And if a specific case that is brought to its attention raises a general problem of application, the Commission checks the position in all Member States to ascertain which of them are in a similar situation. Having had to deal with the problem of motorways in Italy and France, the Commission has decided to study the question of motorway construction and management in all the Member States. In the course of this horizontal survey the Commission asked the Member States for information on the basis of which it could decide whether there were infringements of Community law.

In its Communication the Commission also asked the Member States to designate independent authorities specialising in public procurement to serve as a reference point for the rapid and informal resolution of problems of market access. Certain Member States, Italy for instance, have done so. The Commission would encourage the other Member States to follow this example. The Commission is keen to fully exercise its function as watchdog of the treaties, but it does not have the human and material resources it needs to solve all the problems that arise. The aim of decentralising the handling of cases to the national level is to relieve the Commission of part of its current litigation workload. It could then concentrate on its role of preparing legislative proposals and handling cases that have a genuine European impact or raise important questions of interpretation, and complainants would look to the national authorities for a solution to their disputes. With this same objective the Commission is supporting and actively participating in a pilot coordination and cooperation project between Member States' government departments, set up on the initiative of Denmark in 1998.

¹²⁷ Communication from the Commission: Public procurement in the European Union (COM(98)143, 11.3.1998), point 2.2.

Lastly, in its Communication on public procurement, the Commission also recognised the need to clarify the rules and make them easier to apply. In one area that is very important for the internal market – concessions – the Commission published an interpretative Communication¹²⁸ spelling out the rules and principles applicable here. There had been extensive prior consultation of all the major political and economic players on this communication.

The Article 226 infringement procedure is a vital instrument whereby the Commission can enforce Community law. The main measures taken by the Commission with this instrument in 2000 are summarised below.

Completion of the internal market in a key area of the European economy such as public procurement first and foremost necessitates correct transposal of the relevant Community directives. However, a number of directives adopted in the field of public procurement had still not been transposed by 2000, Infringement proceedings continued against Austria, France, Greece and the United Kingdom concerning failure to transpose Directives 97/52/EC and 98/04/EC, which cover traditional areas¹²⁹ and special sectors¹³⁰ respectively and incorporate certain provisions of the Agreement on government procurement.

An examination of the national measures that have been notified has led to 12 proceedings for failure to comply with Community law, including eight which are at least at the reasoned opinion stage. Some of these cases involve questions of principle which could undermine the liberalisation of public contracts awarded in the Member States concerned.

Even where legislation has been transposed, it is necessary to ensure that the provisions are actually applied. The Commission accordingly continued its monitoring of the application of Community law in the procedures for awarding private contracts, by following up complaints and investigating and checking cases on its own initiative.

During the year it dealt with 333 cases, including 140 new ones. It was able to close 74 cases, mostly as a result of action by the awarding authorities or their supervisory bodies to remedy irregularities. The dialogue and consultation procedure (“package meetings”), set up to help Member States find and reach agreement on solutions to outstanding disputes which conform to Community law, undoubtedly helped in this respect.

A few examples:

Following Commission action, several awarding authorities annulled procurement procedures. In France, for instance, a contract for high-frequency masts was annulled. The Commission had commenced proceedings on the grounds that the awarding authority had demanded that a European Union firm produce French

¹²⁸ Commission interpretative communication on concessions under Community law of 24 April 2000: OJ C 121, 29.4.2000.

¹²⁹ Directives 93/36/EEC, 93/37/EEC and 92/50/EEC concerning, respectively, procedures for the award of public supply contracts, public works contracts and public services contracts.

¹³⁰ Directive 93/38/EEC coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

certificates in support of its tender. Another French contract was annulled in part: the French authorities accepted the Commission's view that ADEME (Agence de l'environnement et de la maîtrise de l'énergie) was an awarding authority subject to the rules in the Community directives on public procurement.

The Commission also received a complaint against the city of Vienna on the grounds that it does not publicise the insurance services contracts for apartments it owns but has awarded them to the same firm for years. Following Commission action, notably following a package meeting, the Austrian authorities undertook to see that the relevant contracts are opened up to competitive tendering from 2001.

Another Austrian case concerning a contract that had never been put out to tender but awarded to the same firm since 1945 was settled following action by the Commission. This contract, which is for a services concession, is not subject to the public procurement directives but to the Treaty rules. The Austrian authorities agreed on the need for transparency and published a call for tenders in the Official Journal of the European Communities.

Following a Commission reasoned opinion in response to a complaint against the German Federal Office for Military Technology and Procurement (Bundesamt für Wehrtechnik und Beschaffung), the German authorities acknowledged that Community law was being violated. They informed the Commission that the awarding authority had been instructed to apply the public procurement rules most strictly, and in particular to indicate the product equivalence clause systematically in tendering documents.

The Commission decided to send Italy a reasoned opinion concerning a public services contract awarded by the expedited negotiated procedure with prior publication, launched by the Ministry for the Treasury and Economic Planning for technical and administrative assistance services for the preparation of "territorial pacts". That procedure infringed Directive 92/50/CEE in a number of respects. The Italian authorities responded to action by the Commission by putting an end to the infringements of Community law and suspending the authorisation given to pact promoters to use companies conventionnées.

Other cases have been referred to the Court of Justice.

For example, the Commission decided to take France to Court for incomplete transposal of Directives 97/52/EC and 98/4/EC amending the public procurement directives in response to the Agreement on Government Procurement (AGP). Judgment was given against France in a case concerning electrification and public lighting in the département of Vendée. The awarding authority had split the various contracts and thereby taken much of the work out of the tendering obligations provide for by Directive 93/38/EEC.

The Commission also decided to take Germany to court over two contracts for services awarded without prior publication by the City of Brunswick and the district of Bockhorn. Germany acknowledged the infringement of the directives, but the Commission decided to go ahead with its action since the infringement subsisted and was still producing its effects, as the contracts were for 30 years.

The Commission also decided to refer to the Court a case against Belgium, where a public contract for coastal photography services was awarded without prior publication.

2.10.4.2.Data protection

Parliament and Council Directives 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹³¹ and 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector¹³² were due for transposal by 25 October 1999.

Eleven Member States notified national measures implementing Directive 95/46/EC. These measures will be scrutinised to ascertain whether transposal is full and correct. The Commission decided to take action before the Court of Justice against all Member States which had not notified national implementing measures – Germany, France, Ireland and Luxembourg.

As regards Directive 97/66/EC, see section 2.7. Information society.

2.10.4.3.Intellectual property

Industrial property

There are currently three Directives in force in the field of industrial property: Council Directive 89/104/EEC on trade marks,¹³³ Parliament and Council Directive 98/44/EC on the legal protection of biotechnological inventions¹³⁴ and Parliament and Council Directive 98/71/EC on the legal protection of designs.¹³⁵

Under the trade marks Directive, the registration of a trade mark confers on its owner exclusive rights allowing him to prohibit third-party use for commercial purposes without his consent. The harmonisation of Member States' legislation on national trade marks is not comprehensive, but confined to aspects which most directly affect the functioning of the internal market. Outside these harmonised fields, the Member States retain complete freedom to lay down arrangements best suited to their traditions, particularly as regards procedural aspects. All Member States have notified the Commission of national legislation transposing this Directive.

Since the uncoordinated development of national laws on the legal protection of biotechnological inventions in the Community could be detrimental to the industrial development of such inventions and the smooth operation of the internal market, Community legislation in this field was seen as essential. However, it was felt there was no need to create a separate body of law in place of national patent law. The Community framework can be confined to laying down certain principles designed to determine the difference between inventions and discoveries with regard to the patentability of certain elements of human origin, the scope of protection conferred

¹³¹ OJ L 281, 23 November 1995, p. 31.

¹³² OJ L 24, 30 January 1998, p. 1.

¹³³ OJ L 40, 11 February 1989, p. 1.

¹³⁴ OJ L 213, 30 July 1998, p. 13.

¹³⁵ OJ L 289, 28 October 1998, p. 28.

by a patent on a biotechnological invention, the right to use a deposit mechanism in addition to written descriptions, and the option of obtaining non-exclusive compulsory licences in respect of interdependence between plant varieties and inventions. The Member States are required to transpose Directive 98/44/EC by 30 July 2000. Three Member States (Denmark, Finland and Ireland) have so far notified measures transposing it.

As is the case with legislation on national trade marks, the harmonisation of the Member States' legislation on designs is not complete, but is confined to aspects which most directly affect the functioning of the internal market, namely identical conditions for obtaining a registered design right, a unitary definition of the notion of design and of the requirements as to novelty and individual character with which registered design rights must comply, and equivalent protection in all Member States. Outside these harmonised fields, Member States retain complete freedom to lay down arrangements best suited to their traditions. The Member States must introduce legislation to comply with the Directive by 28 October 2001.

Copyright and related rights

Six directives are in force in the field of copyright and related rights (87/54/EEC topographies of semi-conductor products,¹³⁶ 91/250/EEC computer programmes,¹³⁷ 92/100/EEC rental and lending rights,¹³⁸ 93/83/EC cable and satellite,¹³⁹ 93/98/EC duration¹⁴⁰ and 96/9/EC databases.¹⁴¹)

National implementing measures

All the Member States have now notified measures implementing the first five of these directives, except Ireland, against which two judgments were given at the end of 1999 for failure to notify measures implementing Directives 92/100/EEC (Case C-213/98¹⁴²) and 93/83/EEC (Case C-212/98¹⁴³).

However, only 13 Member States have notified national measures implementing the Directive on databases, which should have been transposed by 1 January 1998. Infringement proceedings for failure to notify have reached the Court referral stage as regards Greece, Ireland, Luxembourg and Portugal. Greece and Portugal notified national implementing measures during the reference period, thus complying with Community law. The infringement proceedings against them were accordingly terminated. But the Court gave judgment against Luxembourg (Case C-348/99¹⁴⁴) on 13 April 2000. The Commission has so far received no reply from the Luxembourg authorities and the Article 228 infringement proceedings continue. Case C-370/99 against Ireland is still before the Court.

¹³⁶ OJ L 24, 27 January 1987, p. 36.

¹³⁷ OJ L 122, 17 May 1991, p. 42.

¹³⁸ OJ L 346, 27 November 1992, p. 61.

¹³⁹ OJ L 248, 6 October 1993, p. 15.

¹⁴⁰ OJ L 290, 24 November 1993, p. 9.

¹⁴¹ OJ L 77, 27 Mar 1996, p. 20.

¹⁴² Judgment given on 12 October 1999, [1999] ECR I-6973.

¹⁴³ Judgment given on 25 November 1999, [1999] ECR I-8571.

¹⁴⁴ [2000] ECR I-2917.

It was also decided to take Ireland to the Court of Justice for failing to ratify the Berne Convention (Paris Act of 1971). The case (C-13/2000) is still pending, and Ireland has still not notified an instrument of accession to the Convention.

Cases of failure to comply

Two infringement proceedings are at the reasoned opinion stage, one against Italy for failing to comply with Council Directive 93/98/EEC harmonising the term of protection of copyright and certain related rights and the other against the United Kingdom for failing to comply with Directive 92/100/EC. Infringement proceedings against Denmark for discrimination against foreign management companies are at the formal notice stage.

2.10.4.4. Company law and financial information

On 5 July 2000 the Commission terminated infringement proceedings after scrutinising the measures adopted by the United Kingdom in October 1999 to apply Directives 78/660/EEC,¹⁴⁵ 83/349/EEC,¹⁴⁶ 90/604/EEC¹⁴⁷ and 90/605/EEC¹⁴⁸ to Gibraltar. On the same date, the Commission terminated a complaint against Italy concerning the accreditation of persons responsible for the legal verification of accounting documents.

Following the Court of Justice's judgment of 29 September 1998 (Case C-191/95¹⁴⁹) that Germany had failed to fulfil its obligations under Council Directives 68/151/EEC (commercial register)¹⁵⁰ and 78/660/EEC (annual accounts), the German authorities enacted and promulgated the Kapitalgesellschaften und Co-Richtlinie-Gesetz (KapCoRiLiG) on 24 February 2000. (BGBl I-154). The Commission scrutinised the Act and on 21 December 2000 terminated the infringement proceedings against Germany concerning the transposal of Directives 68/151/EEC, 78/660/EEC and 90/605/EEC (annual accounts and consolidated accounts).

2.10.5. *Regulated professions (qualifications)*

Court of Justice decisions

regarding the recognition of professional qualifications awarded in non-member countries and already recognised by a Member State, there was an important preliminary ruling in Case C-238/98 *Hocsman*.¹⁵¹ The Court held that, in a mutual recognition situation to which the directive does not apply, Article 43 requires the host Member State, in response to an application from a Community national for authorisation to exercise a regulated profession, to take into consideration all the applicant's diplomas, certificates and other qualifications and relevant professional experience, comparing the applicant's expertise as attested by these qualifications and experience with the knowledge and expertise required by national legislation.

¹⁴⁵ OJ L 222, 14 Aug 1978, p. 11.

¹⁴⁶ OJ L 193, 18 July 1983, p. 1.

¹⁴⁷ OJ L 317, 16 November 1990, p. 57.

¹⁴⁸ OJ L 317, 16.11.1990, p. 60.

¹⁴⁹ [1998] ECR I-5449.

¹⁵⁰ OJ L 65, 14.3.1968, p. 8.

¹⁵¹ Judgment of 14 September 2000, not yet reported.

In Case C-421/98 *Commission v Spain*¹⁵² the Court held that Spain had failed to comply with its obligations under Council Directive 85/384/EEC¹⁵³ (mutual recognition of architecture qualifications) by confining migrant architects to exercising only the skills allowed in their country of origin and refusing to allow them to exercise the different skills that architects trained in Spain can exercise.

Non-compliance with judgments of the Court

The Commission withdrew its second referral to the Court, with a request for a financial penalty, of the case concerning Greece's failure to notify measures transposing Council Directive 89/48/EEC (first general system for the recognition of higher-education diplomas)¹⁵⁴ (cf. Court judgment of 23 March 1995 in Case C-365/93),¹⁵⁵ and terminated the infringement proceedings as Greece notified measures adopted on 23 June 2000.

- Following the judgment given against Spain on 22 March 1994 concerning the freedom of tourist guides to provide services (Case C-375/92¹⁵⁶), the scrutiny of the new decrees on the exercise of that profession adopted by the Autonomous Communities continued, jointly with the Spanish authorities. Most of the instruments are amended and adopted; the others are expected to follow shortly.

Cases pending before the Court of Justice:

The Commission has referred the following cases to the Court:

- against Belgium concerning the conditions imposed on freedom to provide services by architects, which are contrary to Council Directive 85/384/EEC (mutual recognition of architects' qualifications);
- against France for failure to take measures to transpose Council Directive 89/48/EEC on the general system of recognition of qualifications, as regards psychologists.

National implementing measures

The Commission terminated its proceedings against Greece for its failure to give notification of measures to implement Commission Directive 97/38/EC¹⁵⁷ amending Council Directive 92/51/EEC supplementing the general system of recognition of qualifications.¹⁵⁸

The proceedings commenced in 1999 for failure to notify measures transposing Commission Directives 98/21/EC¹⁵⁹ and 98/63/EC¹⁶⁰ updating the lists of medical specialisms and Council Directive 93/16/EEC free movement of doctors and the

¹⁵² Judgment of 23 November 2000, not yet reported.

¹⁵³ OJ L 223, 21 Aug 1985, p. 15.

¹⁵⁴ OJ L 19, 24 January 1989, p. 16.

¹⁵⁵ [1995] ECR I-0499.

¹⁵⁶ [1994] ECR I-01923.

¹⁵⁷ OJ L 184, 12 July 1997, p. 31.

¹⁵⁸ OJ L 209, 24 July 1992, p. 25.

¹⁵⁹ OJ L 119, 22 April 1998, p. 15.

¹⁶⁰ OJ L 253, 15 September 1998, p. 24.

mutual recognition of their qualifications have all been terminated (against Ireland, the Netherlands and Portugal for Directive 98/21/EC; and against Spain, Ireland, the Netherlands and Portugal for Directive 98/63/CE).

In 2000, proceedings were commenced for failure to notify measures transposing Commission Directive 1999/46/EC¹⁶¹ amending the list of medical specialisms in Council Directive 93/16/EEC against France, Spain, Germany, Ireland, the Netherlands and Portugal. These proceedings were all terminated, except those against Portugal, when transposal measures were notified.

Proceedings were commenced against Belgium, Denmark, Spain, France, Italy, Ireland, Luxembourg, the Netherlands and Portugal for failure to notify measures implementing European Parliament and Council Directive 98/5/EC¹⁶² to facilitate the practice of lawyers. Only the proceedings against Denmark were terminated.

Incorrect transposal and incorrect application of directives

In 2000 the Commission received around 20 complaints concerning restrictions in breach of Articles 43 and 49 of the EC Treaty and directives on the mutual recognition of professional qualifications. Some of these complaints gave rise to infringement proceedings, while others were shelved as unfounded.

A number of proceedings already in motion against Member States for incorrect transposal or incorrect application of directives were continued.

The Commission sent a reasoned opinion to Portugal concerning the occupation of “odontologista”: the Portuguese authorities has used this title to regularise the situation of persons practising dentistry on a basis that was illegal but tolerated in Portugal. The Commission is of the opinion that the regularisation is contrary to Council Directives 78/686/EEC¹⁶³ and 78/687/EEC¹⁶⁴ on dentists: those concerned are allowed to practice on a virtually identical basis to Portuguese dentists covered by the directives though they have by no means the same training as is provided for by Directive 78/687/EEC.

The Commission sent Greece a reasoned opinion for incorrect transposal of Council Directive 85/384/EEC on the mutual recognition of architects’ qualifications. The transposing legislation provided among other things for excessive cumbersome rules on the provision of services and presumes that migrants will not have proper expertise in seismic protection.

In the proceedings against Austria relating to the conditions for allocating posts of doctors attached to social security schemes (discrimination in the system of bonus points given by the Länder in favour of nationals born in the relevant Land and their descendants), the reply by the Austrian authorities to the reasoned opinion is under scrutiny.

¹⁶¹ OJ L 139, 2 Jun 1999, p. 25.

¹⁶² OJ L 77, 14 Mar 1998, p. 36.

¹⁶³ OJ L 233, 24 Aug 1978, p. 1.

¹⁶⁴ OJ L 233, 24 Aug 1978, p. 10.

Finally, with respect to the case against Spain concerning the conditions of recognition of dentists' diplomas obtained in Latin America (proceedings mentioned in previous reports), referral to the Court of Justice is still suspended. Certain international agreements have already been amended. The renegotiations initiated by the Spanish authorities with a view to amending the clauses of other agreements on recognition of higher-education qualifications are still going on.

Lastly, the proceedings regarding the period of training undergone by nurses in general care in Spain have been terminated. Council Directive 77/453/EEC¹⁶⁵ provides that training must last three years or a total of 4600 hours. Failure to comply with the number of hours was the point in issue in this case. After considering the Spanish authorities' reply to its reasoned opinion, the Commission concluded that compliance with one of the two criteria (three years) and the fact that the training was given in universities meant that the difference between the two criteria was not such as to jeopardise the automatic recognition of qualifications.

Dialogue with the national authorities

The Commission pursued its regular contacts with the national authorities, in particular the experts on the relevant working parties and committees, to seek quicker solutions to certain problems.

Independent commercial agents

In its preliminary ruling in Case C-381/98 *Ingmar*,¹⁶⁶ the Court confirmed the mandatory status of Articles 17 and 18 of Council Directive 86/653/EEC,¹⁶⁷ securing commercial agents' rights to compensation after the termination of their agency contract. Proceeding on the basis of the objective of the Directive and of Article 19, which prohibits parties to the contract from agreeing on exceptions from Articles 17 and 18 to the detriment of the commercial agent, the Court held that these Articles are applicable if the commercial agent has exercised his activity in a Member State, even if the principal is in a non-member country and the contract is provided to be governed by the law of that country.

2.11. REGIONAL POLICY

2.11.1. Type of Infringements

Regional policy is governed primarily by *regulations*. These instruments are directly applicable in the Member States. Therefore infringement cases related to regional policy legislation do not concern the failure of transposition or bad transposition (as it is the case with regard to *directives*), but rather its bad application.

Another type of infringement cases in the field of regional policy are triggered by "irregularities"¹⁶⁸. Such cases concern firstly issues related to financial provisions.

¹⁶⁵ OJ L 176, 15.7.1977, p. 8.

¹⁶⁶ Judgment of 9.11.2000, not yet reported.

¹⁶⁷ OJ L 382, 31 December 1986, p. 17.

¹⁶⁸ According to Regulation (EC, EURATOM) No 2988/95 Art. 1 (2) an "irregularity" shall mean "any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or

The main regulations on regional policy¹⁶⁹ as well as specific regulations related to financial control set up strict rules in this respect. The Commission plays a crucial role to monitor and control that Member States and their authorities respect fully their duties imposed on them.

Given its wide definition, “irregularities” also concern the infringement of provisions of other Community legislation. The inter-relationship between measures related to regional policy and the respect of any other Community law is also emphasised by the explicit obligation that operations financed by the Funds or receiving assistance from the EIB or from another financial instrument shall be in conformity with the provisions of the Treaty, with instruments adopted under it and with Community policies and actions.¹⁷⁰

2.11.2. Actions undertaken by the Commission

The Commission may firstly trigger procedures under Art. 226 of the EC Treaty. These procedures concern in particular cases related to an infringement of provisions of the Structural Funds Regulations. Such cases are rare and concern, example given, the obligation on paying authorities to ensure that final beneficiaries receive payment of their contribution from the Funds as quickly as possible and in full.

With regard to “irregularities” the Commission may trigger specific procedures with a view to suspend, reduce or cancel assistance from the Funds¹⁷¹.

According to the jurisprudence¹⁷², such procedures as covered by Art. 24 of Regulation (EEC) No 4253/88 are independent of the procedures under Art. 226 EC Treaty. They do not automatically entail the suspension or reduction of Community financial assistance and a decision to discontinue a procedure for failure to fulfil obligations does not in any way prevent the Commission from suspending or reducing Community assistance, even after completion of the work, particularly where one or more of the conditions under which assistance has been granted have not been satisfied.

It follows from there that the Commission is rather obliged to initiate, as the case may be, a distinct procedure as described above.

With regard to Regulation (EEC) No 1260/1999, the situation is slightly different with regard to interim payments: According to Art. 32 (3) such payments shall be subject to, inter alia, the condition that no decision has been taken by the Commission to embark on an infringement procedure within the meaning of Article 226 of the EC Treaty concerning the measure(s) that is or are the subject of the application in question.

¹⁶⁹ budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.”
Regulation (EEC) No 4253/88 (as amended by Regulation (EEC) No 2082/93) and Regulation (EC) No 1260/1999

¹⁷⁰ Art. 7 of Regulation (EEC) No 2052/88, Art. 8 (1) of Regulation (EC) No 1164/94 and Art. 12 of Regulation (EEC) No 1260/1999.

¹⁷¹ In particular Art. 24 of Regulation (EEC) No 4253/88 (as amended by Regulation (EEC) No 2082/93) and Art. 38 (5), 39 of Regulation (EC) No 1260/1999).

¹⁷² Court of First Instance, decision of 23 September 1993 (Case T-461/93).

In any case, the Commission has to assess the seriousness of any irregularity before it takes a decision to suspend, reduce or cancel assistance. These cases may relate to bad financial management. In 2000 the Commission started to investigate on several cases in this respect.

Furthermore the Commission has suspended assistance from the Funds with a view to cases related to the infringement of other Community legislation such as on environmental protection and public procurement. A classical case in this respect is the suspension of payments of the Cohesion Fund to a Spanish railway project with a view to the failure to submit the project to an environmental impact assessment in accordance with Directive 85/337/EEC.

2.12. TAXATION AND CUSTOMS UNION

2.12.1. Customs union

The customs union is a vital component of the integrated single market and of the common commercial policy. The function of DG TAXUD is to preserve and protect the customs union by ensuring that rules of nomenclature and origin are applied uniformly. It accordingly manages and enforces the Customs Code and operates a strategy to have the Code implemented by the national customs administrations as if they were a single administration.

Cases of *incorrect application* of Community rules by the Member States are actively followed up. This year the Commission was obliged to commence two new infringement proceedings:

- Greece: When pharmaceuticals are imported in Greece, national rules impose a levy for quality and safety control by the National Medicines Organisation (EOF). This levy charged to the importer constitutes a charge having equivalent effect to a customs duty, prohibited by Articles 23 and 25 of the Treaty. In trade with non-member countries, an identical levy is charged for the authentication of import invoices. Ever since the introduction of the Common Customs Tariff, the introduction of such a charge, having equivalent effect to a customs duty and unilaterally imposed by a Member State on products imported direct from non-member countries has also been prohibited.
- Spain: For the a posteriori charging of customs duties, the Spanish rules provide for a period exceeding the two days' limit set by Article 220(1) of the Community Customs Code. In other words, instead of charging them as soon as they are aware of an abnormal situation, the Spanish authorities send the taxable person an inspection report with a proposal for settlement, and charge the duties only after a supplementary period that varies depending whether the proposal is accepted.

The Commission decided to refer to the Court of Justice a case against Germany for infringement of Articles 23 and 25 of the EC Treaty, which prohibit charges having equivalent effect to an export duty.¹⁷³ The German Waste Transfers Act of 30.9.1994 introduced an obligation for exporters of waste to contribute to a solidarity fund. The purpose of contributions to the solidarity fund paid by those who export waste to another Member State is to cover guarantees for waste export operations that fail and in which they are not actually involved (it helps to finance the repatriation of such waste). This is a compulsory solidarity scheme for exporters whereas the financing of such a guarantee ought to be borne by the State. Imposing such a charge on waste exporters to preserve Germany's financial interests is tantamount to a charge having equivalent effect to an export duty, which is prohibited by the Treaty.

The proceedings against Greece concerning the organisation of ports in free zones were terminated after national procedures were amended in line with Community law. The same applies to the infringement proceedings against Spain concerning the simplified procedure for declarations for home use as Swedish legislation now provides for the scheme.

¹⁷³

Case C-389/00.

2.12.2. Direct taxation

Regarding direct taxation, DG TAXUD is particularly keen to develop a strategy of coherence between the Member States in tax matters so as to limit the distortions that flow from different tax systems. It focuses especially on business and capital-gains taxation. Monitoring the proper *application of Treaty provisions* is of fundamental strategic importance.

The Commission also commenced proceedings against Spain concerning the tax treatment of foreign shareholders which is incompatible with the freedom of establishment and free movement of capital under Articles 43 and 56 of the EC Treaty. Section 103(3) of the Spanish Corporate Income Tax Act provides that where a company is taken over in whole or in part (by purchase of its shares, which then lapse and are cancelled), and the new holding company has a substantial holding, the difference between the value of the shares purchased and the value of the assets received from the company taken over is to be immobilised and entered in the balance sheet as an asset but written down at an annual rate of no more than 10%. But the difference is depreciable only if the acquiring company has acquired the shares from Spanish residents. For shareholders who are Spanish residents, capital gains are taxable in Spain. Where shares are acquired from persons not residing in Spain, the difference between the value of the shares purchased and the value of the assets received from the company taken over is also to be immobilised but is not depreciable, even if the shareholder's capital gain is taxable in his country of residence; where shares are acquired from persons residing in another EU Member State, this refusal to allow depreciation is an additional burden on the terms of sale of the company that is taken over or transfers part of its business or assets. The rules therefore operate as a disincentive to nationals of other Member States who are subject to capital gains tax to invest in companies based in Spain as they will not be able to sell their shares to Spanish companies on the same terms as Spanish residents. The rules also have a restrictive effect on companies established in Spain since they raise a barrier to raising capital or acquiring shares from residents of other Member States who are subject to capital gains tax. Articles 43 and 56 of the EC Treaty require that depreciation of goodwill be available also to shares acquired from such shareholders, being residents of another Member State, where the relevant capital gains are taxable in that State.

Proceedings were also commenced against Belgium for the reduction on personal income tax based on amounts paid to finance the depreciation or constitution of a mortgage loan for the construction, acquisition or conversion of a dwelling in Belgium, provided the loan is secured by an endowment life assurance policy contracted in Belgium. The Commission considers that the fact that the mortgage relief is given only if the life assurance is contracted with an institution established in Belgium prevents individuals from freely choosing between financial institutions in the Union and prevents firms established in other Member States from supplying services to taxable persons in Belgium. It concluded that the Belgian rules affected the freedom to provide services provided for by Article 49 of the EC Treaty. Belgium has amended its legislation and the Commission has terminated the proceedings.

Belgium also received a reasoned opinion for infringing Article 11 of Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital.¹⁷⁴ The fact was that Belgium charged a tax on stock-exchange operations and a tax on issues of bearer shares in circumstances where no taxes should have been charged under the Directive, especially where new shares were concerned.

Since Greece did not react to the reasoned opinion issued in 1999, the case concerning the discriminatory tax treatment of non-Greek European citizens who acquire real estate and pay in foreign currencies was referred to the Court.¹⁷⁵

Two proceedings after the Member States amended their legislation in response to Commission comments. The first concerned Belgium (tax deductibility of interest paid to a foreign credit establishment), and the second concerned Germany, which cleared up a major aspect of the tax discrimination against investments in non-resident companies, but other aspects (under-capitalisation and consolidation of losses) are still under Commission scrutiny.

2.12.3. *Value-added tax*

The Commission issued several new reasoned opinions for *incorrect application* of the Sixth VAT Directive – uniform basis of assessment (77/388/EEC):¹⁷⁶

– Germany: there are two rates of VAT for soloists, the reduced rate being paid by those who organise their own concerts and the standard rate if the concert is in the hands of an organiser. But there is no such difference of treatment for musical ensembles, which are always taxed at the reduced rate. The German measures are thus incompatible with the principle that the same rate of tax must apply to the same types of operation and have the effect of distorting competition. A second objection addressed to Germany concerns the fact that it applies VAT to royalties paid to the author of a graphic or plastic work or to his successors in title in the event of a sale of the work by a person other than the author. But such royalties do not correspond to a supply of services and are not taxable. Another reasoned opinion was addressed to Germany concerning certain limitations on the right to deduct. By legislation in force from 1.4.1999, Germany provided for total exclusion of the right to deduct VAT on food and lodging expenses of businessmen travelling on business. Such an exclusion, after the date of entry into force of the Sixth VAT Directive, is prohibited by Article 17(6), which allows only pre-existing rights to deduct to be preserved. This exclusion is therefore contrary to Article 17(2), which provides for the exercise of a right to deduct expenditure incurred for the purposes of taxable transactions;

Spain: two proceedings were commenced concerning reduced VAT rates. The first concerns a provision of Spanish legislation providing for reduced VAT rates on deliveries, intra-Community acquisitions and imports of two- or three-wheeled vehicles with an engine capacity of less than 50cc that are within the statutory definition of motor-cycle. This is contrary to Article 12 (as amended) of the Sixth VAT Directive, which allows the reduced rate to be applied to supplies of goods or services listed in Annex H. Motor-cycles are not among them. The second proceeding concerns the reduced rate applied to supplies, intra-Community

¹⁷⁴ OJ L 249, 3.10.1969, p. 25.

¹⁷⁵ Case C-249/00.

¹⁷⁶ OJ L 145, 13.6.1977, p. 1.

acquisitions and imports of bottled liquefied petroleum gas, also contrary to Article 12, which allows the reduced rate to be applied to supplies of gas only in the form of natural gas and only if the Member State discharges certain formalities and there are no distortions of competition. Spain applies the reduced rate to supplies of liquefied petroleum gas, which is not a natural gas, and does not apply it to natural gas.

– France: By applying to the same supply of gas and electricity by public networks two rates of VAT – a reduced rate of 5.5% on the fixed portion of the energy price (subscription) and a normal rate of 19.6% on the variable component (depending on the kilowatts consumed), France is also infringing Article 12 of the Sixth Directive, which establishes the principle of a single rate applicable to the same type of provision.

– United Kingdom: UK legislation applies the reduced rate set for imports of works of art, antiques and collectors' items to subsequent sales by auctioneers. The special scheme for works of art, antiques and collectors' items introduced by Directive 94/5/CE amending the Sixth VAT Directive¹⁷⁷ provides for the application of a rate of at least 5% to such imports. The UK had been authorised to maintain a special rate of 2.5%. Since the Directive came into force, the UK extended it to auctioneers' commissions. Auction sales are treated by Article 26a of the Sixth Directive as supplies of goods within the country taxable on the basis of the auctioneer's profit margin. This downstream transaction is therefore not eligible for the reduced rate (5% since 30.6.1999), which is reserved for import operations and affects the value of the goods themselves, but must be taxed at the normal domestic rate (17.5%). Auctioneers in several Member States have complained about this infringement, as it distorts competition and deflects the European art market towards the United Kingdom.

Other incorrect application cases have been referred to the Court of Justice. They concern:

– Germany: VAT exemption of the turnover of State schools in the exercise of their research activities, contrary to Article 2(1) of the Sixth Directive;¹⁷⁸

– Finland: VAT exemption for sales of works of art by the authors or their agents, and imports of works of art purchased direct from the authors, which is not provided for by the Act of Accession to the European Union or by the exemption in Article 13(A)(n) of the Sixth Directive;¹⁷⁹

– France: Abolition of the part (50%) right to deduct VAT on diesel fuel used in taxable activities by vehicles excluded from the right to deduct, contrary to Article 17(6) of the Sixth Directive;¹⁸⁰

– Italy: Impossibility for Italian taxable persons who in 1992 imported from other Member States an amount exceeding 10% of their turnover and who that year had a tax credit, to deduct VAT – this is an infringement of Article 18(4) of the Sixth

¹⁷⁷ OJ L 60, 3.3.1994, p. 16.

¹⁷⁸ Case C-287/00.

¹⁷⁹ Case C-169/00.

¹⁸⁰ Case C-40/00.

Directive.¹⁸¹ Another case concerned Italian provisions relating to the reimbursement of taxes charged in violation of Community law, as interpreted by the national courts, which are incompatible with the principles laid down by the Court of Justice.¹⁸²

The decision to refer cases to the Court of Justice was also taken as regards the failure of Germany, Spain, Finland, Italy, Portugal and Sweden to tax subsidies paid by the European Union to processing firms producing dried fodder. But proceedings against the United Kingdom on the same grounds were withdrawn when the legislation was amended to provide for taxation.

The Commission terminated the proceedings against Belgium for dual taxation of travel agencies when the Belgian authorities took measures to comply with the Directive. The proceedings against France concerning goods purchased with vouchers at reduced prices were also terminated when the rules were changed.¹⁸³ The same applies to Greece, which amended its legislation on the regularisation of deductions where goods are destroyed, lost or stolen, in line with Article 20(1)(b) of the Sixth Directive. The Commission withdrew its Court action against Germany regarding the exemption of certain transactions in gold¹⁸⁴ after the Council adopted the new Directive 98/80/EC concerning investment gold.¹⁸⁵

On 12.9.2000 the Court of Justice gave judgment in the actions commenced by the Commission in 1997 for declarations that France, the Netherlands, Greece, Ireland and the United Kingdom were acting contrary to Community law by not charging VAT on road and motorway tolls.¹⁸⁶ The Court, considering that these rules apply very broadly regardless of the purposes and results of the business activity concerned, held that motorway operators were in a business activity for the purpose of Community regulations, since they provided users with a motorway infrastructure against remuneration. These operators, whether private or public, accordingly supplied services against payment. The Court thus acknowledged the existence of a direct link between the services supplied – provision of road infrastructure – and the financial consideration for them – tolls. It went on to consider whether the five Member States were eligible for the exemption whereby public bodies are not considered to be taxable persons in relation to the operations they carry out as public authorities, holding that two cumulative conditions must be satisfied for that exemption, namely whether the tolls must be exploited direct by public operators and whether this was in fact done on terms differing from those applying to private-sector operators. It held that in France, Ireland and the United Kingdom, the business of supplying users with road infrastructure against payment of a toll was engaged in partly by private operators. The exemption from VAT was accordingly not applicable. Having found that there was an infringement of Community law, the Court also decided that the three Member States should reimburse several years' worth of VAT that should have been paid so that the Community would not be financially at a loss. VAT is one of the Community's own resources, and the rules provide for the payment of interest on late payments. Judgment was not given against

¹⁸¹ Case C-78/00.

¹⁸² Case C-129/00.

¹⁸³ Case C-156/99, removed from the Register on 10.5.00.

¹⁸⁴ Case C-432/97.

¹⁸⁵ OJ L 281, 17.10.1998, p. 31.

¹⁸⁶ Cases C-260/98, C-276/97, C-358/97, C-359/97 and C-408/97. The situation in Portugal (C-276/98) and Spain (C-83/99) is still pending before the Court.

the Netherlands and Greece as the charging of motorway tolls is and remains reserved for public bodies there (Wejschap Tunel Dordtse Kil in the Netherlands, and National Motorway Construction Fund in Greece), and the Commission had not shown that their business was exercised on terms identical to those of a private-sector operator.

Regarding *failure to notify measures implementing* Directive 98/80/EC,¹⁸⁷ which should n-have been implemented by 1.1.2000, letters of formal notice were sent to Austria, Ireland, Greece and the United Kingdom. Measures have since been notified and the proceedings have been terminated.

2.12.4. *Other indirect taxes*

A considerable proportion of the proceedings here concerns the taxation of **motor vehicles**, where the Commission is receiving a growing number of complaints. Two proceedings were commenced this year on the basis of complaint and of several petitions to Parliament; they concerned incorrect application of Community law in the following circumstances:

– Austria: The tax on the registration of motor vehicles (*Normverbrauchsabgabe*) is calculated on different criteria depending on the origin of the vehicles. For domestic vehicles, the basis of assessment is the price actually paid for the vehicle, whereas for new foreign vehicles imported into Austria, the catalogue price is used. Second-hand vehicles imported into Austria must pay a tax calculated on the average second-hand price determined by the trade. The Commission considers that the Austrian system, proceeding from a theoretical rather than a factual basis, is contrary to Article 90 of the Treaty and Article 3 of Directive 92/12/CE.¹⁸⁸

– Greece: Greece does not properly apply Directive 83/182/EEC on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another.¹⁸⁹ The system is similar to a customs scheme, which is not acceptable in the single market: demand for immediate payment of registration charges as if the vehicle was used in Greece definitively, with fines in amounts that are both colossal and disproportionate; regular seizures, confiscations and auction sales of vehicles; prosecutions for smuggling and severe penalties; presumption – extremely difficult to rebut, especially for a non-resident of Greek origin – that the normal residence is in Greece, so that the vehicle will be subject to Greek taxes (even if he changed residence several years ago); no consultation with the administrations of the other Member States to solve any problems of jurisdiction and check whether there may be fraud.

Again in relation to motor vehicles, a reasoned opinion was sent to Greece as the authorities failed to comply with the judgment given by the Court of Justice on 23.10.1997, holding that “by determining, for the application of the special consumer tax and the flat-rate added special duty, the taxable value of imported used cars by reducing the price of equivalent new cars by 5% for each year of age of the vehicles concerned, with, as a rule, a maximum reduction of 20%, and by excluding anti-pollution technology imported used cars from the benefit of the reduced rates of

¹⁸⁷ *Ibid.*

¹⁸⁸ OJ L 76, 23.3.1992, p. 1.

¹⁸⁹ OJ L 105, 23.4.1983, p. 59.

the special consumer tax applicable to that type of vehicle, the Hellenic Republic has failed to fulfil its obligations under Article 95 of the Treaty”.¹⁹⁰

Turning to excise duties on **manufactured tobacco**, a reasoned opinion was sent to Belgium for *incorrect application* of Directive 92/12/EC governing movements of products subject to excise duties.¹⁹¹ Articles 8 and 9 of the Directive allow travellers to enjoy the benefit of the internal market and buy excisable products in other Member States, even where the quantity of cigarettes they carry with them exceeds 800, provided they are entirely for personal consumption. The Belgian administrative practice of applying a tax-free allowance of 800 cigarettes to individuals returning from other Member States deprives them, where they acquire goods for their personal use, of the proper application of the tax rules. On the same products, a case was referred to the Court of Justice concerning the infringement proceedings against France on the differential taxation of blond tobacco.¹⁹²

Regarding excise duties on **petroleum products**, the Commission issued a reasoned opinion to Germany concerning the exemption from duties for heating fuel (*Mineralölsteuergesetz*), which constitutes an *incorrect application* of Directive 92/81/EEC on the harmonisation of structure of excise duties on mineral oils.¹⁹³ The Commission also brought an action in the Court against Finland concerning the use of red fuel oil subject to reduced-rate excise duty and reserved for heating as a vehicle fuel, contrary to Article 8(3) of that Directive and Article 5(1) of Directive 92/82/EEC concerning the harmonisation of excise duties on the same products.¹⁹⁴

Proceedings were commenced for *incorrect application* of Community provisions as regards the **rendering tax** and the collection of slaughterhouse waste in France. The French rendering service - slaughtering and cutting up animals unfit for consumption as foodstuffs and the collection and disposal of animal carcasses and slaughterhouse waste, has for three years been financed principally from the yield of a parafiscal charge imposed for the purpose on meat. Following several complaints from firms making intra-Community purchases and meat traders in France, the Commission realised that the rules governing the basis of assessment to the charge discriminated against meat from other Member States contrary to Article 90 of the Treaty. Although the charge is levied both on French meat and on meat from other Member States, the former have the benefit of the public rendering service and thus receive a consideration for the tax burden it bears, whereas meat from other Member States is unlikely to be concerned by the service as it will have been prepared for sale before being imported from the other country into France.

Lastly, the Commission terminated the proceedings against Belgium regarding the excise duties on **non-alcoholic beverages**, as national legislation was amended in response to a reasoned opinion. It also terminated the case on the **differential taxation of wine and beer** in Ireland and the case on **local taxes on alcoholic beverages** in Austria. The proceedings against France concerning the **social security**

¹⁹⁰ Case C-375/95 [1997] ECR I-5981.

¹⁹¹ *Ibid.*

¹⁹² Case C-302/00.

¹⁹³ OJ L 102, 31.10.1992, p. 12.

¹⁹⁴ OJ L 102, 31.10.1992, p. 19.

contribution on spirits were terminated when the Court held that the contribution was compatible with Community law.¹⁹⁵

2.13. EDUCATION, AUDIOVISUAL MEDIA AND CULTURE

2.13.1. Education and culture

At the moment, Articles 149 and 150 of the EC Treaty make each Member State responsible for the content of teaching and the organisation of its own education system. However, as regards conditions of access to education and vocational training, Article 12 of the EC Treaty requires Member States to abstain from any discrimination on grounds of nationality.

As there are no provisions of secondary legislation here, students and persons receiving training still encounter barriers to academic mobility. These difficulties are not caused by rules contrary to the Treaty. Some of the individual cases brought to the Commission's attention do not reveal actual nationality discrimination but rather concern slow procedures, absence of redress procedures the administrative charges for academic recognition procedures.

As stated in earlier reports, many of the individual cases drawn to the Commission's attention can be resolved by providing the parties concerned with clear information about their rights and the scope of Community law in this field. In certain cases, national redress procedures offer the only possibility for having administrative decisions rectified or annulled.

But it must be stated that the number of complaints about suspected infringements of Articles 12, 149 and 150 of the Treaty is continuing to rise.

2.13.2. Broadcasting

Directives 97/36/EC of 30 June 1997 and 89/552/EEC of 3 October 1989 (Television without frontiers)

2.13.2.1. Progress in transposing the revised Directive

The Commission's first priority as guardian of the Treaties is to ensure that Directive 97/36/EC of 30 June 1997, amending the 1989 Directive, is properly transposed. The date for transposal of the directive was 30 December 1998. At the time of writing twelve Member States (Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Austria, Portugal, Finland, Sweden and the United Kingdom) had notified national measures implementing Directive 97/36/EC. Transposal is in progress in the other three (Italy, Luxembourg and the Netherlands). The Commission has referred them to the Court of Justice.¹⁹⁶

¹⁹⁵ Case C-434/97.

¹⁹⁶ Case C-2000/207 *Commission v Italy*; Case C-2000/119 *Commission v Luxembourg*; Case C-2000/145 *Commission v Netherlands*.

2.13.2.2. Application of the Directive

The revised Directive establishes a solid legal framework for television broadcasters to develop their activities in the European Union. The main objective is to create the conditions for the free movement of television programmes. The revised Directive clarifies a number of provisions, including the principle of regulation by the broadcaster's country of origin and the criteria for connecting broadcasters to a particular country's jurisdiction. The Commission enforced these principles during the report period. The Commission has been informed of the decision by the Dutch authorities (*Commissariaat voor de Media*) to prohibit the distribution of RTL 4 and RTL 5 in the Netherlands unless RTL/Veronica De Holland Media Groep SA obtained Dutch licences for these channels. It is following the case closely.

Article 3a(1) of the Directive provides the Member States with a legal basis for taking *national measures* to protect a number of events regarded as being of major importance to society. Measures based on Article 3a(1) were taken by Denmark (OJ C 14, 19.1.1999), Italy (OJ C 277, 30.9.1999), Germany (OJ C 277, 29.9.2000) and the United Kingdom (OJ C 328, 18.11.2000). Austria, the Netherlands, Belgium and France have stated that they are planning to notify the Commission of draft measures shortly.

The Commission adopted a fourth communication to the Council and the European Parliament on the implementation of Articles 4 and 5 of Directive 89/552/EEC, as amended by Directive 97/36/EC, in 1997 and 1998 (promotion of the distribution and production of television programmes).¹⁹⁷ The Commission can state that the objectives of Articles 4 and 5 have generally been attained. The activities of television channels regarding the distribution of European and independent productions comply with the Directive to a broadly satisfactory degree, the Directive's objectives have generally been attained.

The Directive also lays down rules on the quantity of advertising authorised. The Commission received several complaints about alleged failures to comply with the advertising and sponsorship rules in the Member States. Problems arose in particular with the practices of certain broadcasters in Greece, Spain, Italy and Portugal. The Commission is gathering the facts it needs in order to evaluate whether the alleged excesses might constitute infringements by the relevant Member States and take corrective measures if appropriate. The Commission decided to send Spain a reasoned opinion on 21 December 2000.

By way of exception from the general rule of freedom to receive and retransmit, Article 2a(2) of the Directive allows the Member States, subject to a specific procedure, to take measures against broadcasters under the jurisdiction of another Member State who "manifestly, seriously and gravely" infringe Article 22. The aim is to protect minors against programmes "likely to impair [their] physical, mental or moral development" and to "ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality". The Commission considers that Article 2a(2) was satisfactorily applied during the report period. The general interest was safeguarded with a minimum of restriction on freedom to provide services. In Case T 69/99 *Danish Satellite TV (DSTV) A/S (Eurotica Rendez-Vous*

¹⁹⁷

COM(2000) 442 final.

Television) v *Commission*, the Court of First Instance gave judgment on 13 December 2000, holding that an action challenging a Commission decision declaring measures notified by the United Kingdom compatible with Community law was inadmissible.

2.13.2.3. Enlargement-related questions

Since 1997, most of the applicant countries have endeavoured to align their law on the Directive, and eight of them have enacted new legislation for the purpose.¹⁹⁸ Legislative procedures are in motion in six applicant countries.¹⁹⁹ The alignment process advanced in 2000 as five applicant countries²⁰⁰ have already reached an excellent level.

2.14. HEALTH AND CONSUMER PROTECTION

When reorganising certain departments in October 1999, the Commission transferred the veterinary and plant-health units of the Directorate-General for Agriculture and the public-health units of the Directorate-General for Social Affairs to the Directorate-General for Health and Consumer Protection. In March 2000, it transferred its food law unit from the Directorate-General for Enterprise to the same Directorate-General.

This report now covers not only trends in the application of Community law on consumer protection but virtually all Community provisions relating to health.

2.14.1. Veterinary legislation

Regarding the *notification of national implementing measures*, four directives fell due for transposal in 2000:

Directive 1999/89/EEC on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultrymeat;

Directive 1999/90/EEC on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs;

Directive 2000/15/EC on animal health conditions governing intra-Community trade in cattle and pigs; and

Directive 2000/27/EEC of 24 June 1993 introducing minimum Community measures for the control of certain fish diseases;

and most of the Member States have still to transpose these directives.

There are no infringement proceedings against Belgium for failure to notify implementing measures.

France has made an effort to catch up with transposal delays. In response to a reasoned opinion under Article 228, it gave effect to the Court's judgment of 9

¹⁹⁸ Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta, Poland and the Slovak Republic.

¹⁹⁹ Czech Republic, Hungary, Latvia, Poland, Romania and Slovenia.

²⁰⁰ Bulgaria, Cyprus, Estonia, Lithuania and the Slovak Republic.

February 1999 in Case C-357/97 concerning failure to transpose Directive 94/28/EC laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos. But proceedings commenced in 1999 still remain to be cleared up.

There are major transposal delays in Greece. The Commission was obliged to continue two infringement proceedings under Article 228 for failure to comply with Court judgments (Cases C-385/97 and C-137/99) given against Greece for failure to transpose Directives 93/118/EC and 96/43/EC on the financing of health inspections and controls of fresh meat and poultrymeat.

On 8 June 2000 the Court gave judgment in Case C-190/99, holding that Ireland had failed to notify the Commission of measures transposing Directive 96/43/EC on the financing of veterinary inspections and controls on live animals and certain animal products. On 7 December 2000 it gave judgment against Italy (Case C-395/99) concerning the transposal of Directive 96/93/EC on the certification of animals and animal products. But two other Member States have come into line with judgments given against them.

Enforcing the hygiene legislation continues to be a Commission priority.

Checks by the Food and Veterinary Office in Ireland and Luxembourg revealed that these Member States have put an end to the serious hygiene and structure violations observed in certain slaughterhouses. Pending the results of the last inspection in France, the infringement proceedings there continue to run.

The most outstanding event of the year in the enforcement of veterinary law was the reference to the Court of Justice on 4 January 2000 of the infringement proceedings against France for failure to allow the marketing of British beef meeting the requirements of Community law, despite Decisions 98/256/EC and 99/514/EC.

The information sent to the Commission by the British authorities shows that there has been satisfactory progress in recruiting veterinary surgeons to handle the i-official inspection of slaughterhouses required by Directives 64/433/EEC and 89/662/EEC and Decision 96/239/EC. If the British authorities abide by their commitments, the current infringement proceedings will be settled in 2001.

The Commission sent the British authorities a reasoned opinion on the ground that they authorised the use of hyperchlorinated water for disinfecting poultry carcasses, which is not allowed by Community law.

The Court of Justice twice held that Greece was not properly applying the legislation on the financing of veterinary inspections. On 5 June 2000, in Case C-470/98, it held that by failing, except as regards fresh meat and poultrymeat, to adopt within the prescribed period the necessary measures to ensure that the costs of the veterinary and administrative checks in respect of products of agricultural origin from third countries, required by Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries, are met by the consignor, the consignee or their agent without reimbursement by the State, the Greece had failed to fulfil its obligations under that directive. On 16.11.2000, in Case C-214/98, it held that by failing to mention certain poultrymeat among the meat to which the fees fixed by

Council Directive 93/118/EEC apply, and by not explicitly mentioning poultrymeat for the purposes of the application of the fee for the cutting of fresh meat fixed by that directive, Greece failed to fulfil its obligations under that Directive.

In December 2000, having received a reasoned opinion for failing to transmit by 30 April 1998 a report on controls in 1996 and 1997 for the proper application of the minimum standards for the protection of calves and pigs, Ireland supplied the requisite information and thus cleared up the infringement of Directives 91/629/EEC and 91/630/EEC.

2.14.2. *Plant health legislation*

Regarding Member States' *notification of national implementing measures*, Belgium and Italy notified measures transposing all the directives in this area.

Greece still has major transposal backlogs. The Commission referred to the Court of Justice the delay in transposing Directive 97/41/EC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables and Directive 98/100/EC recognising protected zones exposed to particular plant health risks in the Community. The Commission decided to take Germany to the Court for failing to transpose Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.

The Commission sent Italy a reasoned opinion as its legislation governing the transport of plant health products that may not be used in Italy but are exported to other Member States or non-member countries was too restrictive. The Italian authorities have undertaken to amend the offending legislation by means of the Community Act 2000; the Commission's information is that this is still in the process of enactment.

2.14.3. *Legislation on seeds and plants*

In this area, all proceedings in hand in 2000 relate to notification of measures transposing recent directives falling due in 1999 or 2000.

No infringement proceedings are in motion against Denmark or Spain.

The Commission decided to refer to the Court its proceedings against Germany, France, Luxembourg and Austria for failure to transpose Directive 98/56/EC on the marketing of propagating material of ornamental plants.

As regards other directives:

Directive 98/95/EC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species;

Directive 98/96/EC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species;

Directive 99/54/EC on the marketing of cereal seed;

Directive 99/66/EC setting out requirements as to the label or other document made out by the supplier pursuant to Council Directive 98/56/EC;

infringement proceedings have reached the reasoned opinion stage for most of the Member States.

2.14.4. *Food legislation*

No major developments have occurred since 1999 in the notification by Member States of measures implementing environmental legislation.

But Greece has given effect to the Court's judgment in Case C-391/98, given on 21 December 1999, concerning its failure to notify measures transposing Directive 93/43/EC on the hygiene of foodstuffs.

The Commission decided to refer to the Court its proceedings against Ireland for failure to notify measures transposing Directive 98/66/EC down specific purity criteria concerning sweeteners and Directive 98/86/EC laying down specific criteria of purity on food additives other than colours and sweeteners for use in foodstuffs.

As for incorrect application cases, Spain responded to a reasoned opinion noting that Spanish legislation providing for an obligation to record the size of table olives on their labels was incompatible with Directive 79/112/EEC by announcing that the offending Royal Decree would be amended.

2.14.5. *Animal feedingstuffs legislation*

Regarding the *notification of national measures implementing* directives, the only directive falling due for transposal in 2000 was Directive 2000/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feedingstuffs. Most of the Member States have not yet notified measures.

France settled a large number of infringement proceedings concerning failure to transpose directives here.

Greece and the United Kingdom have the largest transposal backlogs, and the proceedings date back in some cases to 1998, in particular as regards Directive 96/24/EC on the marketing of compound feedingstuffs and Directive 96/25/EC on the circulation of feed materials.

Directive 96/51/EC concerning additives in feedingstuffs has still to be transposed by France, Greece, Italy and the United Kingdom.

2.14.6. *Contaminants*

Directive 98/53/EC laying down the sampling methods of analysis and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs was due for transposal at the end of 2000. None of the Member States has notified transposal measures.

2.14.7. Notification of technical standards and rules

Directive 98/34/EC requires the Member States and the EFTA countries to notify each other and the Commission prior to the adoption of all drafts of instruments laying down technical standards or rules so as to avoid new barriers being raised in the internal market.

The number of instruments notified in health in 2000 (115), many of them by the emergency procedure (17), illustrates the growing importance of national legislatures in this respect, especially in relation to foodstuffs. Scrutiny of the draft instruments notified generated Commission observations (15), intermediate comments (6) and substantiated opinions (3) requesting adjustment in line with Community law (for fuller information on the notification procedure, see Chapter 2.2.1 (Preventive rules provided for by Directive 98/34/EC (formerly 83/189/EEC)).

2.14.8. Consumer protection

Four directives were up for transposal in 2000. But they were not transposed in all the Member States, and the Commission was obliged to commence infringement proceedings.

The situation at the end of 2000 was as follows:

Directive 97/7/EC (distance contracts; deadline for transposal: 4 June 2000) has not been transposed in Greece, Spain, France, Ireland, Luxembourg, the Netherlands, Portugal or Finland.

Directive 97/55/EC (comparative advertising; deadline for transposal: 23 April 2000) has not been transposed in Greece, Spain, France, Luxembourg, the Netherlands or Finland.

Directive 98/6/EC (indication of prices; deadline for transposal: 18 March 2000) has not been transposed in Greece, Spain, Ireland or Luxembourg. Directive 98/7/EC (consumer credit; deadline for transposal: 21 April 2000) has not been transposed in Greece, Spain, France, Ireland or Luxembourg.

All the other directives in this sector have been transposed by all Member States, but there are several infringement proceedings in progress concerning non-compliance of national implementing measures. These proceedings concern Directives 93/13/EC (unfair contract terms) and 94/47/EC (timeshare). The Commission referred two cases to the Court of Justice concerning the incorrect transposal of Directive 93/13/EC by Italy and Sweden.

To achieve better and more uniform application, the Commission published a detailed report on the implementation of Directive 93/13/EC.²⁰¹ The two reports on Directives 90/314/EEC (package travel)²⁰² and 94/47/EC (timeshare),²⁰³ published at the end of 1999, aroused extensive reactions in the industry, consumer associations and Member States' governments.

²⁰¹ COM (2000) 248 final.

²⁰² SEC (1999) 1800.

²⁰³ SEC (1999) 1795.

Finally, it is worth mentioning that the Court of Justice has received a large number of requests for preliminary rulings in consumer protection matters. Two of these cases concern Directive 93/13/EC (unfair terms), in particular the question of direct applicability in the absence of transposal by a Member State (C-21/00) and the jurisdiction of the courts in the Member States in actions for injunctions against firms headquartered in another Member State (C-167/00). A third case concerns the interpretation of the word “damage” in Article 5 of Directive 90/314/CEE (C-168/00).

2.15. JUSTICE AND HOME AFFAIRS

2.15.1. Communitisation of the Schengen acquis

Following the entry into force of the Amsterdam Treaty, the Schengen acquis has been brought within the Union framework and is now applicable via the Union’s legal and institutional set-up in compliance with the relevant provisions of the EC and Union Treaties. By Decision 1999/436/EC of 20 May 1999 (OJ L 176, 10.7.1999), the Council, in accordance with Article 2(1) of the Protocol integrating the Schengen acquis into the framework of the European Union, determined the legal basis for each of the provisions or decisions which constitute the Schengen acquis (distribution between the first and third pillars). Provisions allocated to the first pillar (such as those relating to short-stay visas, the removal of internal border controls, external border controls and the conditions for movement of foreigners) are monitored in accordance with the principles of relevant Community law, and the Commission acts in, its capacity as guardian of the Treaties in relation to these aspects of the Schengen acquis. The Commission has received many complaints concerning refusals to issue visas on the grounds of records in the Schengen Information System (SIS). Some of these concerned third-country nationals being family members of Union citizens.

2.15.2. Entry and residence

In Commission infringement proceedings against Italy, the Court of Justice gave judgment on 25 May 2000 (not yet reported) in Case C-424/98, holding that Italy had gone beyond the limits set by Community law,

(a) by restricting the forms of evidence available to beneficiaries of Council Directives 90/364/EEC of 28 June 1990 on the right of residence (OJ L 180, p. 26) and 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity (JO L 180, p. 28), and by providing that certain documents must be issued or countersigned by the authority of another Member State; and

(b) first by requiring students, being nationals of other Member States, who apply for recognition of their right of residence for themselves and their families in Italy under Council Directive 93/96/EEC of 29 October 1993 on the right of residence for students (OJ L 317, p. 59) to guarantee the Italian authorities that they have resources of a specified amount, and then, as regards the means of doing so, by not leaving the student with a clear choice between making a statement and any other equivalent form, and lastly, by not allowing a statement to be made where the student is accompanied by family members.

While the case was proceeding Italy adopted Legislative Decree No 358 of 2 August 1999, amending Decree No 470 of 26 November 1992 (*Gazzetta Ufficiale della Repubblica Italiana*, 19.10.2000, General Series No 246, p. 3), to give proper effect to its obligations under Directives 90/364, 90/365 and 93/96.

In July 2000, following a large number of expulsion decisions by the German authorities on public policy grounds against Union citizens convicted of offences, the Commission sent Germany a reasoned opinion for violation of Community rules governing the conditions as to form and content that must be respected when a Member State decides to expel a Union citizen on public policy grounds. The Commission's main objections concerned the automatic or virtually automatic link between certain offences and expulsion measures, the fact that individual conduct is not taken into consideration, the inadequate reasons stated and the violation of the principle of proportionality and the principle of protection of family life.

2.15.3. *Right to vote and stand in elections*

The two directives concerning the vote and stand in elections in the Member State of residence – Directive 93/109/EC (European Parliament) and Directive 94/80/EC (municipal elections) have been transposed in all the Member States.

On 30 July 1999, the Commission decided to close its proceedings against Germany regarding its failure to properly transpose Directive 93/109/EC. Germany notified the Commission of the second Act to amend the General Domicile Act and the Regulation of 28 August 2000 amending the Electoral Code for European elections and the Electoral Code for federal elections.

Since then, Union citizens who are not German nationals have been entered automatically on the electoral roll able for each European election if they applied for entry at a previous election, provide they still meet the conditions. The Commission considers the German legislation to be in conformity with Directive 93/109/EC.

On 30 July 1999, the Commission decided to close its proceedings against Germany regarding its failure to properly transpose Directive 94/80/EC in the Land of Saxony.

Germany notified the Commission of an Act dated 15 March 2000, amending the Act governing municipal elections in the Land of Saxony. Since then, Union citizens have been entered automatically on the electoral roll able for each municipal election.

The Commission also decided to close its proceedings against Germany regarding its failure to properly transpose Directive 94/80/EC in the Land of Bavaria.

Germany notified the Commission of an Act dated 27 December 1999 amending the Electoral Code. Since then, Union citizens have been entered automatically on the electoral roll able for each municipal election.

The Commission considers the German legislation concerning municipal elections in Saxony and Bavaria to be in conformity with Directive 94/80/EC.

2.16. BUDGET

2.16.1. General

Under Article 8(1) of Decision 94/728/EC, Euratom on the system of the Community's own resources, the Member States collect traditional own resources on behalf of the Communities. As in previous years, the number of infringement cases has risen again, and the Commission has referred some of them to the Court.

But the Commission is delighted to report that Community law relating to the VAT and GNP resources is applied with no major problems.

2.16.2. Incorrect application

2.16.2.1. Previously initiated proceedings

The Commission referred to the Court the proceedings against Italy for deducting, without sufficient grounds, amounts from its own-resources payments relating to customs duties on imports bound for San Marino (C-2000/010).

The Commission also referred another case against Italy to the Court (late entry of own resources of LIT 1 484 936 000 000, Case C- 2000/363).

On 15 June 2000, the Court of Justice gave judgment in Case C-1997/348 relating to Germany – imports via the German Democratic Republic of goods on which refunds had been paid on export from the Netherlands. It held that Germany had failed to collect and make available a levy corresponding to the Community price as required by Regulation (EEC) No 2252/90.

2.16.2.2. New proceedings

The decision was taken to refer to the Court a Community transit case in which the Netherlands refused to pay interest due on late payments under Article 11 of Council Regulation No 1552/89 where recovery is late and the corresponding own resources are made available late also.

In two other cases involving late establishments, the Commission also decided to go to the Court. One concerns Germany, where Community external transit documents were not cleared with the regulation periods. The other concerns Spain, where own resources are not established within the regulation periods.

A reasoned opinion was sent to Germany for not correctly clearing certain transit documents in the Community transit scheme and waiving certain securities without prior consultation with the Commission.

2.17. PERSONNEL AND ADMINISTRATION

The infringement proceedings initiated in this field concern the Member States' failure to comply with the Protocol on Privileges and Immunities of the European Communities and to implement national provisions required for the correct application of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.

The case concerning Spain's delay in adopting internal measures to allow Spanish officials and servants of the European Communities to transfer their pension rights in accordance with Article 11(2) of Annex VIII to the Staff Regulations) was terminated.

Consequently, there are currently no infringement proceedings in this area.

2.18. COMMUNITY STATISTICS

The obligations of the Member States in statistical matters consist of supplying the Commission with data relating to specific matters at predetermined intervals and by predetermined procedures. There are no problems with the application of statistical methods or with timing. But a complaint has been received about a Member State's alleged infringement of Community law, in particular Council Regulation (EEC) No 3330/91 on the statistics relating to the trading of goods between Member States (Intrastat) and Council Decision 96/715/EC on inter-administration telematic networks for statistics relating to the trading of goods between Member States (Edicom).

Following an analysis of the content by the Commission, in the light of its usual rules and priorities, the case is now being terminated without action.



COMMISSION OF THE EUROPEAN COMMUNITIES

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VOLUME II

**EIGHTEENTH ANNUAL REPORT
ON MONITORING THE APPLICATION
OF COMMUNITY LAW
(2000)**

ANNEX I

Detection of infringement cases

ANNEX II

**Infringements procedures – break down per stage reached,
legal basis, Member State and sector**

ANNEX I

Detection of infringement cases

Table 1.1. Detection of infringement cases

Year	Complaints ¹	Cases detected by Commission			Non communication ²	Total
		Total	Parlementary questions	Petitions		
1996	819	257	22	4	1079	2155
1997	957	261	13	4	760	1978
1998	1128	396	18	7	610	2134
1999	1305	288	16	10	677	2270
2000	1225	313	15	5	896	2434

(1) In 2000, 50,32% of the infringement cases originated in complaints, as opposed to 57,48% in 1999

(2) Non-communication : this category includes the non-communication of national measures transposing Community directives, as well as the non-communication of technical regulations under Directive 98/34/EC

Table 1.2. Cases under examination¹ by the Commission as of 31 December 2000, by year of opening

opened in		under exam. as of 12/31/00	percentage of cases under exam.	Complaints	Own initiative cases	non-communication
2000	2434	1666	49%	950	276	440
1999	2270	739	21,87%	485	156	98
1998	2134	397	11,75%	189	154	54
1997	1977	179	5,30%	98	60	21
1996	2151	100	2,96%	48	42	10
1995	1853	97	2,87%	38	55	4
1994	2396	63	1,86%	25	34	4
1993	2336	31	0,92%	12	18	1
1992	2509	22	0,65%	12	10	0
1991	2184	22	0,65%	6	16	0
1990	2343	22	0,65%	7	15	0
1989	2107	12	0,36%	6	5	1
1988	1574	4	0,12%	0	3	1
1987	1350	2	0,06%	0	1	1
1986	1240	2	0,06%	1	1	0
1985	1003	6	0,18%	0	6	0
1984	651	8	0,24%	0	2	6
1978	124	7	0,21%	0	7	0
Total:	32636	3379	100,00%	1877	861	641

¹ The cases under examination are the cases opened following a complaint, an own Commission's initiative or a case of non-communication, wether or not an infringement procedure was initiated.

Table 1.2.1. Cases under examination as of 31/12/2000, by year of opening (graphic)

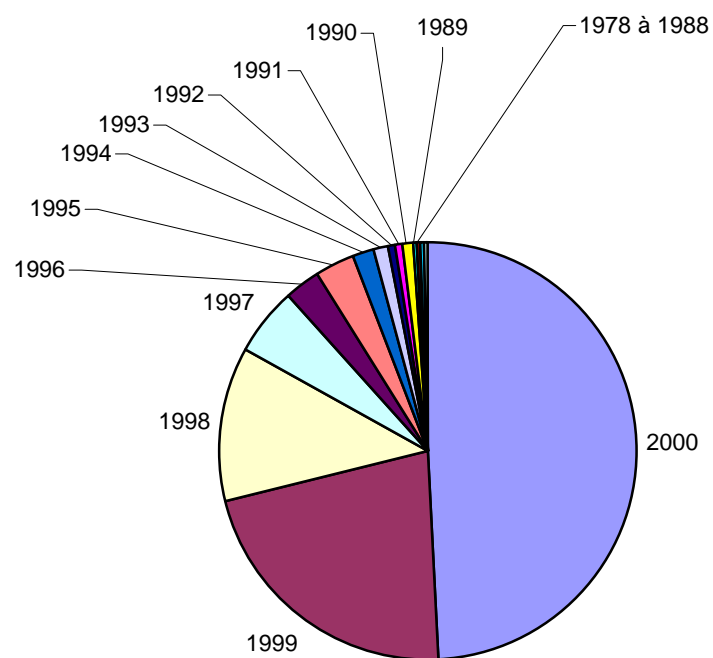
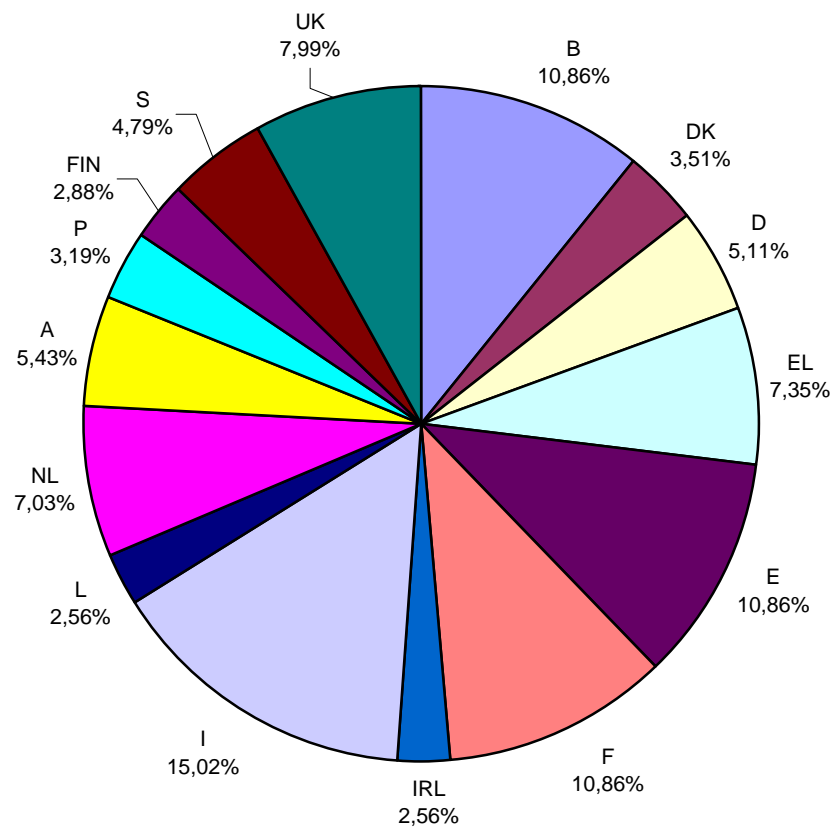


Table 1.3. Break down by Member State of the cases opened in 2000

1.3.1. Own initiative cases detected by the Commission in 2000, by Member State

	opened		under exam. as of 31/12/00	
Total:	313		276	
B	34	10,86%	28	10,14%
DK	11	3,51%	10	3,62%
D	16	5,11%	15	5,43%
EL	23	7,35%	23	8,33%
E	34	10,86%	29	10,51%
F	34	10,86%	29	10,51%
IRL	8	2,56%	8	2,90%
I	47	15,02%	41	14,86%
L	8	2,56%	8	2,90%
NL	22	7,03%	17	6,16%
A	17	5,43%	15	5,43%
P	10	3,19%	10	3,62%
FIN	9	2,88%	7	2,54%
S	15	4,79%	13	4,71%
UK	25	7,99%	23	8,33%

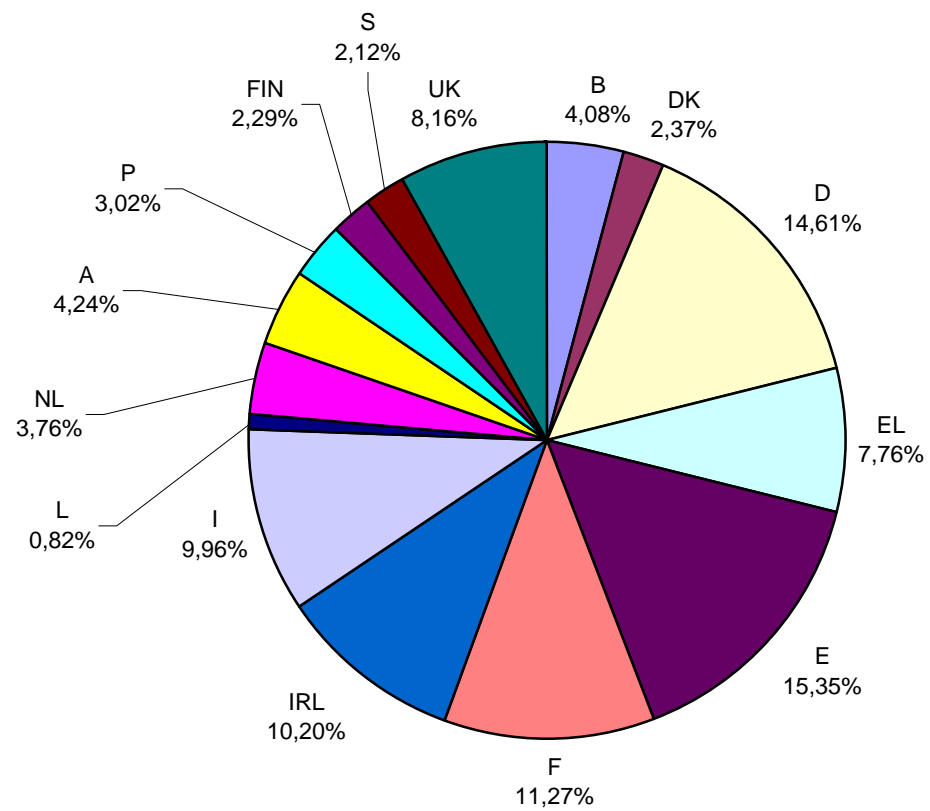
1.3.1.1. Own initiative cases detected by the Commission in 2000, by Member State (graphic)



1.3.2. Complaints received in 2000, by Member State

Total:	received		cases under exam. as of 31/12/00	
	1225		950	
B	50	4,08%	35	3,68%
DK	29	2,37%	21	2,21%
D	179	14,61%	137	14,42%
EL	95	7,76%	68	7,16%
E	188	15,35%	161	16,95%
F	138	11,27%	108	11,37%
IRL	125	10,20%	89	9,37%
I	122	9,96%	99	10,42%
L	10	0,82%	6	0,63%
NL	46	3,76%	32	3,37%
A	52	4,24%	41	4,32%
P	37	3,02%	30	3,16%
FIN	28	2,29%	21	2,21%
S	26	2,12%	19	2,00%
UK	100	8,16%	83	8,74%

1.3.2.1. Complaints received in 2000, by Member State (graphic)

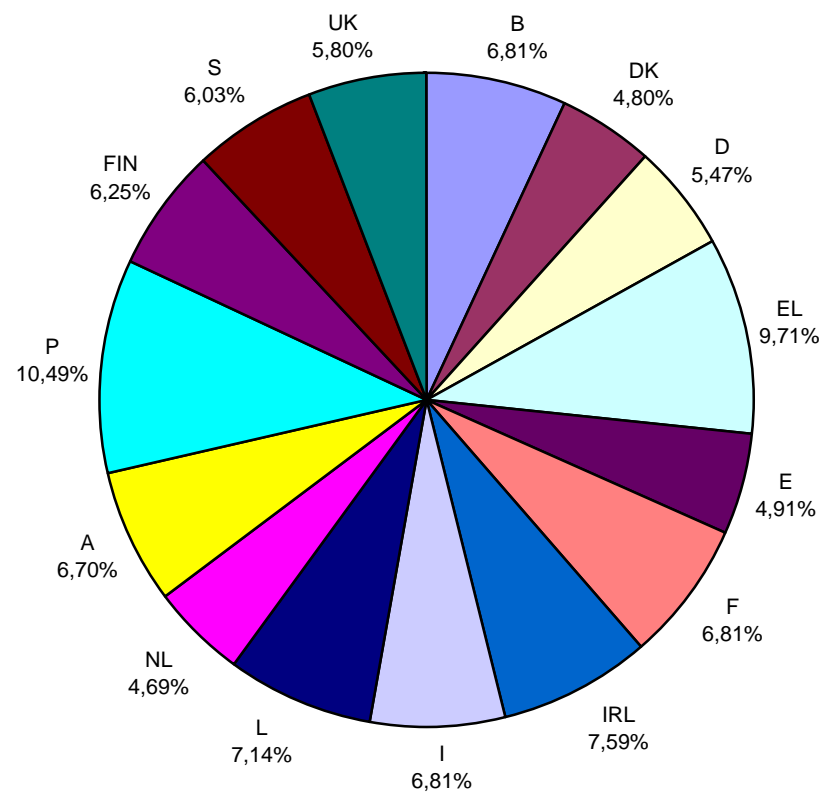


1.3.3. Non-communication cases opened in 2000, by Member State

(non-communication of measures transposing directives and of technical regulations under Directive

opened			under exam. as of 31/12/00	
Total:	896		440	
B	61	6,81%	31	7,05%
DK	43	4,80%	8	1,82%
D	49	5,47%	26	5,91%
EL	87	9,71%	55	12,50%
E	44	4,91%	21	4,77%
F	61	6,81%	32	7,27%
IRL	68	7,59%	35	7,95%
I	61	6,81%	32	7,27%
L	64	7,14%	25	5,68%
NL	42	4,69%	26	5,91%
A	60	6,70%	31	7,05%
P	94	10,49%	49	11,14%
FIN	56	6,25%	23	5,23%
S	54	6,03%	21	4,77%
UK	52	5,80%	25	5,68%

1.3.3.1. Non-communication cases opened in 2000, by Member State (graphic)



Annex II

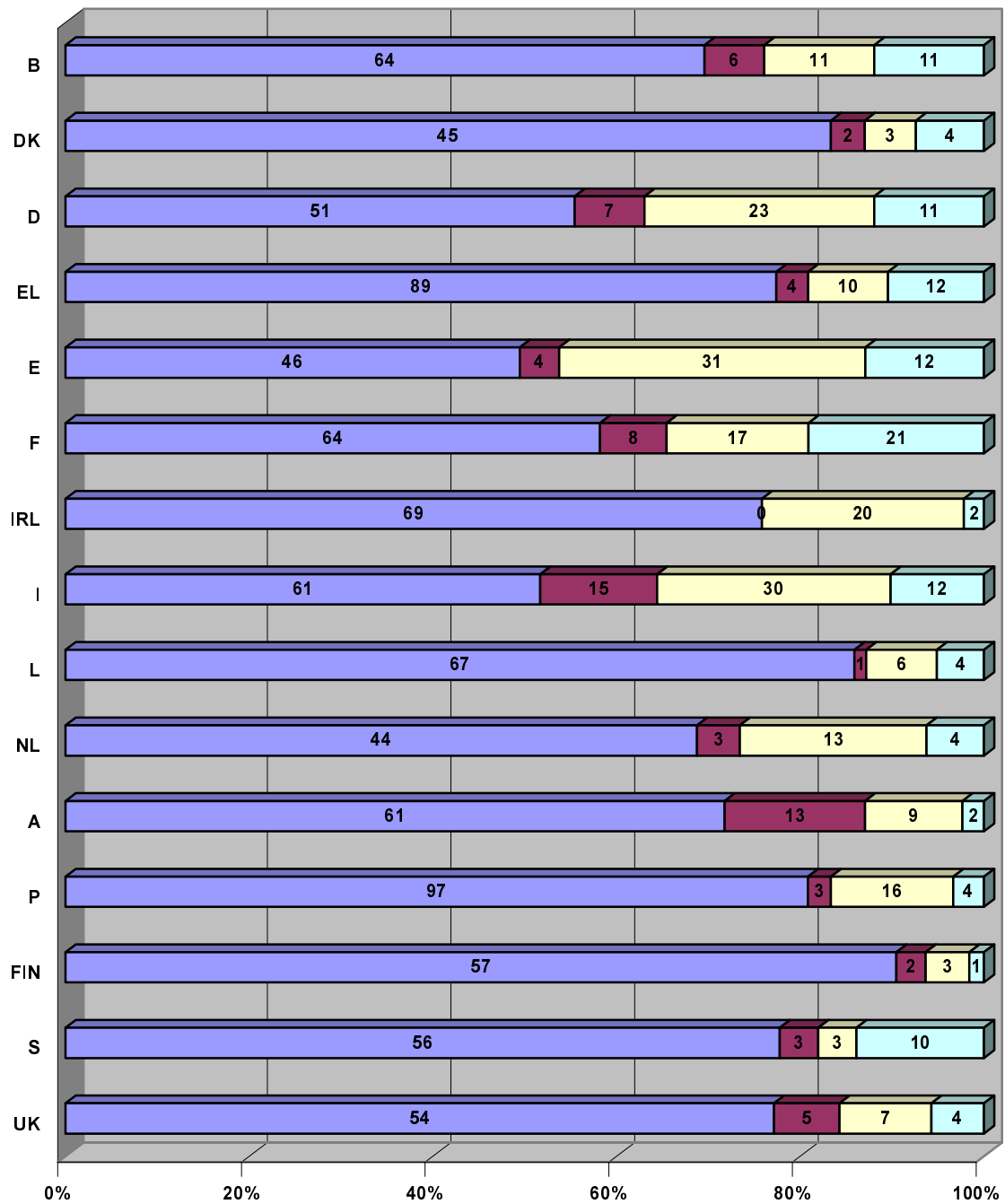
**Infringements procedures – break down per stage reached,
legal basis, Member State and sector**

Table 2.1.

Established infringements - Classified by stage of proceedings and Member State

Member State	Letters of formal notice					Reasoned opinions					Referrals to Court				
	1996	1997	1998	1999	2000	1996	1997	1998	1999	2000	1996	1997	1998	1999	2000
B	72	93	88	80	92	62	33	78	30	34	20	18	20	15	5
DK	22	64	40	46	54	0	1	10	4	7	0	0	1	1	0
D	62	116	88	84	92	37	35	46	30	40	8	19	5	9	11
EL	58	109	95	88	115	51	23	51	48	35	17	10	16	14	23
E	59	104	78	72	93	30	23	36	21	32	9	7	6	7	8
F	88	157	121	86	110	46	49	94	61	43	11	15	23	35	27
IRL	43	86	63	67	91	36	14	46	32	27	4	6	10	15	17
I	75	123	110	85	118	71	36	91	41	50	9	20	16	32	24
L	39	74	62	65	78	28	14	39	38	40	4	8	11	18	16
NL	32	65	28	68	64	9	11	23	16	16	2	3	3	1	12
A	132	109	76	85	85	2	38	38	37	33	1	0	4	9	8
P	54	116	80	87	120	49	35	57	50	46	6	14	5	13	10
FIN	290	78	52	44	63	0	8	16	5	14	0	0	1	0	4
S	69	75	54	57	72	0	6	15	14	13	0	0	1	1	3
UK	47	92	66	61	70	14	8	35	33	30	1	1	1	8	4
Total	1142	1461	1101	1075	1317	435	334	675	460	460	92	121	123	178	172

Table 2.2.1. Letters of formal notice sent in 2000, by legal basis and Member State
(graphic)



■ Directives: non communication (NC)
 ■ Directives: non conformity (NCo)
 ■ Directives: bad application (BA)
 ■ Treaties, Regulations and Decisions (TRD)

Table 2.2.2. Reasoned opinion sent in 2000, by legal basis and Member State (graphic)

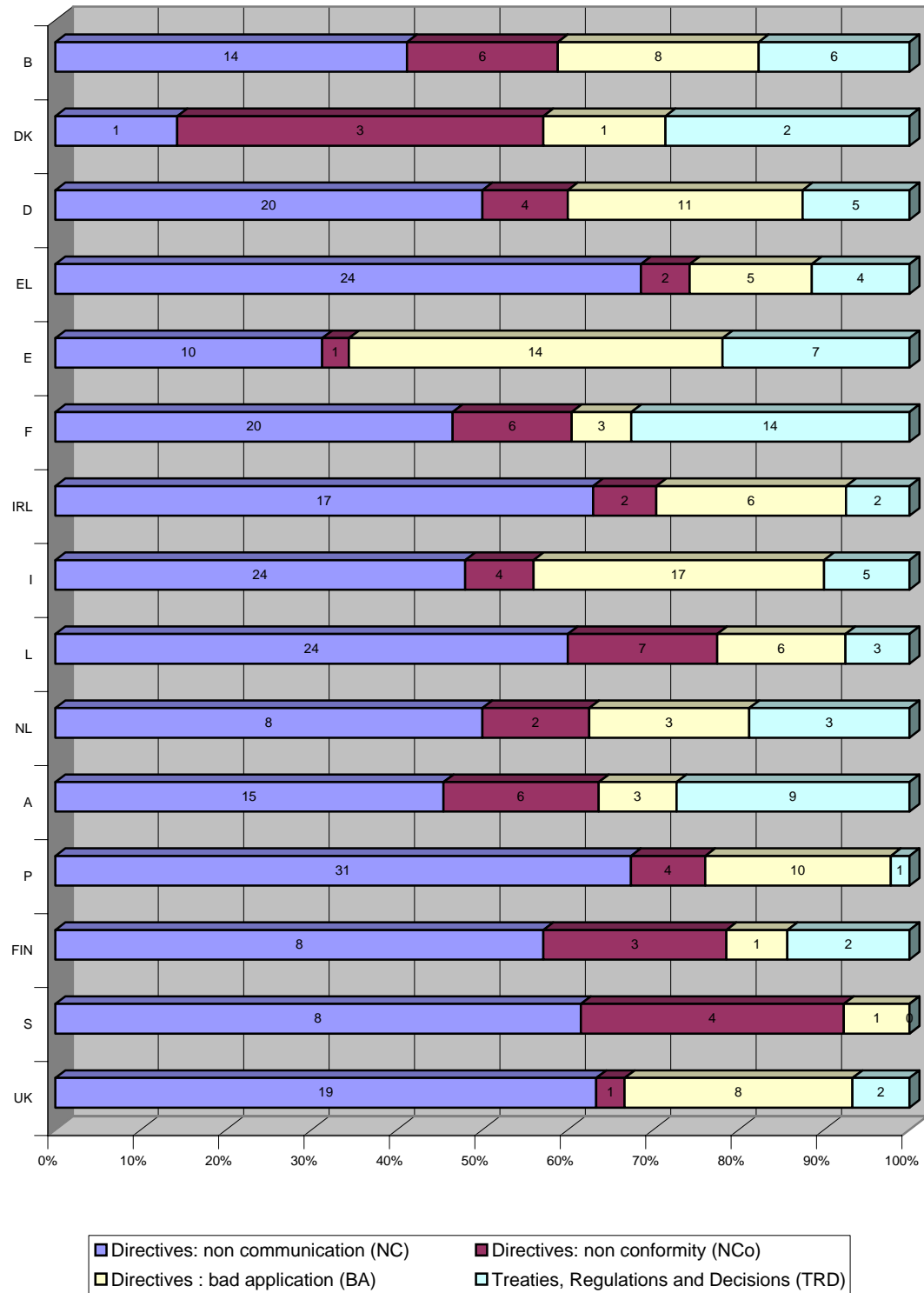
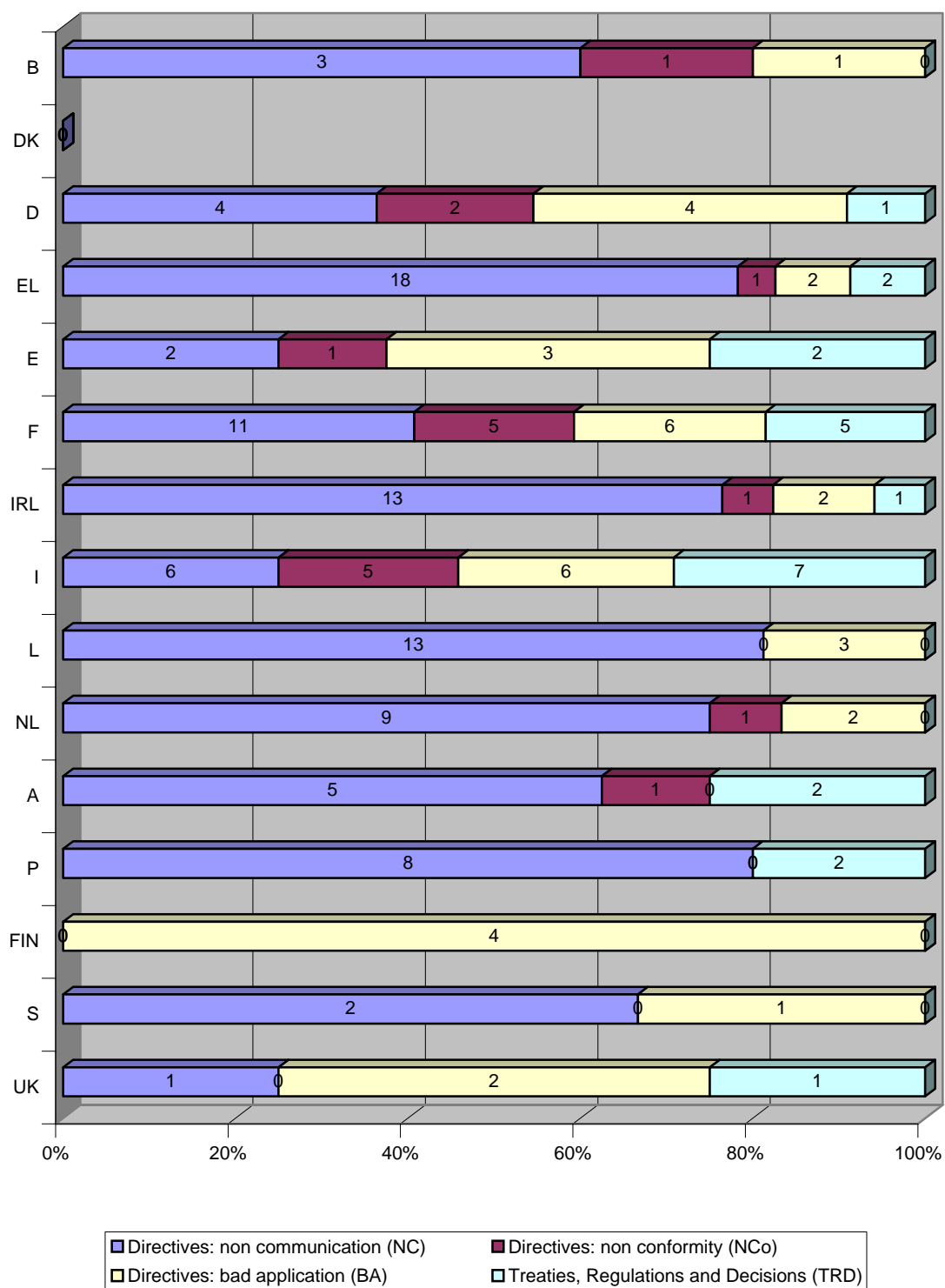


Table 2.2.3. Referrals to the Court in 2000, by legal basis and Member State (graphic)



**Table 2.2.4. Letters of formal notice, reasoned opinions and cases referred to the Court of justice:
comparison between 1999 and 2000
by stage of proceedings and legal basis (graphic)**

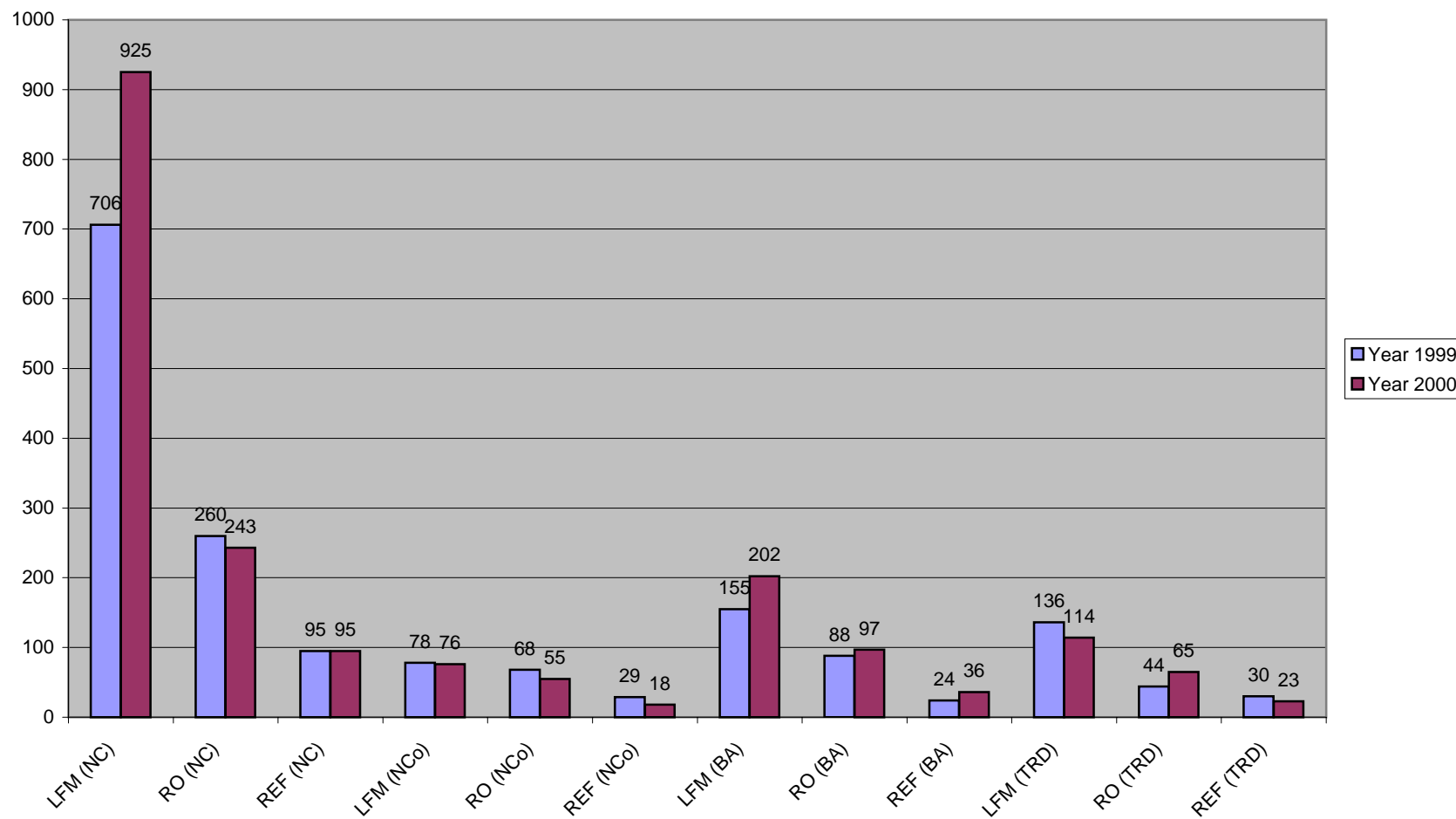


Table 2.3. Cases under examination: procedure statement as of 31/12/00, by Member State

Total:	total		(1)		(2)	(3)		(4)	(5)		(6)	(7)
	3379		1773		52,47%	803		23,76%	330		9,77%	32
B	210	6,21%	133	7,50%	63,33%	53	6,60%	25,24%	19	5,76%	9,05%	3
DK	87	2,57%	41	2,31%	47,13%	12	1,49%	13,79%	2	0,61%	2,30%	0
D	356	10,54%	155	8,74%	43,54%	65	8,09%	18,26%	25	7,58%	7,02%	4
EL	288	8,52%	166	9,36%	57,64%	75	9,34%	26,04%	39	11,82%	13,54%	6
E	394	11,66%	126	7,11%	31,98%	49	6,10%	12,44%	13	3,94%	3,30%	1
F	437	12,93%	243	13,71%	55,61%	145	18,06%	33,18%	73	22,12%	16,70%	8
IRL	205	6,07%	101	5,70%	49,27%	41	5,11%	20,00%	20	6,06%	9,76%	0
I	391	11,57%	190	10,72%	48,59%	103	12,83%	26,34%	52	15,76%	13,30%	5
L	95	2,81%	84	4,74%	88,42%	46	5,73%	48,42%	22	6,67%	23,16%	2
NL	145	4,29%	98	5,53%	67,59%	39	4,86%	26,90%	16	4,85%	11,03%	1
A	181	5,36%	111	6,26%	61,33%	46	5,73%	25,41%	14	4,24%	7,73%	0
P	181	5,36%	126	7,11%	69,61%	52	6,48%	28,73%	16	4,85%	8,84%	1
FIN	89	2,63%	52	2,93%	58,43%	20	2,49%	22,47%	5	1,52%	5,62%	0
S	95	2,81%	57	3,21%	60,00%	13	1,62%	13,68%	4	1,21%	4,21%	0
UK	225	6,66%	90	5,08%	40,00%	44	5,48%	19,56%	10	3,03%	4,44%	1

(1) = cases under examination as of 31.12.00 for which the infringement procedure has been opened and percentages with regard to all the cases.

(2) = percentage of cases for which the infringement procedure has been opened with regard to cases under examination as of 31.12.00 concerning this Member State.

(3) = cases for which a reasoned opinion has been sent and percentages with regard to all cases.

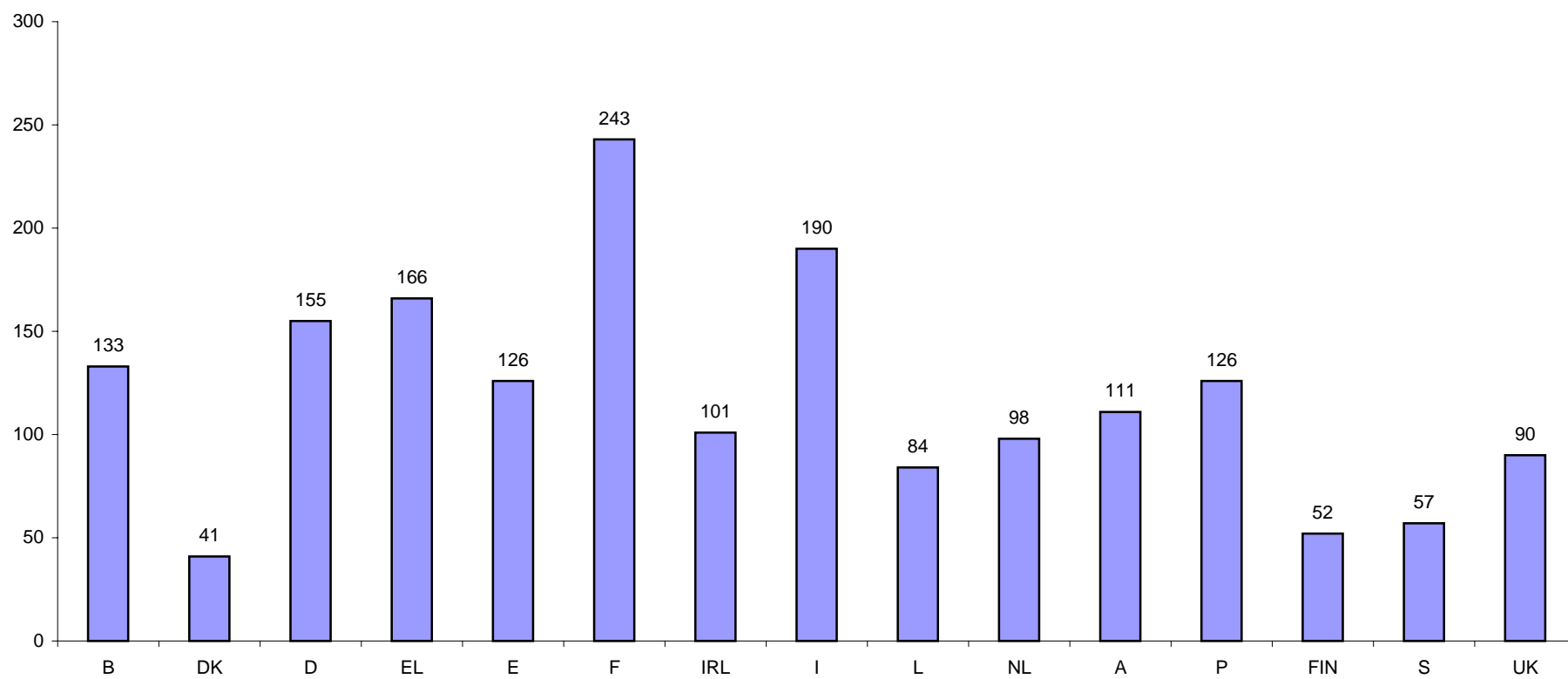
(4) = percentage of cases for which a reasoned opinion has been sent with regard to all cases under examination as of 31.12.00 concerning this Member State.

(5) = cases brought to the ECJ and percentages with regard to all cases.

(6) = percentage of cases referred to the ECJ with regard to all cases under examination as of 31/12/00 for this Member State

(7) = cases for which the procedure of the article 228 of the treaty has been opened.

Table 2.3.1. Cases under examination as of 31.12.00 for which the infringement procedure has been opened, by Member State (graphic)



**Table 2.3.2. Cases under examination as of 31/12/00, for which a reasoned opinion has been sent,
by Member State (graphic)**

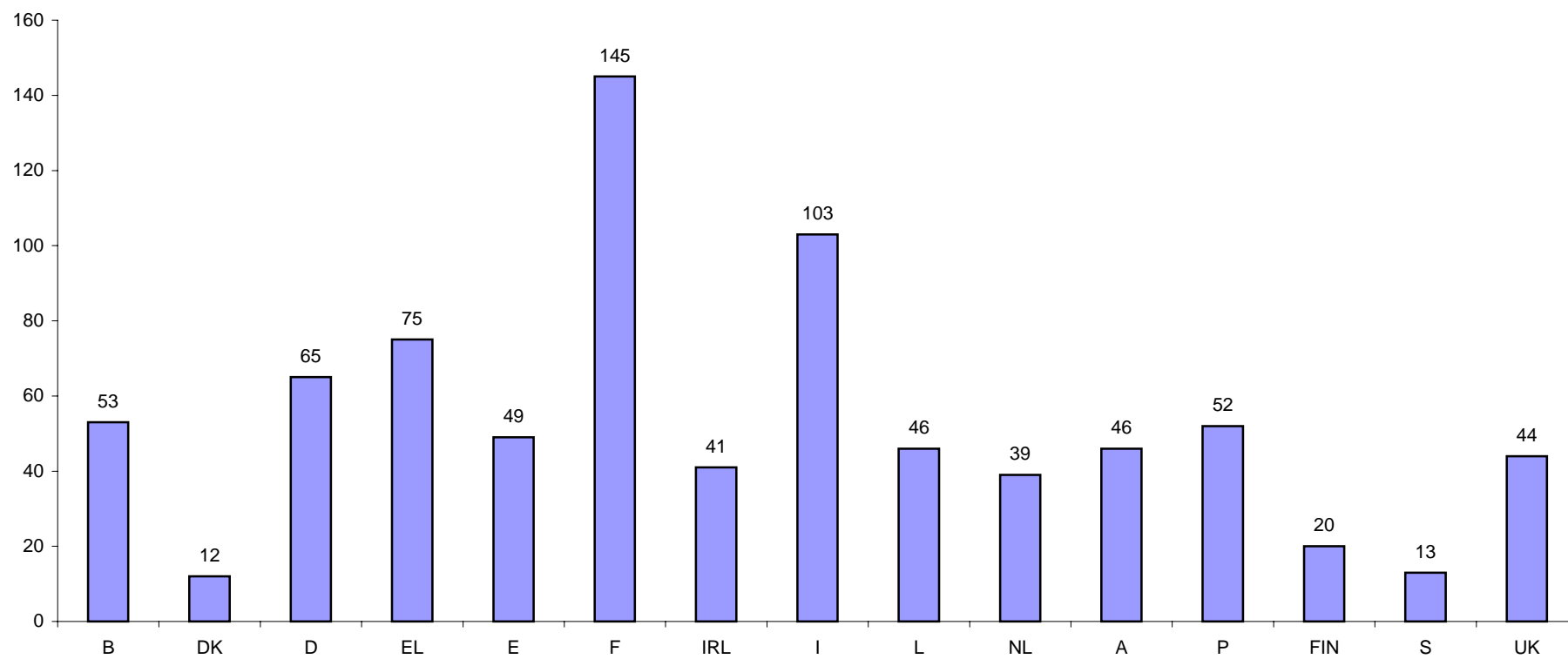
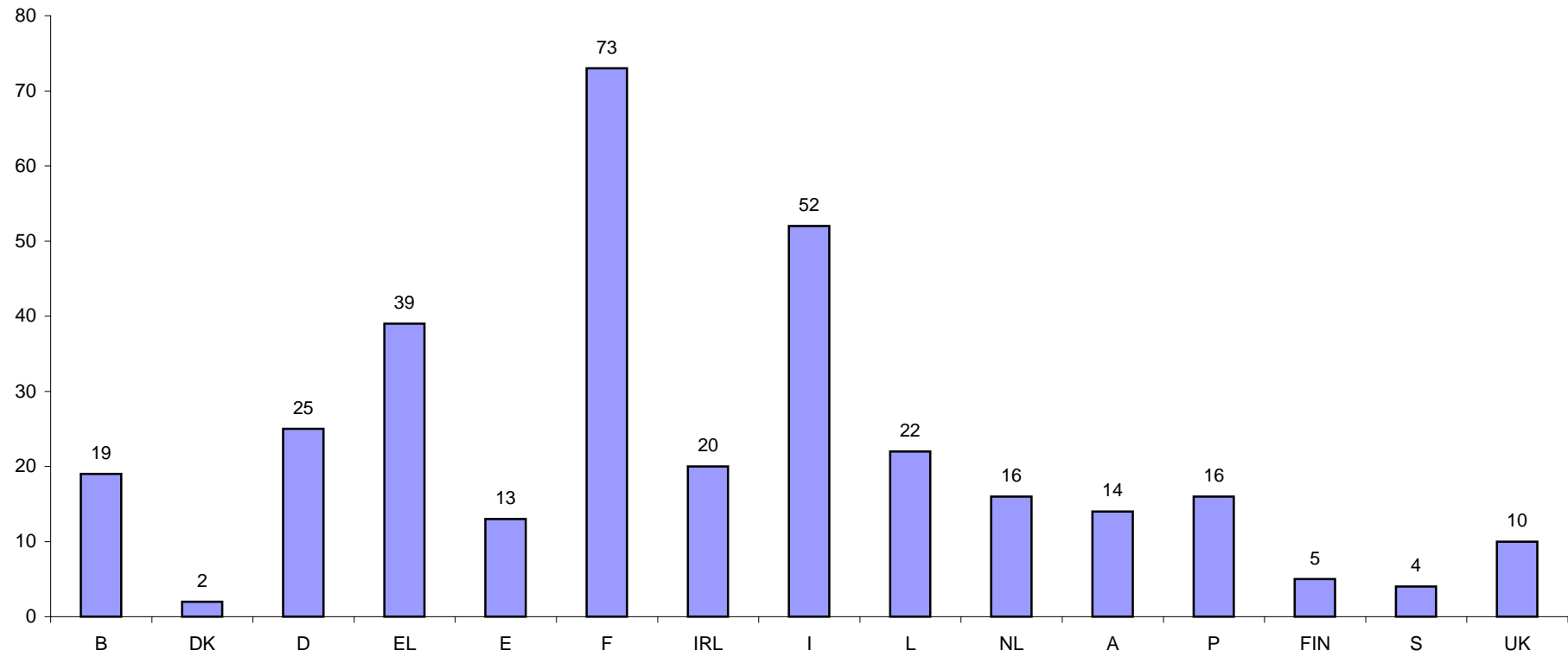


Table 2.3.3. Cases under examination as of 31/12/00 referred to the ECJ , by Member State (graphic)



**Table 2.3.4. Cases under examination as of 31/12/00, for which the 228 procedure has been opened,
by Member State (graphic)**

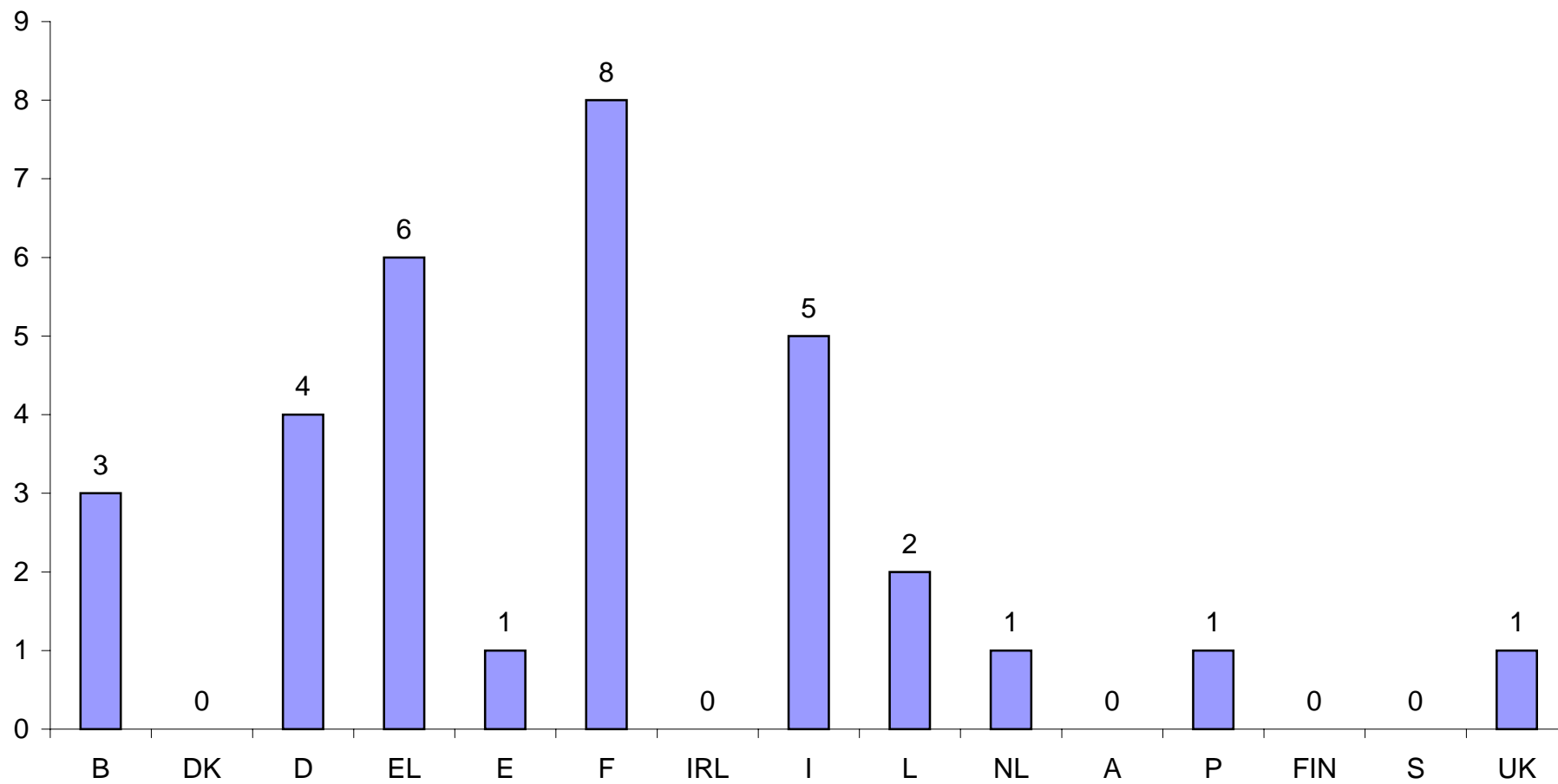


Table 2.4. Cases under examination as of 31/12/00, by sectors

Total:	total 3379		(1) 1773		(2) 52,47%	(3) 803		(4) 23,76%	(5) 330		(6) 9,77%	(7) 32
Environment	1113	32,94%	406	22,90%	36,48%	193	24,03%	17,34%	80	24,24%	7,19%	13
Internal Market	770	22,79%	400	22,56%	51,95%	174	21,67%	22,60%	64	19,39%	8,31%	6
Agriculture	92	2,72%	22	1,24%	23,91%	20	2,49%	21,74%	2	0,61%	2,17%	0
Enterprises	225	6,66%	180	10,15%	80,00%	40	4,98%	17,78%	18	5,45%	8,00%	2
Social Affairs	161	4,76%	94	5,30%	58,39%	55	6,85%	34,16%	26	7,88%	16,15%	3
Customs and Tax	198	5,86%	108	6,09%	54,55%	67	8,34%	33,84%	27	8,18%	13,64%	1
Industry and Transport	175	5,18%	158	8,91%	90,29%	84	10,46%	48,00%	42	12,73%	24,00%	4
Competition	60	1,78%	18	1,02%	30,00%	11	1,37%	18,33%	6	1,82%	10,00%	0
Information Society	65	1,92%	52	2,93%	80,00%	32	3,99%	49,23%	8	2,42%	12,31%	0
Consumers	325	9,62%	239	13,48%	73,54%	85	10,59%	26,15%	31	9,39%	9,54%	2
Fisheries	43	1,27%	27	1,52%	62,79%	14	1,74%	32,56%	8	2,42%	18,60%	1
Financial Affairs	30	0,89%	16	0,90%	53,33%	10	1,25%	33,33%	7	2,12%	23,33%	0
Budgets	21	0,62%	21	1,18%	100,00%	7	0,87%	33,33%	3	0,91%	14,29%	0
Energy, Culture & Arts	32	0,95%	14	0,79%	43,75%	6	0,75%	18,75%	6	1,82%	18,75%	0
External relations	2	0,06%	0	0,00%	0,00%	0	0,00%	0,00%	0	0,00%	0,00%	0
Personnel	0	0,00%	0	0,00%	0,00%	0	0,00%	0,00%	0	0,00%	0,00%	0
Regional policies	9	0,27%	0	0,00%	0,00%	0	0,00%	0,00%	0	0,00%	0,00%	0
Justice & Home Affairs	55	1,63%	18	1,02%	32,73%	5	0,62%	9,09%	2	0,61%	3,64%	0
Administrative Statistics	1	0,03%	0	0,00%	0,00%	0	0,00%	0,00%	0	0,00%	0,00%	0
Legal Services	2	0,06%	0	0,00%	0,00%	0	0,00%	0,00%	0	0,00%	0,00%	0

(1) Cases under examination as of 31.12.00 for which the infringement procedure has been opened and percentages with regard to all the cases.

(2) Percentage of cases for which the infringement procedure has been opened with regard to cases under examination as of 31.12.00 concerning this sector.

(3) Cases for which a reasoned opinion has been sent and percentages with regard to all cases.

(4) Percentage of cases for which a reasoned opinion has been sent with regard to all cases under examination as of 31.12.00 concerning this sector.

(5) Cases brought to the ECJ and percentages with regard to all cases.

(6) Percentage of cases referred to the ECJ with regard to all cases under examination as of 31/12/00 for this sector

(7) Cases for which the procedure of the article 228 of the treaty has been opened.

Table 2.4.1. Cases under examination as of 31/12/00 for which infringement procedure has been opened, by sector (graphic)

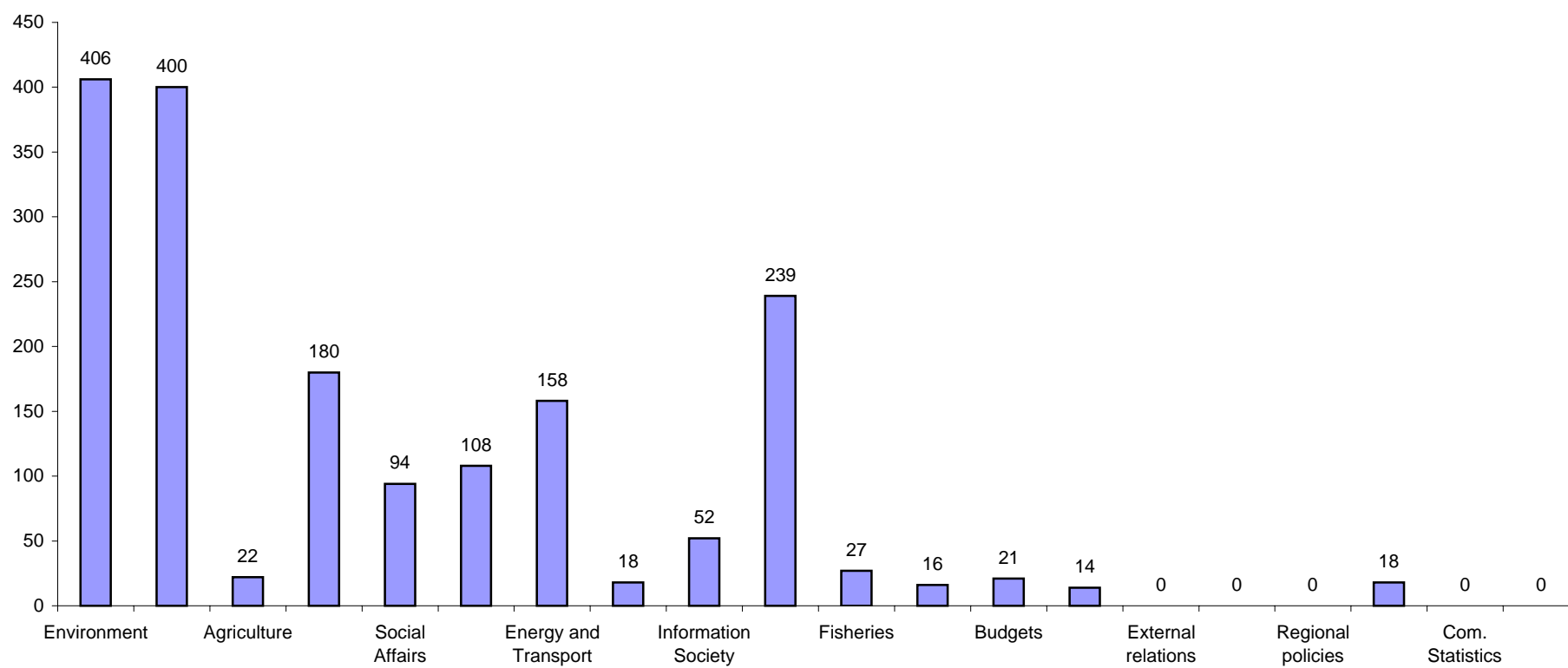


Table 2.4.2. Cases under examination as of 31/12/00 for which a reasoned opinion has been sent, by sector

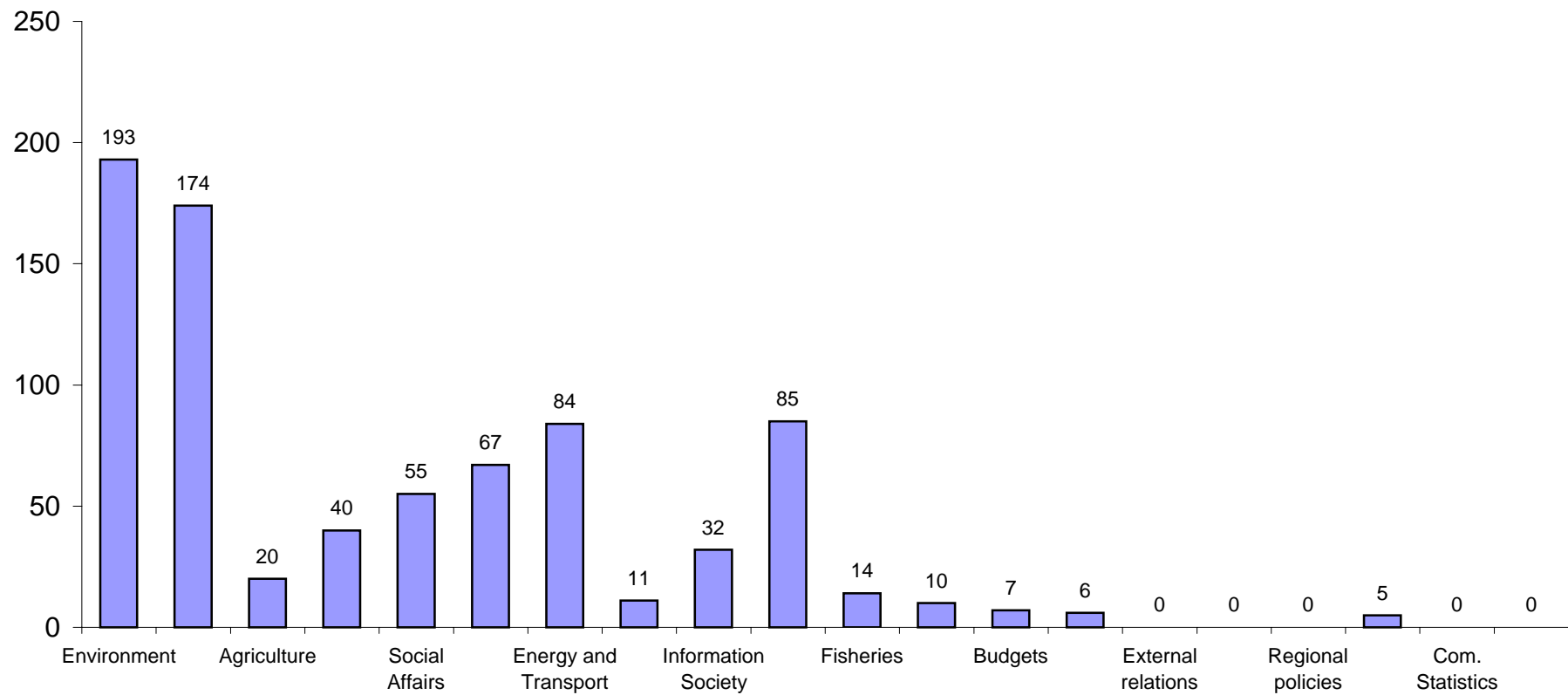


Table 2.4.3. Cases under examination as of 31/12/00 referred to the Court of justice, by sector (graphic)

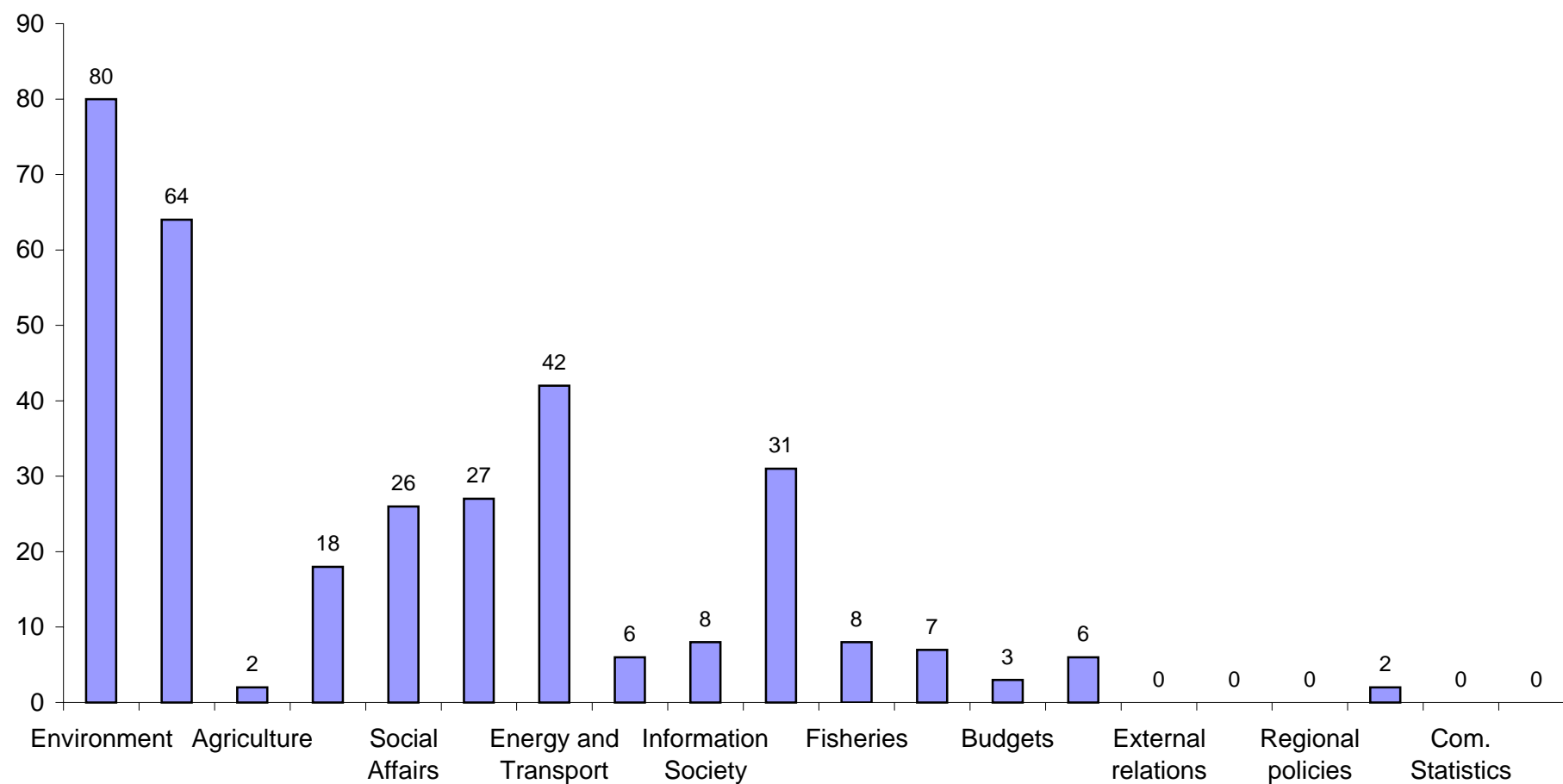


Table 2.4.4. Cases under examination as of 31/12/00 for which a procedure ex article 228 has been initiated, by sector (graphic)

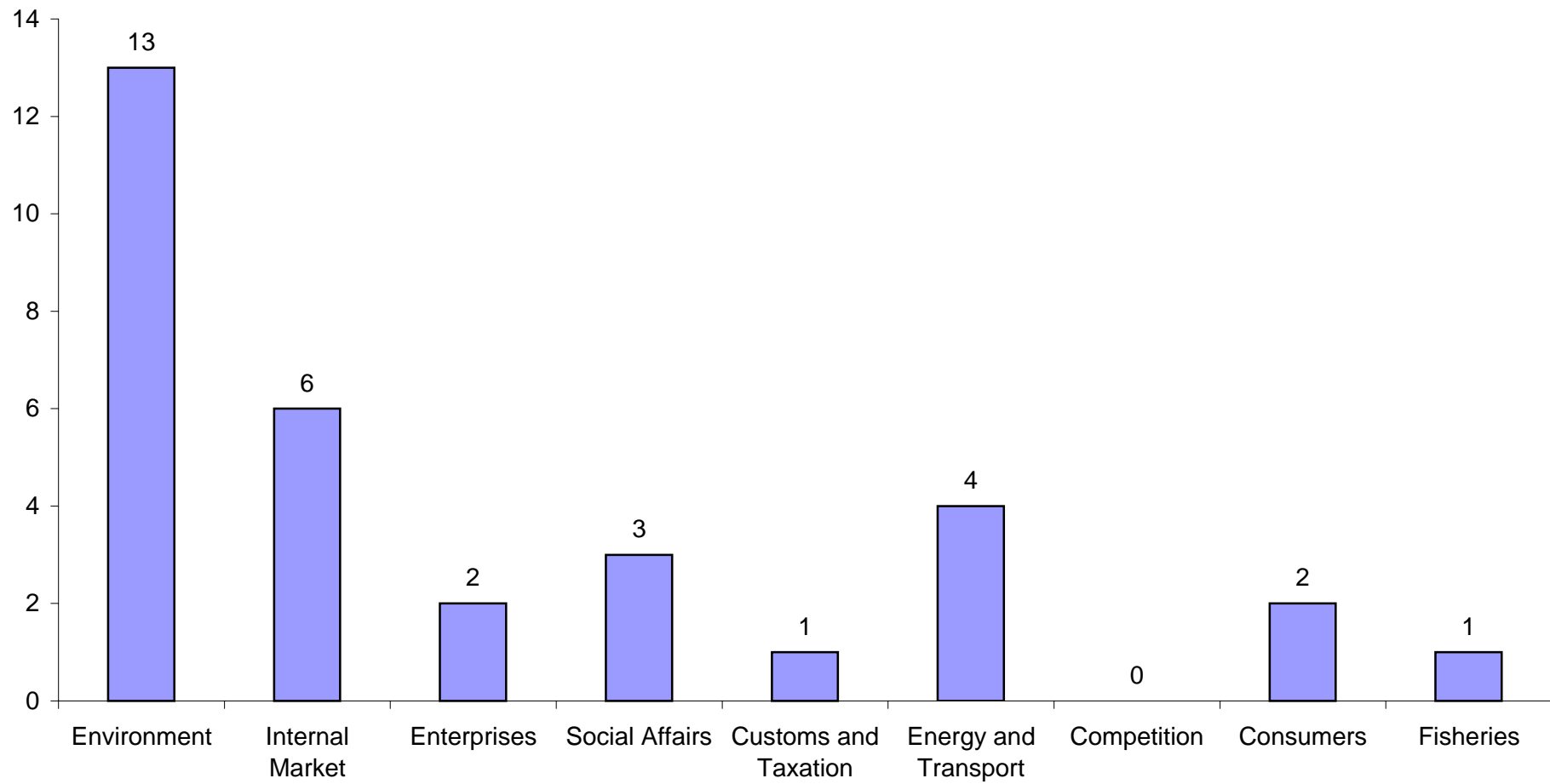


Table 2.5. Cases closed in 2000

by stage			<i>non communication</i>		<i>except non-communication</i>	
before sending a letter of formal notice	734	38,65%	5	0,59%	729	68,90%
before sending a reasoned opinion	687	36,18%	544	64,68%	143	13,52%
before deciding to bring the case to the ECJ	239	12,59%	142	16,88%	97	9,17%
before the referral to the ECJ	93	4,90%	56	6,66%	37	3,50%
withdrawal	105	5,53%	84	9,99%	21	1,98%
before sending the 228 formal notice	22	1,16%	6	0,71%	16	1,51%
before sending the 228 reasoned opinion	6	0,32%	0	0,00%	6	0,57%
before deciding to bring the 228 case to the ECJ	11	0,58%	3	0,36%	8	0,76%
before the 171referral to the ECJ	2	0,11%	1	0,12%	1	0,09%
withdrawal	0	0,00%	0	0,00%	0	0,00%
TOTAL	1899		841		1058	

Table 2.5.1.Cases closed in 2000, by stage (graphic)

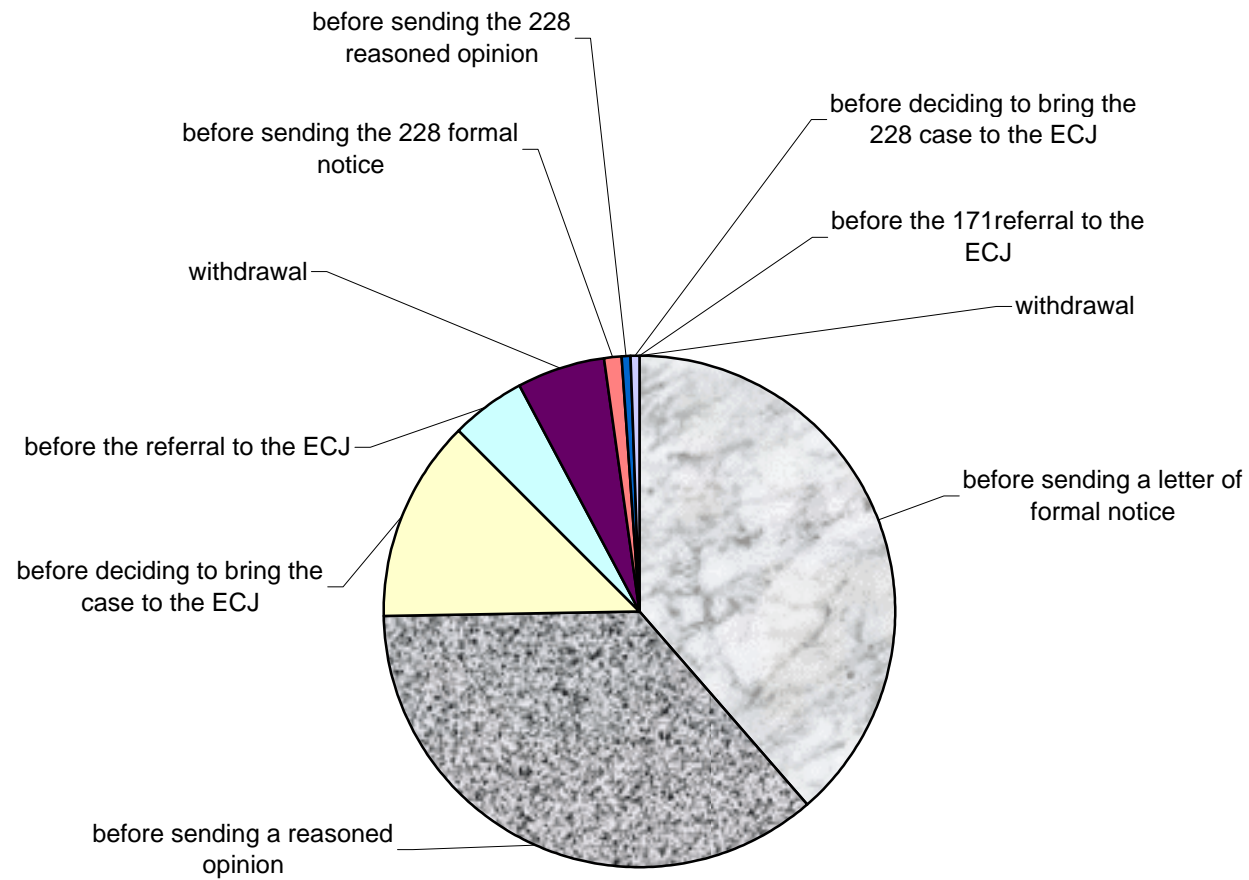


Table 2.5.3. Cases closed in 2000 except non communication, by stage (graphic)

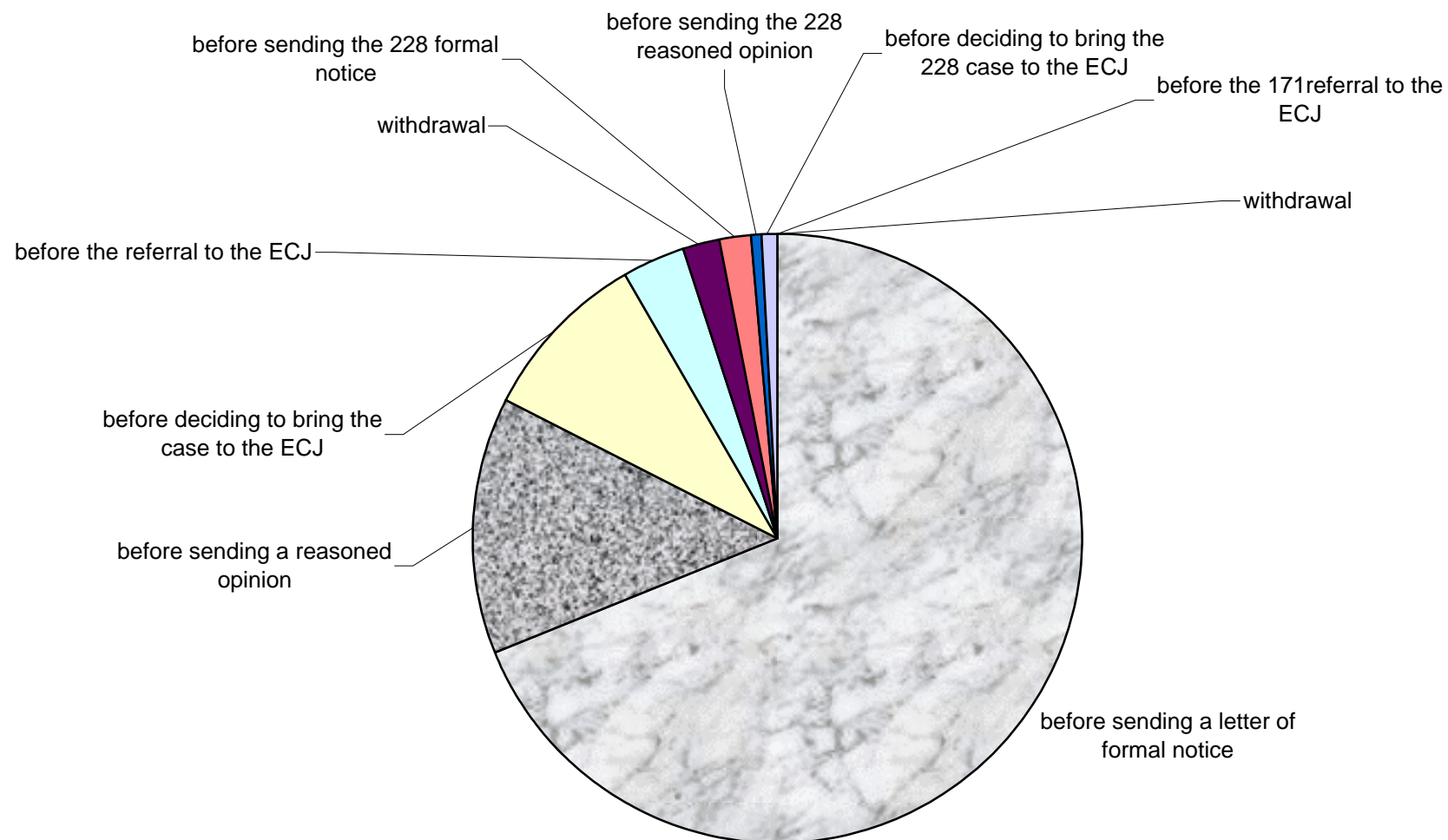


Table 2.5.2. Cases closed in 2000, non communication, by stage (graphic)

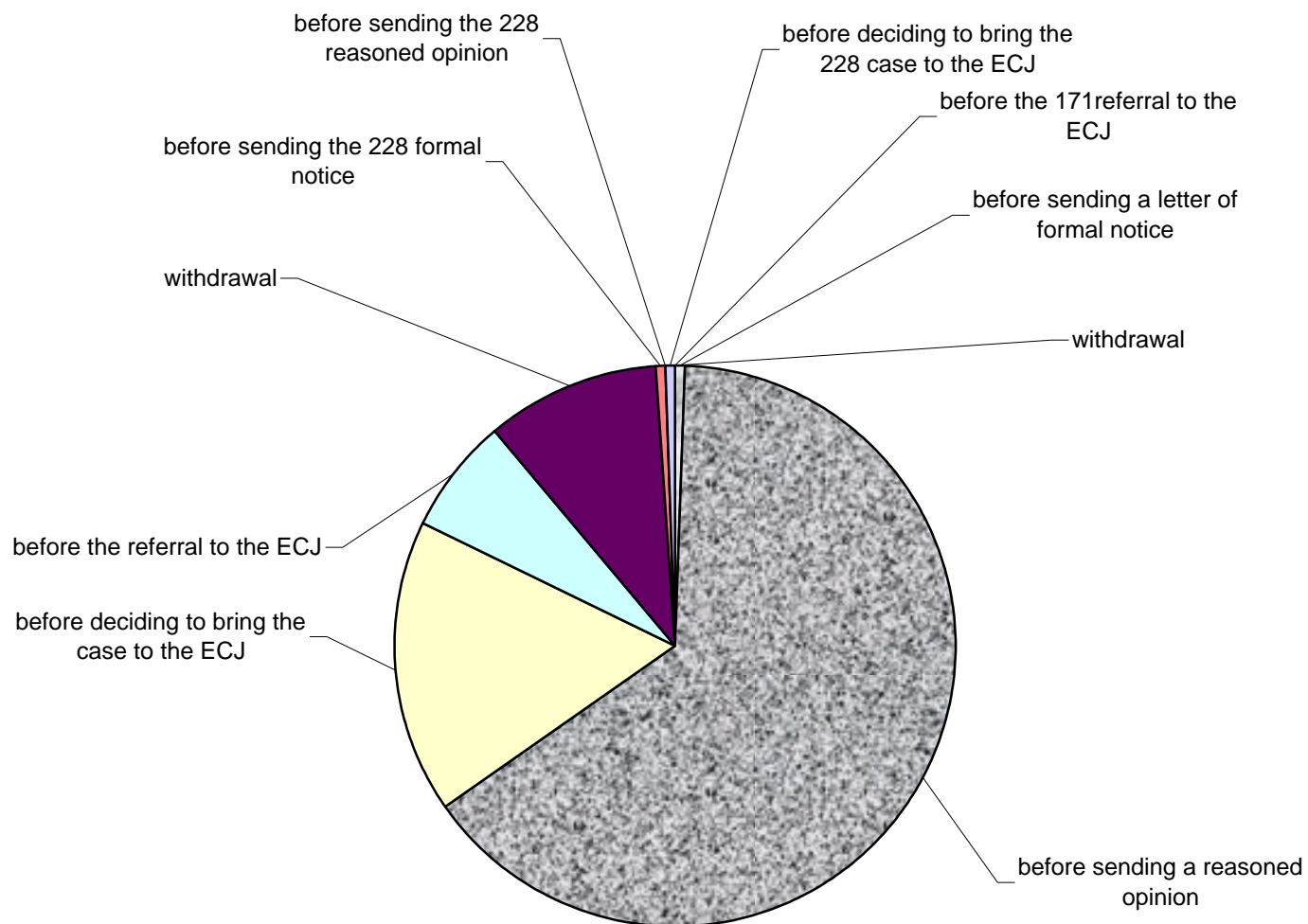


Table 2.6. Evolution of the closure decisions

Year	Total of the closure decisions	<i>Closure of an opened infringement procedure</i>
2000	1899	1165
1999	1900	1138
1998	1961	1282
1997	2112	1494
1996	1483	670
1995	1975	1332



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.7.2001
COM (2001)309 final

VOLUME III

**EIGHTEENTH ANNUAL REPORT
ON MONITORING THE APPLICATION
OF COMMUNITY LAW (2000)**

ANNEX III

Infringements of Treaties, Regulations and Decisions

Community staff

Year/Number: 1991/2315
Member State: SPAIN
Title: TRANSFER OF PENSION RIGHTS
Legal basis: Regulation 31968R0259
Terminated in 2000

Agriculture

Year/Number: 1994/4466
Member State: FRANCE
Title: BARRIERS TO IMPORTS OF SPANISH STRAWBERRIES
Legal basis: EEC Treaty 157E030
Court of Justice Case No: C-1995/265

Year/Number: 1995/4430
Member State: FRANCE
Title: SALE OF SPIRITUOUS BEVERAGES CONTAINING THE WORD "WHISKY"
Legal basis: Regulation 31989R1576
Reasoned opinion sent: 02/05/1997 SG(1997)D/3504

Year/Number: 1997/2227
Member State: SPAIN
Title: INCORRECT APPLICATION OF MILK QUOTAS SCHEME
Legal basis: Regulation 31992R3950; Regulation 31993R536
Reasoned opinion sent: 07/05/1998 SG(1998)D/03614

Year/Number: 1997/2228
Member State: ITALY
Title: INCORRECT APPLICATION OF MILK QUOTAS SCHEME
Legal basis: Regulation 31992R3950; Regulation 31993R0536
Reasoned opinion sent: 04/05/1998 SG(1998)D/03510

Year/Number: 1999/2073
Member State: GREECE
Title: FAILURE TO INTRODUCE THE INTEGRATED ADMINISTRATION AND CONTROL SYSTEM
Legal basis: Regulation 31992R3508
Reasoned opinion sent: 29/11/2000 SG(2000)D/108830

Budget

Year/Number: 1989/0520
Member State: PORTUGAL
Title: RULES IMPLEMENTING THE PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES
Legal basis: Protocol 157FPRO
Terminated in 2000

Year/Number: 1996/2029
Member State: ITALY
Title: REGULARISATION OF DUTIES - SAN MARINO
Legal basis: Regulation 31989R1552
Court of Justice Case No: C-2000/010

Year/Number: 1995/2126
Member State: GERMANY
Title: DUTCH BUTTER
Legal basis: Regulation 31990R2252; Regulation 32000R1150
Court of Justice Case No: C-1997/348

Year/Number: 1997/2154
Member State: ITALY
Title: ENTRY ERROR
Legal basis: Regulation 31989R1552; Regulation 32000R1150
Court of Justice Case No: C-2000/363

Year/Number: 1998/2323
Member State: NETHERLANDS
Title: COMMUNITY TRANSIT - FAILURE TO OBSERVE STATUTORY DEADLINE
Legal basis: Regulation 31989R1552; Decision 31994D0728; Regulation 32000R1150
Reasoned opinion sent: 02/02/2000 SG(2000)D/101146

Year/Number: 1999/2226
Member State: SPAIN
Title: POST-CLEARANCE RECOVERY, LATE ESTABLISHMENT OF ENTITLEMENTS (REGULATION 1552/89)
Legal basis: Regulation 31989R1552; Regulation 32000R1150
Reasoned opinion sent: 28/07/2000 SG(2000)D/105516

Year/Number: 1999/2227
Member State: GERMANY
Title: TIR - LATE ESTABLISHMENT OF ENTITLEMENTS
Legal basis: Regulation 31989R1552; Regulation 31993R2454; Regulation 32000R1150
Reasoned opinion sent: 19/07/2000 SG(2000)D/105114

Year/Number: 1999/2228
Member State: GERMANY
Title: ACCOUNTING TREATMENT OF TIR GUARANTEES
Legal basis: Regulation 31989R1552; Regulation 32000R1150
Reasoned opinion sent: 08/11/2000 SG(2000)D/108189

Competition

Year/Number: 1999/2196
Member State: PORTUGAL
Title: FAILURE TO COMPLY WITH THE DECISION ADOPTED IN CASE IV/M.1616 (BSCH/CHAMPALIMAUD)
Legal basis: Regulation 31989R4064
Terminated in 2000

Year/Number: 1999/2129
Member State: PORTUGAL
Title: DISCOUNTS ON LANDING CHARGES AT PORTUGUESE AIRPORTS - DECISION UNDER ARTICLE 86(3)
Legal basis: EC Treaty 197A249; Decision 31999D0199
Reasoned opinion sent: 09/03/2000 SG(2000)D/102188

Year/Number: 1993/2181
Member State: ITALY
Title: CUSTOMS AGENTS
Legal basis: EC Treaty 197A003; EC Treaty 197A010; EC Treaty 197A081; EC Treaty 197A228
Terminated in 2000

Year/Number: 1989/0030
Member State: BELGIUM
Title: AID FOR IDEALSPUN/BEAULIEU
Legal basis: EC Treaty 197A228; Decision 31984D0508
Court of Justice Case No: C-1989/375

Economic and financial affairs

Year/Number: 1994/2209
Member State: FRANCE
Title: AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS - GOLDEN SHARE
ELF-AQUITAINE
Legal basis: EEC Treaty 157E052; EEC Treaty 157E073; EC Treaty 197A043; EC Treaty 197A056
Court of Justice Case No: C-1999/483

Year/Number: 1994/2210
Member State: ITALY
Title: RESTRICTIONS CONCERNING FOREIGN INVESTMENTS IN PRIVATISED COMPANIES
Legal basis: EEC Treaty 157E052; EEC Treaty 157E073; EC Treaty 197A043; EC Treaty 197A056
Court of Justice Case No: C-1999/058

Year/Number: 1994/5075
Member State: BELGIUM
Title: FREE MOVEMENT OF CAPITAL - SUBSCRIPTION TO A LOAN DENOMINATED IN DEM
Legal basis: EEC Treaty 157E073; EC Treaty 197A056; EC Treaty 197A058
Court of Justice Case No: C-1998/478

Year/Number: 1995/4372
Member State: AUSTRIA
Title: FREE MOVEMENT OF CAPITAL - RIGHT OF RESIDENCE
Legal basis: EEC Treaty 157E073; EC Treaty 197A039; EC Treaty 197A043; EC Treaty 197A048; EC Treaty 197A049; EC Treaty 197A056
Reasoned opinion sent: 29/05/1998 SG(1998)D/04257

Year/Number: 1995/4535
Member State: GREECE
Title: RESTRICTIONS ON ACQUISITION OF REAL PROPERTY
Legal basis: EEC Treaty 157E073; EC Treaty 197A049; EC Treaty 197A056
Reasoned opinion sent: 07/04/1998 SG(1998)D/02935

Year/Number: 1996/2154
Member State: SPAIN
Title: RESTRICTIONS CONCERNING FOREIGN INVESTMENTS
Legal basis: EEC Treaty 157E052; EEC Treaty 157E058; EEC Treaty 157E073; EC Treaty 197A043; EC Treaty 197A048; EC Treaty 197A056
Terminated in 2000

Year/Number: 1998/2089
Member State: BELGIUM
Title: PROCEDURE FOR AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS -
DISTRIGAZ
Legal basis: EEC Treaty 157E052; EEC Treaty 157E073; EC Treaty 197A043; EC
Treaty 197A056
Court of Justice Case No: C-1999/503

Year/Number: 1998/2090
Member State: BELGIUM
Title: PROCEDURE FOR AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS -
SNTC
Legal basis: EEC Treaty 157E052; EEC Treaty 157E073; EC Treaty 197A043; EC
Treaty 197A056
Court of Justice Case No: C-1999/503

Year/Number: 1998/2288
Member State: UNITED KINGDOM
Title: PRIVATISATION - SPECIAL SHARE IN BRITISH AIRPORTS' AUTHORITY
PLC.
Legal basis: EEC Treaty 157E052; EEC Treaty 157E073; EC Treaty 197A043; EC
Treaty 197A056
Reasoned opinion sent: 06/08/1999 SG(1999)D/6431

Year/Number: 1998/2289
Member State: SPAIN
Title: PRIVATISATION - SPECIAL POWERS IN PRIVATISED COMPANIES
Legal basis: EEC Treaty 157E052; EEC Treaty 157E073; EC Treaty 197A043; EC
Treaty 197A056
Court of Justice Case No: C-2000/463

Employment and social affairs

Year/Number: 1989/0457
Member State: BELGIUM
Title: FINANCING OF STUDENTS - NATIONALITY DISCRIMINATION
Legal basis: EC Treaty 197A039; EC Treaty 197A151
Court of Justice Case No: C-1993/047, judgment given on 03/05/94 (Commission)

Year/Number: 1991/0583
Member State: GREECE
Title: ACCESS TO PUBLIC-SECTOR EMPLOYMENT - NATIONALITY
DISCRIMINATION
Legal basis: EC Treaty 197A039; Regulation 31968R1612; Case law 61994J290
Terminated in 2000

Year/Number: 1992/4760
Member State: GREECE
Title: NATIONALITY DISCRIMINATION - LARGE-FAMILY STATUS
Legal basis: EC Treaty 197A039; EC Treaty 197A043; EC Treaty 197A049;
Regulation 31968R1612; Case law 61975J0032
Terminated in 2000

Year/Number: 1993/4403
Member State: FRANCE
Title: CALCULATION OF SUPPLEMENTARY RETIREMENT BENEFITS FOR FRONTIER WORKERS
Legal basis: Regulation 31968R1612; Case law 61996J0057; Case law 61997J0035
Terminated in 2000

Year/Number: 1993/4738
Member State: UNITED KINGDOM
Title: EXPULSION OF NON-COMMUNITY SPOUSE OF A COMMUNITY WORKER
Legal basis: EC Treaty 197A039
Reasoned opinion sent: 09/06/1998 SG(1998)D/4503

Year/Number: 1993/4947
Member State: FRANCE
Title: FRONTIER WORKERS - APPLICATION OF GENERAL SOCIAL SECURITY CONTRIBUTION
Legal basis: EEC Treaty 157E048; EEC Treaty 157E051; Regulation 31971R1408
Court of Justice Case No: C-1998/169, judgment given on 15/02/2000 (Commission)

Year/Number: 1994/4125
Member State: GERMANY
Title: FAMILY ALLOWANCES AND RESIDENCE CARDS
Legal basis: Regulation 31968R1612; Case law 61900J1696; Case law 61975J0048; Case law 61989J0357; Case law 61994J0245
Terminated in 2000
Reasoned opinion sent: 23/05/1997 SG(1997)D/03956

Year/Number: 1994/5152
Member State: FRANCE
Title: CALCULATION OF UNEMPLOYMENT BENEFITS
Legal basis: Regulation 31971R1408
Terminated in 2000

Year/Number: 1995/4670
Member State: GERMANY
Title: REFUSAL TO MAKE WELFARE PAYMENTS
Legal basis: Regulation 31968R1612; Case law 61985J0139; Case law 61985J0316
Terminated in 2000

Year/Number: 1995/4831
Member State: BELGIUM
Title: WELFARE CONTRIBUTIONS LEVIED ON BELGIAN PENSIONS
Legal basis: EEC Treaty 157E051; EEC Treaty 157E235; Regulation 31971R1408; Case law 61983J0275
Court of Justice Case No: C-1998/347

Year/Number: 1996/4516
Member State: DENMARK
Title: FRONTIER WORKERS - RESTRICTION ON USE OF CAR, *INTER ALIA* FOR BUSINESS PURPOSES
Legal basis: EC Treaty 197A039; EC Treaty 197A049; Case law 61986J0127; Case law 61993J0415
Reasoned opinion sent: 18/05/1998 SG(1998)D/03884

Year/Number: 1996/4558
Member State: FRANCE
Title: FRONTIER WORKERS - CONTRIBUTION TO SOCIAL DEBT REPAYMENT
Legal basis: EEC Treaty 157E051; Regulation 31971R1408
Court of Justice Case No: C-1998/034

Year/Number: 1996/4628
Member State: SPAIN
Title: ACCESS TO PUBLIC-SECTOR EMPLOYMENT - NATIONALITY DISCRIMINATION
Legal basis: EC Treaty 197A039
Terminated in 2000

Year/Number: 1997/4378
Member State: FRANCE
Title: AGGREGATION OF RETIREMENT PENSION
Legal basis: EC Treaty 197A039; EC Treaty 197A042; Case law 61992J0031; Case law 61993J0443
Reasoned opinion sent: 28/01/1999 SG(1999)D/708

Year/Number: 1997/4962
Member State: NETHERLANDS
Title: CALCULATION OF PENSIONS BASED ON VOLUNTARY CONTRIBUTIONS
Legal basis: EC Treaty 197A042; Regulation 31971R1408
Reasoned opinion sent: 03/04/2000 SG(2000)D/102765

Year/Number: 1998/2059
Member State: SPAIN
Title: FRONTIER WORKERS - REDUCED FARES FOR LARGE FAMILIES
Legal basis: EC Treaty 197A043; Regulation 31968R1612
Terminated in 2000

Year/Number: 1998/2281
Member State: AUSTRIA
Title: NON-RECOGNITION OF PUBLIC SERVICE IN ANOTHER MEMBER STATE
Legal basis: EC Treaty 197A039; Regulation 31968R1612; Case law 61996J0015; Case law 61996J0187
Reasoned opinion sent: 02/05/2000 SG(2000)A/05607

Year/Number: 1998/2301
Member State: GERMANY
Title: NON-RECOGNITION OF PUBLIC SERVICE IN ANOTHER MEMBER STATE
Legal basis: EC Treaty 197A039; Regulation 31968R1612; Case law 61996J0015; Case law 61996J0187
Reasoned opinion sent: 10/08/1999 SG(1999)D/6515

Year/Number: 1998/2302
Member State: BELGIUM
Title: NON-RECOGNITION OF PUBLIC SERVICE IN ANOTHER MEMBER STATE
Legal basis: EC Treaty 197A039; Regulation 31968R1612; Case law 61996J0015; Case law 61996J0187
Reasoned opinion sent: 28/02/2000 SG(2000)D/101871

Year/Number: 1998/2303
Member State: IRELAND
Title: NON-RECOGNITION OF PUBLIC SERVICE IN ANOTHER MEMBER STATE
Legal basis: EC Treaty 197A039; Regulation 31968R1612; Case law 61996J0015; Case law 61996J0187
Reasoned opinion sent: 06/08/1999 SG(1999)D/6411

Year/Number: 1998/4014
Member State: NETHERLANDS
Title: EXPORT OF UNEMPLOYMENT BENEFITS
Legal basis: EC Treaty 197A042; Regulation 31971R1408
Reasoned opinion sent: 30/07/1999 SG(1999)D/05891

Year/Number: 1998/4395
Member State: DENMARK
Title: DETERMINATION OF THE LEGISLATION APPLICABLE
Legal basis: EC Treaty 197A042; Regulation 31971R1408
Terminated in 2000

Year/Number: 1998/4579
Member State: LUXEMBOURG
Title: STATUTORY ENTITLEMENT TO A GUARANTEED MINIMUM INCOME
Legal basis: EEC Treaty 157E052; Regulation 31968R1612
Reasoned opinion sent: 20/06/2000 SG(2000)A/07733

Year/Number: 1999/4115
Member State: AUSTRIA
Title: RIGHT OF NON-COMMUNITY NATIONALS TO BE ELECTED TO WORKS COUNCILS
Legal basis: Regulation 31968R1612; Decision 31980D0001
Reasoned opinion sent: 29/12/2000 SG(2000)D/109674

Year/Number: 1999/4399
Member State: FRANCE
Title: REIMBURSEMENT OF MEDICAL EXPENSES
Legal basis: EC Treaty 197A028; EC Treaty 197A030; Case law 61995J0120
Reasoned opinion sent: 16/10/2000 SG(2000)D/107557

Industry

Year/Number: 1998/4675
Member State: ITALY
Title: MUSEUM IN VENICE (DOGE'S PALACE) - NATIONALITY DISCRIMINATION
Legal basis: EEC Treaty 157E006; EEC Treaty 157E059; EC Treaty 197A012; EC Treaty 197A046
Reasoned opinion sent: 02/02/2000 SG(2000)D/101148

Environment

Year/Number: 1993/4663
Member State: GREECE
Title: CITES - ATHENS
Legal basis: Regulation 31982R3626; Regulation 31997R0338
Terminated in 2000
Reasoned opinion sent: 06/05/1998 SG(1998)D/03579

Year/Number: 1994/4734
Member State: FRANCE
Title: SHIPMENT OF HOUSEHOLD WASTE
Legal basis: Regulation 31993R0259
Reasoned opinion sent: 29/12/2000 SG(2000)D/109667

Year/Number: 1998/4423
Member State: FRANCE
Title: NATURE CONSERVATION - POLLUTION OF THE ETANG DE BERRE
Legal basis: Decision 31983D0101
Reasoned opinion sent: 28/08/2000 SG(2000)D/106422

Year/Number: 1999/2109
Member State: IRELAND
Title: WASTE REPORTS (REGULATION (EEC) 259/93)
Legal basis: Regulation 31993R0259
Terminated in 2000

Year/Number: 1999/2217
Member State: FRANCE
Title: NATURE - CITES REGULATION 338/97 - IVORY FROM ELEPHANTS
Legal basis: Regulation 31997R0338
Terminated in 2000

Year/Number: 1999/2035
Member State: UNITED KINGDOM
Title: RADIATION - DISMANTLING OF WINDSCALE PILE 1 REACTOR AT SELLAFIELD
Legal basis: EAEC Treaty 157A037
Terminated in 2000

Fisheries

Year/Number: 1984/0445
Member State: FRANCE
Title: INCORRECT INSPECTION FOR COMPLIANCE WITH TECHNICAL CONSERVATION MEASURES
Legal basis: EEC Treaty 157E171; Regulation 31982R2057; Regulation 31983R0171
Court of Justice Case No: C-1988/064

Year/Number: 1989/2109
Member State: PORTUGAL
Title: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS
Legal basis: EEC Treaty 157E007; EEC Treaty 157E030; EEC Treaty 157E034; EEC Treaty 157E052; EC Treaty 197A012; EC Treaty 197A043
Court of Justice Case No: C-2000/247

Year/Number: 1990/0328
Member State: GREECE
Title: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS
Legal basis: EEC Treaty 157E007; EEC Treaty 157E048; EEC Treaty 157E052; EEC Treaty 157E058; EEC Treaty 157E171; EEC Treaty 157E221; EC Treaty 197A012; EC Treaty 197A039; EC Treaty 197A043; EC Treaty 197A048; EC Treaty 197A228; Regulation 31983R0170
Terminated in 2000

Year/Number: 1990/0384
Member State: SPAIN
Title: CONDITIONS IMPOSED ON FISHING VESSELS
Legal basis: EC Treaty 197A028; EC Treaty 197A029
Reasoned opinion sent: 05/04/2000 SG(2000)D/102880

Year/Number: 1991/0637
Member State: UNITED KINGDOM
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT - OVERFISHING 1988
Legal basis: Regulation 31983R0170; Regulation 31987R2241; Regulation 31987R3977; Regulation 31988R4194
Court of Justice Case No: C-1999/454

Year/Number: 1992/2256
Member State: SPAIN
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT
Legal basis: Regulation 31983R0170; Regulation 31987R2241; Regulation 31989R4047
Reasoned opinion sent: 08/07/1997 SG(1997)D/05307

Year/Number: 1992/4211
Member State: UNITED KINGDOM
Title: GRANT OF FISHING QUOTAS IN 1992
Legal basis: EEC Treaty 157E007; EEC Treaty 157E052; EC Treaty 197A012; EC Treaty 197A043; EC Treaty 197A228; Regulation 31983R0173
Reasoned opinion sent: 14/01/1998 SG(1998)D/00277

Year/Number: 1993/2219
Member State: DENMARK
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT (1990)
Legal basis: Regulation 31983R0170; Regulation 31987R2241; Regulation 31989R4047
Reasoned opinion sent: 24/07/1998 SG(1998)D/06263

Year/Number: 1998/2257
Member State: FRANCE
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT - OVERFISHING 1995 AND 1996
Legal basis: Regulation 31983R2807; Regulation 31993R2847; Regulation 31994R3364; Regulation 31995R3074
Court of Justice Case No: C-2000/419

Year/Number: 1998/2259
Member State: UNITED KINGDOM
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT - OVERFISHING 1995 AND 1996
Legal basis: Regulation 31983R2807; Regulation 31993R2847; Regulation 31994R3362; Regulation 31995R3074
Court of Justice Case No: C-2000/140

Year/Number: 1998/2260
Member State: FINLAND
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT - OVERFISHING 1995 AND 1996
Legal basis: Regulation 31983R2807; Regulation 31993R2847; Regulation 31994R3362; Regulation 31994R3366; Regulation 31994R3370; Regulation 31995R3074
Reasoned opinion sent: 29/12/2000 SG(2000)D/109694

Year/Number: 1998/2264
Member State: DENMARK
Title: FAILURE TO DISCHARGE OBLIGATION TO INSPECT - OVERFISHING 1995 AND 1996
Legal basis: Regulation 31983R2807; Regulation 31993R2847; Regulation 31994R3362; Regulation 31995R3074
Reasoned opinion sent: 15/05/2000 SG(2000)D/103642

Information society

Year/Number: 1998/2363
Member State: GREECE
Title: FAILURE TO COMPLY WITH THE DECISION ON A SINGLE EUROPEAN EMERGENCY CALL NUMBER
Legal basis: Decision 31991D0396
Terminated in 2000

Justice and home affairs

Year/Number: 1996/2033
Member State: FINLAND
Title: ACCESS TO CERTAIN AREAS OF FINNISH TERRITORY - AUTHORISATION REQUIRED FOR FOREIGNERS
Legal basis: EC Treaty 197A012; EC Treaty 197A018
Reasoned opinion sent: 30/12/1998 SG(1998)D/12494

Year/Number: 1995/2181
Member State: SPAIN
Title: CAUTIO JUDICATUM SOLVI AND NATIONALITY DISCRIMINATION
Legal basis: EC Treaty 197A012; EC Treaty 197A293
Terminated in 2000

Year/Number: 1997/4114
Member State: ITALY
Title: DISCRIMINATORY PENALTIES IMPOSED ON A GERMAN CITIZEN
Legal basis: EC Treaty 197A012; EC Treaty 197A043; EC Treaty 197A049
Court of Justice Case No: C-2000/224

Internal market

Year/Number: 1996/4812
Member State: FRANCE
Title: FINANCIAL GUARANTEE FOR OBTAINING AN ADMINISTRATIVE LICENCE
Legal basis:
Terminated in 2000

Year/Number: 1998/4465
Member State: ITALY
Title: CREDIT COMPANY
Legal basis: NONE
Reasoned opinion sent: 04/05/1999 SG(1999)D/03103

Year/Number: 1989/0335
Member State: IRELAND
Title: TOBACCO PRICING
Legal basis: EC Treaty 197A028
Terminated in 2000

Year/Number: 1991/0555
Member State: FRANCE
Title: OBLIGATION TO HALLMARK IMPORTED PRODUCTS IN PRECIOUS METAL
Legal basis: EC Treaty 197A028
Court of Justice Case No: C-2000/084

Year/Number: 1993/2067
Member State: FRANCE
Title: ADDITIVES IN FOODSTUFFS
Legal basis: EC Treaty 197A028
Court of Justice Case No: C-2000/024

Year/Number: 1993/2222
Member State: FRANCE
Title: PREPARATIONS BASED ON FOIE GRAS
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Court of Justice Case No: C-1996/184

Year/Number: 1993/2226
Member State: SPAIN
Title: REGULATION ON CHOCOLATE
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Court of Justice Case No: C-2000/012

Year/Number: 1994/2150
Member State: FRANCE
Title: ENZYMATIC PREPARATIONS IN CERTAIN FOODSTUFFS AND BEVERAGES FOR HUMAN CONSUMPTION
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Reasoned opinion sent: 15/05/1998 SG(1998)D/03853

Year/Number: 1994/4248
Member State: ITALY
Title: PRICES OF MEDICINES
Legal basis: EC Treaty 197A028; EC Treaty 197A030; EC Treaty 197A228
Terminated in 2000

Year/Number: 1994/4883
Member State: ITALY
Title: BARRIERS TO IMPORTS OF NON-ALCOHOLIC BEVERAGES
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Reasoned opinion sent: 23/09/1997 SG(1997)D/07828

Year/Number: 1994/4949
Member State: FRANCE
Title: BARRIERS TO INSTALLATION OF A CEMENT DISTRIBUTION TERMINAL
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Terminated in 2000

Year/Number: 1995/2153
Member State: AUSTRIA
Title: MANUFACTURED TOBACCO MONOPOLY
Legal basis: EC Treaty 197A028; EC Treaty 197A031
Terminated in 2000

Year/Number: 1995/2176
Member State: FRANCE
Title: TECHNOLOGICAL AUXILIARIES USED IN PREPARING FOODSTUFFS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 27/03/1998 SG(1998)D/02456

Year/Number: 1995/4580
Member State: GREECE
Title: PRICES OF MEDICINES
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 23/09/1997 SG(1997)D/07834

Year/Number: 1995/4763
Member State: AUSTRIA
Title: BAN ON PARALLEL IMPORTS OF PESTICIDES
Legal basis: EC Treaty 197A028
Terminated in 2000

Year/Number: 1996/4208
Member State: FRANCE
Title: ENERGY DRINKS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 26/10/1998 SG(1998)D/8993

Year/Number: 1996/4285
Member State: GREECE
Title: MANDATORY AUTHORISATION FOR MARKETING FERTILISER
Legal basis: EC Treaty 197A028
Terminated in 2000

Year/Number: 1996/4609
Member State: GREECE
Title: BARRIERS TO THE MARKETING OF DIETARY SUPPLEMENTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 31/08/1998 SG(1998)D/07391

Year/Number: 1997/2261
Member State: GREECE
Title: LABELLING OF NON-ALCOHOLIC DRINKS (RECOMMENDED RETAIL PRICE)
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 28/04/1999 SG(1999)D/02845

Year/Number: 1997/4239
Member State: FRANCE
Title: SEIZURE OF SPARE PARTS IN TRANSIT - PROTECTION OF DESIGNS - COUNTERFEITING
Legal basis: EC Treaty 197A028
Court of Justice Case No: C-1999/023

Year/Number: 1997/4418
Member State: ITALY
Title: BARRIERS TO THE IMPORT OF SHIPPING EQUIPMENT
Legal basis: EEC Treaty 157E030; EC Treaty 197A028
Reasoned opinion sent: 17/02/2000 SG(2000)D/101582

Year/Number: 1997/4419
Member State: FRANCE
Title: BARRIERS TO MARKETING OF SWIMMING-POOL TREATMENT PRODUCTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 23/11/1998 SG598)D/10966

Year/Number: 1997/4579
Member State: ITALY
Title: BARRIERS TO IMPORTS OF SPECIAL FOODSTUFFS FOR SPORTSMEN
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Reasoned opinion sent: 18/12/1998 SG(1998)D/12016

Year/Number: 1997/4893
Member State: AUSTRIA
Title: FREE MOVEMENT OF VITAMIN PRODUCTS
Legal basis: EC Treaty 197A028
Court of Justice Case No: C-2000/150

Year/Number: 1998/2199
Member State: GERMANY
Title: AUTHORISATION PROCEDURE FOR FOOD SUPPLEMENTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 26/05/1999 SG(1999)03827

Year/Number: 1998/4032
Member State: FRANCE
Title: BARRIERS TO IMPORTS OF PHARMACEUTICAL PRODUCTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 26/01/2000 SG(2000)D/100918

Year/Number: 1998/4681
Member State: GREECE
Title: LABELLING OF TILE PACKAGING
Legal basis: EC Treaty 197A028
Terminated in 2000

Year/Number: 1998/4739
Member State: AUSTRIA
Title: PROHIBITION OF HEALTH INDICATIONS ON FOODSTUFFS AND
AUTHORISATION PROCEDURE
Legal basis: EC Treaty 197A028
Court of Justice Case No: C-2000/221

Year/Number: 1998/4978
Member State: FRANCE
Title: IMPORTS OF PLANT PROTECTION PRODUCTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 26/01/2000 SG(2000)D/100920

Year/Number: 1998/5024
Member State: GREECE
Title: BAN ON MARKETING OF HEMP PRODUCTS (CLOTHING, SHOES, JEWELLERY)
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 08/11/2000 SG(2000)D/108203

Year/Number: 1998/5128
Member State: AUSTRIA
Title: IMPORT OF MEDICINES
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 22/10/1999 SG(99)D/08409

Year/Number: 1998/5130
Member State: AUSTRIA
Title: RULES CONCERNING ROAD SIGNS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 24/01/2000 SG(2000)D/100732

Year/Number: 1999/4056
Member State: FRANCE
Title: IMPORT OF MEDICINES - COPY OF MARKETING AUTHORISATION
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 29/12/2000 SG(2000)D/109668

Year/Number: 1999/4060
Member State: FRANCE
Title: IMPORT OF CAMPER VAN - ATTESTATION OF CONFORMITY
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 23/06/2000 SG(2000)D/104441

Year/Number: 1999/4321
Member State: AUSTRIA
Title: IMPORT OF MEDICINES
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 13/06/2000 SG(2000)D/104140

Year/Number: 1994/4075
Member State: NETHERLANDS
Title: REFUSAL TO AUTHORISE IMPORTS OF VITAMIN- AND IRON-ENRICHED FOODSTUFFS
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Reasoned opinion sent: 23/09/1997 SG(1997)D/07824

Year/Number: 1994/4810
Member State: NETHERLANDS
Title: BARRIERS TO IMPORTS OF VITAMIN-ENRICHED MARGARINE
Legal basis: EC Treaty 197A028; EC Treaty 197A030; EC Treaty 197A228
Terminated in 2000

Year/Number: 1994/5125
Member State: NETHERLANDS
Title: BARRIERS TO IMPORTS OF VITAMIN-ENRICHED FOODSTUFFS
Legal basis: EC Treaty 197A028; EC Treaty 197A030
Reasoned opinion sent: 23/09/1997 SG(1997)D/07832

Year/Number: 1995/2283
Member State: SPAIN
Title: LEGISLATION ON FAIRS AND EXHIBITIONS - EXTREMADURA
Legal basis: EC Treaty 197A028; EC Treaty 197A049
Reasoned opinion sent: 18/09/2000 SG(2000)D/106785

Year/Number: 1996/4808
Member State: BELGIUM
Title: PARALLEL IMPORTS OF PHARMACEUTICAL PRODUCTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 18/12/1998 SG(1998)D/12026

Year/Number: 1997/2060
Member State: NETHERLANDS
Title: RULES ON THE ADDITION OF MICRO-FOODS TO FOODSTUFFS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 31/08/1998 SG(987)D/07383

Year/Number: 1997/4118
Member State: BELGIUM
Title: BARRIERS TO MARKETING OF MEDICAL APPLIANCES FOR THE DISABLED
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 12/09/2000 SG(2000)D/106720

Year/Number: 1998/4387
Member State: SPAIN
Title: BAN ON REGISTERING AND DRIVING A MOTORCYCLE WITH TRAILER
Legal basis: EEC Treaty 157E030; EC Treaty 197A028
Reasoned opinion sent: 17/02/2000 SG(2000)D/101586

Year/Number: 1999/4016
Member State: DENMARK
Title: BARRIERS TO MARKETING OF A VITAMIN-ENRICHED DRINK
Legal basis: EEC Treaty 157E030
Reasoned opinion sent: 12/09/2000 SG(2000)D/106694

Year/Number: 1999/4134
Member State: SPAIN
Title: BARRIERS TO TRADE - SPANISH LEGISLATION ON LIQUID BLEACH
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 24/07/2000 SG(2000)D/105212

Year/Number: 1999/4675
Member State: BELGIUM
Title: REIMBURSEMENT OF EXPENSES ON MEDICAL APPLIANCES
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 08/11/2000 SG(2000)D/108185

Year/Number: 1999/4826
Member State: FINLAND
Title: "PLUS TABS" VITAMIN SUPPLEMENTS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 08/11/2000 SG(2000)D/108187

Year/Number: 1989/5019
Member State: BELGIUM
Title: FREEDOM TO PROVIDE SERVICES AND FREE MOVEMENT OF GOODS
Legal basis: EC Treaty 197A049
Terminated in 2000

Year/Number: 1990/0388
Member State: SPAIN
Title: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES - TOURIST GUIDES
Legal basis: EC Treaty 197A010; EC Treaty 197A039; EC Treaty 197A043; EC Treaty 197A049
Court of Justice Case No: C-1992/375

Year/Number: 1990/2171
Member State: BELGIUM
Title: PAYMENT OF BAD-WEATHER AND LOYALTY STAMPS
Legal basis: EC Treaty 197A049
Terminated in 2000

Year/Number: 1992/4643
Member State: GERMANY
Title: OBLIGATION TO ESTABLISH A BRANCH IN GERMANY
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 12/11/1997 SG(1997)D/09388

Year/Number: 1992/4835
Member State: GERMANY
Title: TAX LEGISLATION APPLYING TO BUSINESS OF TAX ADVISERS
Legal basis: EC Treaty 197A010; EC Treaty 197A049
Terminated in 2000

Year/Number: 1993/4136
Member State: BELGIUM
Title: AERIAL PHOTOGRAPHY - FREEDOM TO PROVIDE SERVICES
Legal basis: EC Treaty 197A049
Terminated in 2000

Year/Number: 1993/4448
Member State: FRANCE
Title: AUCTION SALES - MONOPOLY OF AUCTIONEERS
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 10/08/1998 SG(1998)D/06963

Year/Number: 1994/2082
Member State: FRANCE
Title: ORGANISATION OF PROFESSION OF LAWYER
Legal basis: EC Treaty 197A043
Reasoned opinion sent: 15/05/1998 SG(1998)D/03845

Year/Number: 1994/2146
Member State: ITALY
Title: LEGISLATIVE BARRIERS TO PROVISION OF CLEANING SERVICES
Legal basis: EC Treaty 197A049
Court of Justice Case No: C-1998/358, judgment given on 09/03/2000 (Commission)

Year/Number: 1994/4878
Member State: BELGIUM
Title: NON-PROFIT ASSOCIATIONS ACT - OBLIGATION TO HAVE AT LEAST ONE
BELGIAN MEMBER
Legal basis: EEC Treaty 157E057; EC Treaty 1970047
Terminated in 2000

Year/Number: 1994/4903
Member State: BELGIUM
Title: OBLIGATION TO PAY ANNUITIES ON BELGIAN PATENTS VIA A BELGIAN AGENT
Legal basis: EC Treaty 197A043; EC Treaty 197A049
Reasoned opinion sent: 29/11/2000 SG(2000)D/108823

Year/Number: 1994/5128
Member State: FRANCE
Title: PROVISION OF SERVICES - MODELLING AGENCIES
Legal basis: EC Treaty 197A049
Terminated in 2000

Year/Number: 1995/2105
Member State: BELGIUM
Title: RESTRICTIONS ON PRIVATE SECURITY FIRMS
Legal basis: EC Treaty 197A039; EC Treaty 197A043; EC Treaty 197A049
Court of Justice Case No: C-1998/355

Year/Number: 1995/4302
Member State: BELGIUM
Title: REFUSED ENTRY TO THE ORDER OF ARCHITECTS AT LIEGE
Legal basis: EC Treaty 197A043; EC Treaty 197A047
Reasoned opinion sent: 29/04/1999 SG(1999)D/02984(rev.

Year/Number: 1995/4563
Member State: GERMANY
Title: NON-COMMUNITY NATIONALS - RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 07/08/1998 SG(1998)D/06915

Year/Number: 1995/4687
Member State: BELGIUM
Title: NON-COMMUNITY WORKERS - REGISTRATION AS A FIRM
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 09/09/1998 SG(1998)D/07562

Year/Number: 1996/2245
Member State: PORTUGAL
Title: AERIAL PHOTOGRAPHY - NATIONALITY DISCRIMINATION
Legal basis: EC Treaty 197A012; EC Treaty 197A049
Terminated in 2000

Year/Number: 1996/2246
Member State: ITALY
Title: LEGISLATIVE BARRIERS TO BUSINESS AS CUSTOMS AGENTS
Legal basis: EC Treaty 197A049
Court of Justice Case No: C-1999/264

Year/Number: 1996/4272
Member State: FRANCE
Title: BOTTLED CHLORINE
Legal basis: EC Treaty 197A049
Terminated in 2000

Year/Number: 1996/4407
Member State: GERMANY
Title: AUTHORISATION FOR USE OF ACADEMIC TITLES OBTAINED IN OTHER MEMBER STATES
Legal basis: EC Treaty 197A039; EC Treaty 197A043
Reasoned opinion sent: 29/12/2000 SG(2000)D/109658

Year/Number: 1996/4509
Member State: GERMANY
Title: TEMPORARY POSTING OF WORKERS IN THE CONTEXT OF A WORKING GROUP
Legal basis: EC Treaty 197A043; EC Treaty 197A049
Court of Justice Case No: C-1999/493

Year/Number: 1997/2161
Member State: ITALY
Title: TEMPORARY EMPLOYMENT AGENCIES
Legal basis: EC Treaty 197A049
Court of Justice Case No: C-2000/279

Year/Number: 1997/4388
Member State: BELGIUM
Title: CUSTOMER LOYALTY SCHEME
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 01/08/2000 SG(2000)D/105662

Year/Number: 1997/4533
Member State: LUXEMBOURG
Title: RESIDENCE REQUIREMENT FOR PATENT AGENTS
Legal basis: EC Treaty 197A43; EC Treaty 197A49
Reasoned opinion sent: 26/01/2000 SG(2000)D/100863

Year/Number: 1998/2002
Member State: AUSTRIA
Title: OBSTACLES TO THE FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT - FOREIGN PATENT AGENTS
Legal basis: EC Treaty 197A043; EC Treaty 197A049
Reasoned opinion sent: 29/12/2000 SG(2000)D/109660

Year/Number: 1998/2003
Member State: FRANCE
Title: OBSTACLES TO THE FREEDOM TO PROVIDE SERVICES - FOREIGN PATENT AGENTS
Legal basis: EC Treaty 197049
Reasoned opinion sent: 24/01/2000 SG(2000)D/100740

Year/Number: 1998/2006
Member State: GERMANY
Title: OBSTACLES TO THE FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT - FOREIGN PATENT AGENTS
Legal basis: EC Treaty 197043 ; EC Treaty 197049
Reasoned opinion sent: 10/08/1999 SG(1999)D/6527

Year/Number: 1998/2011
Member State: FRANCE
Title: ACTIVITIES OF PERFORMERS' AGENTS
Legal basis: EC Treaty 197A043; EC Treaty 197A049
Reasoned opinion sent: 26/01/2000 SG(2000)D/100908

Year/Number: 1998/2038
Member State: PORTUGAL
Title: OBSTACLES TO THE FREEDOM TO PROVIDE SERVICES - FOREIGN PATENT AGENTS
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 25/08/1999 SG(1999)D/07030

Year/Number: 1998/2040
Member State: IRELAND
Title: OBSTACLES TO THE FREEDOM TO PROVIDE SERVICES - FOREIGN PATENT AGENTS
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 23/06/2000 SG(2000)D/104437

Year/Number: 1998/2055
Member State: ITALY
Title: OBSTACLES TO THE FREEDOM TO PROVIDE SERVICES - FOREIGN PATENT AGENTS
Legal basis: EC Treaty 1970049
Reasoned opinion sent: 17/02/2000 SG(2000)D/101568

Year/Number: 1998/2142
Member State: FRANCE
Title: FOREIGN TRAINING ORGANISATIONS - REQUIREMENT TO HAVE A DOMICILED REPRESENTATIVE
Legal basis: EC Treaty 197049
Terminated in 2000

Year/Number: 1998/4293
Member State: AUSTRIA
Title: FREEDOM OF ESTABLISHMENT FOR MEDICAL SPECIALISTS
Legal basis: EC Treaty 197A039; EC Treaty 197A043
Reasoned opinion sent: 27/12/1999 SG(1999)D/10867

Year/Number: 1998/4703
Member State: BELGIUM
Title: REGISTRATION OF A COMPANY ON TRADE REGISTER - NATIONALITY DISCRIMINATION
Legal basis: EC Treaty 197A043
Terminated in 2000

Year/Number: 1999/4064
Member State: AUSTRIA
Title: PRINCIPLE OF EQUALITY IN HOSPITAL TREATMENT
Legal basis: EC Treaty 197A039; EC Treaty 197A049; EC Treaty 197A050; EC Treaty 197A06
Reasoned opinion sent: 21/06/2000 SG(2000)D/104391

Year/Number: 1996/2256
Member State: ITALY
Title: TRANSITIONAL MEASURES - PERIOD OF VALIDITY OF NEIGHBOURING RIGHTS
Reasoned opinion sent: 02/02/2000 SG(2000)D/101150

Year/Number: 1997/2047
Member State: IRELAND
Title: NON-RATIFICATION OF PARIS ACT (1971) (BERN CONVENTION)
Court of Justice Case No: C-2000/013

Year/Number: 1997/4602
Member State: UNITED KINGDOM
Title: RENTAL AND LENDING RIGHTS
Legal basis:
Reasoned opinion sent: 24/07/2000 SG(2000)D/105229

Year/Number: 1994/4337
Member State: GERMANY
Title: PROHIBITION OF ADVERTISING CAMPAIGN FOR CDs
Legal basis: EC Treaty 197A028; EC Treaty 197A030; EC Treaty 197A049
Reasoned opinion sent: 15/10/1998 SG(1998)D/8623

Year/Number: 1994/4855
Member State: FRANCE
Title: INCORRECT APPLICATION OF EVIN ACT
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 21/11/1996 SG(1996)D/09951

Year/Number: 1998/4047
Member State: FRANCE
Title: OBSTACLE TO MARKETING OF CATALOGUES FOR PUBLIC AUCTIONS
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 24/07/2000 SG(2000)D/105231

Year/Number: 1998/4114
Member State: GERMANY
Title: FREEDOM OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES
Legal basis: EC Treaty 197A043; EC Treaty 197A049
Reasoned opinion sent: 12/09/2000 SG(2000)D/106692

Year/Number: 1998/4137
Member State: BELGIUM
Title: LOCAL TAX ON SATELLITE DISHES
Legal basis: EC Treaty 197A049
Reasoned opinion sent: 26/05/1999 SG(1999)D/03803

Year/Number: 1998/4588
Member State: FRANCE
Title: DISCRIMINATION BETWEEN DOMESTIC MARKETS AND OTHER EU STOCK EXCHANGES
Terminated in 2000

Year/Number: 1998/4589
Member State: ITALY
Title: DISCRIMINATION BETWEEN DOMESTIC MARKETS AND OTHER EU REGULATED STOCK EXCHANGES
Terminated in 2000

Year/Number: 1999/4238
Member State: AUSTRIA
Title: COLLECTIVE INVESTMENT UNDERTAKINGS - SECURITIES
Legal basis: EC Treaty 197A049; EC Treaty 197A056
Reasoned opinion sent: 08/11/2000 SG(2000)D/108191

Consumer health and protection

Year/Number: 1997/2117
Member State: SPAIN
Title: BSE RULES
Legal basis: EEC Treaty 157E005; Decision 31992D0562; Decision 31994D0381; Decision 31994D0382; Decision 31996D0449
Reasoned opinion sent: 03/02/1998 SG(1998)D/00967

Taxation and customs union

Year/Number: 1984/0126
Member State: UNITED KINGDOM
Title: CIVIL AIRCRAFT IMPORTED DUTY-FREE AND SUBSEQUENTLY USED AS MILITARY AIRCRAFT
Legal basis: Regulation 31977R1535
Reasoned opinion sent: 06/06/1985 SG(1985)D/6932

Year/Number: 1984/0342
Member State: BELGIUM
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EEC Treaty 157E009; EEC Treaty 157E028; Regulation 31968R0950
Reasoned opinion sent: 25/07/1985 SG(1985)D/9543

Year/Number: 1984/0343
Member State: DENMARK
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EEC Treaty 157E009; EEC Treaty 157E028; Regulation 31968R0950
Reasoned opinion sent: 25/07/1985 SG(1985)D/9545

Year/Number: 1984/0344
Member State: UNITED KINGDOM
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EEC Treaty 157E009; EEC Treaty 157E028; Regulation 31968R0950
Reasoned opinion sent: 25/07/1985 SG(1985)D/9547

Year/Number: 1984/0345
Member State: ITALY
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EC Treaty 197A026; EC Treaty 197A286; Regulation 31968R0950
Reasoned opinion sent: 25/07/1985 SG(1985)D/9549

Year/Number: 1984/0346
Member State: LUXEMBOURG
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EEC Treaty 157E009; EEC Treaty 157E028; Regulation 31968R0950
Reasoned opinion sent: 25/07/1985 SG(1985)D/9551

Year/Number: 1984/0347
Member State: NETHERLANDS
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EEC Treaty 157E009; EEC Treaty 157E028; Regulation 31968R0950
Reasoned opinion sent: 25/07/1985 SG(1985)D/9553

Year/Number: 1986/0126
Member State: GREECE
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EC Treaty 197A023; EC Treaty 197A026; Regulation 31968R0950
Reasoned opinion sent: 02/05/1990 SG(1990)D/21649

Year/Number: 1990/0078
Member State: SPAIN
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EC Treaty 197A026; Regulation 31987R2658
Reasoned opinion sent: 31/12/1992 SG(1992)D/19475

Year/Number: 1990/0079
Member State: PORTUGAL
Title: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
Legal basis: EC Treaty 197A026; Regulation 31987R2658
Reasoned opinion sent: 20/01/1993 SG(1993)D/00940

Year/Number: 1995/2238
Member State: FRANCE
Title: CUSTOMS AGENTS
Legal basis: Regulation 31992R2913
Reasoned opinion sent: 03/12/1997 SG(1997)D/10073

Year/Number: 1995/4106
Member State: GERMANY
Title: LAW ON WASTE
Legal basis: EC Treaty 197A023; EC Treaty 197A025
Court of Justice Case No: C-2000/389

Year/Number: 1998/2331
Member State: SWEDEN
Title: SIMPLIFIED PROCEDURE - DECLARATION FOR RELEASE FOR FREE CIRCULATION
Legal basis: Regulation 31992R2913; Regulation 31993R2454
Terminated in 2000

Year/Number: 1998/4667
Member State: GREECE
Title: CHARGE FOR AUTHENTICATING INVOICES FOR THE IMPORT OF EC PHARMACEUTICAL PRODUCTS
Legal basis: EC Treaty 197A025
Reasoned opinion sent: 08/11/2000 SG(2000)D/108201

Year/Number: 1999/2025
Member State: SPAIN
Title: CUSTOMS - TIME-LIMITS FOR RECOVERING DEBTS
Legal basis: Regulation 31992R2913
Reasoned opinion sent: 01/02/2000 SG(2000)D/101075

Year/Number: 1995/2166
Member State: ITALY
Title: REPAYMENT OF TAXES WRONGLY CHARGED - RESTRICTIONS IMPOSED BY NATIONAL LAW
Legal basis: Case law 61982J0199; Case law 61994J0125
Court of Justice Case No: C-2000/129

Year/Number: 1991/0779
Member State: GREECE
Title: TAXATION OF SECOND-HAND CARS
Legal basis: EC Treaty 197A090
Court of Justice Case No: C-1995/375

Year/Number: 1992/5125
Member State: FRANCE
Title: DISCRIMINATORY TAXATION ON CARS
Legal basis: EC Treaty 197A090
Court of Justice Case No: C-1999/265

Year/Number: 1995/4988
Member State: AUSTRIA
Title: CAR REGISTRATION TAX - DIFFERENTIAL TREATMENT OF CARS FROM OTHER MEMBER STATES
Legal basis: EC Treaty 197A090
Reasoned opinion sent: 04/04/2000 SG(2000)D/1028851

Year/Number: 1996/2244
Member State: PORTUGAL
Title: TAXATION OF SECOND-HAND VEHICLES
Legal basis: EC Treaty 197A028
Reasoned opinion sent: 09/11/1999 SG(1999)D/08917

Year/Number: 1996/4748
Member State: PORTUGAL
Title: MOTOR VEHICLE TAX DISCRIMINATION
Legal basis: EC Treaty 197A090
Reasoned opinion sent: 08/02/1999 SG(1999)D/1100

Year/Number: 1997/4309
Member State: FRANCE
Title: TAX ON RENDERING AND COLLECTION OF ABATTOIR WASTE
Legal basis: EC Treaty 197A090
Reasoned opinion sent: 18/09/2000 SG(2000)D/106791

Year/Number: 1997/4487
Member State: FRANCE
Title: TAXES ON IMPORTED HIGH-POWER CARS
Legal basis: EC Treaty 197A090
Court of Justice Case No: C-1999/265

Year/Number: 1998/2315
Member State: IRELAND
Title: EXCISE DUTIES - DIFFERENTIAL TAXATION OF WINE AND BEER
Legal basis: EC Treaty 197A090
Terminated in 2000

Year/Number: 1990/5361
Member State: GERMANY
Title: TAX DISCRIMINATION - BRITISH INVESTMENT TRUSTS
Legal basis: EC Treaty 197A049; EC Treaty 197A056
Reasoned opinion sent: 06/08/1996 SG(1996)D/07318

Year/Number: 1994/4113
Member State: GREECE
Title: PAYMENT OF PURCHASE TAX
Legal basis: EC Treaty 197A012
Court of Justice Case No: C-2000/249

Year/Number: 1996/4369
Member State: GERMANY
Title: TAX DISCRIMINATION - NON-RESIDENT COMPANIES
Legal basis: EC Treaty 197A043
Terminated in 2000

Year/Number: 1997/4448
Member State: SPAIN
Title: DEPRECIATION OF PROFITS FROM SHARES ACQUIRED FOLLOWING COMPANY MERGERS
Legal basis: EC Treaty 197A043; EC Treaty 197A056
Reasoned opinion sent: 24/07/2000 SG(2000)D/105216

Year/Number: 1997/4461
Member State: BELGIUM
Title: TAX DEDUCTIBILITY OF INTEREST PAID TO A CREDIT INSTITUTION ABROAD
Legal basis: EC Treaty 197A039; EC Treaty 197A049
Terminated in 2000

Transport and energy

Year/Number: 1992/2219
Member State: GERMANY
Title: BILATERAL AGREEMENTS WITH NON-COMMUNITY COUNTRIES - INLAND WATERWAY TRANSPORT
Legal basis: EC Treaty 197A10; EC Treaty 197A133; EC Treaty 197A71
Reasoned opinion sent: 28/02/2000 SG(2000)D/101863

Year/Number: 1994/2267
Member State: LUXEMBOURG
Title: BILATERAL AGREEMENTS ON INLAND WATERWAY TRANSPORT
Legal basis: EC Treaty 197A10
Reasoned opinion sent: 28/02/2000 SG(2000)D/101857

Year/Number: 1997/2147
Member State: GREECE
Title: ROAD TRANSPORT - SOCIAL FIELD - FAILURE TO TRANSMIT INFORMATION
Legal basis: EC Treaty 197A10; Regulation 31985R3820
Terminated in 2000

Year/Number: 1997/4583
Member State: BELGIUM
Title: ROAD TRANSPORT - SOCIAL PROVISIONS
Legal basis: EC Treaty 197A12; Regulation 31985R3820; Regulation 31985R3821
Terminated in 2000

Year/Number: 1998/2181
Member State: SPAIN
Title: CARRIAGE OF GOODS BY ROAD - INCORRECT APPLICATION OF
REGULATION 881/92
Legal basis: Regulation 31992R881
Terminated in 2000

Year/Number: 1993/4037
Member State: GREECE
Title: AIRPORT TAXES
Legal basis: EC Treaty 197A49; Regulation 31992R2408
Court of Justice Case No: C-2000/272

Year/Number: 1994/4653
Member State: UNITED KINGDOM
Title: INTRODUCTION OF A NEW PASSENGER TAX
Legal basis: EC Treaty 197A12; EC Treaty 197A49; Regulation 31992R2408
Terminated in 2000

Year/Number: 1996/2163
Member State: SPAIN
Title: DISCRIMINATORY AIR DEPARTURE TAXES
Legal basis: Regulation 31992R2408
Reasoned opinion sent: 14/12/1998 SG(1998)D/11702

Year/Number: 1996/2165
Member State: NETHERLANDS
Title: DISCRIMINATORY AIR DEPARTURE TAXES
Legal basis: Regulation 31992R2408
Reasoned opinion sent: 14/12/1998 SG(1998)D/11690

Year/Number: 1998/2094
Member State: NETHERLANDS
Title: CONCLUSION OF OPEN SKIES AGREEMENT WITH THE UNITED STATES
Legal basis: EC Treaty 197A43; Regulation 31992R2407; Regulation
31992R2408; Regulation 31992R2409
Reasoned opinion sent: 24/10/2000 SG(2000)D/107790

Year/Number: 1998/2325
Member State: FRANCE
Title: CONCLUSION OF OPEN SKIES AGREEMENT WITH THE UNITED STATES
Legal basis: EC Treaty 197A43; Regulation 31992R2407; Regulation
31992R2408; Regulation 31992R2409
Reasoned opinion sent: 30/05/2000 SG(2000)D/103919

Year/Number: 1990/0356
Member State: GREECE
Title: COMMERCIAL VESSELS - FLAG RIGHTS
Legal basis: EC Treaty 197A48
Terminated in 2000

Year/Number: 1990/0358
Member State: NETHERLANDS
Title: COMMERCIAL VESSELS - FLAG RIGHTS
Legal basis: EC Treaty 197A48
Reasoned opinion sent: 30/06/1993 SG(1993)D/10930

Year/Number: 1991/0600
Member State: BELGIUM
Title: CARGO-SHARING ARRANGEMENTS IN BLEU-TOGO AGREEMENT
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-1998/171

Year/Number: 1991/0601
Member State: BELGIUM
Title: CARGO-SHARING ARRANGEMENTS IN BELGIUM-ZAIRE AGREEMENT
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-1998/170

Year/Number: 1995/2161
Member State: BELGIUM
Title: AGREEMENTS WITH MCWCS COUNTRIES
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-1998/201

Year/Number: 1995/2162
Member State: LUXEMBOURG
Title: AGREEMENTS WITH MCWCS COUNTRIES
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-1998/202

Year/Number: 1995/2163
Member State: PORTUGAL
Title: AGREEMENTS WITH MCWCS COUNTRIES
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-1998/062

Year/Number: 1995/2164
Member State: PORTUGAL
Title: CARGO-SHARING AGREEMENTS WITH NON-MEMBER COUNTRIES
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-1998/084

Year/Number: 1995/2198
Member State: FRANCE
Title: MARITIME CABOTAGE
Legal basis: Regulation 31992R3577
Court of Justice Case No: C-1999/160

Year/Number: 1995/4624
Member State: ITALY
Title: FREEDOM TO PROVIDE SERVICES - MARITIME TRANSPORT
Legal basis: EC Treaty 197A48; Regulation 31986R4055
Reasoned opinion sent: 31/01/2000 SG(2000)D/101019

Year/Number: 1996/2168
Member State: FRANCE
Title: GRANT OF FLAG RIGHTS
Legal basis: EC Treaty 197A43
Court of Justice Case No: C-2000/004

Year/Number: 1997/4482
Member State: ITALY
Title: FREEDOM TO PROVIDE SERVICES - TAX ON EMBARKATION AND
DISEMBARKATION OF PASSENGERS
Legal basis: Regulation 31986R4055
Court of Justice Case No: C-2000/295

Year/Number: 1998/4654
Member State: GREECE
Title: MARITIME TRANSPORT - RESTRICTED FREEDOM TO PROVIDE SERVICES
(REGULATION (EEC) No 4055/86)
Legal basis: Regulation 31986R4055; Regulation 31992R3577
Reasoned opinion sent: 11/08/1999 SG(1999)D/6600



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.7.2001
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VOLUME IV

**EIGHTEENTH ANNUAL REPORT
ON MONITORING THE APPLICATION
OF COMMUNITY LAW (2000)**

**ANNEX IV
PROGRESS IN IMPLEMENTING DIRECTIVES**

NB: This annex includes all directives where no measures have been notified (Part 1) or which have not been properly implemented (Part 2) or applied (Part 3) during 2000, and gives the state of infringement proceedings started by the Commission against Member States at 31 December 2000.

PART 1: NOTIFICATION AND NON-NOTIFICATION OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

"Non-notification" includes both a complete absence of any notification of national implementing measures and cases of incomplete notification of such measures.

NB: The date given is the date of notification to the Member State or the date when the action was filed at the European Court of Justice.

Abbreviations:

LET: letter of formal notice, SLET: supplementary letter of formal notice

RO: reasoned opinion, SUPRO: supplementary reasoned opinion

LET 228 and RO 228: letter of formal notice or reasoned opinion for failure to comply with a judgment of the Court of Justice.

The numbering of the directives follows the CELEX code.

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AGRICULTURE

31999L0004 Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts

Deadline for transposal: 13/09/2000

Member States which have notified: DK, EL, I, IR, L, A, FI, S

Competition

31996L0019 Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets

Deadline for transposal: 01/07/1997

Member States which have notified: all

GREECE 1999/2221, Termination: 05/07/2000

31999L0064 Commission Directive 1999/64/EC of 23 June 1999 amending Directive 90/388/EEC in order to ensure that telecommunications networks and cable TV networks owned by a single operator are separate legal entities

Deadline for transposal: 10/04/2000

Member States which have notified: all except I and EL

ITALY 2000/0578, LET – date sent: 08/08/2000

GREECE 2000/0664, LET – date sent: 08/08/2000

Education and Culture

31997L0036 Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

Deadline for transposal: 30/12/1998

Member States which have notified: DK, E, F, IR, NL, P, FI, S, UK, B, D, EL

ITALY 1999/0068, Referral – date sent: 25/05/2000, Case C-2000/207

LUXEMBOURG 1999/0013, Referral – date sent: 29/03/2000, Case C-2000/119

NETHERLANDS 1999/039, Referral – date sent: 17/04/2000, Case C-2000/145

FRANCE 1999/0001, Referral – date sent: 29/03/2000, Case C-2000/120

Employment and Social affairs

31992L0029 Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels

Deadline for transposal: 31/12/1994

Member States which have notified: all

LUXEMBOURG 1995/0142, Termination: 21/12/2000

31992L0056 Council Directive 92/56/EEC of 24 June 1992 amending Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies

Deadline for transposal: 26/08/1994

Member States which have notified: all

31993L0104 Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time

Deadline for transposal: 23/11/1996

Member States which have notified: all except I and F

ITALY 1997/0095, Referral: 26/10/1998, judgment 09/03/2000, Case C-1998/386

FRANCE 1997/0074, Referral: 16/02/1999, judgment 08/06/2000, Case C-1999/046

LUXEMBOURG 1997/0106, Referral: 16/02/1999, action withdrawn 03/03/2000, Case C-1999/048

31994L0033 Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work

Deadline for transposal: 22/06/1996

Member States which have notified: all except F and L

FRANCE 1996/0952, Referral: 16/02/1999, judgment 18/05/2000, Case C-1999/045

LUXEMBOURG 1996/1011, Referral: 16/02/1999, judgment 16/12/1999, Case C-1999/047

31994L0045 Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Deadline for transposal: 22/09/1996

Member States which have notified: all

LUXEMBOURG 1996/1012, Referral: 30/11/1998, judgment 21/10/1999

31995L0030 Commission Directive 95/30/EC of 30 June 1995 adapting to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Deadline for transposal: 30/11/1996

Member States which have notified: all except A

ITALY 1997/0100, Referral: 03/12/1998, judgment: 16/03/2000, Case C-1998/439

Termination: 05/07/2000

AUSTRIA 1997/0139, Referral: 10/12/1999, Case C-1999/473

31995L0063 Council Directive 95/63/EC of 5 December 1995 amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Deadline for transposal: 04/12/1998

Member States which have notified: all except IR

IRELAND 1999/0100, Referral: 05/07/2000 (decision), ongoing

31996L0034 Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

Deadline for transposal: 03/06/1998

Member States which have notified: all

ITALY 1998/0386, Referral: 23/11/1999, action withdrawn 28/06/2000, Case C-1999/345

31996L0071 Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

Deadline for transposal: 16/12/1999

Member States which have notified: all except B and L

31996L0097 Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

Deadline for transposal: 01/07/1997 and 09/03/1999

Member States which have notified: all except EL and F

GREECE 1997/0320, Referral: 28/10/1998, judgment 14/12/2000, Case C-1998/457

FRANCE 1997/0354, LET 228: 19/05/2000

LUXEMBOURG 1997/0396, Referral 03/12/1998, action withdrawn 17/01/2000, Case C-1998/438

31997L0042 Council Directive 97/42/EC of 27 June 1997 amending for the first time Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Deadline for transposal: 27/06/2000

Member States which have notified: all except F and IR

FINLAND 2000/0784, Termination: 21/12/2000

DENMARK 2000/0656, Termination: 21/12/2000

FRANCE 2000/0496, LET 08/08/2000

PORTUGAL 2000/0729, LET 08/08/2000

SWEDEN 2000/0766, LET 08/08/2000

IRELAND 2000/0632, LET 08/08/2000

31997L0059 Commission Directive 97/59/EC of 7 October 1997 adapting to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Text with EEA relevance)

Deadline for transposal: 31/03/1998

Member States which have notified: all except A

ITALY 1998/0221, Referral: 16/08/1999, action withdrawn 19/09/2000, Case C-1999/312
AUSTRIA 1998/0244, Referral: 23/03/2000, Case C-2000/110

31997L0065 Commission Directive 97/65/EC of 26 November 1997 adapting, for the third time, to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (Text with EEA relevance)

Deadline for transposal: 30/06/1998

Member States which have notified: all except A

ITALY 1998/0397, Referral 16/08/1999, action withdrawn 19/09/2000, Case C-1999/312
AUSTRIA 1998/0433, Referral 23/03/2000, action withdrawn 17/01/2000, Case C-2000/111

31997L0074 Council Directive 97/74/EC of 15 December 1997 extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Deadline for transposal: 15/12/1999

Member States which have notified: B, E, UK

31997L0075 Council Directive 97/75/EC of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

Deadline for transposal: 15/12/1998

Member States which have notified: UK

UNITED KINGDOM 2000/0257, LET 13/07/2000, Termination 21/12/2000

31997L0081 Council Directive 97/81/EC of 15 December 1997 on the framework agreement on part-time working concluded by UNICE, CEEP and the ETUC

Deadline for transposal: 20/01/2000

Member States which have notified: B, E, EL, F, I, L, A, NL, P, FI

31998L0023 Council Directive 98/23/EC of 7 April 1998 on the extension of Directive 97/81/EC on the framework agreement on part-time work concluded by UNICE, CEEP and the ETUC

Deadline for transposal: 07/04/2000

Member States which have notified: UK

31998L0065 Commission Directive 98/65/EC of 3 September 1998 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp
Deadline for transposal: 31/12/1999

Member States which have notified: all

ENTERPRISE

31998L0048 Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations
Deadline for transposal: 05/08/1999

Member States which have notified: B, DK, D, E, F, IR, L, NL, A, P, FI, S, UK

GREECE	1999/0645, LET – date sent: 16/11/1999
ITALY	1999/0624, LET – date sent: 16/11/1999
FRANCE	1999/0596, Termination: 05/07/2000
LUXEMBOURG	1999/0600, Termination: 21/12/2000
IRELAND	1999/0635, Termination: 05/07/2000
PORTUGAL	1999/0662, Termination: 05/07/2000

Mechanical and electrical engineering and radio and telecom terminal equipment industries

31997L0023 Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment
Deadline for transposal: 28/05/1999

Member States which have notified: B, DK, EL, F, IR, NL, A, P, FI, S, UK, I, L, E

GERMANY	1999/0479, RO, date sent: 18/02/2000
IRELAND	1999/0509, Termination: 05/07/2000
SWEDEN	1999/0574, Termination: 05/07/2000
LUXEMBOURG	1999/0448, Termination: 05/07/2000
ITALY	1999/0489, Termination: 05/07/2000
AUSTRIA	1999/0564, Termination: 05/07/2000

31998L0079 Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices
Deadline for transposal: 07/12/1999

Member States which have notified: DK, E, I, P, S, UK

BELGIUM	2000/0212, LET – date sent: 13/07/2000
GERMANY	2000/0230, LET – date sent: 13/07/2000
GREECE	2000/0301, LET – date sent: 13/07/2000
FINLAND	2000/0370, LET – date sent: 13/07/2000
FRANCE	2000/0178, LET – date sent: 13/07/2000
IRELAND	2000/0269, LET – date sent: 13/07/2000

LUXEMBOURG	2000/0196, LET – date sent: 13/07/2000
NETHERLANDS	2000/0221, LET – date sent: 13/07/2000
AUSTRIA	2000/0348, LET – date sent: 13/07/2000
UNITED KINGDOM	2000/0253, Termination: 21/12/2000
SPAIN:	2000/0311, Termination: 21/12/2000
PORTUGAL	2000/0331, Termination: 21/12/2000

31999L0005 Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity
Deadline for transposal: 07/04/2000

Member States which have notified: B, DK, E, L, NL, A, P, FI, S, UK

FINLAND	2000/0777, Termination: 21/12/2000
AUSTRIA	2000/0742, Termination: 21/12/2000
PORTUGAL	2000/0720, Termination: 21/12/2000
BELGIUM	2000/0531, Termination: 21/12/2000
NETHERLANDS	2000/0549, Termination: 21/12/2000
ITALY	2000/0587, LET – date sent: 08/08/2000
IRELAND	2000/0625, LET – date sent: 08/08/2000
GREECE	2000/0673, LET – date sent: 08/08/2000
FRANCE	2000/0487, LET – date sent: 08/08/2000
GERMANY	2000/0587, LET – date sent: 08/08/2000

Chemicals

31993L0015 Council Directive 93/15/EEC of 5 April 1993 on the harmonization of the provisions relating to the placing on the market and supervision of explosives for civil uses
Deadline for transposal: 29/09/1993 and 29/09/1994

Member States which have notified: all except F

FRANCE 1994/0449, Judgment of the Court: 23/03/2000 – Case C-1998/327

31994L0027 European Parliament and Council Directive 94/27/EC of 30 June 1994 amending for the 12th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

Deadline for transposal: 01/01/1996

Member States which have notified: B, D, DK, E, EL, F, IR, L, NL, A, P, FI, S, UK

FRANCE	2000/0379, Termination: 21/12/2000
GERMANY	2000/0407, Termination: 21/12/2000
ITALY	2000/0414, LET – date sent: 04/08/2000
IRELAND	2000/0430, Termination: 21/12/2000
GREECE	2000/0442, Termination: 21/12/2000
AUSTRIA	2000/0463, Termination: 21/12/2000
SWEDEN	2000/0467, Termination: 21/12/2000

31997L0063 Directive 97/63/EC of the European Parliament and of the Council of 24 November 1997 amending Directives 76/116/EEC, 80/876/EEC, 89/284/EEC and 89/530/EEC on the approximation of the laws of the Member States relating to fertilizers

Deadline for transposal: 01/07/1998

Member States which have notified: all

ITALY 1998/0514, Termination: 05/07/2000

31998L0003 Commission Directive 98/3/EC of 15 January 1998 adapting to technical progress Council Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilisers (Text with EEA relevance)

Deadline for transposal: 31/12/1998

Member States which have notified: all

GREECE 1999/0131, Termination: 05/07/2000

31999L0011 Commission Directive 1999/11/EC of 8 March 1999 adapting to technical progress the principles of good laboratory practice as specified in Council Directive 87/18/EEC on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances

Deadline for transposal: 30/09/1999

Member States which have notified: DK, E, EL, F, I, IR, L, A, P, FI, S, UK

UNITED KINGDOM	2000/0068, Termination: 21/12/2000
FRANCE	2000/0007, Termination: 21/12/2000
BELGIUM	2000/0036, LET – date sent: 18/02/2000
NETHERLANDS	2000/0042, Referral (decision): 21/12/2000, ongoing
DENMARK	2000/0086, Termination: 05/07/2000
SPAIN	2000/0111, Termination: 05/07/2000
PORTUGAL	2000/0125, Termination: 21/12/2000
AUSTRIA	2000/0135, Termination: 21/12/2000
SWEDEN	2000/0150, Termination: 05/07/2000
GERMANY	2000/0047, LET – date sent: 26/09/2000

31999L0012 Commission Directive 1999/12/EC of 8 March 1999 adapting to technical progress for the second time the Annex to Council Directive 88/320/EEC on the inspection and verification of good laboratory practice (GLP)

Deadline for transposal: 30/09/1999

Member States which have notified: D, DK, E, EL, F, I, IR, L, A, P, FI, S, UK

UNITED KINGDOM	2000/0067, Termination: 21/12/2000
GERMANY	2000/0046, Termination: 21/12/2000
FRANCE	2000/0006, Termination: 21/12/2000
BELGIUM	2000/0035, LET – date sent: 18/02/2000
NETHERLANDS	2000/0041, Referral (decision): 21/12/2000, ongoing
DENMARK	2000/0085, Termination: 05/07/2000
SPAIN	2000/0110, Termination: 05/07/2000
PORTUGAL	2000/0124, Termination: 21/12/2000
AUSTRIA	2000/0134, Termination: 21/12/2000
SWEDEN	2000/0149, Termination: 05/07/2000

31999L0043 Directive 1999/43/EC of the European Parliament and of the Council of 25 May 1999 amending for the 17th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

Deadline for transposal: 01/07/2000

Member States which have notified: B, DK, E, I, IR, L, NL, FI, S, UK

FRANCE	2000/0787, LET – date sent: 30/11/2000
GREECE	2000/0847, LET – date sent: 30/11/2000
AUSTRIA	2000/0877, LET – date sent: 30/11/2000
PORTUGAL	2000/0866, LET – date sent: 30/11/2000
GERMANY	2000/0813, LET – date sent: 30/11/2000

31999L0051 Commission Directive 1999/51/EC of 26 May 1999 adapting to technical progress for the fifth time Annex I to Council Directive 76/769/EEC on the approximations of the laws, regulations, and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (tin, PCP and cadmium) (Text with EEA relevance)

Deadline for transposal: 29/02/2000

Member States which have notified: B, D, DK, E, I, IR, NL, A, P, FI, S

Pharmaceuticals and Cosmetics

31993L0035 Council Directive 93/35/EEC of 14 June 1993 amending for the sixth time Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products

Deadline for transposal: 14/06/1995

Member States which have notified: all

FRANCE 1995/0500, Referral 28/07/1999, action withdrawn 4/10/2000, Case C-1999/332

31993L0040 Council Directive 93/40/EEC of 14 June 1993 amending Directives 81/851/EEC and 81/852/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products

Deadline for transposal: 31/12/1994 and 31/12/1997

Member States which have notified: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK

FRANCE 1995/0293, RO 228 – date sent: 28/02/2000

31995L0017 Commission Directive 95/17/EC of 19 June 1995 laying down detailed rules for the application of Council Directive 76/768/EEC as regards the non-inclusion of one or more ingredients on the list used for the labelling of cosmetic products

Deadline for transposal: 30/11/1995

Member States which have notified: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK

FRANCE 1996/0100, Referral: 04/09/1998 – Case C-1998/328

31997L0018 Commission Directive 97/18/EC of 17 April 1997 postponing the date after which animal tests are prohibited for ingredients or combinations of ingredients of cosmetic products (Text with EEA relevance)

Deadline for transposal: 31/12/1997

Member States which have notified: A, B, DK, EL, E, IR, I, L, NL, P, FI, UK

GERMANY	1998/0017, RO – date sent: 4/09/1998
FRANCE	1998/0040, RO – date sent: 4/09/1998
SWEDEN	1998/0092, RO – date sent: 24/06/1998
AUSTRIA	1998/0073, Termination: 21/12/2000

31998L0062 Commission Directive 98/62/EC of 3 September 1998 adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)

Deadline for transposal: 30/06/1999

Member States which have notified: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK

FRANCE	1999/0441, RO – date sent: 01/02/2000
BELGIUM	1999/0464, Termination: 05/07/2000

31999L0082 Commission Directive 1999/82/EC of 8 September 1999 amending the Annex to Council Directive 75/318/EEC on the approximation of the laws of the Member States relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of medicinal products (Text with EEA relevance)

Deadline for transposal: 01/01/2000

Member States which have notified: B, DK, D, EL, E, F, IR, L, NL, A, P, FI, S, UK

ITALY	2000/0235, LET – date sent: 13/07/2000
FINLAND	2000/0365, Termination: 21/12/2000
SPAIN	2000/0308, Termination: 21/12/2000
DENMARK	2000/0277, Termination: 21/12/2000
GREECE	2000/0288, Termination: 21/12/2000
IRELAND	2000/0263, Termination: 21/12/2000
LUXEMBOURG	2000/0186, Termination: 21/12/2000
PORTUGAL	2000/0317, Termination: 21/12/2000
UNITED KINGDOM	2000/0294, Termination: 21/12/2000
BELGIUM	2000/0204, Termination: 21/12/2000
NETHERLANDS	2000/0216, Termination: 21/12/2000
GERMANY	2000/0224, Termination: 21/12/2000

31999L0083 Commission Directive 1999/83/EC of 8 September 1999 amending the Annex to Council Directive 75/318/EEC on the approximation of the laws of the Member States relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of medicinal products (Text with EEA relevance)

Deadline for transposal: 01/03/2000

Member States which have notified: B, DK, D, EL, E, F, IR, L, NL, A, P, FI, S, UK

ITALY	2000/0577, LET – date sent: 08/08/2000
BELGIUM	2000/0523, Termination: 21/12/2000
PORTUGAL	2000/0709, Termination: 21/12/2000
IRELAND	2000/0615, Termination: 21/12/2000
NETHERLANDS	2000/0543, Termination: 21/12/2000
GERMANY	2000/0559, Termination: 21/12/2000

31999L0104 Commission Directive 1999/104/EC of 22 December 1999 amending the Annex to Council Directive 81/852/EEC on the approximation of the laws of the Member States relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of veterinary medicinal products (Text with EEA relevance)

Deadline for transposal: 01/01/2000

Member States which have notified: B, DK, D, EL, E, F, IR, I, L, NL, A, FI, S, UK

PORTUGAL	2000/0313, LET – date sent: 13/07/2000
GREECE	2000/0284, Termination: 21/12/2000
SPAIN	2000/0307, Termination: 21/12/2000
FINLAND	2000/0361, Termination: 21/12/2000
FRANCE	2000/0167, Termination: 21/12/2000
LUXEMBOURG	2000/0182, Termination: 21/12/2000
GERMANY	2000/0223, Termination: 21/12/2000
UK	2000/0245, Termination: 21/12/2000
IRELAND	2000/0259, Termination: 21/12/2000
DENMARK	2000/0273, Termination: 21/12/2000

32000L0006 Commission Directive 2000/6/EC of 29 February 2000 adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)

Deadline for transposal: 01/07/2000

Member States which have notified: B, DK, D, E, IR, I, L, NL, A, FI, S, UK

FRANCE	2000/0825, LET – date sent: 30/11/2000
PORTUGAL	2000/0863, LET – date sent: 30/11/2000
GREECE	2000/0845, LET – date sent: 30/11/2000

32000L0011 Commission Directive 2000/11/EC of 10 March 2000 adapting to technical progress Annex II to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (Text with EEA relevance)

Deadline for transposal: 01/06/2000

Member States which have notified: B, DK, E, IR, I, L, NL, A, FI, S, UK

GERMANY	2000/0557, LET – date sent: 08/08/2000
GREECE	2000/0658, LET – date sent: 08/08/2000
AUSTRIA	2000/0739, Termination: 21/12/2000
LUXEMBOURG	2000/0498, Termination: 21/12/2000
FRANCE	2000/0475, LET – date sent: 08/08/2000
SPAIN	2000/0684, Termination: 21/12/2000
PORTUGAL	2000/0703, LET – date sent: 08/08/2000
SWEDEN	2000/0750, Termination: 21/12/2000
BELGIUM	2000/0518, Termination: 21/12/2000
ITALY	2000/0571, Termination: 21/12/2000
IRELAND	2000/0612, Termination: 21/12/2000

32000L0041 Commission Directive 2000/41/EC of 19 June 2000 postponing for a second time the date after which animal tests are prohibited for ingredients or combinations of ingredients of cosmetic products (Text with EEA relevance)

Deadline for transposal: 29/06/2000

Member States which have notified: B, DK, E, IR, I, L, NL, A, FI, UK

Motor vehicles

31998L0039 Commission Directive 98/39/EC of 5 June 1998 adapting to technical progress Council Directive 75/321/EEC relating to the steering equipment of wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/04/1999

Member States which have notified: all

LUXEMBOURG	1999/0344, Termination: 05/07/2000
BELGIUM	1999/0351, Termination: 05/07/2000
UNITED KINGDOM	1999/0378, Termination: 05/07/2000

31998L0040 Commission Directive 98/40/EC of 8 June 1998 adapting to technical progress Council Directive 74/346/EEC relating to rear-view mirrors for wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/04/1999

Member States which have notified: all

LUXEMBOURG	1999/0345, Termination: 05/07/2000
BELGIUM	1999/0352, Termination: 05/07/2000
UNITED KINGDOM	1999/0379, Termination: 05/07/2000
FINLAND	1999/0430, Termination: 21/12/2000

31998L0089 Commission Directive 98/89/EC of 20 November 1998 adapting to technical progress Council Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified: B, D, DK, E, F, IR, I, L, NL, A, FI, P, S, UK

SWEDEN	2000/0359, Termination: 21/12/00
NETHERLANDS	2000/0222, Termination: 21/12/00
UNITED KINGDOM	2000/0254, Termination: 21/12/00
GREECE	2000/0302, LET – date sent: 13/07/00

31998L0090 Commission Directive 98/90/EC of 30 November 1998 adapting to technical progress Council Directive 70/387/EEC relating to the doors of motor vehicles and their trailers

Deadline for transposal: 31/12/1998

Member States which have notified: all

PORTUGAL	1999/0139, Termination: 05/07/2000
LUXEMBOURG	1999/0025, Termination: 05/07/2000
BELGIUM	1999/0037, Termination: 05/07/2000
GREECE	1999/0139, Termination: 05/07/2000

31998L0091 Directive 98/91/EC of the European Parliament and of the Council of 14 December 1998 relating to motor vehicles and their trailers intended for the transport of dangerous goods by road and amending Directive 70/156/EEC relating to the type approval of motor vehicles and their trailers

Deadline for transposal: 16/01/2000

Member States which have notified: B, D, DK, E, F, I, L, FI, S, UK

AUSTRIA	2000/0461, LET – date sent: 04/08/2000
GREECE	2000/0440, LET – date sent: 04/08/2000
PORTUGAL	2000/0454, LET – date sent: 04/08/2000
IRELAND	2000/0428, LET – date sent: 04/08/2000
NETHERLANDS	2000/0398, LET – date sent: 04/08/2000
GERMANY	2000/0405, Termination: 21/12/2000

31999L0007 Commission Directive 1999/7/EC of 26 January 1999 adapting to technical progress Council Directive 70/311/EEC relating to the steering equipment for motor vehicles and their trailers (Text with EEA relevance)

Deadline for transposal: 30/06/1999

Member States which have notified: all

PORTUGAL	1999/0563, Termination: 05/07/2000
GREECE	1999/0539, Termination: 05/07/2000
LUXEMBOURG	1999/0456, Termination: 05/07/2000
BELGIUM	1999/0468, Termination: 05/07/2000

31999L0018 Commission Directive 1999/18/EC of 18 March 1999 adapting to technical progress Council Directive 76/762/EEC relating to front fog lamps for motor vehicles and filament lamps for such lamps (Text with EEA relevance)

Deadline for transposal: 01/10/1999

Member States which have notified: all

BELGIUM	2000/0030, Termination: 05/07/2000
ITALY	2000/0054, Termination: 05/07/2000
IRELAND	2000/0074, Termination: 05/07/2000
SWEDEN	2000/0144, Termination: 05/07/2000
GREECE	2000/0093, Termination: 05/07/2000
PORTUGAL	2000/0119, Termination: 05/07/2000
FINLAND	2000/0157, Termination: 05/07/2000
LUXEMBOURG	2000/0016, Termination: 05/07/2000

31999L0023 Commission Directive 1999/23/EC of 9 April 1999 adapting to technical progress Council Directive 93/33/EEC on protective devices intended to prevent the unauthorised use of two- or three-wheel motor vehicles (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified: all

PORTUGAL	2000/0328, Termination: 21/12/2000
BELGIUM	2000/0210, Termination: 21/12/2000
GREECE	2000/0298, Termination: 21/12/2000

31999L0025 Commission Directive 1999/25/EC of 9 April 1999 adapting to technical progress Council Directive 93/34/EEC on statutory markings for two- or three-wheel motor vehiclesText with EEA relevance
Deadline for transposal: 31/12/1999

Member States which have notified: all

PORTUGAL 2000/0326, Termination: 21/12/2000
GREECE 2000/0296, Termination: 21/12/2000

31999L0026 Commission Directive 1999/26/EC of 20 April 1999 adapting to technical progress Council Directive 93/94/EEC relating to the space for mounting the rear registration plate of two or three-wheel motor vehicles (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified: B, D, DK, E, EL, F, IR, I, L, NL, P, FI, S, UK

PORTUGAL 2000/0325, Termination: 21/12/2000
AUSTRIA 2000/0346, LET – date sent: 13/07/2000
GREECE 2000/0295, Termination: 21/12/2000
BELGIUM 2000/0207, Termination: 21/12/2000

31999L0040 Commission Directive 1999/40/EC of 6 May 1999 adapting to technical progress Council Directive 79/622/EEC relating to the roll-over protection structures of wheeled agricultural or forestry tractors (static testing) (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, DK, D, E, F, FI, I, IR, L, P, S, UK

ITALY 2000/0584, Termination: 21/12/2000
UNITED KINGDOM 2000/0602, Termination: 21/12/2000
GREECE 2000/0670, LET – date sent: 08/08/2000
AUSTRIA 2000/0739, LET – date sent: 08/08/2000
SWEDEN 2000/0760, Termination: 21/12/2000
IRELAND 2000/0621, Termination: 21/12/2000
BELGIUM 2000/0528, Termination: 21/12/2000
DENMARK 2000/0647, Termination: 21/12/2000
FRANCE 2000/0484, Termination: 21/12/2000
NETHERLANDS 2000/0547, LET – date sent: 08/08/2000

31999L0055 Commission Directive 1999/55/EC of 1 June 1999 adapting to technical progress Council Directive 77/536/EEC relating to the roll-over protection structures of wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, DK, D, E, F, I, IR, L, A, P, FI, S, UK

BELGIUM 2000/0527, Termination: 21/12/2000
UNITED KINGDOM 2000/0600, Termination: 21/12/2000
GREECE 2000/0668, LET – date sent: 08/08/2000
DENMARK 2000/0645, Termination: 21/12/2000
SWEDEN 2000/0758, Termination: 21/12/2000
IRELAND 2000/0619, Termination: 21/12/2000
ITALY 2000/0582, Termination: 21/12/2000
FRANCE 2000/0482, Termination: 21/12/2000
NETHERLANDS 2000/0546, LET – date sent: 08/08/2000

31999L0056 Commission Directive 1999/56/EC of 3 June 1999 adapting to technical progress Council Directive 78/933/EEC relating to the installation of lighting and light-signalling devices on wheeled agricultural and forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, D, DK, E, F, IR, I, L, NL, A, FI, P, S, UK

ITALY	2000/0581, Termination: 21/12/2000
UNITED KINGDOM	2000/0599, Termination: 21/12/2000
GREECE	2000/0667, LET – date sent: 08/08/2000
BELGIUM	2000/0526, Termination: 21/12/2000
IRELAND	2000/0618, Termination: 21/12/2000
DENMARK	2000/0644, Termination: 21/12/2000
SWEDEN	2000/0757, Termination: 21/12/2000

31999L0057 Commission Directive 1999/57/EC of 7 June 1999 adapting to technical progress Council Directive 78/764/EEC relating to the driver's seat on wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, DK, D, E, F, I, IR, L, NL, A, P, FI, S, UK

ITALY	2000/0580, Termination: 21/12/2000
UNITED KINGDOM	2000/0598, Termination: 21/12/2000
GREECE	2000/0666, LET – date sent: 08/08/2000
BELGIUM	2000/0525, Termination: 21/12/2000
FRANCE	2000/0481, Termination: 21/12/2000
NETHERLANDS	2000/0545, Termination: 21/12/2000
IRELAND	2000/0617, Termination: 21/12/2000
SWEDEN	2000/0756, Termination: 21/12/2000

31999L0058 Commission Directive 1999/58/EC of 7 June 1999 adapting to technical progress Council Directive 79/533/EEC relating to coupling and reversing devices for wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, DK, D, E, F, I, IR, L, NL, A, P, FI, S, UK

BELGIUM	2000/0524, Termination: 21/12/2000
ITALY	2000/0579, Termination: 21/12/2000
UNITED KINGDOM	2000/0597, Termination: 21/12/2000
GREECE	2000/0665, LET – date sent: 08/08/2000
NETHERLANDS	2000/0544, Termination: 21/12/2000
IRELAND	2000/0616, Termination: 21/12/2000
DENMARK	2000/0642, Termination: 21/12/2000
SWEDEN	2000/0755, Termination: 21/12/2000

31999L0086 Council Directive 1999/86/EC of 11 November 1999 adapting to technical progress Directive 76/763/EEC on the approximation of the laws of the Member States relating to passenger seats for wheeled agricultural or forestry tractors

Deadline for transposal: 01/01/2001

Member States which have notified: D, E, F, IR, L, S

31999L0096 Directive 1999/96/EC of the European Parliament and of the Council of 13 December 1999 on the approximation of the laws of the Member States relating to measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles and amending Council Directive 88/77/EEC

Deadline for transposal: 01/07/2000

Member States which have notified: D, DK, E, IR, L, FI, S, UK

BELGIUM	2000/0521, LET – date sent: 08/08/2000
ITALY	2000/0574, LET – date sent: 08/08/2000
GREECE	2000/0661, LET – date sent: 08/08/2000
PORTUGAL	2000/0706, LET – date sent: 08/08/2000
AUSTRIA	2000/0734, LET – date sent: 08/08/2000
FRANCE	2000/0477, LET – date sent: 08/08/2000
NETHERLANDS	2000/0540, LET – date sent: 08/08/2000
DENMARK	2000/0639, Termination: 21/12/2000
SPAIN	2000/0686, Termination: 21/12/2000
FINLAND	2000/0770, Termination: 21/12/2000

31999L0098 Commission Directive 1999/98/EC of 15 December 1999 adapting to technical progress Directive 96/79/EC of the European Parliament and of the Council on the protection of occupants of motor vehicles in the event of a frontal impact (Text with EEA relevance)

Deadline for transposal: 30/09/2000

Member States which have notified: B, D, DK, E, EL, F, I, IR, L, NL, FI, S, UK

31999L0099 Commission Directive 1999/99/EC of 15 December 1999 adapting to technical progress Council Directive 80/1269/EEC on the approximation of the laws of the Member States relating to the engine power of motor vehicles (Text with EEA relevance)

Deadline for transposal: 01/01/2000

Member States which have notified: B, D, DK, E, EL, F, I, IR, L, NL, FI, S, UK

ITALY	2000/0234, Termination: 21/12/2000
AUSTRIA	2000/0340, LET – date sent: 13/07/2000
FRANCE	2000/0170, Termination: 21/12/2000
LUXEMBOURG	2000/0185, Termination: 21/12/2000
PORTUGAL	2000/0316, LET – date sent: 13/07/2000
FINLAND	2000/0364, Termination: 21/12/2000
SPAIN	2000/0287, Termination: 21/12/2000
SWEDEN	2000/0355, Termination: 21/12/2000
ITALY	2000/0234, Termination: 21/12/2000
IRELAND	2000/0262, Termination: 21/12/2000
DENMARK	2000/0276, Termination: 21/12/2000

31999L0100 Commission Directive 1999/100/EC of 15 December 1999 adapting to technical progress Council Directive 80/1268/EEC relating to the carbon dioxide emissions and the fuel consumption of motor vehicles (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified: B, D, DK, E, EL, F, I, IR, L, NL, P, FI, S, UK

ITALY	2000/0233, Termination: 21/12/2000
AUSTRIA	2000/0339, LET – date sent: 13/07/2000
FRANCE	2000/0169, Termination: 21/12/2000
LUXEMBOURG	2000/0184, Termination: 21/12/2000

IRELAND	2000/0261, Termination: 21/12/2000
DENMARK	2000/0275, Termination: 21/12/2000
GREECE	2000/0286, Termination: 21/12/2000
PORTUGAL	2000/0315, Termination: 21/12/2000
SWEDEN	2000/0354, Termination: 21/12/2000
FINLAND	2000/0363, Termination: 21/12/2000

31999L0101 Commission Directive 1999/101/EC of 15 December 1999 adapting to technical progress Council Directive 70/157/EEC relating to the permissible sound level and the exhaust system of motor vehicles (Text with EEA relevance)

Deadline for transposal: 31/03/2000

Member States which have notified: B, D, DK, E, EL, IR, I, L, NL, FI, S, UK

ITALY	2000/0573, Termination: 21/12/2000
PORTUGAL	2000/0705, LET – date sent: 08/08/2000
AUSTRIA	2000/0733, LET – date sent: 08/08/2000
GREECE	2000/0660, Termination: 21/12/2000
FRANCE	2000/0476, LET – date sent: 08/08/2000

31999L0102 Commission Directive 1999/102/EC of 15 December 1999 adapting to technical progress Council Directive 70/220/EEC relating to measures to be taken against air pollution by emissions from motor vehicles (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified: B, D, DK, E, EL, F, IR, I, L, NL, FI, P, S, UK

ITALY	2000/0232, Termination: 21/12/2000
AUSTRIA	2000/0338, LET – date sent: 13/07/2000
DENMARK	2000/0274, Termination: 21/12/2000
FRANCE	2000/0168, LET – date sent: 13/07/2000
SWEDEN	2000/0353, Termination: 21/12/2000
IRELAND	2000/0260, Termination: 21/12/2000
LUXEMBOURG	2000/0183, Termination: 21/12/2000
NETHERLANDS	2000/0215, Termination: 21/12/2000
ITALY	2000/0232, Termination: 21/12/2000
FINLAND	2000/0362, Termination: 21/12/2000

32000L0001 Commission Directive 2000/1/EC of 14 January 2000 adapting to technical progress Council Directive 89/173/EEC as regards certain components and characteristics of wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, D, E, F, IR, L, NL, FI, S

ITALY	2000/0572, LET – date sent: 08/08/2000
GREECE	2000/0659, LET – date sent: 08/08/2000
PORTUGAL	2000/0704, LET – date sent: 08/08/2000
DENMARK	2000/0638, LET – date sent: 08/08/2000
AUSTRIA	2000/0732, LET – date sent: 08/08/2000
UNITED KINGDOM	2000/0593, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0499, Termination: 21/12/2000
NETHERLANDS	2000/0539, Termination: 21/12/2000
SPAIN	2000/0685, Termination: 21/12/2000
SWEDEN	2000/0751, Termination: 21/12/2000
FINLAND	2000/0769, Termination: 21/12/2000
SPAIN	2000/0685, Termination: 21/12/2000

32000L0002 Commission Directive 2000/2/EC of 14 January 2000 adapting to technical progress Council Directive 75/322/EEC relating to the suppression of radio interference produced by spark-ignition engines fitted to wheeled agricultural or forestry tractors and Council Directive 74/150/EEC relating to the type-approval of wheeled agricultural or forestry tractors (Text with EEA relevance)

Deadline for transposal: 31/12/2000

Member States which have notified: B, D, E, F, IR, L, FI, S

32000L0003 Commission Directive 2000/3/EC of 22 February 2000 adapting to technical progress Council Directive 77/541/EEC relating to safety belts and restraint systems of motor vehicles (Text with EEA relevance)

Deadline for transposal: 30/09/2000

Member States which have notified: B, D, DK, EL, E, I, IR, L, FI, S, UK

PORTUGAL	2000/0937, LET – date sent: 05/12/2000
FRANCE	2000/0901, LET – date sent: 05/12/2000
AUSTRIA	2000/0940, LET – date sent: 05/12/2000
NETHERLANDS	2000/0912, LET – date sent: 05/12/2000

32000L0025 Directive 2000/25/EC of the European Parliament and of the Council of 22 May 2000 on action to be taken against the emission of gaseous and particulate pollutants by engines intended to power agricultural or forestry tractors and amending Council Directive 74/150/EEC

Deadline for transposal: 29/09/2000

Member States which have notified: E, IR, FI

ITALY	2000/0916, LET – date sent: 05/12/2000
UNITED KINGDOM	2000/0918, LET – date sent: 05/12/2000
GREECE	2000/0929, LET – date sent: 05/12/2000
FRANCE	2000/0900, LET – date sent: 05/12/2000
LUXEMBOURG	2000/0904, LET – date sent: 05/12/2000
BELGIUM	2000/0908, LET – date sent: 05/12/2000
NETHERLANDS	2000/0911, LET – date sent: 05/12/2000
GERMANY	2000/0914, LET – date sent: 05/12/2000
DENMARK	2000/0926, LET – date sent: 05/12/2000
PORTUGAL	2000/0935, LET – date sent: 05/12/2000
AUSTRIA	2000/0939, LET – date sent: 05/12/2000
SWEDEN	2000/0942, LET – date sent: 05/12/2000

Environment

Introductory

31996L0082 Council Directive 1996/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances

Deadline for transposal: 03/02/1999

Member States which have notified: DK, E, EL, FI, I, L, NL, S, UK

BELGIUM	1999/0457, Referral: 16/11/2000, Case C-2000/423 (judgment awaited)
GERMANY	1999/0240, Referral: 18/10/2000, Case C-2000/383 (judgment awaited)

FRANCE	1999/0208, RO sent on 27/10/1999
IRELAND	1999/0270, Referral: 25/10/2000, Case C-2000/394 (judgment awaited)
AUSTRIA	1999/0313, Referral: 8/11/2000, Case C-2000/407 (judgment awaited)
PORTUGAL	1999/0302, Referral: 22/11/2000, Case C-2000/431 (judgment awaited)

31997L0011 Council Directive 1997/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment

Deadline for transposal: 14/03/1999

Member States which have notified: DK, IR, NL, A, P, FI, S, UK, I, E

BELGIUM	1999/0350, RO sent on 19/05/2000
GERMANY	1999/2090, Referral: 08/11/2000, Case C-2000/408 (judgment awaited)
SPAIN	1999/0406, Referral: 15/09/2000, Case C-2000/342 (action now being withdrawn)
FRANCE	1999/0338, RO sent on 26/01/2000
GREECE	1999/0399, Referral: 11/10/2000, Case C-2000/374 (judgment awaited)
LUXEMBOURG	1999/0343, Referral: 03/10/2000, Case C-2000/366 (judgment awaited)

Air

31996L0061 Council Directive 1996/61/EC of 24 September 1996 concerning integrated pollution prevention and control

Deadline for transposal: 30/10/1999

Member States which have notified: DK, F, IR, NL, A, S, I, P

LUXEMBOURG	2000/0026, SUPRO, date sent: 25/07/2000
GERMANY	2000/0050, RO, date sent: 18/02/2000
UNITED KINGDOM	2000/0070, RO, date sent: 03/08/2000
GREECE	2000/0105, RO, date sent: 25/07/2000
SPAIN	2000/0113, RO, date sent: 25/07/2000
FINLAND	2000/0165, RO, date sent: 07/09/2000
BELGIUM	2000/2029, RO, date sent: 01/08/2000

31996L0062 Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management

Deadline for transposal: 21/05/1998

Member States which have notified: All except E

SPAIN	1998/0342 Referral: 29/10/1999, Case C-1999/417 (judgment awaited)
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31997L0068 Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery

Deadline for transposal: 30/06/1998

Member States which have notified: all except F

FRANCE	1998/0362 Referral – Case C-1999/320: judgment: 23/11/2000
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31998L0070 Directive 1998/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC
Deadline for transposal: 01/07/1999

Member States which have notified: all except I and UK

ITALY 1999/0627, RO, date sent: 03/08/2000
UNITED KINGDOM 1999/0633, RO, date sent: 28/07/2000

31999L0032 Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 1993/12/EEC
Deadline for transposal: 01/07/2000

Member States which have notified: DK, L, NL, S, P, FI, F

BELGIUM 2000/0800, RO, date sent: 30/11/2000
GERMANY 2000/0814, RO, date sent: 30/11/2000
ITALY 2000/0822, RO, date sent: 30/11/2000
IRELAND 2000/0835, RO, date sent: 30/11/2000
GREECE 2000/0849, RO, date sent: 30/11/2000
SPAIN 2000/0856, RO, date sent: 30/11/2000
AUSTRIA 2000/0879, RO, date sent: 30/11/2000
UNITED KINGDOM 2000/2272, LET ongoing

Waste

31994L0062 European Parliament and Council Directive 1994/62/EC of 20 December 1994 on packaging and packaging waste
Deadline for transposal: 29/06/1996

Member States which have notified: all except EL

GREECE 1996/0911, Referral – Case C-1999/213, judgment: 13/04/2000; LET 228, date sent: 8/11/2000

31998L0101 Commission Directive 1998/101/EC of 22 December 1998 adapting to technical progress Council Directive 1991/157/EEC on batteries and accumulators containing certain dangerous substances.
Deadline for transposal: 01/01/2000

Member States which have notified: A, F, FI, L, S, B, E, DK

NETHERLANDS 2000/0220, LET, date sent: 13/07/2000
GERMANY 2000/0229, LET, date sent: 13/07/2000
ITALY 2000/0240, LET, date sent: 13/07/2000
UNITED KINGDOM 2000/0252, LET, date sent: 13/07/2000
IRELAND 2000/0267, LET, date sent: 13/07/2000
GREECE 2000/0299, LET, date sent: 13/07/2000
PORTUGAL 2000/0329, LET, date sent: 13/07/2000

Nature

31992L0043 Council Directive 1992/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

Deadline for transposal: 10/06/1994

Member States which have notified: all except F

FRANCE 1994/0673 Referral – Case C-1998/256: judgment: 06/04/2000 LET 228, date sent: 28/07/2000

Chemicals and biotechnology

31993L0090 Commission Directive 1993/90/EEC of 29 October 1993 concerning the list of substances referred to in Article 13 (1) (5th indent) of Council Directive 1967/548/EEC

Deadline for transposal: 31/10/1993

Member States which have notified: all except UK

UNITED KINGDOM 1993/1095, RO, date sent: 28/07/2000

31996L0054 Commission Directive 1996/54/EC of 30 July 1996 adapting to technical progress for the twenty-second time Council Directive 1967/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)

Deadline for transposal: 31/10/1997 and 31/05/1998

Member States which have notified: all except UK

UNITED KINGDOM 1998/0486, RO, date sent: 28/07/2000

31997L0035 Commission Directive 1997/35/EC of 18 June 1997 adapting to technical progress for the second time Council Directive 1990/220/EEC on the deliberate release into the environment of genetically modified organisms (Text with EEA relevance)

Deadline for transposal: 30/07/1997

Member States which have notified: all except UK

UNITED KINGDOM 1997/0538, RO, date sent: 28/07/2000

31997L0069 Commission Directive 1997/69/EC of 5 December 1997 adapting to technical progress for the twenty-third time Council Directive 1967/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances

Deadline for transposal: 16/12/1998

Member States which have notified: all except UK

UNITED KINGDOM 1999/0089, RO, date sent: 28/07/2000

31998L0008 Directive 1998/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market

Deadline for transposal: 13/05/2000

Member States which have notified: DK, I, S, A

FRANCE	2000/0491, LET, date sent: 08/08/2000
LUXEMBOURG	2000/0512, LET, date sent: 08/08/2000
BELGIUM	2000/0535, LET, date sent: 08/08/2000
NETHERLANDS	2000/0551, LET, date sent: 08/08/2000
GERMANY	2000/0568, LET, date sent: 08/08/2000
UNITED KINGDOM	2000/0607, LET, date sent: 08/08/2000
IRELAND	2000/0628, LET, date sent: 08/08/2000
GREECE	2000/0677, LET, date sent: 08/08/2000
SPAIN	2000/0696, LET, date sent: 08/08/2000
PORTUGAL	2000/0725, RO, date sent: 29/12/2000
FINLAND	2000/0781, LET, date sent: 08/08/2000

31998L0081 Council Directive 98/81/EC of 26 October 1998 amending Directive 90/219/EEC on the contained use of genetically modified micro-organisms

Deadline for transposal: 05/06/2000

Member States which have notified: S, DK , FI

FRANCE	2000/0489, LET, date sent: 08/08/2000
LUXEMBOURG	2000/0509, LET, date sent: 08/08/2000
BELGIUM	2000/0533, LET, date sent: 08/08/2000
NETHERLANDS	2000/0550, LET, date sent: 08/08/2000
GERMANY	2000/0565, LET, date sent: 08/08/2000
ITALY	2000/0589, LET, date sent: 08/08/2000
UNITED KINGDOM	2000/0605, LET, date sent: 08/08/2000
IRELAND	2000/0627, LET, date sent: 08/08/2000
GREECE	2000/0675, LET, date sent: 08/08/2000
SPAIN	2000/0694, LET, date sent: 08/08/2000
PORTUGAL	2000/0722, LET, date sent: 08/08/2000
AUSTRIA	2000/0744, RO, date sent: 29/12/2000

31998L0098 Commission Directive 1998/98/EC of 15 December 1998 adapting to technical progress for the twenty-fifth time Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances

Deadline for transposal: 01/07/2000

Member States which have notified: A, D, F, FI, I, L, NL, E

BELGIUM	2000/0801, LET, date sent: 30/11/2000
IRELAND	2000/0836, LET, date sent: 30/11/2000
DENMARK	2000/0843, LET, date sent: 30/11/2000
GREECE	2000/0850, LET, date sent: 30/11/2000
PORTUGAL	2000/0869, LET, date sent: 30/11/2000
SWEDEN	2000/0890, LET, date sent: 30/11/2000
UNITED KINGDOM	2000/2273, LET 08/08/2000 (onging)

Radiation protection

31996L0029 Council Directive 1996/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation
Deadline for transposal: 13/05/2000

Member States which have notified: FI, IR, A, I, S

SPAIN	2000/2126, LET, date sent: 28/07/2000
BELGIUM	2000/2129, LET, date sent: 12/09/2000
GERMANY	2000/2130, LET, date sent: 28/07/2000
DENMARK	2000/2131, LET, date sent: 28/07/2000
GREECE	2000/2132, LET, date sent: 24/11/2000
FRANCE	2000/2133, LET, date sent: 28/07/2000
LUXEMBOURG	2000/2135, LET, date sent: 25/07/2000
NETHERLANDS	2000/2136, LET, date sent: 12/09/2000
PORTUGAL	2000/2137, LET, date sent: 01/08/2000
UNITED KINGDOM	2000/2139, LET, date sent: 03/08/2000

31997L0043 Council Directive 1997/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure, and repealing Directive 1984/466/Euratom
Deadline for transposal: 12/05/2000

Member States which have notified: A, FI, I, S

SPAIN	2000/2140, LET, date sent: 28/07/2000
BELGIUM	2000/2142, LET, date sent: 12/09/2000
GERMANY	2000/2143, LET, date sent: 28/07/2000
DENMARK	2000/2144, LET, date sent: 28/07/2000
GREECE	2000/2145, LET, date sent: 24/11/2000
FRANCE	2000/2147, LET, date sent: 28/07/2000
IRELAND	2000/2148, RO, date sent: 31/12/2000
LUXEMBOURG	2000/2150, LET, date sent: 25/07/2000
NETHERLANDS	2000/2151, LET, date sent: 12/09/2000
PORTUGAL	2000/2152, LET, date sent: 01/08/2000
UNITED KINGDOM	2000/2154, LET, date sent: 12/09/2000

INFORMATION SOCIETY

31995L0047 Directive 95/47/EC of the European Parliament and of the Council of 24 October 1995 on the use of standards for the transmission of television signals

Deadline for transposal: 23/08/1996

Member States which have notified implementing measures: B, DK, D, EL, E, IR, I, L, A, P, FI, S, UK

BELGIUM	1996/0870, Termination: 21/03/2000
FRANCE	1996/0966, Judgment: 23/11/2000, Case C-319/99
NETHERLANDS	1996/1034, Referral: 26/06/2000, Case C-254/00
AUSTRIA	1996/1089, Withdrawal: 17/10/2000, Case C-411/99

31995L0062 Directive 95/62/EC of the European Parliament and of the Council of 13 December 1995 on the application of open network provision (ONP) to voice telephony

Deadline for transposal: 31/12/1996

Member States which have notified: all

BELGIUM	1997/2226, Termination: 21/03/2000
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31997L0051 Directive 97/51/EC of the European Parliament and of the Council of 6 October 1997 amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications

Deadline for transposal: 31/12/1997

Member States which have notified: B, DK, D, EL, E, IR, L, NL, A, P, FI, S, UK

FRANCE	1998/0359, Referral: 22/12/1999 (decision), ongoing
ITALY	1998/0394, judgment: 30/11/2000, Case C-422/99

31997L0066 Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector

Deadline for transposal: 24/10/1998 and 24/10/2000 (Article 5)

Member States which have notified: B, DK, D, EL, E, NL, A, P, FI, S, UK

BELGIUM	1998/2332, Termination: 11/04/2000
DENMARK	1998/2333, Termination: 21/12/2000
GREECE	1998/2335, Termination: 21/03/2000
FRANCE	1998/2336, Referral: 19/04/2000, Case C-151/00 (judgment awaited)
FRANCE	2000/0903, LET – date sent: 05/12/2000
IRELAND	1998/2337, Referral: 05/07/2000 (decision), ongoing
IRELAND	2000/0925, LET – date sent: 05/12/2000
ITALY	2000/0917, LET – date sent: 05/12/2000
LUXEMBOURG	1998/2338, Referral: 22/12/1999 (decision), ongoing
LUXEMBOURG	2000/0907, LET – date sent: 05/12/2000
UNITED KINGDOM	1998/2344, Termination: 21/12/2000
UNITED KINGDOM	2000/0920, LET – date sent: 05/12/2000

31998L0010 Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment

Deadline for transposal: 30/06/1998

Member States which have notified implementing measures: B, DK, D, EL, E, IR, L, NL, A, P, FI, S, UK

FRANCE 1998/0363, Referral: 22/12/1999 (decision), ongoing
ITALY 1998/0399, judgment: 07/12/2000, Case C-423/99

31998L0061 Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection

Deadline for transposal: 31/12/1998

Member States which have notified: all

BELGIUM 1999/0033, Termination: 21/03/2000
ITALY 1999/0079, Termination: 21/03/2000

Internal market

Measures associated with the abolition of internal border controls on 1.1.1993

31996L0100 Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 amending the Annex to Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State

Deadline for transposal: 01/09/1997

Member States which have notified:

AUSTRIA 1997/0693, Termination: 05/07/2000

Liability for defective products

31999L0034 Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999 amending Council Directive 85/374/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products

Deadline for transposal: 04/12/2000

Member States which have notified: B, DK, EL, F, L, NL, A, FI, S, UK

Banks

31998L0031 Directive 98/31/EC of the European Parliament and of the Council of 22 June 1998 amending Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions
Deadline for transposal: 21/07/2000

Member States which have notified: all except EL, E, P

BELGIUM	2000/0805, LET – date sent: 30/11/2000
GERMANY	2000/0817, LET – date sent: 30/11/2000
GREECE	2000/0854, LET – date sent: 30/11/2000
SPAIN	2000/0860, LET – date sent: 30/11/2000
IRELAND	2000/0840, LET – date sent: 30/11/2000
NETHERLANDS	2000/0810, LET – date sent: 30/11/2000
AUSTRIA	2000/0883, LET – date sent: 30/11/2000
PORTUGAL	2000/0873, LET – date sent: 30/11/2000
FINLAND	2000/0899, LET – date sent: 30/11/2000
SWEDEN	2000/0894, LET – date sent: 30/11/2000

31998L0032 Directive 98/32/EC of the European Parliament and of the Council of 22 June 1998 amending, as regards in particular mortgages, Council Directive 89/647/EEC on a solvency ratio for credit institutions
Deadline for transposal: 21/07/2000

Member States which have notified: all except EL and F

BELGIUM	2000/0804, LET – date sent: 30/11/2000
GREECE	2000/0853, LET – date sent: 30/11/2000
FRANCE	2000/0790, LET – date sent: 30/11/2000
IRELAND	2000/0839, LET – date sent: 30/11/2000
NETHERLANDS	2000/0809, LET – date sent: 30/11/2000
AUSTRIA	2000/0882, LET – date sent: 30/11/2000
PORTUGAL	2000/0872, LET – date sent: 30/11/2000
FINLAND	2000/0898, LET – date sent: 30/11/2000
SWEDEN	2000/0893, LET – date sent: 30/11/2000

31998L0033 Directive 98/33/EC of the European Parliament and of the Council of 22 June 1998 amending Article 12 of Council Directive 77/780/EEC on the taking up and pursuit of the business of credit institutions, Articles 2, 5, 6, 7, 8 of and Annexes II and III to Council Directive 89/647/EEC on a solvency ratio for credit institutions and Article 2 of and Annex II to Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions
Deadline for transposal: 21/07/2000

Member States which have notified: all except EL and E

BELGIUM	2000/0803, LET – date sent: 30/11/2000
GERMANY	2000/0816, LET – date sent: 30/11/2000
GREECE	2000/0852, LET – date sent: 30/11/2000
SPAIN	2000/0859, LET – date sent: 30/11/2000
IRELAND	2000/0838, LET – date sent: 30/11/2000
NETHERLANDS	2000/0808, LET – date sent: 30/11/2000
AUSTRIA	2000/0881, LET – date sent: 30/11/2000
PORTUGAL	2000/0871, LET – date sent: 30/11/2000
FINLAND	2000/0897, LET – date sent: 30/11/2000
SWEDEN	2000/0892, LET – date sent: 30/11/2000

Insurance

31998L0078 Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group

Deadline for transposal: 05/06/2000

Member States which have notified: DK, E, IR, L, NL, A, S

BELGIUM	2000/0534, LET – date sent: 08/08/2000
DENMARK	2000/0652, LET – date sent: 08/08/2000, Termination: 21/12/2000
GERMANY	2000/0566, LET – date sent: 08/08/2000
GREECE	2000/0676, RO – date sent: 29/12/2000
FRANCE	2000/0490, RO – date sent: 29/12/2000
ITALY	2000/0590, RO – date sent: 29/12/2000
LUXEMBOURG	2000/0510, RO – date sent: 29/12/2000
AUSTRIA	2000/0745, RO – date sent: 29/12/2000
PORTUGAL	2000/0723, RO – date sent: 29/12/2000
FINLAND	2000/0780, RO – date sent: 29/12/2000
SWEDEN	2000/0734, LET – date sent: 08/08/2000, Termination: 21/12/2000
UNITED KINGDOM	2000/0606, LET – date sent: 08/08/2000

Bonds and other fixed-yield securities

31993L0022 Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field

Deadline for transposal: 01/07/1995

Member States which have notified implementing measures: all

LUXEMBOURG 1995/0566, Termination: 05/07/2000

31997L0009 Directive 1997/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes

Deadline for transposal: 26/09/1998

Member States which have notified: all

FRANCE	1998/0529, Termination: 05/07/2000
LUXEMBOURG	1998/0536, Referral – suspended: 20/12/2000
PORTUGAL	1998/0591, Termination: 05/07/2000
AUSTRIA	1998/0600, Termination: 05/07/2000

Payment systems

31998L0026 Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems

Deadline for transposal: 11/12/1999

Member States which have notified: all except F, I and L

FRANCE	2000/0180, LET – date sent: 13/07/2000
ITALY	2000/0243, RO – date sent: 29/12/2000
LUXEMBOURG	2000/0198, LET – date sent: 13/07/2000

Postal services

31997L0067 Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service

Deadline for transposal: 14/02/1999

Member States which have notified: all except L

IRELAND	1999/0272, RO – date sent: 12/09/2000
LUXEMBOURG	1999/0218, RO – date sent: 01/08/2000

Information Society Services

31998L0048 Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations

Deadline for transposal: 05/08/1999

Member States which have notified: all except EL and I

GREECE	1999/0645, LET – date sent: 16/11/1999
FRANCE	1999/0596, Termination: 05/07/2000
IRELAND	1999/0635, Termination: 05/07/2000
ITALY	1999/0624, LET – date sent: 16/11/1999
LUXEMBOURG	1999/0600, Termination: 21/12/2000
PORTUGAL	1999/0662, Termination: 05/07/2000

31998L0084 Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access

Deadline for transposal: 28/05/2000

Member States which have notified: DK, F, IR, I, NL, A, UK

BELGIUM	2000/0532, LET – date sent: 08/08/2000
DENMARK	2000/0650, LET – date sent: 08/08/2000, Termination: 21/12/2000
GERMANY	2000/0564, LET – date sent: 08/08/2000
GREECE	2000/0674, LET – date sent: 08/08/2000
SPAIN	2000/0693, LET – date sent: 08/08/2000
FRANCE	2000/0488, LET – date sent: 08/08/2000, Termination: 21/12/2000
IRELAND	2000/0626, LET – date sent: 08/08/2000, Termination: 21/12/2000
ITALY	2000/0588, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0508, LET – date sent: 08/08/2000
AUSTRIA	2000/0743, LET – date sent: 08/08/2000, Termination: 21/12/2000
PORTUGAL	2000/0721, LET – date sent: 08/08/2000
FINLAND	2000/0778, LET – date sent: 08/08/2000
SWEDEN	2000/0772, LET – date sent: 08/08/2000

Public procurement

31992L0013 Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Deadline for transposal: 01/01/1993

Member States which have notified: all except EL and P

GREECE 1998/0185, Referral – date sent: 15/03/2000, Case C-2000/98
PORTUGAL 1998/0437, Referral – suspended: 05/07/2000

31993L0038 Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Deadline for transposal: 01/07/1994

Member States which have notified: all except P

PORTUGAL 1998/0438, RO – date sent: 02/02/1999

31997L0052 European Parliament and Council Directive 97/52/EC of 13 October 1997 amending Directives 92/50/EEC, 93/36/EEC and 93/37/EEC concerning the coordination of procedures for the award of public service contracts, public supply contracts and public works contracts respectively

Deadline for transposal: 13/10/1998

Member States which have notified: all except D, EL, F and A

GERMANY 1998/0553, Referral – date sent: 05/04/2000, Case C-2000/130
GREECE 1998/0585, Referral – date sent: 30/05/2000, Case C-2000/216
SPAIN 1998/0587, Termination: 05/07/2000
FRANCE 1998/0530, Referral – date sent: 13/03/2000, Case C-2000/97
ITALY 1998/0561, Referral – date sent: 21/02/2000, action withdrawn: 21/12/2000
LUXEMBOURG 1998/0539, Termination: 05/07/2000
AUSTRIA 1998/0601, Referral – date sent: 21/12/2000, Case C-2000/461
UNITED KINGDOM 1998/0566, Termination: 21/12/2000

31998L0004 Directive 98/4/EC of the European Parliament and of the Council of 16 February 1998 amending Directive 93/38/EEC coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Deadline for transposal: 16/02/1999 and 16/02/2000

Member States which have notified: all except D, F, A and UK

GERMANY 1999/0243, RO, date sent: 06/03/2000, Referral – suspended: 21/12/2000
FRANCE 1999/0210, Referral – date sent: 28/11/2000, Case C-2000/439
ITALY 1999/0253, Termination: 05/07/2000
LUXEMBOURG 1999/0219, Termination: 21/12/2000
AUSTRIA 1999/0315, RO, date sent: 24/01/2000, Referral – sent: 21/12/2000, Case C-2000/462
UNITED KINGDOM 1999/0263, RO, date sent: 26/01/2000

Data protection

31995L0046 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Deadline for transposal: 24/10/1998

Member States which have notified: B, EL, E, I, NL, A, P, FI, S, UK

DENMARK	1998/0576, Referral – suspended: 21/12/2000
GERMANY	1998/0552, Referral – date sent: 01/12/2000, Case C-2000/443
SPAIN	1998/0586, Termination: 05/07/2000
FRANCE	1998/0528, Referral – date sent: 06/12/2000, Case C-2000/449
IRELAND	1998/0571, RO – date sent: 16/08/1999
LUXEMBOURG	1998/0535, Referral – date sent: 07/12/2000, Case C-2000/450
NETHERLANDS	1998/0548, Termination: 21/12/2000
UNITED KINGDOM	1998/0565, Termination: 05/07/2000

Industrial property

31998L0044 Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions

Deadline for transposal: 30/07/2000

Member States which have notified: DK, IR, FI

BELGIUM	2000/0802, LET – date sent: 30/11/2000
GERMANY	2000/0815, LET – date sent: 30/11/2000
GREECE	2000/0851, LET – date sent: 30/11/2000
SPAIN	2000/0858, LET – date sent: 30/11/2000
FRANCE	2000/0789, LET – date sent: 30/11/2000
ITALY	2000/0823, LET – date sent: 30/11/2000
LUXEMBOURG	2000/0797, LET – date sent: 30/11/2000
NETHERLANDS	2000/0807, LET – date sent: 30/11/2000
AUSTRIA	2000/0880, LET – date sent: 30/11/2000
PORTUGAL	2000/0870, LET – date sent: 30/11/2000
SWEDEN	2000/0891, LET – date sent: 30/11/2000
UNITED KINGDOM	2000/0829, LET – date sent: 30/11/2000

Copyright and related rights

31992L0100 Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property

Deadline for transposal: 01/07/1994

Member States which have notified: all except IR

IRELAND	1994/0855, Referral, Judgment of the Court: 12/10/1999, Case C-1998/213
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31993L0083 Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission

Deadline for transposal: 01/01/1995

Member States which have notified: all except IR

IRELAND 1995/0114, Referral, Judgment of the Court: 25/11/1999, Case C-1998/212

31996L0009 Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases

Deadline for transposal: 31/12/1997

Member States which have notified: all except IRL and L

IRELAND 1998/0043, Referral – date sent: 04/10/1999, Case C-1999/370
LUXEMBOURG 1998/0058, Referral, Judgment of the Court: 13/04/2000, Case C-1999/348

Regulated professions (qualifications)

31989L0048 Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration

Deadline for transposal: 04/01/1991

Member States which have notified: all

GREECE 1991/0668, Termination: 11/10/2000

31997L0038 Commission Directive 97/38/EC of 20 June 1997 amending Annex C to Council Directive 92/51/EEC on a second general system for the recognition of professional education and training to supplement Council Directive 89/48/EEC (Text with EEA relevance)

Deadline for transposal: 30/09/1997

Member States which have notified: all

GREECE 1997/0600, Referral – date sent: 09/06/2000, Termination: 11/10/2000

31998L0005 Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained

Deadline for transposal: 14/03/2000

Member States which have notified: DK, D, EL, A, FI, S, UK

BELGIUM	2000/0537, LET – date sent: 08/08/2000
DENMARK	2000/0655, LET – date sent: 08/08/2000, Termination: 21/12/2000
SPAIN	2000/0699, LET – date sent: 08/08/2000
FRANCE	2000/0494, LET – date sent:
IRELAND	2000/0631, LET – date sent: 08/08/2000
ITALY	2000/0592, LET – date sent: 08/08/2000, RO – date sent: 29/12/2000
LUXEMBOURG	2000/0515, LET – date sent: 08/08/2000
NETHERLANDS	2000/0552, LET – date sent: 08/08/2000
PORTUGAL	2000/0728, LET – date sent: 08/08/2000, RO – date sent: 29/12/2000

31998L0021 Commission Directive 98/21/EC of 8 April 1998 amending Council Directive 93/16/EEC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (Text with EEA relevance)

Deadline for transposal: 31/12/1998

Member States which have notified: all

IRELAND	1999/0104, Referral – date sent: 14/02/2000, Termination: 05/07/2000
NETHERLANDS	1999/0047, Termination: 11/04/2000
PORTUGAL	1999/0160, Termination: 05/07/2000

31998L0063 Commission Directive 98/63/EC of 3 September 1998 amending Council Directive 93/16/EEC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (Text with EEA relevance)

Deadline for transposal: 30/06/1999

Member States which have notified: all

SPAIN	1999/0546, RO – date sent: 24/01/2000, Termination: 11/04/2000
IRELAND	1999/0516, RO – date sent: 24/01/2000, Termination: 05/07/2000
NETHERLANDS	1999/0477, RO – date sent: 31/01/2000, Termination: 11/04/2000
PORTUGAL	1999/0559, RO – date sent: 24/01/2000, Termination: 05/07/2000

31999L0046 Commission Directive 1999/46/EC of 21 May 1999 amending Council Directive 93/16/EEC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified: all except P

GERMANY	2000/0228, LET – date sent: 13/07/2000, Termination: 21/12/2000
SPAIN	2000/0309, LET – date sent: 13/07/2000, Termination: 21/12/2000
FRANCE	2000/0176, LET – date sent: 13/07/2000, Termination: 21/12/2000
IRELAND	2000/0266, LET – date sent: 13/07/2000, Termination: 21/12/2000
NETHERLANDS	2000/0219, LET – date sent: 13/07/2000, Termination: 21/12/2000
PORTUGAL	2000/0324, LET – date sent: 13/07/2000

Health and consumer protection

Veterinary matters

31993L0118 Council Directive 93/118/EEC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat

Deadline for transposal: 31/12/1993 and 31/12/1994

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S, UK

GREECE 1995/0069, RO 228 - Sent: 24/02/2000

31994L0028 Council Directive 94/28/EC of 23 June 1994 laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos, and amending Directive 77/504/EEC on pure-bred breeding animals of the bovine species

Deadline for transposal: 01/07/1995

Member States which have notified implementing measures: all

FRANCE 1995/0505, Termination: 05/07/2000

31995L0029 Council Directive 95/29/EC of 29 June 1995 amending Directive 90/628/EEC concerning the protection of animals during transport

Deadline for transposal: 30/12/1996 and 30/12/1997

Member States which have notified implementing measures: all

FRANCE 1997/0077, Termination: 05/07/2000

31995L0071 Council Directive 95/71/EC of 22 December 1995 amending the Annex to Directive 91/493/EEC laying down the health conditions for the production and the placing on the market of fishery products

Deadline for transposal: 01/07/1997

Member States which have notified implementing measures: all

BELGIUM 1997/0479, Termination: 21/12/2000

31996L0022 Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of β -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC

Deadline for transposal: 01/07/1997

Member States which have notified implementing measures: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK

FRANCE 1997/0342, Referral, suspended: 21/12/2000

ITALY 1997/0373, Termination: 05/07/2000

PORTUGAL 1997/0430, Termination: 05/07/2000

31996L0023 Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Décisions 89/187/EEC and 91/664/EEC

Deadline for transposal: 30/06/1997

Member States which have notified implementing measures: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK

FRANCE 1997/0343, Referral, suspended: 21/12/2000
ITALY 1997/0374, Termination: 05/07/2000

31996L0043 Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC

Deadline for transposal: 01/01/1997, 01/07/1997 and 01/07/1999

Member States which have notified implementing measures: B, DK, E, F, I, L, NL, A, P, FI, S, UK

(Deadline for transposal: 1/7/1997)

GERMANY 1997/0491, Referral: 24/08/1999, Case C-1999/316
GREECE 1997/0495, LET 228 – date sent: 05/09/2000
SPAIN 1997/0498, Termination: 05/07/2000
IRELAND 1997/0509, Judgment ECJ: 08/06/2000, Case C-1999/190
PORTUGAL 1997/0526, Termination: 05/07/2000

(Deadline for transposal: 1/7/1999)

IRELAND 2000/0643, LET – date sent: 08/08/2000
GREECE 2000/0682, LET – date sent: 08/08/2000

31996L0093 Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products

Deadline for transposal: 31/01/1997

Member States which have notified implementing measures: all

FRANCE 1998/0132, Referral – date sent: 09/06/2000, Case C-1999/495
IRELAND 1998/0141, Referral – date sent: 06/07/2000, Case C-1999/437
ITALY 1998/0143, Judgment ECJ: 07/12/2000, Case C-1999/395
LUXEMBOURG 1998/0146, Termination: 05/07/2000

31997L0012 Council Directive 97/12/EC of 17 March 1997 amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Deadline for transposal: 01/07/1999

Member States which have notified implementing measures: B, DK, D, EL, E, I, L, NL, A, P, FI, S, UK

BELGIUM 2000/0213, Termination: 21/12/2000
DENMARK 2000/0283, Termination: 21/12/2000
GERMANY 2000/0231, Termination: 21/12/2000
GREECE 2000/0305, Termination: 21/12/2000
SPAIN 2000/0312, Termination: 21/12/2000
FRANCE 2000/0181, LET – date sent: 13/07/2000
IRELAND 2000/0271, LET – date sent: 13/07/2000
ITALY 2000/0244, Termination: 21/12/2000
LUXEMBOURG 2000/0199, Termination: 21/12/2000
AUSTRIA 2000/0351, Termination: 21/12/2000
PORTUGAL 2000/0335, Termination: 21/12/2000
FINLAND 2000/0372, Termination: 21/12/2000

SWEDEN 2000/0360, Termination: 21/12/2000
UNITED KINGDOM 2000/0258, Termination: 21/12/2000

31997L0022 Council Directive 97/22/EC of 22 April 1997 amending Directive 92/117/EEC concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications

Deadline for transposal: 01/09/1997

Member States which have notified implementing measures: all

NETHERLANDS 1997/0681, Termination: 05/07/2000

31997L0061 Council Directive 97/61/EC of 20 October 1997 amending the Annex to Directive 91/492/EEC laying down the health conditions for the production and placing on the market of live bivalve molluscs

Deadline for transposal: 30/06/1998

Member States which have notified implementing measures: all

BELGIUM 1998/0294, Termination: 05/07/2000
FRANCE 1998/0360, Termination: 05/07/2000
IRELAND 1998/0379, Termination: 21/12/2000

31997L0076 Council Directive 97/76/EC of 16 December 1997 amending Directive 77/99/EEC and Directive 72/462/EEC with regard to the rules applicable to minced meat, meat preparations and certain other products of animal origin

Deadline for transposal: 31/12/1998

Member States which have notified implementing measures: all

GREECE 1999/0128, Termination: 05/07/2000
IRELAND 1999/0103, Termination: 05/07/2000
ITALY 1999/0073, Termination: 05/07/2000
NETHERLANDS 1999/0045, Referral: 09/08/2000, Case C-2000/306

31997L0078 Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries

Deadline for transposal: 30/06/1999

Member States which have notified implementing measures: B, DK, D, EL, E, F, IR, I, L, NL, A, P, FI, S

BELGIUM 1999/0459, Termination: 05/07/2000
DENMARK 1999/0522, Termination: 21/03/2000
GERMANY 1999/0482, Termination: 05/07/2000
GREECE 1999/0531, Termination: 05/07/2000
SPAIN 1999/0541, Termination: 21/03/2000
FRANCE 1999/0435, Termination: 21/12/2000
IRELAND 1999/0510, Termination: 21/12/2000
ITALY 1999/0490, Termination: 05/07/2000
PORTUGAL 1999/0552, Termination: 21/12/2000
FINLAND 1999/0587, Termination: 21/12/2000
UNITED KINGDOM 1999/0501, RO – date sent: 28/02/2000

31997L0079 Council Directive 97/79/EC of 18 December 1997 amending Directives 71/118/EEC, 72/462/EEC, 85/73/EEC, 91/67/EEC, 91/492/EEC, 91/493/EEC, 92/45/EEC and 92/118/EEC as regards the organisation of veterinary checks on products entering the Community from third countries

Deadline for transposal: 30/06/1999 and 01/07/1999

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S

DENMARK	1999/0523, Termination: 05/07/2000
GERMANY	1999/0483, Termination: 05/07/2000
GREECE	1999/0532, Referral: 25/10/2000, Case C-2000/393
SPAIN	1999/0542, Termination: 21/03/2000
FRANCE	1999/0436, Termination: 21/12/2000
IRELAND	1999/0511, Termination: 21/12/2000
ITALY	1999/0491, Termination: 05/07/2000
NETHERLANDS	1999/0472, Termination: 05/07/2000
FINLAND	1999/0588, Termination: 21/12/2000
UNITED KINGDOM	1999/0502, LET – date sent: 20/08/1999

31998L0045 Council Directive 98/45/EC of 24 June 1998 amending Directive 91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture animals and products

Deadline for transposal: 30/06/1999

Member States which have notified implementing measures: all

DENMARK	1999/0526, Termination: 21/03/2000
GERMANY	1999/0485, Termination: 05/07/2000
FRANCE	1999/0439, Termination: 05/07/2000
IRELAND	1999/0513, RO – date sent: 24/02/2000
ITALY	1999/0494, Termination: 05/07/2000
PORTUGAL	1999/0556, Termination: 21/03/2000
SWEDEN	1999/0579, Termination: 05/07/2000

31998L0046 Council Directive 98/46/EC of 24 June 1998 amending Annexes A, D (Chapter I) and F to Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Deadline for transposal: 30/06/1999

Member States which have notified implementing measures: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK

GREECE	1999/0535, Referral: 25/10/2000, Case C-2000/393
SPAIN	1999/0545, Termination: 21/12/2000
FRANCE	1999/0440, RO – date sent: 18/02/2000
UNITED KINGDOM	1999/0505, Termination: 21/12/2000

31998L0058 Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes

Deadline for transposal: 31/12/1999

Member States which have notified: B, DK, E, F, IR, L, NL, P, FI, S

DENMARK	2000/0432, Termination: 21/12/2000
GERMANY	2000/0406, LET – date sent: 04/08/2000
GREECE	2000/0441, LET – date sent: 04/08/2000
SPAIN	2000/0446, Termination: 21/12/2000
FRANCE	2000/0378, Termination: 21/12/2000
IRELAND	2000/0429, Termination: 21/12/2000
ITALY	2000/0413, LET – date sent: 04/08/2000
LUXEMBOURG	2000/0384, Termination: 21/12/2000

AUSTRIA	2000/0462, LET – date sent: 04/08/2000
PORTUGAL	2000/0455, Termination: 21/12/2000
FINLAND	2000/0474, Termination: 21/12/2000
SWEDEN	2000/0466, Termination: 21/12/2000
UNITED KINGDOM	2000/0422, LET – date sent: 04/08/2000

31998L0099 Council Directive 98/99/EC of 14 December 1998 amending Directive 97/12/EC amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Deadline for transposal: 01/01/1999 and 01/07/1999

Member States which have notified implementing measures: all
(01/01/1999 deadline)

BELGIUM	1999/0231, Termination: 05/07/2000
GREECE	1999/0289, Termination: 21/12/2000
SPAIN	1999/0299, Termination: 21/12/2000
IRELAND	1999/0277, RO – date sent: 18/02/2000
LUXEMBOURG	1999/0604, Termination: 05/07/2000
UNITED KINGDOM	1999/0268, Termination: 05/07/2000

Member States which have notified implementing measures: B, DK, D, EL, E, IR, I, L, NL, A, P, FI, S, UK
(01/07/1999 deadline)

BELGIUM	1999/0611, Termination: 05/07/2000
GREECE	2000/0101, Termination: 21/12/2000
SPAIN	1999/0658, Termination: 21/12/2000
FRANCE	1999/0598, RO – date sent: 19/7/2000
IRELAND	1999/0637, RO – date sent: 27/07/2000
ITALY	1999/0628, Termination: 05/07/2000
LUXEMBOURG	1999/0604, Termination: 05/07/2000
NETHERLANDS	1999/0614, RO – date sent: 19/07/2000
PORTUGAL	1999/0666, Termination: 05/07/2000
UNITED KINGDOM	1999/0634, Termination: 21/12/2000

31999L0089 Council Directive 1999/89/EC of 15 November 1999 amending Directive 91/494/EEC on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultrymeat

Deadline for transposal: 01/07/2000

Member States which have notified: B, DK, D, F, L, NL, A, FI, UK

BELGIUM	2000/0522, LET – date sent: 08/08/2000
DENMARK	2000/0641, Termination: 21/12/2000
GREECE	2000/0663, LET – date sent: 08/08/2000
SPAIN	2000/0688, LET – date sent: 08/08/2000
FRANCE	2000/0479, Termination: 21/12/2000
IRELAND	2000/0614, LET – date sent: 08/08/2000
ITALY	2000/0574, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0503, Termination: 21/12/2000
NETHERLANDS	2000/0542, Termination: 21/12/2000
AUSTRIA	2000/0736, Termination: 21/12/2000
PORTUGAL	2000/0708, LET – date sent: 08/08/2000
FINLAND	2000/0772, Termination: 21/12/2000
SWEDEN	2000/0754, LET – date sent: 08/08/2000
UNITED KINGDOM	2000/0596, Termination: 21/12/2000

31999L0090 Council Directive 1999/90/EC of 15 November 1999 amending Directive 90/539/EEC on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs

Deadline for transposal: 01/07/2000

Member States which have notified: B, DK, D, E, F, L, NL, A, P, FI, UK

DENMARK	2000/0640, Termination: 21/12/2000
GERMANY	2000/0558, Termination: 21/12/2000
GREECE	2000/0662, LET – date sent: 08/08/2000
SPAIN	2000/0687, LET – date sent: 08/08/2000
FRANCE	2000/0478, Termination: 21/12/2000
IRELAND	2000/0613, LET – date sent: 08/08/2000
ITALY	2000/0575, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0502, Termination: 21/12/2000
NETHERLANDS	2000/0541, Termination: 21/12/2000
AUSTRIA	2000/0735, Termination: 20/12/2000
PORTUGAL	2000/0707, Termination: 21/12/2000
FINLAND	2000/0771, Termination: 21/12/2000
SWEDEN	2000/0753, LET – date sent: 08/08/2000
UNITED KINGDOM	2000/0595, Termination: 21/12/2000

32000L0015 Directive 2000/15/EC of the European Parliament and the Council of 10 April 2000 amending Council Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Deadline for transposal: 31/12/1999, 31/12/2000, 31/12/2001 and 31/12/2002

Member States which have notified: B, E, L, FI

32000L0020 Directive 2000/20/EC of the European Parliament and the Council of 16 May 2000 amending Council Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Deadline for transposal: 01/12/1999

Member States which have notified: B, E, L, FI, S

32000L0027 Council Directive 2000/27/EC of 2 May 2000 amending Directive 93/53/EEC introducing minimum Community measures for the control of certain fish diseases

Deadline for transposal: 31/12/2000

Member States which have notified: B, EL, F

Plant health

31996L0032 Council Directive 96/32/EC of 21 May 1996 amending Annex II to Directive 76/895/EEC relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables and Annex II to Directive 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables, and providing for the establishment of a list of maximum levels

Deadline for transposal: 30/04/1997

Member States which have notified implementing measures: all

LUXEMBOURG	1997/0390, Termination: 05/07/2000
AUSTRIA	1997/0415, Termination: 05/07/2000

31996L0033 Council Directive 96/33/EC of 21 May 1996 amending the Annexes to Directives 86/362/EEC and 86/363/EEC on the fixing of maximum levels for pesticide residues in and on cereals and foodstuffs of animal origin respectively

Deadline for transposal: 30/04/1997

Member States which have notified implementing measures: all

LUXEMBOURG 1997/0391, Termination: 05/07/2000
AUSTRIA 1997/0416, Termination: 05/07/2000

31997L0041 Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables

Deadline for transposal: 31/12/1998

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, P, FI, S, UK

BELGIUM 1999/0028, Termination: 05/07/2000
GREECE 1999/0124, Referral: 08/05/2000, Case C-2000/166
SPAIN 1999/0141, Termination: 05/07/2000
ITALY 1999/0069, Termination: 21/12/2000
LUXEMBOURG 1999/0014, Termination: 05/07/2000
AUSTRIA 1999/0171, RO – date sent: 15/11/1999
PORTUGAL 1999/0154, Termination: 21/12/2000

31997L0073 Commission Directive 97/73/EC of 15 December 1997 including an active substance (imazalil) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market (Text with EEA relevance)

Deadline for transposal: 30/06/1999

Member States which have notified implementing measures: all

GERMANY 1999/0481, Termination: 21/12/2000
GREECE 1999/0530, Termination: 05/07/2000
SPAIN 1999/0540, Termination: 05/07/2000
NETHERLANDS 1999/0470, Termination: 05/07/2000

31998L0022 Commission Directive 98/22/EC of 15 April 1998 laying down the minimum conditions for carrying out plant health checks in the Community, at inspection posts other than those at the place of destination, of plants, plant products or other objects coming from third countries

Deadline for transposal: 01/10/1998

Member States which have notified implementing measures: all

GREECE 1998/0583, Termination: 21/12/2000
LUXEMBOURG 1998/0544, Termination: 05/07/2000

31998L0047 Commission Directive 98/47/EC of 25 June 1998 including an active substance (azoxystrobin) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market (Text with EEA relevance)

Deadline for transposal: 01/01/1999

Member States which have notified implementing measures: all

GREECE 1999/0287, Termination: 05/07/2000
ITALY 1999/0257, Termination: 21/03/2000
NETHERLANDS 1999/0238, Termination: 05/07/2000

31998L0057 Council Directive 98/57/EC of 20 July 1998 on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.

Deadline for transposal: 21/08/1999

Member States which have notified implementing measures: B, DK, EL, E, F, IR, I, L, NL A, P, S, UK

BELGIUM 1999/0609, Termination: 05/07/2000
GERMANY 1999/0619, RO – date sent: 19/07/2000
GREECE 1999/0647, Termination: 21/12/2000
SPAIN 1999/0656, Termination: 05/07/2000
ITALY 1999/0626, Termination: 05/07/2000
LUXEMBOURG 1999/0602, Termination: 21/12/2000
AUSTRIA 1999/0670, Termination: 21/12/2000
PORTUGAL 1999/0664, Termination: 05/07/2000
FINLAND 1999/0680, LET – date sent: 16/11/1999
SWEDEN 1999/0675, Termination: 21/12/2000
UNITED KINGDOM 1999/0632, Termination: 05/07/2000

31998L0082 Commission Directive 98/82/EC of 27 October 1998 amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC on the fixing of maximum levels for pesticide residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables respectively

Deadline for transposal: 30/04/1999

Member States which have notified implementing measures: B, DK, EL, E, F, IR, I, L, NL, P, FI, S, UK

BELGIUM 1999/0353, Termination: 05/07/2000
GERMANY 1999/0366, RO – date sent: 27/07/2000
FRANCE 1999/0340, Termination: 21/12/2000
LUXEMBOURG 1999/0347, Termination: 05/07/2000
AUSTRIA 1999/0423, RO – date sent: 17/02/2000
PORTUGAL 1999/0416, Termination: 05/07/2000

31998L0100 Commission Directive 98/100/EC of 21 December 1998 amending Directive 92/76/EC recognising protected zones exposed to particular plant health risks in the Community

Deadline for transposal: 01/01/1999

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S, UK

GREECE 1999/0290, Referral: 08/11/2000, Case C-2000/406
LUXEMBOURG 1999/0226, Referral: 11/09/2000, action withdrawn: 21/12/2000, Case C-2000/335
PORTUGAL 1999/0312, Termination: 21/03/2000

31999L0001 Commission Directive 1999/1/EC of 21 January 1999 including an active substance (kresoxim-methyl) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market

Deadline for transposal: 31/07/1999

Member States which have notified implementing measures: all

DENMARK 1999/0641, Termination: 05/07/2000

GERMANY	1999/0621, Termination: 05/07/2000
GREECE	1999/0651, Termination: 05/07/2000
SPAIN	1999/0659, Termination: 05/07/2000
ITALY	1999/0629, Termination: 05/07/2000
LUXEMBOURG	1999/0605, Termination: 21/12/2000
NETHERLANDS	1999/0615, Termination: 05/07/2000
AUSTRIA	1999/06762, Termination: 05/07/2000
PORTUGAL	1999/0667, Termination: 05/07/2000
SWEDEN	1999/0677, Termination: 05/07/2000

31999L0071 Commission Directive 1999/71/EC of 14 July 1999 amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC on the fixing of maximum levels for pesticide residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables respectively (Text with EEA relevance)

Deadline for transposal: 31/01/2000

Member States which have notified: B, DK, D, E, F, IR, I, L, NL, P, S, UK

BELGIUM	2000/0389, Termination: 21/12/2000
GERMANY	2000/0401, Termination: 21/12/2000
SPAIN	2000/0445, Termination: 21/12/2000
FRANCE	2000/0374, Termination: 21/12/2000
ITALY	2000/0410, Termination: 21/12/2000
GREECE	2000/0437, LET – date sent: 04/08/2000
LUXEMBOURG	2000/0381, Termination: 21/12/2000
AUSTRIA	2000/0457, LET – date sent: 04/08/2000
PORTUGAL	2000/0450, Termination: 21/12/2000
FINLAND	2000/0470, LET – date sent: 04/08/2000
UNITED KINGDOM	2000/0417, Termination: 21/12/2000

31999L0073 Commission Directive 1999/73/EC of 19 July 1999 including an active substance (spiroxamine) in Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market (Text with EEA relevance)

Deadline for transposal: 01/01/2000

Member States which have notified: all

GERMANY	2000/0400, Termination: 21/12/2000
GREECE	2000/0436, Termination: 21/12/2000
LUXEMBOURG	2000/0380, Termination: 21/12/2000
PORTUGAL	2000/0449, Termination: 21/12/2000

32000L0024 Commission Directive 2000/24/EC of 28 April 2000 amending the Annexes to Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC on the fixing of maximum levels for pesticide residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables respectively

Deadline for transposal: 31/12/2000

Member States which have notified: B, I, L, FI

Seeds and seedlings

31998L0056 Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants

Deadline for transposal: 31/12/2000

Member States which have notified implementing measures: B, DK, EL, E, IR, I, NL, P, FI, S, UK

BELGIUM	1999/0608, Termination: 05/07/2000
GERMANY	1999/0618, RO – date sent: 19/07/2000
GREECE	1999/0646, Termination: 05/07/2000
SPAIN	1999/0655, Termination: 05/07/2000
FRANCE	1999/0597, RO – date sent: 19/07/2000
ITALY	1999/0625, Termination: 21/12/2000
LUXEMBOURG	1999/0601, RO – date sent: 28/07/2000
NETHERLANDS	1999/0612, Termination: 05/07/2000
AUSTRIA	1999/0669, RO – date sent: 27/07/2000
PORTUGAL	1999/0663, Termination: 21/12/2000
FINLAND	1999/0679, Termination: 05/07/2000
SWEDEN	1999/0674, Termination: 05/07/2000
UNITED KINGDOM	1999/0631, Termination: 05/07/2000

31998L0095 Council Directive 98/95/EC of 14 December 1998 amending, in respect of the consolidation of the internal market, genetically modified plant varieties and plant genetic resources, Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/457/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species

Deadline for transposal: 01/02/2000

Member States which have notified: DK, EL, E, IR, L, A, P

BELGIUM	2000/0392, LET – date sent: 04/08/2000
GERMANY	2000/0404, LET – date sent: 04/08/2000
GREECE	2000/0439, Termination: 21/12/2000
FRANCE	2000/0377, LET – date sent: 04/08/2000
IRELAND	2000/0427, Termination: 21/12/2000
ITALY	2000/0412, LET – date sent: 04/08/2000
NETHERLANDS	2000/0397, LET – date sent: 04/08/2000
AUSTRIA	2000/0460, Termination: 21/12/2000
PORTUGAL	2000/0453, Termination: 21/12/2000
FINLAND	2000/0473, LET – date sent: 04/08/2000
SWEDEN	2000/0465, LET – date sent: 04/08/2000
UNITED KINGDOM	2000/0420, LET – date sent: 04/08/2000

31998L0096 Council Directive 98/96/EC of 14 December 1998 amending, inter alia, as regards unofficial field inspections under Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/457/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species

Deadline for transposal: 01/02/2000

Member States which have notified: DK, EL, E, IR, L, A, P

BELGIUM	2000/0391, LET – date sent: 04/08/2000
GERMANY	2000/0403, LET – date sent: 04/08/2000
FRANCE	2000/0376, LET – date sent: 04/08/2000

LUXEMBOURG	2000/0383, Termination: 21/12/2000
ITALY	2000/0411, LET – date sent: 04/08/2000
NETHERLANDS	2000/0396, LET – date sent: 04/08/2000
AUSTRIA	2000/0459, Termination: 21/12/2000
PORTUGAL	2000/0452, Termination: 21/12/2000
FINLAND	2000/0472, LET – date sent: 04/08/2000
SWEDEN	2000/0464, LET – date sent: 04/08/2000
UNITED KINGDOM	2000/0419, LET – date sent: 04/08/2000

31999L0008 Commission Directive 1999/8/EC of 18 February 1999 amending Council Directive 66/402/EEC on the marketing of cereal seed

Deadline for transposal: 01/02/2000

Member States which have notified: B, DK, D, E, F, I, L, A, P, S, UK

BELGIUM	2000/0390, Termination: 21/12/2000
DENMARK	2000/0431, Termination: 21/12/2000
GERMANY	2000/0402, Termination: 21/12/2000
GREECE	2000/0438, LET – date sent: 04/08/2000
FRANCE	2000/0375, Termination: 21/12/2000
LUXEMBOURG	2000/0382, Termination: 21/12/2000
IRELAND	2000/0426, LET – date sent: 04/08/2000
NETHERLANDS	2000/0395, LET – date sent: 04/08/2000
AUSTRIA	2000/0458, Termination: 21/12/2000
PORTUGAL	2000/0451, Termination: 21/12/2000
FINLAND	2000/0471, LET – date sent: 04/08/2000
UNITED KINGDOM	2000/0418, Termination: 21/12/2000

31999L0054 Commission Directive 1999/54/EC of 26 May 1999 amending Council Directive 66/402/EEC on the marketing of cereal seed

Deadline for transposal: 01/07/2000

Member States which have notified: B, DK, E, F, I, L, A, UK

GERMANY	2000/0812, LET – date sent: 30/11/2000
GREECE	2000/0846, LET – date sent: 30/11/2000
IRELAND	2000/0834, LET – date sent: 30/11/2000
NETHERLANDS	2000/0806, LET – date sent: 30/11/2000
AUSTRIA	2000/0876, LET – date sent: 30/11/2000
PORTUGAL	2000/0865, LET – date sent: 30/11/2000
FINLAND	2000/0895, LET – date sent: 30/11/2000
SWEDEN	2000/0888, LET – date sent: 30/11/2000

31999L0066 Commission Directive 1999/66/EC of 28 June 1999 setting out requirements as to the label or other document made out by the supplier pursuant to Council Directive 98/56/EC

Deadline for transposal: 31/12/1999

Member States which have notified implementing measures: B, DK, EL, E, IR, I, A, P, S, UK

BELGIUM	2000/0206, Termination: 21/12/2000
DENMARK	2000/0280, Termination: 21/12/2000
GERMANY	2000/0227, LET – date sent: 13/07/2000
GREECE	2000/0292, Termination: 21/12/2000
FRANCE	2000/0175, LET – date sent: 13/07/2000
LUXEMBOURG	2000/0190, RO – date sent: 29/12/2000
ITALY	2000/0238, Termination: 21/12/2000
NETHERLANDS	2000/0218, LET – date sent: 13/07/2000

PORTUGAL	2000/0321, LET – date sent: 13/07/2000
FINLAND	2000/0369, LET – date sent: 13/07/2000

31999L0068 Commission Directive 1999/68/EC of 28 June 1999 setting out additional provisions for lists of varieties of ornamental plants askept by suppliers under Council Directive 98/56/EC
Deadline for transposal: 31/12/1999

Member States which have notified implementing measures: B, DK, EL, E, IR, I, NL, A, P, S, UK

BELGIUM	2000/0205, Termination: 21/12/2000
GERMANY	2000/0226, LET – date sent: 13/07/2000
GREECE	2000/0291, Termination: 21/12/2000
FRANCE	2000/0174, LET – date sent: 13/07/2000
LUXEMBOURG	2000/0189, RO – date sent: 29/12/2000
ITALY	2000/0237, Termination: 21/12/2000
NETHERLANDS	2000/0217, Termination: 21/12/2000
PORTUGAL	2000/0320, LET – date sent: 13/07/2000
FINLAND	2000/0368, LET – date sent: 13/07/2000

Feedingstuffs

31995L0053 Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organization of official inspections in the field of animal nutrition
Deadline for transposal: 30/04/1998

Member States which have notified implementing measures: all

GREECE	1998/0187, Referral: 01/12/1999, Case C-1999/457
FRANCE	1998/0201, Termination: 05/07/2000
IRELAND	1998/0208, Termination: 05/07/2000
AUSTRIA	1998/0239, Termination: 05/07/2000

31995L0069 Council Directive 95/69/EC of 22 December 1995 laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector and amending Directives 70/524/EEC, 74/63/EEC, 79/373/EEC and 82/471/EEC
Deadline for transposal: 01/04/1998

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S, UK

GREECE	1998/0188, Referral: 01/12/1999, Case C-1999/457
FRANCE	1998/0202, Termination: 21/12/2000
AUSTRIA	1998/0240, Termination: 05/07/2000

31996L0024 Council Directive 96/24/EC of 29 April 1996 amending Directive 79/373/EEC on the marketing of compound feedingstuffs
Deadline for transposal: 30/06/1998

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S

GREECE	1998/0323, Referral: 11/05/2000, Case C-2000/176
FRANCE	1998/0350, Termination: 21/12/2000
IRELAND	1998/0365, Termination: 21/12/2000
AUSTRIA	1998/0424, Termination: 05/07/2000
UNITED KINGDOM	1998/0484, RO – date sent: 02/08/199

31996L0025 Council Directive 96/25/EC of 29 April 1996 on the circulation of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC
Deadline for transposal: 30/06/1998

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S

GREECE	1998/0324, Referral: 11/05/2000, Case C-2000/176
FRANCE	1998/0351, Termination: 21/12/2000
IRELAND	1998/0366, Termination: 21/12/2000
AUSTRIA	1998/0425, Termination: 05/07/2000
UNITED KINGDOM	1998/0485, RO – date sent: 02/08/1999

31996L0051 Council Directive 96/51/EC of 23 July 1996 amending Directive 70/524/EEC concerning additives in feedingstuffs
Deadline for transposal: 01/04/1998 and 01/10/1999

Member States which have notified implementing measures: B, DK, D, E, IR, L, NL, A, P, FI, S, UK
(1/4/1998 deadline)

GREECE	1998/0189, Referral, suspended: 05/07/2000
FRANCE	1998/0203, Referral, suspended: 05/07/2000
IRELAND	1998/0210, Termination: 05/07/2000
ITALY	1998/02181, Referral: 07/12/2000, Case C-1999/395
LUXEMBOURG	1998/0228, Termination: 05/07/2000
AUSTRIA	1998/0241, Termination: 05/07/2000

Member States which have notified implementing measures: B, DK, D, E, IR, L, NL, A, P, FI, S
(1/10/1999 deadline)

DENMARK	2000/0088, Termination: 05/07/2000
GERMANY	2000/0011, Termination: 21/12/2000
SPAIN	2000/0114, Termination: 21/12/2000
FRANCE	2000/0011, RO – date sent: 28/07/2000
GREECE	2000/0106, RO – date sent: 18/09/2000
IRELAND	2000/0821, Termination: 05/07/2000
ITALY	2000/0063, RO – date sent: 03/08/2000
LUXEMBOURG	2000/0027, Termination: 05/07/2000
AUSTRIA	2000/0140, Termination: 05/07/2000
PORTUGAL	2000/0129, Termination: 21/12/2000
FINLAND	2000/0166, Termination: 05/07/2000
SWEDEN	2000/0153, Termination: 05/07/2000
UNITED KINGDOM	2000/0071, RO – date sent: 03/08/2000

31997L0008 Commission Directive 97/8/EC of 7 February 1997 amending Council Directive 74/63/EEC on undesirable substances and products in animal nutrition (Text with EEA relevance)
Deadline for transposal: 30/06/1998

Member States which have notified implementing measures: all

FRANCE	1998/0356, Referral: 06/11/2000, Case C-2000/403
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31997L0072 Commission Directive 97/72/EC of 15 December 1997 amending Council Directive 70/524/EEC concerning additives in feedingstuffs (Text with EEA relevance)

Deadline for transposal: 31/03/1998

Member States which have notified implementing measures: all

GREECE 1998/0193, Termination: 21/12/2000

LUXEMBOURG 1998/0231, Termination: 05/07/2000

31998L0019 Commission Directive 98/19/EC of 18 March 1998 amending Council Directive 70/524/EEC concerning additives in feedingstuffs (Text with EEA relevance)

Deadline for transposal: 31/05/1998 and 01/06/1998

Member States which have notified implementing measures: all

GREECE 1998/0339, Termination: 21/12/2000

LUXEMBOURG 1998/0417, Termination: 05/07/2000

31998L0051 Commission Directive 98/51/EC of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector (Text with EEA relevance)

Deadline for transposal: 01/01/1999

Member States which have notified implementing measures: B, DK, D, E, F, IR, L, NL, A, P, FI, S, UK

GREECE 1999/0133, Referral: 08/05/2000, Case C-2000/166

FRANCE 1999/0006, Termination: 05/07/2000

ITALY 1999/0077, Referral: 18/04/2000, Case C-2000/148

LUXEMBOURG 1999/0020, Termination: 21/12/2000

AUSTRIA 1999/0178, Termination: 05/07/2000

PORTUGAL 1999/0162, Termination: 05/07/2000

31998L0054 Commission Directive 98/54/EC of 16 July 1998 amending Directives 71/250/EEC, 72/199/EEC, 73/46/EEC and repealing Directive 75/84/EEC (Text with EEA relevance)

Deadline for transposal: 13/02/1999

Member States which have notified implementing measures: all

AUSTRIA 1999/0321, Termination: 05/07/2000

PORTUGAL 1999/0310, Termination: 21/12/2000

31998L0064 Commission Directive 98/64/EC of 3 September 1998 establishing Community methods of analysis for the determination of amino-acids, crude oils and fats, and olaquinox in feedingstuffs and amending Directive 71/393/EEC

Deadline for transposal: 31/12/1999

Member States which have notified implementing measures: all

AUSTRIA 1999/0181, Termination: 05/07/2000

31998L0067

Commission Directive 98/67/EC of 7 September 1998 amending Directives 80/511/EEC, 82/475/EEC, 91/357/EEC and Council Directive 96/25/EC and repealing Directive 92/87/EEC

Deadline for transposal: 31/12/1998

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S

GREECE	1999/0137, Referral: 08/05/2000, Case C-2000/166
FRANCE	1999/0010, Termination: 21/12/2000
IRELAND	1999/0110, Termination: 21/12/2000
LUXEMBOURG	1999/0023, Termination: 21/12/2000
AUSTRIA	1999/0182, Termination: 05/07/2000
UNITED KINGDOM	1999/0097, RO – date sent: 02/08/1999

31998L0068 Commission Directive 98/68/EC of 10 September 1998 laying down the standard document referred to in Article 9(1) of Council Directive 95/53/EC and certain rules for checks at the introduction into the Community of feedingstuffs from third countries

Deadline for transposal: 31/03/1999

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S, UK

GERMANY	1999/0365, Termination: 05/07/2000
GREECE	1999/0402, Referral: 26/10/2000, Case C-2000/397
FRANCE	1999/0339, Termination: 05/07/2000
IRELAND	1999/0389, Termination: 05/07/2000
ITALY	1999/0374, Termination: 05/07/2000
LUXEMBOURG	1999/0346, Referral: 11/09/2000, action withdrawn: 21/12/2000
AUSTRIA	1999/0422, Termination: 05/07/2000
PORTUGAL	1999/0415, RO – date sent: 17/02/2000

31998L0087 Commission Directive 98/87/EC of 13 November 1998 amending Directive 79/373/EEC on the marketing of compound feedingstuffs

Deadline for transposal: 30/06/1999

Member States which have notified implementing measures: B, DK, D, EL, E, F, IR, I, L, NL, A, P, FI, S

GREECE	1999/0538, Termination: 05/07/2000
SPAIN	1999/0548, Termination: 21/12/2000
FRANCE	1999/0445, Termination: 21/12/2000
IRELAND	1999/0519, Termination: 05/07/2000
LUXEMBOURG	1999/0455, Termination: 21/12/2000
FINLAND	1999/0593, Termination: 05/07/2000
UNITED KINGDOM	1999/0507, RO – date sent: 2//02/2000

31998L0088 Commission Directive 98/88/EC of 13 November 1998 establishing guidelines for the microscopic identification and estimation of constituents of animal origin for the official control of feedingstuffs (Text with EEA relevance)

Deadline for transposal: 01/09/1999

Member States which have notified implementing measures: all

GREECE	1999/0650, Termination: 05/07/2000
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31999L0020 Council Directive 1999/20/EC of 22 March 1999 amending Directives 70/524/EEC concerning additives in feedingstuffs, 82/471/EEC concerning certain products used in animal nutrition, 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition and 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector

Deadline for transposal: 30/09/1999

Member States which have notified implementing measures: B, DK, D, E, IR, I, L, NL A, P, FI, S

GREECE	2000/0098, RO – date sent: 18/09/2000
SPAIN	2000/0109, Termination: 05/07/2000
FRANCE	2000/0005, RO – date sent: 28/07/2000
IRELAND	2000/0079, Termination: 05/07/2000
ITALY	2000/0059, Termination: 21/12/2000
LUXEMBOURG	2000/0021, Termination: 21/12/2000
AUSTRIA	2000/0133, Termination: 05/07/2000
FINLAND	2000/0162, Termination: 05/07/2000
UNITED KINGDOM	2000/0066, RO – date sent: 03/08/2000

31999L0027 Commission Directive 1999/27/EC of 20 April 1999 establishing Community methods of analysis for the determination of amprolium, diclazuril and carbadox in feedingstuffs and amending Directives 71/250/EEC, 73/46/EEC and repealing Directive 74/203/EEC

Deadline for transposal: 31/10/1999

Member States which have notified implementing measures: all

DENMARK	2000/0084, Termination: 05/07/2000
GREECE	2000/0092, Termination: 05/07/2000
SPAIN	2000/0108, Termination: 05/07/2000
FRANCE	2000/0004, Termination: 05/07/2000
ITALY	2000/0053, Termination: 21/12/2000
LUXEMBOURG	2000/0015, Termination: 05/07/2000
AUSTRIA	2000/0132, Termination: 05/07/2000
PORTUGAL	2000/0118, Termination: 21/12/2000
FINLAND	2000/0156, Termination: 05/07/2000
SWEDEN	2000/0143, Termination: 05/07/2000

31999L0061 Commission Directive 99/61/EC of 18 June 1999 amending the Annexes to Council Directives 79/373/EEC and 96/25/EEC (Text with EEA relevance)

Deadline for transposal: 31/10/1999

Member States which have notified implementing measures: all

BELGIUM	2000/0028, Termination: 05/07/2000
GREECE	2000/0090, Termination: 21/12/2000
FRANCE	2000/0002, Termination: 21/12/2000
IRELAND	2000/0072, Termination: 05/07/2000
LUXEMBOURG	2000/0013, Termination: 21/12/2000
NETHERLANDS	2000/0040, Termination: 05/07/2000
AUSTRIA	2000/0131, Termination: 05/07/2000
PORTUGAL	2000/0116, Termination: 21/12/2000
FINLAND	2000/0155, Termination: 05/07/2000
SWEDEN	2000/0125, Termination: 05/07/2000
UNITED KINGDOM	2000/0065, Termination: 05/07/2000

31999L0076 Commission Directive 1999/76/EC of 23 July 1999 establishing a Community method of analysis for the determination of lasalocid sodium in feedingstuffs (Text with EEA relevance)
Deadline for transposal: 31/10/1999 and 01/02/2000

Member States which have notified implementing measures: B, DK, D, EL, E, F, IR, I, L, NL, A, P, FI, S

GERMANY	2000/0044, Termination: 05/07/2000
DENMARK	2000/0083, Termination: 05/07/2000
GREECE	2000/0089, Termination: 05/07/2000
SPAIN	2000/0107, Termination: 05/07/2000
FRANCE	2000/0001, Termination: 05/07/2000
ITALY	2000/0052, Termination: 21/12/2000
LUXEMBOURG	2000/0012, Termination: 05/07/2000
NETHERLANDS	2000/0039, Termination: 05/07/2000
AUSTRIA	2000/0130, Termination: 05/07/2000
PORTUGAL	2000/0115, Termination: 21/12/2000
FINLAND	2000/0154, Termination: 05/07/2000
SWEDEN	2000/0141, Termination: 05/07/2000
UNITED KINGDOM	2000/0054, LET – date sent: 18/02/2000

31999L0078 Commission Directive 1999/78/EC of 27 July 1999 amending Directive 95/10/EC (Text with EEA relevance)

Deadline for transposal: 30/11/1999

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S

GERMANY	2000/0225, Termination: 21/12/2000
DENMARK	2000/0279, Termination: 21/12/2000
GREECE	2000/0290, LET – date sent: 13/07/2000
FRANCE	2000/0173, Termination: 21/12/2000
LUXEMBOURG	2000/0188, Termination: 21/12/2000
AUSTRIA	2000/0343, Termination: 21/12/2000
PORTUGAL	2000/0319, Termination: 21/12/2000
FINLAND	2000/0367, Termination: 21/12/2000
SWEDEN	2000/0357, Termination: 21/12/2000
UNITED KINGDOM	2000/0251, LET – date sent: 13/07/2000

31999L0079 Commission Directive 1999/79/EC of 27 July 1999 amending the third Commission Directive 72/199/EEC of 27 April 1972 establishing Community methods of analysis for the official control of feedingstuffs (Text with EEA relevance)

Deadline for transposal: 31/12/1999

Member States which have notified implementing measures: B, DK, D, E, F, IR, I, L, NL, A, P, FI, S

DENMARK	2000/0278, Termination: 21/12/2000
GREECE	2000/0289, LET – date sent: 13/07/2000
ITALY	2000/0036, Termination: 21/12/2000
AUSTRIA	2000/0342, Termination: 21/12/2000
PORTUGAL	2000/0318, Termination: 21/12/2000
UNITED KINGDOM	2000/0251, LET – date sent: 13/07/2000

32000L0045 Commission Directive 2000/45/EC of 6 July 2000 establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feedingstuffs (Text with EEA relevance)

Deadline for transposal: 31/08/2000

Member States which have notified implementing measures: B, D, IR, NL

Contaminants

31998L0053 Commission Directive 98/53/EC of 16 July 1998 laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs (Text with EEA relevance)

Deadline for transposal: 31/12/2000

Member States which have notified implementing measures: L

Food

31997L0060 Directive 97/60/EC of the European Parliament and of the Council of 27 October 1997 amending for the third time Directive 88/344/EEC on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients

Deadline for transposal: 27/10/1998

Member States which have notified: all

IRELAND 1998/0573, Termination: 21/12/2000

31998L0028 Commission Directive 98/28/EC of 29 April 1998 granting a derogation from certain provisions of Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport by sea of bulk raw sugar (Text with EEA relevance)

Deadline for transposal: 01/08/1998

Member States which have notified: all

IRELAND 1998/0508, Termination: 21/12/2000

GREECE 1998/0527, Termination: 05/07/2000

31998L0036 Commission Directive 98/36/EC of 2 June 1998 amending Directive 96/5/EC on processed cereal-based foods and baby foods for infants and young children (Text with EEA relevance)

Deadline for transposal: 31/12/1998, 01/01/1999 and 01/01/2000

Member States which have notified: all

BELGIUM 1999/0032, Termination: 05/07/2000

IRELAND 1999/0105, Termination: 21/12/2000

31998L0066 Commission Directive 98/66/EC of 4 September 1998 amending Directive 95/31/EC laying down specific criteria of purity concerning sweeteners for use in foodstuffs

Deadline for transposal: 01/07/1999

Member States which have notified: B, DK, EL, E, F, I, L, NL, A, P, FI, S, UK

GERMANY 1999/0487, RO – date sent: 13/03/2000

IRELAND 1999/0517, RO – date sent: 13/03/2000

PORTUGAL 1999/0560, Termination: 21/12/2000

31998L0072 Directive 98/72/EC of the European Parliament and of the Council of 15 October 1998 amending Directive 95/2/EC on food additives other than colours and sweeteners
Deadline for transposal: 04/05/2000

Member States which have notified: B, DK, EL, E, F, IR, I, NL, A, FI, S, UK

GERMANY	2000/0567, LET – date sent: 08/08/2000
SPAIN	2000/0695, Termination: 21/12/2000
ITALY	2000/0591, Termination: 21/12/2000
LUXEMBOURG	2000/0511, LET – date sent: 08/08/2000
PORTUGAL	2000/0724, LET – date sent: 08/08/2000

31998L0086 Commission Directive 98/86/EC of 11 November 1998 amending Commission Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners
Deadline for transposal: 01/07/1999

Member States which have notified: B, DK, EL, E, F, I, L, NL, A, P, FI, S, UK

GERMANY	1999/0488, RO – date sent: 13/03/2000
GREECE	1999/0537, Termination: 21/03/2000
SPAIN	1999/0547, Termination: 21/03/2000
IRELAND	1999/0518, RO – date sent: 13/03/2000
AUSTRIA	1999/0572, Termination: 21/12/2000
PORTUGAL	1999/0561, Termination: 05/07/2000

31999L0002 Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation
Deadline for transposal: 20/09/2000 and 20/03/2001

Member States which have notified: DK, D, EL, IR, A, FI, S, UK

31999L0003 Directive 1999/3/EC of the European Parliament and of the Council of 22 February 1999 on the establishment of a Community list of foods and food ingredients treated with ionising radiation
Deadline for transposal: 20/09/2000

Member States which have notified: D, EL, IR, A, FI, S, UK

31999L0021 Commission Directive 1999/21/EC of 25 March 1999 on dietary foods for special medical purposes
Deadline for transposal: 30/04/2000

Member States which have notified: B, DK, EL, E, F, L, NL, P, FI, S, UK

BELGIUM	2000/0529, Termination: 21/12/2000
GERMANY	2000/0562, LET – date sent: 08/08/2000
GREECE	2000/0672, Termination: 21/12/2000
FRANCE	2000/0486, Termination: 21/12/2000
IRELAND	2000/0623, LET – date sent: 08/08/2000
ITALY	2000/0586, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0507, Termination: 21/12/2000
AUSTRIA	2000/0741, LET – date sent: 08/08/2000
PORTUGAL	2000/0718, Termination: 21/12/2000
UNITED KINGDOM	2000/0604, Termination: 21/12/2000

31999L0039 Commission directive 1999/39/EC of 6 May 1999 amending Directive 96/5/EC on processed cereal-based foods and baby foods for infants and young children (Text with EEA relevance)
Deadline for transposal: 30/06/2000 and 01/07/2002

Member States which have notified: B, DK, D, EL, E, F, IR, I, L, NL, FI, S

DENMARK	2000/0648, Termination: 21/12/2000
GERMANY	2000/0561, Termination: 21/12/2000
GREECE	2000/0671, Termination: 21/12/2000
SPAIN	2000/0691, Termination: 21/12/2000
FRANCE	2000/0485, Termination: 21/12/2000
IRELAND	2000/0622, Termination: 21/12/2000
ITALY	2000/0585, Termination: 21/12/2000
LUXEMBOURG	2000/0506, Termination: 21/12/2000
AUSTRIA	2000/0740, LET – date sent: 08/08/2000
PORTUGAL	2000/0717, LET – date sent: 08/08/2000
FINLAND	2000/0776, Termination: 21/12/2000
SWEDEN	2000/0761, Termination: 21/12/2000
UNITED KINGDOM	2000/0603, LET – date sent: 08/08/2000

31999L0041 Directive 1999/41/EC of the European Parliament and of the Council of 7 June 1999 amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses

Deadline for transposal: 08/07/2000 and 08/07/2001

Member States which have notified: D, E, IR, NL, FI

BELGIUM	2000/0799, LET – date sent: 30/11/2000
DENMARK	2000/0842, LET – date sent: 30/11/2000
GREECE	2000/0848, LET – date sent: 30/11/2000
FRANCE	2000/0788, LET – date sent: 30/11/2000
ITALY	2000/0821, LET – date sent: 30/11/2000
LUXEMBOURG	2000/0796, LET – date sent: 30/11/2000
AUSTRIA	2000/0878, LET – date sent: 30/11/2000
PORTUGAL	2000/0867, LET – date sent: 30/11/2000
SWEDEN	2000/0889, LET – date sent: 30/11/2000
UNITED KINGDOM	2000/0828, LET – date sent: 30/11/2000

31999L0050 Commission Directive 1999/50/EC of 25 May 1999 amending Directive 91/321/EEC on infant formulae and follow-on formulae (Text with EEA relevance)

Deadline for transposal: 30/06/2000

Member States which have notified: B, DK, D, EL, E, F, L, NL, FI, S

DENMARK	2000/0646, Termination: 21/12/2000
GERMANY	2000/0560, Termination: 21/12/2000
GREECE	2000/0669, Termination: 21/12/2000
SPAIN	2000/0690, Termination: 21/12/2000
FRANCE	2000/0483, Termination: 21/12/2000
IRELAND	2000/0620, LET – date sent: 08/08/2000
ITALY	2000/0583, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0505, Termination: 21/12/2000
AUSTRIA	2000/0738, LET – date sent: 08/08/2000
PORTUGAL	2000/0715, LET – date sent: 08/08/2000
FINLAND	2000/0774, Termination: 21/12/2000
SWEDEN	2000/0759, Termination: 21/12/2000
UNITED KINGDOM	2000/0601, LET – date sent: 08/08/2000

31999L0075 Commission Directive 1999/75/EC of 22 July 1999 amending Commission Directive 95/45/EC laying down specific purity criteria concerning colours for use in foodstuffs (Text with EEA relevance)

Deadline for transposal: 01/07/2000

Member States which have notified: B, DK, EL, E, F, I, NL, FI

GERMANY	2000/0811, LET – date sent: 30/11/2000
IRELAND	2000/0833, LET – date sent: 30/11/2000
LUXEMBOURG	2000/0795, LET – date sent: 30/11/2000
AUSTRIA	2000/0875, LET – date sent: 30/11/2000
PORTUGAL	2000/0864, LET – date sent: 30/11/2000
SWEDEN	2000/0887, LET – date sent: 30/11/2000
UNITED KINGDOM	2000/0826, LET – date sent: 30/11/2000

31999L0091 Commission Directive 1999/91/EC of 23 November 1999 amending Directive 90/128/EEC relating to plastic materials and articles intended to come into contact with foodstuffs (Text with EEA relevance)

Deadline for transposal: 31/12/2000

Member States which have notified: DK, EL, E, I, S

Consumer protection

31997L0007 Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts - Statement by the Council and the Parliament re Article 6 (1) - Statement by the Commission re Article 3 (1), first indent

Deadline for transposal: 04/06/2000

Member States which have notified: B, DK, D, I, A, S, UK

GERMANY	2000/0570, Termination: 21/12/2000
SPAIN	2000/0702, LET – date sent: 08/08/2000
GREECE	2000/0681, LET – date sent: 08/08/2000
FRANCE	2000/0497, LET – date sent: 08/08/2000
IRELAND	2000/0633, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0517, LET – date sent: 08/08/2000
NETHERLANDS	2000/0554, LET – date sent: 08/08/2000
PORTUGAL	2000/0730, LET – date sent: 08/08/2000
FINLAND	2000/0785, LET – date sent: 08/08/2000
SWEDEN	2000/0767, Termination: 21/12/2000
UNITED KINGDOM	2000/0610, Termination: 21/12/2000

31997L0055 Directive 97/55/EC of European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising

Deadline for transposal: 23/04/2000

Member States which have notified: B, DK, D, IR, I, A, P, S, UK

GREECE	2000/0680, LET – date sent: 08/08/2000
SPAIN	2000/0700, LET – date sent: 08/08/2000
FRANCE	2000/0495, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0516, LET – date sent: 08/08/2000
NETHERLANDS	2000/0553, LET – date sent: 08/08/2000

FINLAND	2000/0783, LET – date sent: 08/08/2000
SWEDEN	2000/0765, Termination: 21/12/2000
UNITED KINGDOM	2000/0609, Termination: 21/12/2000

31998L0006 Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

Deadline for transposal: 18/03/2000

Member States which have notified: B, DK, D, F, I, NL, A, P, FI, S, UK

BELGIUM	2000/0536, Termination: 21/12/2000
DENMARK	2000/0654, Termination: 21/12/2000
GREECE	2000/0679, LET – date sent: 08/08/2000
SPAIN	2000/0698, LET – date sent: 08/08/2000
FRANCE	2000/0493, Termination: 21/12/2000
IRELAND	2000/0630, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0514, LET – date sent: 08/08/2000
AUSTRIA	2000/0748, Termination: 21/12/2000
PORTUGAL	2000/0727, Termination: 21/12/2000
FINLAND	2000/0782, Termination: 21/12/2000
SWEDEN	2000/0764, Termination: 21/12/2000
UNITED KINGDOM	2000/0608, Termination: 21/12/2000

31998L0007 Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998 amending Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit

Deadline for transposal: 21/04/2000

Member States which have notified: B, DK, D, I, NL, A, P, FI, S, UK

DENMARK	2000/0653, Termination: 21/12/2000
GERMANY	2000/0569, Termination: 21/12/2000
GREECE	2000/0678, LET – date sent: 08/08/2000
SPAIN	2000/0697, LET – date sent: 08/08/2000
FRANCE	2000/0492, LET – date sent: 08/08/2000
IRELAND	2000/0682, LET – date sent: 08/08/2000
LUXEMBOURG	2000/0513, LET – date sent: 08/08/2000
AUSTRIA	2000/0747, Termination: 21/12/2000
PORTUGAL	2000/0726, Termination: 21/12/2000

TAXATION

VAT

31998L0080 Council Directive 98/80/EC of 12 October 1998 supplementing the common system of value added tax and amending Directive 77/388/EEC - Special scheme for investment gold

Deadline for transposal: 01/01/2000

Member States which have notified: all

AUSTRIA	2000/0349, LET – date sent: 13/07/2000, Termination: 21/12/2000
GREECE	2000/0303, LET – date sent: 13/07/2000, Termination: 21/12/2000
IRELAND	2000/0270, LET – date sent: 13/07/2000, Termination: 21/12/2000
UNITED KINGDOM	2000/0255, LET – date sent: 13/07/2000, Termination: 21/12/2000

32000L0017 Council Directive 2000/17/EC of 30 March 2000 amending Directive 77/388/EEC on the common system of value added tax - transitional provisions granted to the Republic of Austria and the Portuguese Republic

Deadline for transposal: 01/01/1999

Member States which have notified: none

AUSTRIA 2000/0874, LET – date sent: 30/11/2000
PORTUGAL 2000/0862, LET – date sent: 30/11/2000

Excise duties

32000L0044 Council Directive 2000/44/EC of 30 June 2000 amending Directive 92/12/EEC as regards temporary quantitative restrictions for products subject to excise duties brought into Sweden from other Member States – addressed to Sweden)

Deadline for transposal: 01/07/2000

Member States which have notified: none

SWEDEN 2000/0886, LET – date sent: 30/11/2000

ENERGY

Electricity

31996L0092 Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity

Deadline for transposal: 18/02/1999

Member States which have notified: all

FRANCE 1999/2185, Termination: 05/07/2000
LUXEMBOURG 1999/2186, Termination: 20/12/2000

Gas

31998L0030 Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas

Deadline for transposal: 01/08/2000

Member States which have notified: B, DK, EL, E, IR, NL, A, P, FI, S, UK

FRANCE 2000/2215, LET – date sent: 22/09/2000
LUXEMBOURG 2000/2216, LET – date sent: 22/09/2000
PORTUGAL 2000/2217, LET – date sent: 22/09/2000
GERMANY 2000/2218, LET – date sent: 19/10/2000

Coal and oil

31998L0093 Council Directive 98/93/EC of 14 December 1998 amending Directive 68/414/EEC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products

Deadline for transposal: 01/01/2000

Member States which have notified: B, DK, D, EL, E, F, IR, L, NL, A, FI, S, UK

ITALY	2000/0241, LET – date sent: 13/07/2000
PORTUGAL	2000/0330, LET – date sent: 29/12/2000
GREECE	2000/0300, Termination: 21/12/2000
AUSTRIA	2000/0347, Termination: 21/12/2000
IRELAND	2000/0268, Termination: 21/12/2000
LUXEMBOURG	2000/0195, Termination: 21/12/2000

Renewable energy and energy efficiency

31996L0057 Directive 96/57/EC of the European Parliament and of the Council of 3 September 1996 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof

Deadline for transposal: 03/09/1997 and 04/09/1999

Member States which have notified: all

ITALY	1997/0651, Termination: 11/10/2000
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31998L0011 Commission Directive 98/11/EC of 27 January 1998 implementing Council Directive 92/75/EEC with regard to energy labelling of household lamps (Text with EEA relevance)

Deadline for transposal: 14/06/1999

Member States which have notified: all except I

ITALY	1999/0492, RO – date sent: 03/08/2000
FINLAND	1999/0589, Termination: 20/12/2000
NETHERLANDS	1999/0473, Termination: 26/07/2000
AUSTRIA	1999/0568, Termination: 05/07/2000
PORTUGAL	1999/0554, Termination: 05/07/2000
GREECE	1999/0533, Termination: 05/07/2000
IRELAND	1999/0512, Termination: 05/07/2000
GERMANY	1999/0484, Termination: 05/07/2000
BELGIUM	1999/0461, Termination: 05/07/2000
LUXEMBOURG	1999/0451, Termination: 05/07/2000

TRANSPORT

Land, road and inland waterway transport

31996L0050 Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community

Deadline for transposal: 07/04/1998

Member States which have notified: B, D, I, L, A, P, UK

ITALY	1998/0559, Termination: 05/07/2000
FRANCE	1999/2003, Referral – date sent: 22/12/2000, Case C-2000/468
NETHERLANDS	1998/0436, RO – date sent: 01/07/1999
PORTUGAL	1999/2006, Termination: 05/07/2000

31998L0076 Council Directive 98/76/EC of 1 October 1998 amending Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations

Deadline for transposal: 01/10/1999

Member States which have notified: DK, D, E, , IR, NL, P, FI, UK

BELGIUM	2000/0038, LET – date sent: 07/09/2000
LUXEMBOURG	2000/0025, LET – date sent: 01/08/2000
FRANCE	2000/0010, RO – date sent: 19/10/2000
ITALY	2000/0062, LET – date sent: 03/08/2000
GREECE	2000/0104, RO – date sent: 01/08/2000
AUSTRIA	2000/0138, LET – date sent: 24/10/2000
SWEDEN	2000/0151, LET – date sent: 01/08/2000
GERMANY	2000/0049, Termination: 21/12/2000

31999L0052 Commission Directive 1999/52/EC of 26 May 1999 adapting to technical progress Council Directive 96/96/EC on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers (Text with EEA relevance)

Deadline for transposal: 01/10/2000

Member States which have notified: B, DK, D, E, F, I, P, FI, UK

31999L0062 Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures

Deadline for transposal: 01/07/2000

Member States which have notified: E, I, UK

BELGIUM	2000/0910, LET – date sent: 5/12/2000
DENMARK	2000/0927, LET – date sent: 5/12/2000
GERMANY	2000/0915, LET – date sent: 5/12/2000
GREECE	2000/0931, LET – date sent: 5/12/2000
SPAIN	2000/0934, LET – date sent: 5/12/2000
FRANCE	2000/0902, LET – date sent: 5/12/2000
IRELAND	2000/0924, LET – date sent: 5/12/2000
LUXEMBOURG	2000/0906, LET – date sent: 5/12/2000

NETHERLANDS	2000/0913, LET – date sent: 5/12/2000
AUSTRIA	2000/0941, LET – date sent: 5/12/2000
PORTUGAL	2000/0938, LET – date sent: 5/12/2000
FINLAND	2000/0947, LET – date sent: 5/12/2000
SWEDEN	2000/0944, LET – date sent: 5/12/2000

Rail transport

31995L0018 Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings
Deadline for transposal: 27/06/1997

Member States which have notified: all

FRANCE	1997/0339, Termination: 02/02/2000
IRELAND	1997/0357, Termination: 02/02/2000
ITALY	1997/0370, Termination: 02/02/2000
LUXEMBOURG	1997/0383, Termination: 02/02/2000

31995L0019 Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees
Deadline for transposal: 27/06/1997

Member States which have notified: all

IRELAND	1997/0358, Termination: 02/02/2000
ITALY	1997/0371, Termination: 02/02/2000
LUXEMBOURG	1997/0384, Termination: 02/02/2000

31996L0048 Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system
Deadline for transposal: 08/04/1999

Member States which have notified: B, DK, D, E, L, NL, P,

FRANCE	1999/0337, RO – date sent: 31/01/2000
UNITED KINGDOM	1999/0377, Referral – date sent: 29/11/2000, Case C-2000/441
IRELAND	1999/0383, Referral – date sent: 06/10/2000, Case C-2000/370
GREECE	1999/0396, Referral – date sent: 21/12/2000, Case C-2000/460
AUSTRIA	1999/0418, RO – date sent: 24/01/2000
SWEDEN	1999/0424, Referral – date sent: 09/11/2000, Case C-2000/410
FINLAND	1999/0428, RO – date sent: 24/02/2000
PORTUGAL	1999/0407, Termination: 05/07/2000
NETHERLANDS	1999/0355, Termination: 05/07/2000
LUXEMBOURG	1999/0342, Termination: 05/07/2000
SPAIN	1999/0405, Termination: 11/10/2000
BELGIUM	1999/0349, Termination: 11/10/2000

Land transport, safety and technology

31994L0055 Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

Deadline for transposal: 31/12/1996

Member States which have notified: all except IR

IRELAND 1998/0042, Referral - judgment: 26/09/2000, Case C-1999/408

31995L0050 Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road

Deadline for transposal: 01/01/1997

Member States which have notified: all except IR

IRELAND 1997/0506, Referral - judgment: 14/12/2000, Case C-1999/347

31996L0035 Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway

Deadline for transposal: 31/12/1999

Member States which have notified: all except EL and IR

IRELAND 2000/0272, LET – date sent: 13/07/2000
GREECE 2000/0306, LET – date sent: 13/07/2000
PORTUGAL 2000/0336, Termination: 21/12/2000

31996L0049 Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail

Deadline for transposal: 31/12/1996

Member States which have notified: all except EL and IR

IRELAND 1999/0384, Referral – date sent: 10/10/2000, Case C-2000/372
GREECE 1999/0397, RO – date sent: 24/01/2000
PORTUGAL 1999/0408, Termination: 21/12/2000

31996L0053 Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic

Deadline for transposal: 16/09/1997

Member States which have notified: all

IRELAND 1997/0633, Termination: 21/12/2000
GERMANY 1997/0574, Termination: 11/10/2000

31996L0086 Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (Text with EEA relevance)

Deadline for transposal: 31/12/1996

Member States which have notified: all except IR

IRELAND	1998/0045, Referral - judgment: 26/09/2000, Case C-1999/408
GREECE	1998/0022, Termination: 05/07/2000

31996L0087 Commission Directive 96/87/EC of 13 December 1996 adapting to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail - Text with EEA relevance

Deadline for transposal: 31/12/1996

Member States which have notified: all except IR and EL

IRELAND	1999/0385, Referral – date sent: 10/10/2000, Case C-2000/372
GREECE	1999/0398, RO – date sent: 24/01/2000
PORTUGAL	1999/0409, Termination: 21/12/2000

31996L0096 Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers

Deadline for transposal: 09/03/1998 and 31/12/1998

Member States which have notified: all

PORTUGAL	1998/0253, Termination: 21/03/2000
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31999L0047 Commission Directive 1999/47/EC of 21 May 1999 adapting for the second time to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

Deadline for transposal: 01/07/1999

Member States which have notified: all except EL and IR

IRELAND	2000/0265, LET – date sent: 13/07/2000
GREECE	2000/0294, LET – date sent: 13/07/2000
PORTUGAL	2000/0323, Termination: 21/12/2000

31999L0036 Council Directive 1999/36/EC of 29 April 1999 on transportable pressure equipment

Deadline for transposal: 01/12/2000

Member States which have notified: S

31999L0048 Commission Directive 1999/48/EC of 21 May 1999 adapting for the second time to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail - Text with EEA relevance

Deadline for transposal: 01/07/1999

Member States which have notified: B, DK, D, E, F, L, NL, A, P, FI, S, UK

ITALY	2000/0239, RO – date sent: 29/12/2000
IRELAND	2000/0264, LET – date sent: 13/07/2000
GREECE	2000/0293, LET – date sent: 13/07/2000
PORTUGAL	2000/0322, Termination: 20/12/2000

32000L0018 Directive 2000/18/EC of the European Parliament and of the Council of 17 April 2000 on minimum examination requirements for safety advisers for the transport of dangerous goods by road, rail or inland waterway

Deadline for transposal: 19/08/2000

Member States which have notified: B, DK, D, E, F, L, NL, A, FI, S, UK

ITALY	2000/0819, LET – date sent: 30/11/2000
IRELAND	2000/0832, LET – date sent: 30/11/2000
GREECE	2000/0844, LET – date sent: 30/11/2000
PORTUGAL	2000/0861, LET – date sent: 30/11/2000

Air transport

31996L0067 Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports

Deadline for transposal: 25/10/1997

Member States which have notified: all

SWEDEN	1997/0740, Termination: 05/07/2000
PORTUGAL	1997/0705, Termination: 02/02/2000
BELGIUM	1997/0543, Termination: 05/07/2000

31994L0056 Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

Deadline for transposal: 21/11/1996

Member States which have notified: all except EL and L

LUXEMBOURG	1997/0107, LET 228 – date sent: 27/09/2000
GREECE	1997/0047, Referral – date sent: 22/12/1999, Case C-1999/494

31998L0020 Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

Deadline for transposal: 28/02/1999 and 31/03/2002

Member States which have notified: all except IR

IRELAND	1999/0274, Referral, suspended: 21/12/2000
PORTUGAL	1999/0307, Termination: 21/03/2000
SPAIN	1999/0295, Termination: 21/03/2000
GREECE	1999/0286, Termination: 05/07/2000
GERMANY	1999/0246, Termination: 05/07/2000
LUXEMBOURG	1999/0221, Termination: 21/12/2000

31999L0028 Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

Deadline for transposal: 01/09/1999

Member States which have notified: all except IR

IRELAND	2000/0073, RO – date sent: 03/08/2000
PORTUGAL	2000/0117, Termination: 05/07/2000
BELGIUM	2000/0029, Termination: 21/12/2000
GREECE	2000/0091, Termination: 05/07/2000
GERMANY	2000/0045, Termination: 05/07/2000
LUXEMBOURG	2000/0014, Termination: 21/12/2000
FRANCE	2000/0003, Termination: 11/04/2000

Transport by sea

31998L0035 Council Directive 98/35/EC of 25 May 1998 amending Directive 94/58/EC on the minimum level of training of seafarers

Deadline for transposal: 25/05/1999

Member States which have notified: B, DK, D, E, EL, F, IR, FI, S, UK

ITALY	1999/0493, RO – date sent: 31/01/2000
LUXEMBOURG	1999/0452, Referral – date sent: 03/08/2000, Case C-2000/297
NETHERLANDS	1999/0474, RO – date sent: 05/04/2000
PORTUGAL	1999/0555, RO – date sent: 27/01/2000
AUSTRIA	1999/0565, RO – date sent: 27/01/2000
GREECE	1999/0644, Termination: 11/04/2000
SWEDEN	1999/0578, Termination: 05/07/2000
SPAIN	1999/0543, Termination: 21/03/2000
BELGIUM	1999/0462, Termination: 11/04/2000
FRANCE	1999/0438, Termination: 05/07/2000

31999L0097 Commission Directive 1999/97/EC of 13 December 1999 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (Text with EEA relevance)

Deadline for transposal: 14/12/2000

Member States which have notified: E, P

31995L0021 Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

Deadline for transposal: 30/06/1996

Member States which have notified: all except I

ITALY	1996/0-97, RO 228 – date sent: 07/09/2000
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31996L0098 Council Directive 96/98/EC of 20 December 1996 on marine equipment

Deadline for transposal: 30/06/1998 and 01/01/1999

Member States which have notified: all

ITALY	1998/0391, Termination: 21/03/2000
LUXEMBOURG	1998/0408, Termination: 11/10/2000

31997L0058 Commission Directive 97/58/EC of 26 September 1997 amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (Text with EEA relevance)

Deadline for transposal: 30/09/1998

Member States which have notified: all

LUXEMBOURG 1998/0541, Termination: 21/03/2000

31997L0070 Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over

Deadline for transposal: 01/01/1999

Member States which have notified: all except NL

ITALY	1999/0072, Termination: 05/07/2000
NETHERLANDS	1999/0044, Referral – date sent: 03/10/2000, Case C-2000/364
UNITED KINGDOM	1999/0090, Termination: 05/07/2000
AUSTRIA	1999/0175, Termination: 21/03/2000
SWEDEN	1999/0188, Termination: 05/07/2000
FINLAND	1999/0200, Termination: 05/07/2000
LUXEMBOURG	1999/0016, Termination: 05/07/2000
FRANCE	1999/0002, Termination: 05/07/2000

31998L0018 Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships

Deadline for transposal: 01/07/1998

Member States which have notified: B, DK,D, EL, E, F,I, IR, NL,A, FI, S

LUXEMBOURG	1999/0220, Referral – date sent: 13/10/2000, Case C-2000/377
UNITED KINGDOM	1999/0264, RO – date sent: 03/08/2000
PORTUGAL	1999/0306, RO – date sent: 01/08/2000
AUSTRIA	1999/0317, Termination: 11/10/2000
SWEDEN	1999/0325, Termination: 05/07/2000
FINLAND	1999/0331, Termination: 05/07/2000
NETHERLANDS	1999/0235, Termination: 21/12/2000
FRANCE	1999/0211, Termination: 11/10/2000
ITALY	1999/0254, Termination: 31/10/2000

31998L0025 Council Directive 98/25/EC of 27 April 1998 amending Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

Deadline for transposal: 01/07/1998

Member States which have notified: all except I

ITALY	1999/0369, RO – date sent: 31/01/2000
LUXEMBOURG	2000/0386, Termination: 11/10/2000
PORTUGAL	1999/0411, Termination: 11/10/2000

31998L0041 Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community
Deadline for transposal: 31/12/1998

Member States which have notified: all except NL and A

NETHERLANDS	1999/0237, Referral – date sent: 09/11/2000, Case C-2000/413
AUSTRIA	1999/0319, RO – date sent: 19/07/2000
SWEDEN	1999/0327, Termination: 05/07/2000
FRANCE	1999/0213, Termination: 05/07/2000
FINLAND	1999/0332, Termination: 21/12/2000
PORTUGAL	1999/0308, Termination: 11/10/2000
LUXEMBOURG	1999/0222, Termination: 11/10/2000

31998L0042 Commission Directive 98/42/EC of 19 June 1998 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (Text with EEA relevance)
Deadline for transposal: 30/09/1998

Member States which have notified: all except I

ITALY	1999/0373, RO – date sent: 31/01/2000
LUXEMBOURG	2000/0385, Termination: 11/10/2000
PORTUGAL	1999/0414, Termination: 11/10/2000

31998L0055 Council Directive 98/55/EC of 17 July 1998 amending Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods
Deadline for transposal: 31/12/1998

Member States which have notified: all

LUXEMBOURG	1999/0021, Termination: 11/10/2000
PORTUGAL	1999/0163, Termination: 11/10/2000

31998L0074 Commission Directive 98/74/EC of 1 October 1998 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods
Deadline for transposal: 02/11/1999

Member States which have notified: all

LUXEMBOURG	2000/0197, Termination: 21/12/2000
PORTUGAL	2000/0333, Termination: 11/10/2000
AUSTRIA	2000/0350, Termination: 21/12/2000
FINLAND	2000/0371, Termination: 21/12/2000

31998L0085 Commission Directive 98/85/EC of 11 November 1998 amending Council Directive 96/98/EC on marine equipment (Text with EEA relevance)
Deadline for transposal: 30/04/1999

Member States which have notified: all

NETHERLANDS	1999/0361, Termination: 05/07/2000
LUXEMBOURG	1999/0348, Termination: 11/10/2000

BELGIUM

1999/0354, Termination: 21/03/2000

31999L0019 Commission Directive 1999/19/EC of 18 March 1999 amending Council Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over (Text with EEA relevance)

Deadline for transposal: 31/05/2000

Member States which have notified: all except B and NL

BELGIUM	2000/0530, LET – date sent: 08/08/2000
NETHERLANDS	2000/0548, LET – date sent: 08/08/2000
DENMARK	2000/0649, Termination: 21/12/2000
PORTUGAL	2000/0719, Termination: 21/12/2000
IRELAND	2000/0624, Termination: 21/12/2000

31999L0035 Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services

Deadline for transposal: 01/12/2000

Member States which have notified: DK, D, E



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.7.2001
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VOLUME V

**EIGHTEENTH ANNUAL REPORT
ON MONITORING THE APPLICATION
OF COMMUNITY LAW
(2000)**

ANNEX IV

PART 1 - Summary table.

**Progress in notification of national measures
implementing directives (situation on 31 December 2000)**

PART 2 - Infringements for non-conformity

**PART 3 - Infringements for incorrect application
of national measures implementing the directives**

Eighteenth annual report on monitoring the application of Community law (2000)
ANNEX IV, Part 1: Summary table
 Progress in notifying national measures implementing directives (situation on 31 December 2000)

Areas of activity	Sectors	Total directives applicable	Directives applicable** on reference date by MS)																Directive for which implementing measures notified (by MS)																Percentages notified																			
			B	DK	D	EL	E	F	IR	I	L	NL	A	P	FI	S	UK	B	DK	D	EL	E	F	IR	I	L	NL	A	P	FI	S	UK	B	DK	D	EL	E	F	IR	I	L	NL	A	P	FI	S	UK							
Agriculture		20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	19	20	19	20	19	19	20	20	20	19	20	19	20	20	19	20	19	20	95	100	95	100	95	95	100	100	100	95	100	95	100	100	95					
Competition		10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	9	10	10	10	9	10	10	10	10	10	10	10	10	100	100	100	90	100	100	100	90	100	100	100	100	100	100	100	100						
Education and culture	Television without frontiers	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	0	0	1	1	1	1	1	1	100	100	100	100	100	100	100	0	0	0	100	100	100	100	100								
	Employment legislation	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	6	6	6	7	7	7	6	7	6	7	7	7	7	6	6	85.7	85.7	85.7	100	100	100	85.7	100	85.7	100	85.7	100	100	85.7	85.7								
Employment and Social Affairs	Non-discrimination	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	7	8	8	7	8	7	8	8	8	8	8	8	8	8	8	87.5	100	100	87.5	100	87.5	100	100	100	100	100	100	100	100	100								
	Free movement of workers	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	100	100	100	100	100	100	100	100	100	100	100	100	100	100										
	Safety and hygiene at work	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	37	37	37	35	37	35	35	32	36	36	34	37	37	38	38	97.4	97.4	97.4	92.1	97.4	92.1	92.1	84.2	94.7	94.7	89.5	97.4	97.4	100	100								
Transport	Land	44	43	37	42	37	37	43	37	42	42	43	43	42	43	38	40	35	40	26	36	39	24	39	38	39	39	39	35	34	40	93	94.6	95.2	70.3	97.3	90.7	64.9	92.9	90.5	90.7	90.7	92.9	81.4	89.5	95.2								
	Air	11	11	11	11	11	11	11	11	11	11	8	11	11	11	11	11	11	10	11	11	11	9	11	10	11	8	11	11	11	11	100	100	100	90.9	100	100	81.8	100	90.9	100	100	100	100	100	100								
	Sea	22	22	22	22	22	22	22	22	22	20	22	16	22	22	22	19	21	21	20	22	20	16	16	17	13	19	20	20	20	86.4	95.5	95.5	90.9	100	90.9	90.9	72.7	80	77.3	81.3	86.4	90.9	90.9	90.9									
Energy	Electricity and gas	9	6	6	8	4	6	5	6	5	6	6	6	6	7	6	5	6	6	8	4	6	4	6	5	5	6	6	5	7	6	5	100	100	100	100	100	80	100	100	83.3	100	100	83.3	100	100	100	100						
	Coal and oil	4	4	4	4	4	4	3	4	3	4	4	4	3	4	3	4	4	4	4	4	4	3	3	4	4	3	3	4	3	100	100	100	100	100	100	100	75	100	100	100	100	100	100	100									
	Energy efficiency	16	14	14	13	14	14	15	13	15	13	15	14	14	14	14	14	14	14	13	14	14	15	13	14	13	15	14	14	14	14	100	100	100	100	100	100	100	93.3	100	100	100	100	100	100	100								
Enterprise	Motor vehicles	234	234	234	234	234	234	234	234	234	234	234	234	234	234	233	233	233	222	234	230	233	229	232	224	220	220	233	233	230	99.6	99.6	99.6	94.9	100	98.3	99.6	97.9	99.1	95.7	94	94	99.6	99.6	98.3									
	Cosmetics	41	41	41	41	41	41	41	41	41	41	41	41	41	41	41	41	39	41	36	41	36	41	41	41	41	38	41	39	41	100	100	95.1	100	100	87.8	100	94.3	100	100	100	92.7	100	95.1	100									
	Pharmaceuticals	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	34	35	33	35	35	35	34	35	35	100	100	100	100	100	97.1	100	94.3	100	100	100	97.1	100	100	100									
	Construction	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	100	100	100	100	100	100	100	100	100	100	100	100	100	100										
	Textiles, leather, toys	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100									
	Capital goods	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	88	88	87	87	90	87	86	87	88	88	92	88	88	82	89	94.6	94.6	93.5	93.5	96.8	93.5	92.5	93.5	94.6	94.6	98.9	94.6	94.6	88.2	95.7							
	Chemicals	38	37	35	35	37	37	37	37	37	37	37	35	37	37	38	36	37	37	35	34	35	37	34	37	36	33	35	34	37	38	100	100	97.1	94.6	100	91.9	100	97.3	89.2	100	91.9	100	100	97.2	97.3								
	Technical standards	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	1	2	2	2	1	2	2	2	2	2	2	100	100	100	50	100	100	100	50	100	100	100	100	100	100	100	100							
	Environment	General	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	4	5	4	4	5	3	4	5	4	5	5	4	5	5	5	80	100	80	80	100	60	80	100	80	100	100	80	100	100	100	100						
Water		23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	23	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100								
Air		21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	20	21	19	19	18	20	20	19	20	21	20	21	20	21	19	95.2	100	90.5	90.5	85.7	95.2	95.2	90.5	95.2	100	95.2	100	95.2	100	90.5								
Noise		21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100									
Chemicals and biotechnology		46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	46	43	45	44	43	44	44	43	45	44	44	45	43	45	45	40	93.5	97.8	95.7	93.5	95.7	95.7	93.5	97.8	95.7	95.7	97.8	93.5	97.8	97.8	87							
Waste		13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	12	11	13	12	12	13	12	13	12	13	12	100	92.3	92.3	84.6	100	100	92.3	92.3	100	92.3	100	92.3	100	100	92.3									
Nature		10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	9	10	10	10	10	10	10	10	10	10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100								
Radiation protection		5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	3	3	3	4	3	4	3	4	3	5	3	5	5	5	60	60	60	60	80	60	80	100	60	60	100	60	100	100	100	100							
Taxation and customs union	Direct taxation	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100								
	VAT	30	29	29	29	29	29	29	29	29	29	30	30	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	100	100	100	100	100	100	100	100	100	100	96.7	96.7	100	100	100	100							
	Other indirect taxes	23	20	20	21	20	20	20	20	20	20	20	21	20	21	21	20	20	20	21	20	20	20	20	20	20	21	20	21	20	20	100	100	100	100	100	100	100	100	100	100	100	100	100	100	95.2	100							
	Customs union	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100									
Internal marketIntérieur	Free movement of goods	3	3	3	3	2	3	2	3	3	2	3	3	3	2	2	3	3	3	2	2	2	2	2	2	3	3	2	2	2	3	100	100	66.7	100	66.7	100	66.7	66.7	100	100	66.7	100	100	66.7	100								
	Free movement of services	52	48	48	48	48	48	48	48	48	48	48	48	48	48	48	47	48	46	42	45	45	48	46	46	48	48	45	46	47	47	97.9	100	95.8	87.5	93.8	93.8	100	95.8	95.8	100	100	93.8	95.8	97.9	97.9								
	Business environment	33	33	33	33	33	33	32	32	33	32	33	33	31	32	32	32	32	29	30	31	29	29	29	28	31	30	30	31	31	29	97	97	87.9	90.9	93.9	87.9	9																

ANNEX IV - PART 2

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

NB: The date given is the date of notification to the Member State or the date when the action was filed at the Court of Justice of the European Communities.

Abbreviations used (cf. Part 1)

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Competition									
Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services									
1998/2071	B	9/03/1999	judgment 30/11/2000	C-1999/384					Ongoing
1998/2077	F	8/07/1999	17/04/2000	C-2000/146					Ongoing
1998/2241	I	27/01/1999; 09/09/2000							Ongoing
1999/2221	EL	21/12/1998							Termination
Commission Directive 94/46/EC of 13 October 1994 amending Directive 88/301/EEC and Directive 90/388/EEC in particular with regard to satellite communications									
1998/2130	EL	16/02/1999							Termination
Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets									
1998/2071	B	9/03/1999	judgment 30/11/2000	C-1999/384					Ongoing
1998/2077	F	8/07/1999	17/04/2000	C-2000/146					Ongoing
1998/2241	I	27/01/1999; 09/09/2000							Ongoing
1999/2221	EL	21/12/1998							Termination
Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP)									
1998/2071	B	9/03/1999	judgment 30/11/2000	C-1999/384					Ongoing
1998/2077	F	8/07/1999	17/04/2000	C-2000/146					Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
<i>Economic and Financial Affairs</i>									
Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty									
1991/2234	I	14/04/1997							Termination
<i>Employment and Social Affairs</i>									
Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions									
1990/2109	F	8/11/1994	judgment 13/03/1997	C-1996/197	30/01/1997	29/07/1998	10/06/1999	C-1999/224	Ongoing
Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses									
1990/2144	I	4/08/1999							Ongoing
Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer									
1986/0116	EL	5/06/1987	judgment 08/11/1990	C-1988/053					Termination
Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work									
1995/2134	DK	16/10/2000							Ongoing
1995/2137	I	19/10/1998	16/02/2000	C-2000/049					Ongoing
1997/2193	D	19/10/1998	6/01/2000	C-2000/005					Ongoing
1998/2015	B	9/07/1999							Ongoing
1998/2182	S	1/02/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)									
1998/2219	DK	29/12/2000							Ongoing
1998/2270	S	26/01/2000							Ongoing
Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)									
1998/2252	S	14/10/1999							Termination
Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (Fifth individual Directive within the meaning of article 16 (1) of Directive 87/391/EEC)									
1998/2224	I	9/07/1999	13/12/2000	C-2000/455					Ongoing
Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)									
1998/2356	IR	6/08/1999							Termination
Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC									
1998/2398	IR	8/06/2000							Termination
Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies									
1998/2327	EL	16/08/1999							Ongoing
1999/2028	P	29/12/2000							Ongoing
Enterprise									
Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products									
1997/2076	D	21/10/1998							Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products									
1998/2239	I	14/07/1999	3/10/2000	C-2000/365					Ongoing
Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels									
1993/2294	I	28/11/1995	judgment 25/03/1999	C-1997/112	2/02/2000				Ongoing
Council Directive 92/27/EEC of 31 March 1992 on the labelling of medicinal products for human use and on package leaflets									
1994/4336	D	30/07/1999							Termination
Environment									
Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils									
1990/5097	D	14/03/1995	judgment 09/09/1999	C-1997/102	18/09/2000				Ongoing
1993/2115	P	27/11/1997	13/10/1999	C-1999/392					Ongoing
Council Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States									
1989/0206	I	12/02/1991	3/10/2000	C-2000/375					Ongoing
Council Directive 75/442/EEC of 15 July 1975 on waste									
1989/0138	EL	5/03/1990	judgment 07/04/1992	C-1991/045	21/09/1995	6/08/1996	judgment 04/07/2000	C-1997/387	Ongoing
1999/4401	A	27/07/2000							Ongoing
1998/5056	D	27/07/2000							Ongoing
Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water									
1998/2197	FI	11/12/1998							Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community									
1997/4357	B	18/12/1998	9/06/2000	C-2000/230					Ongoing
1990/5220	IR	12/06/1992; 28/07/2000	9/06/2000	C-2000/230					Ongoing
Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste									
1989/0138	EL	5/03/1990	judgment 07/04/1992	C-1991/045	21/09/1995	6/08/1996	judgment 04/07/2000	C-1997/387	Ongoing
1994/4723	IR	14/07/1999	action withdrawn	C-2000/022					Termination
Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds									
1992/4279	I	7/08/1997	30/04/1999	C-1999/159					Ongoing
1993/2123	B	27/12/1996							Termination
1994/4794	F	5/08/1998	judgment 07/12/2000	C-1999/038					Ongoing
Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substance+A96s									
1993/2112	P	5/09/1996	judgment 18/06/1998	C-1997/183					Termination
1997/4357	B	18/12/1998	9/06/2000	C-2000/230					Ongoing
Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption									
1991/0772	UK	18/06/1993	judgment 22/04/1999	C-1996/340					Termination
Council Directive 80/779/EEC of 15 July 1980 on air quality limit values and guide values for sulphur dioxide and suspended particulates									
1998/4303	B	28/07/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 80/836/Euratom of 15 July 1980 amending the Directives laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation									
1988/0488	NL	18/06/1990; 08/02/2000							Termination
Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants									
1997/4357	B	18/12/1998	9/06/2000	C-2000/230					Ongoing
Council Directive 84/466/Euratom of 3 September 1984 laying down basic measures for the radiation protection of persons undergoing medical examination or treatment									
1990/0237	B	4/02/1992							Termination
1991/0723	E	25/05/1993	judgment °0/10/1987	C-1996/021					Termination
Council Directive 84/467/Euratom of 3 September 1984 amending Directive 80/836/Euratom as regards the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation									
1988/0488	NL	18/06/1990; 08/02/2000							Termination
Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment+A137									
1989/0425	IR	28/04/1993	judgment 21/09/1999	C-1996/392	25/07/2000				Ongoing
1990/0129	E	23/12/1992	14/12/1999	C-1999/474					Ongoing
1990/4710	D	4/07/1994	judgment 22/10/1998	C-1995/301	14/07/1999	1/02/2000			Ongoing
1991/0794	I	07/07/1993; 29/09/1998							Ongoing
1991/2036	EL	1/08/2000							Ongoing
1991/2168	P	6/08/1996	judgment 21/01/1999	C-1997/150	14/07/1999				Ongoing
1993/2003	D	6/07/1998	1/02/1999	C-1999/024					Ongoing
1998/4303	B	28/07/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1999/2181	I	3/08/2000							Ongoing
Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture									
1999/2066	B	4/04/2000							Ongoing
Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC									
1992/2358	P	2/07/1996	judgment 28/05/1998	C-1997/213					Termination
31986L0609									
Council Directive 86/609/EEC of 24 November 1986 on the approximation of laws, regulations and administrative provisions of the Member States regarding									
1991/2216	IR	25/05/1993	23/09/1999	C-1999/354					Ongoing
1993/2218	B	6/08/1996	judgment 15/10/1998	C-1997/268	13/08/1999	2/02/2000			Termination
1997/2229	NL	1/08/2000							Ongoing
1997/2245	A	3/06/1999	3/07/2000	C-2000/270					Termination
1998/2031	F	18/12/1998	19/04/2000	C-2000/152					Ongoing
Council Directive 87/101/EEC of 22 December 1986 amending Directive 75/439/EEC on the disposal of waste oils									
1990/5097	D	14/03/1995	judgment 09/09/1999	C-1997/102	18/09/2000				Ongoing
1993/2115	P	27/11/1997	13/10/1999	C-1999/392					Ongoing
Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos									
1994/4723	IR	14/07/1999	27/01/2000	C-2000/022					Termination
1997/2166	B	15/10/1998							Termination
Council Directive 88/347/EEC of 16 June 1988 amending Annex II to Directive 86/280/EEC on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC									
1992/2358	P	2/07/1996	judgment 28/05/1998	C-1997/213					Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants									
1993/2121	B	24/04/1998	action withdrawn	C-1999/287					Termination
Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste-incineration plants									
1993/2122	B	24/04/1998	action withdrawn	C-1999/287					Termination
Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency									
1993/2276	D	25/03/1997; 08/02/2000							Ongoing
1993/2277	F	27/07/2000							Ongoing
Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms									
1992/2248	F	19/05/2000							Ongoing
Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms									
1992/2304	F	5/04/2000							Ongoing
Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment									
1993/2058	F	8/02/1999	13/06/2000	C-2000/233					Ongoing
1993/2197	E	3/09/1997	action withdrawn	C-1999/189					Termination
1993/4372	B	30/10/1998	action withdrawn	C-1999/402					Termination
1994/2196	D	26/09/1996	judgment 09/09/1999	C-1997/217	28/07/2000				Ongoing
1994/4682	P	6/07/1998							Termination
1995/4678	E	1/09/1997	action withdrawn	C-1999/189					Termination
1999/2123	A	27/07/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 90/641/Euratom of 4 December 1990 on the operational protection of outside workers exposed to the risk of ionizing radiation during their activities in controlled areas									
1994/2097	F	16/07/1996							Termination
1998/2307	B	1/08/2000							Ongoing
Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste									
1998/2329	I	14/07/1999	28/02/2000	C-2000/065					Ongoing
Commission Directive 91/244/EEC of 6 March 1991 amending Council Directive 79/409/EEC on the conservation of wild birds									
1993/2123	B	27/12/1996							Termination
Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment+A177s									
1997/2037	A	26/01/2000							Ongoing
Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources									
1994/2237	D	29/09/1998	27/04/2000	C-2000/161					Ongoing
1994/2239	B	23/11/1998							Ongoing
1996/2106	UK	9/06/1998	judgment 07/12/2000	C-1999/069					Ongoing
1996/2232	I	19/02/1998	14/04/1999	C-1999/127					Ongoing
1999/2034	FI	18/09/2000							Ongoing
Council Directive 91/689/EEC of 12 December 1991 on hazardous waste									
1998/2329	I	14/07/1999	28/02/2000	C-2000/065					Ongoing
1998/5056	D	27/07/2000							Ongoing
1999/4401	A	27/07/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora									
1998/2210	L	21/01/2000							Ongoing
1998/2226	B	10/02/2000							Ongoing
1998/2233	S	1/08/2000							Ongoing
1999/2276	P	25/07/2000							Ongoing
European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste									
1991/4489	D	27/07/2000							Ongoing
1996/4515	DK	6/11/1998	1/07/1999	C-1999/246					Ongoing
1997/2230	NL	1/08/2000							Ongoing
1998/2329	I	14/07/1999	28/02/2000	C-2000/065					Ongoing
Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment									
1999/2181	I	3/08/2000							Ongoing
Information society									
Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines									
1995/2307	P	20/09/2000							Ongoing
1998/2374	L	26/01/2000							Ongoing
Directive 95/47/EC of the European Parliament and of the Council of 24 October 1995 on the use of standards for the transmission of television signals									
1999/2242	P	20/09/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Directive 95/62/EC of the European Parliament and of the Council of 13 December 1995 on the application of open network provision (ONP) to voice telephony									
1998/2377	B	2/02/2000; 20/09/2000							Ongoing
Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorizations and individual licences in the field of telecommunications services+A202									
1998/2075	I	8/02/1999							Ongoing
1998/2119	B	15/03/1999							Termination
1998/2121	F	17/05/1999; 30/10/2000							Ongoing
1998/2122	F	17/05/1999							Ongoing
1998/2124	L	8/02/1999							Ongoing
1998/2126	A	2/02/1999	action withdrawn	C-1999/446					Ongoing
1998/2379	E	4/08/1999							Termination
1999/2130	D	26/01/2000							Ongoing
1999/2230	I	20/09/2000							Ongoing
Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP)									
1998/2122	F	17/05/1999							Ongoing
1998/2125	L	02/02/1999; 20/09/2000							Ongoing
1998/2131	B	15/04/1999							Ongoing
1998/2378	D	12/11/1999							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Directive 97/51/EC of the European Parliament and of the Council of 6 October 1997 amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications									
1998/2374	L	26/01/2000							Ongoing
Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment									
1998/2375	L	26/01/2000							Ongoing
1998/2377	B	2/02/2000; 20/09/2000							Ongoing
1999/2125	A	1/02/2000							Ongoing
Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection+A238									
1998/2379	E	4/08/1999							Termination
2000/2020	F	3/08/2000							Ongoing
2000/2023	FI	22/09/2000							Ongoing
Justice and Home Affairs									
Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families									
1997/2100	I	18/05/1998							Termination
Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services									
1997/2100	I	18/05/1998							Termination
Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals									
1997/2153	D	30/07/1999							Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals									
1997/2140	D	30/07/1999							Termination
1997/2141	D	30/07/1999							Termination
1998/2051	EL	11/08/1999							Ongoing
Internal Market									
Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability									
1995/2047	UK	18/02/2000							Termination
Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies									
1997/2235	UK	27/01/1999							Termination
Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts									
1997/2238	UK	27/01/1999							Termination
Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles									
1995/2047	UK	18/02/2000							Termination
Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products									
1998/2231	EL	11/08/1999	25/04/2000	C-2000/154					Ongoing
1998/2245	F	6/08/1999	17/02/2000	C-2000/052					Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services									
1990/0349	E	21/04/1992	judgment 23/11/2000	C-1998/421					Ongoing
Council Directive 85/614/EEC of 20 December 1985 amending, on account of the accession of Spain and Portugal, Directive 85/384/EEC on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services									
1990/0349	E	21/04/1992	judgment 23/11/2000	C-1998/421					Ongoing
Council Directive 86/17/EEC of 27 January 1986 amending, on account of the accession of Portugal, Directive 85/384/EEC on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services									
1990/0349	E	21/04/1992	judgment 23/11/2000	C-1998/421					Ongoing
Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration									
1993/4772	F	13/03/2000							Ongoing
1995/4918	E	23/11/1998							Ongoing
1996/2254	F	15/10/1998	20/07/2000	C-2000/285					Ongoing
Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts+A249									
1995/2054	E	25/08/1999	30/05/2000	C-2000/214					Ongoing
Council Directive 90/604/EEC of 8 November 1990 amending Directive 78/660/EEC on annual accounts and Directive 83/349/EEC on consolidated accounts as concerns the exemptions for small and medium-sized companies and the publication of accounts in ecus									
1997/2242	UK	2/02/1999							Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 90/605/EEC of 8 November 1990 amending Directive 78/660/EEC on annual accounts and Directive 83/349/EEC on consolidated accounts as regards the scope of those Directives									
1997/2243	UK	27/01/1999							Termination
Council Directive 90/618/EEC of 8 November 1990 amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance									
1997/2056	L	24/07/2000							Termination
Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)									
1995/2046	F	5/03/1997	16/12/1999	C-1998/239	4/04/2000	18/09/2000			Ongoing
1995/2108	D	30/05/2000							Ongoing
1995/2112	B	17/06/1997	judgment 18/05/2000	C-1998/206	10/10/2000				Ongoing
1996/2079	F	3/12/1997	judgment 11/05/2000	C-1998/296	12/09/2000				Ongoing
2000/4317	I	27/10/2000							Ongoing
Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC									
1995/4918	E	23/11/1998							Ongoing
Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (third life assurance Directive)									
1995/2046	F	5/03/1997	16/12/1999	C-1998/239	4/04/2000	18/09/2000			Ongoing
1996/2079	F	3/12/1997	judgment 11/05/2000	C-1998/296	12/09/2000				Ongoing
Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts									
1995/2149	P	7/07/1997							Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Health and Consumer Protection+A216									
Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours									
1998/2275	EL	28/04/1999	action withdrawn	C-1999/467					Ongoing
1998/2388	L	19/10/2000							Ongoing
Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts									
1998/2026	I	18/12/1998	6/10/1999	C-1999/372					Ongoing
1998/2028	EL	12/02/1999							Termination
1998/2032	S	21/12/1998	16/12/1999	C-1999/478					Ongoing
1998/2033	IR	9/03/2000							Ongoing
1998/2266	DK	8/06/2000							Ongoing
1998/2268	FI	3/05/2000							Ongoing
1998/2286	A	2/02/2000							Termination
1999/2067	E	25/05/2000							Ongoing
1999/2068	L	6/03/2000							Ongoing
Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis+A292									
1998/2008	S	9/07/1999							Termination
1998/2010	IR	16/08/1999							Termination
1999/2041	L	8/02/2000							Termination
1999/2042	E	25/05/2000							Ongoing
1999/2043	I	3/08/2000							Ongoing

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Energy and Transport									
Council Directive 91/439/EEC of 29 July 1991 on driving licences									
1996/2214	EL	7/09/2000							Ongoing
1996/2219	I	18/12/1998							Termination
1996/2220	NL	7/12/1998	20/06/2000	C-2000/246					Ongoing
1997/2028	A	1/03/2000							Ongoing
Council Directive 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation									
1997/2143	F	19/01/1999							Ongoing
Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States									
1997/2145	FI	21/10/1999							Termination
Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods									
1995/2216	F	28/04/1999							Termination
Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures									
1997/2049	B	11/08/1999							Termination
Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees									
1998/2168	P	23/07/1999							Termination

NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic									
1997/2028	A	1/03/2000							Ongoing
1998/2330	S	27/01/2000							Termination
1999/2002	F	13/03/2000							Termination
Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships									
1999/2135	B	7/09/2000							Ongoing

ANNEX IV - PART 3

INCORRECT APPLICATION OF DIRECTIVES

NB: The date given is the date of notification to the Member State or the date when the action was filed at the Court of Justice of the European Communities.

Abbreviations used (cf. Part 1)

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Agriculture									
Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer									
1994/2110	E	3/06/1999							Termination
1994/2118	E	3/06/1999							Termination
1994/2143	E	3/06/1999							Termination
1994/2144	E	3/06/1999							Termination
1994/2145	E	3/06/1999							Termination
1994/4603	D	11/12/1998	4/09/2000	C-2000/325					Ongoing
Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations									
1995/0652	I	28/02/2000							Termination
Council Directive 83/417/EEC of 25 July 1983 on the approximation of the laws of the Member States relating to certain lactoproteins (caseins and caseinates) intended for human consumption									
1995/2309	NL	22/01/1998							Ongoing
Competition									
Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings									
1996/2253	EL	21/11/1997							Ongoing
Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services									
1999/4784	L	3/08/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Commission Directive 93/84/EEC of 30 September 1993 amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings									
1996/2253	EL	21/11/1997							Ongoing
Commission Directive 96/2/EC of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications									
1997/4873	A	14/07/1999							Termination
Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets									
1999/4784	L	3/08/2000							Ongoing
Education and culture									
Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities									
1994/4750	I	7/08/1997	23/05/2000	C-2000/191					Ongoing
Enterprise+A288									
Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by Law, Regulation or Administrative Action relating to proprietary medicinal products									
1994/4658	UK	6/02/1998							Termination
Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of Member States relating to electrical equipment designed for use within certain voltage limits									
1995/4272	I	30/01/1997	17/03/2000	C-2000/100					Ongoing
Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products									
1992/4812	F	7/05/1998	action withdrawn	C-1999/331					Termination

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations									
1993/508	EL	31/10/1995							Termination
1997/0007	IR	20/09/2000							Ongoing
1997/0194	F								Termination
1997/0199	F	17/12/1998							Termination
1998/0102	B	11/08/1999							Termination
Council Directive 88/182/EEC of 22 March 1988 amending Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations									
1993/508	EL	31/10/1995							Termination
1997/0007	IR	20/09/2000							Ongoing
1997/0194	F								Termination
1997/0199	F	17/12/1998							Termination
1998/0102	B	11/08/1999							Termination
Council Directive 89/105/EEC of 21 December 1988 relating to the transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of national health insurance systems									
1997/4349	FI	17/12/1998	8/06/2000	C-2000/229					Ongoing
Council Directive 93/15/EEC of 5 April 1993 on the harmonization of the provisions relating to the placing on the market and supervision of explosives for civil uses									
1997/4054	D	7/04/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Environment									
Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances									
1997/4291	D	27/07/2000							Ongoing
Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils									
1999/2100	I	26/01/2000	3/10/2000	C-2000/376					Ongoing
1999/2101	P	8/02/2000							Termination
Council Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States									
1992/2300	P	10/07/1995	judgment 17/06/1998	C-1997/214	14/07/1999	26/01/2000			Termination
1992/4200	F	28/10/1997	16/07/1999	C-1999/266					Ongoing
1998/2062	E	23/07/1999							Termination
1998/2066	IR	30/10/1998							Termination
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
Council Directive 75/442/EEC of 15 July 1975 on waste									
1990/0262	I	5/07/1996	judgment 09/11/1997	C-1997/365					Ongoing
1995/4485	NL	1/08/2000							Ongoing
1995/4727	D	19/02/1999	7/06/2000	C-2000/228					Ongoing
1997/2190	EL	29/09/1998	7/04/2000	C-2000/132					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1997/4792	IR	14/07/1999							Ongoing
1998/2162	E	28/02/2000							Ongoing
1999/2100	I	26/01/2000	3/10/2000	C-2000/376					Ongoing
1999/2101	P	8/02/2000							Termination
1999/4007	I	7/09/2000							Ongoing
1999/4799	I	7/09/2000							Ongoing
1999/4809	I	7/09/2000							Ongoing
1999/4840	I	7/09/2000							Ongoing
Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water									
1986/0214	UK	2/02/1998	judgment 14/07/1993	C-1990/056	30/10/1998	21/01/2000			Ongoing
1989/0317	D	22/06/1994	judgment 08/06/1999	C-1997/198	28/07/2000				Ongoing
1989/0416	B	27/12/1996	judgment 25/05/2000	C-1998/307					Ongoing
1989/0418	E	27/11/1990	judgment 12/02/1998	C-1996/092	24/01/2000	27/07/2000			Ongoing
1996/2107	F	5/08/1998	17/04/2000	C-2000/147					Ongoing
1996/2109	NL	15/10/1998	3/07/2000	C-2000/268					Ongoing
1997/4742	UK	28/02/2000	20/11/2000	C-2000/427					Ongoing
1998/2196	F	6/08/1999	17/04/2000	C-2000/147					Ongoing
1999/2136	FI	17/04/2000							Ongoing
1999/2142	S	26/01/2000	6/10/2000	C-2000/368					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1999/2156	DK	7/04/2000							Ongoing
1999/2157	I	21/01/2000							Ongoing
Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community									
1989/0303	EL	16/10/1992	judgment 11/06/1998	C-1995/232	18/12/1998	7/09/2000			Ongoing
1990/0960	E	17/11/1994	judgment 25/11/1998	C-1996/214					Ongoing
1990/0979	EL	23/12/1996	judgment 25/05/2000	C-1997/384					Ongoing
1990/4113	NL	23/12/1996	17/04/1998	C-1998/152					Ongoing
1991/0205	B	6/08/1996	judgment 21/01/1999	C-1997/207					Ongoing
1991/0206	F	18/05/1993; 24/02/2000							Ongoing
1991/0207	L	25/05/1993	11/06/1998	C-1996-206					Ongoing
1991/0556	P	25/05/1993	judgment 13/07/2000	C-1998/261					Ongoing
1991/0642	I	25/05/1993	judgment 01/10/1998	C-1996/285					Ongoing
1997/4792	IR	14/07/1999							Ongoing
1997/4796	P	23/07/1999							Termination
1998/2062	E	23/07/1999							Termination
1998/2065	I	22/12/1998							Termination
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry									
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
1998/2062	E	23/07/1999							Termination
1998/2065	I	22/12/1998							Termination
1998/2066	IR	30/10/1998							Termination
Council Directive 78/659/EEC of 18 July 1978 on the quality of fresh waters needing protection or improvement in order to support fish life									
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
1998/2349	FI	19/07/1999							Termination
Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds									
1987/0176	NL	14/06/1993	judgment 19/05/1998	C-1996/003	27/01/1999	2/02/2000			Ongoing
1991/4380	E	6/08/1996							Termination
1991/4599	F	3/07/1995	judgment 19/03/1999	C-1997/166	27/10/1999				Ongoing
1994/4733	F	19/12/1997	judgment 07/12/2000	C-1998/374					Ongoing
1994/5069	EL	28/07/2000							Ongoing
1995/4840	IR	8/04/1998	27/03/2000	C-2000/117					Ongoing
1996/4505	A	30/07/1999							Termination
1997/2004	F	4/04/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1997/4466	E								
1998/2208	FI	17/12/1998	15/06/2000	C-2000/240					Ongoing
1998/4180	E	8/02/2000							Ongoing
1998/4203	P	30/06/2000							Ongoing
1998/4341	E	4/08/1999	25/09/2000	C-2000/354					Ongoing
1998/5122	IR	24/07/2000							Ongoing
1999/4459	A	27/07/2000							Ongoing
1999/4809	I	7/09/2000							Ongoing
1999/4814	B	19/07/2000							Ongoing
1999/5109	B	7/09/2000							Ongoing
Council Directive 79/869/EEC of 9 October 1979 concerning the methods of measurement and frequencies of sampling and analysis of surface water intended for the abstraction of drinking water in the Member States									
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
1998/2066	IR	30/10/1998							Termination
Council Directive 79/923/EEC of 30 October 1979 on the quality required of shellfish waters									
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances									
1998/2065	I	22/12/1998							Termination
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1999/4799	I	7/09/2000							Ongoing
Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption									
1997/4409	IR	14/07/1999	21/08/2000	C-2000/316					Ongoing
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
1998/4973	E	27/07/2000							Ongoing
1998/5083	P	7/04/2000							Ongoing
1999/4130	E	27/07/2000							Ongoing
Council Directive 80/779/EEC of 15 July 1980 on air quality limit values and guide values for sulphur dioxide and suspended particulates									
1991/0636	EL								Termination
Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities									
1991/2065	I	21/11/1995	judgment 17/06/1999	C-1997/336					Termination
Council Directive 84/156/EEC of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry									
1992/2303	P	25/10/1995	judgment 18/06/1998	C-1997/208	11/12/1998	14/07/1999			Termination
Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants									
1991/0636	EL								Termination

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 85/203/EEC of 7 March 1985 on air quality standards for nitrogen dioxide									
1991/0636	EL								Termination
Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment									
1995/4840	IR	8/04/1998	27/03/2000	C-2000/117					Ongoing
1996/4361	E	14/07/1999							Ongoing
1996/4505	A	30/07/1999							Termination
1996/4505	A	30/07/1999							Termination
1998/5122	IR	24/07/2000							Ongoing
1997/4442	E	27/07/2000							Ongoing
1997/4773	L	25/07/2000							Ongoing
1998/4104	E	28/07/2000							Ongoing
1998/4701	IR	21/01/2000							Termination
1998/4952	IR	21/01/2000							Ongoing
1999/4310	P	1/08/2000							Ongoing
1999/4495	E	26/09/2000							Ongoing
1999/4810	I	7/09/2000							Ongoing
Commission Directive 85/411/EEC of 25 July 1985 amending Council Directive 79/409/EEC on the conservation of wild birds									
1987/0176	NL	14/06/1993	judgment 19/05/1998	C-1996/003	27/01/1999	2/02/2000			Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture									
1999/2100	I	26/01/2000	3/10/2000	C-2000/376					Ongoing
1999/2101	P	8/02/2000							Termination
Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants									
1993/4621	E	24/07/1998	11/04/2000	C-2000/139					Ongoing
1999/4809	I	7/09/2000							Ongoing
1999/4840	I	7/09/2000							Ongoing
Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste-incineration plants									
1999/4809	I	7/09/2000							Ongoing
1999/4840	I	7/09/2000							Ongoing
Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms									
1998/2023	F	19/07/1999							Ongoing
Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment									
1996/4055	D	28/10/1998	1/02/2000	C-2000/029					Ongoing
1998/4154	B	25/05/2000							Termination
Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste									
1997/2177	D	21/12/1998							Termination
1997/2178	F	5/08/1998	3/08/1999	C-1999/292					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1997/2179	L	6/08/1998	3/11/2000	C-2000/401					Ongoing
1997/2181	IR	27/07/1998	1/12/1999	C-1999/461					Ongoing
1997/2182	I	21/10/1998	3/12/1999	C-1999/466					Ongoing
1997/2184	S	23/11/1998							Termination
1997/2185	UK	23/04/1999	8/02/2000	C-2000/035					Ongoing
1999/2238	L	25/07/2000							Ongoing
1999/4007	I	7/09/2000							Ongoing
1999/4100	L	4/04/2000	19/12/2000	C-2000/458					Ongoing
1999/4799	I	7/09/2000							Ongoing
1999/4809	I	7/09/2000							Ongoing
1999/4840	I	7/09/2000							Ongoing
Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances									
1994/2273	EL	25/04/1997	judgment 08/07/1999	C-1998/215	26/10/1999	10/04/2000			Termination
1994/2277	E	21/10/1996	judgment 08/07/1999	C-1997/298					Termination
1997/2073	P	6/07/1998							Termination
1999/2210	A	27/07/2000							Ongoing
Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment									
1997/4796	P	23/07/1999							Termination
1998/2012	B	17/12/1998	judgment 06/07/2000	C-1999/236					Termination

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1999/2020	I	21/01/2000	26/10/2000	C-2000/396					Ongoing
1999/2030	B	3/11/2000							Ongoing
Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources									
1994/2240	E	26/09/1996	judgment 01/10/1998	C-1997/071					Termination
1994/2246	F	9/07/1999	28/06/2000	C-2000/258					Ongoing
1996/2205	E	21/11/1997	judgment 13/04/2000	C-1998/274					Ongoing
1997/2192	L	26/01/2000	30/06/2000	C-2000/266					Ongoing
1997/4750	B	9/11/1999							Ongoing
1998/2158	NL	3/08/1999	30/08/2000	C-2000/322					Ongoing
1999/4040	UK	5/04/2000							Termination
Council Directive 91/689/EEC of 12 December 1991 on hazardous waste									
1998/2173	F	23/07/1999							Ongoing
1997/2178	F	5/08/1998	3/08/1999	C-1999/292					Ongoing
1997/2179	L	6/08/1998	3/11/2000	C-2000/401					Ongoing
1997/2181	IR	27/07/1998	1/12/1999	C-1999/461					Ongoing
1997/2182	I	21/10/1998	3/12/1999	C-1999/466					Ongoing
1997/2184	S	23/11/1998							Termination
1997/2185	UK	23/04/1999	8/02/2000	C-2000/035					Ongoing
1997/2190	EL	29/09/1998	7/04/2000	C-2000/132					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1998/2176	I	17/12/1998	7/12/1999	C-1999/469					Termination
1998/2179	UK	28/02/2000							Termination
Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment									
1998/2067	P	2/02/1999	judgment 12/12/2000	C-1999/435					Ongoing
1998/2276	F	6/08/1999							Termination
1999/2100	I	26/01/2000	3/10/2000	C-2000/376					Ongoing
1999/2101	P	8/02/2000							Termination
Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora									
1991/4380	E	6/08/1996							Termination
1991/4599	F	3/07/1995	judgment 19/03/1999	C-1997/166	27/10/1999				Ongoing
1994/4733	F	19/12/1997	judgment 07/12/2000	C-1998/374					Ongoing
1995/2225	D	19/12/1997	1/03/1999	C-1999/071					Ongoing
1995/2226	L	12/11/1997							Termination
1995/2229	IR	19/12/1997	25/02/1999	C-1999/067					Ongoing
1995/2230	F	6/11/1997	9/06/1999	C-1999/220					Ongoing
1995/2231	E	27/11/1997							Termination
1995/4840	IR	8/04/1998	27/03/2000	C-2000/117					Ongoing
1996/2089	A	28/04/1998							Ongoing
1996/2090	DK	19/01/1998							Termination

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1997/2004	F	4/04/2000							Ongoing
1998/4203	P	30/06/2000							Ongoing
1998/5122	IR	24/07/2000							Ongoing
1999/4809	I	7/09/2000							Ongoing
1998/4104	E	28/07/2000							Ongoing
1998/4952	IR	21/01/2000							Ongoing
1998/2277	EL	15/06/1999	17/03/2000	C-2000/103					Ongoing
1998/5078	P	25/07/2000							Ongoing
1999/2275	P	25/07/2000							Ongoing
1999/4809	I	7/09/2000							Ongoing
European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste									
1997/2177	D	21/12/1998							Termination
1997/2178	F	5/08/1998	3/08/1999	C-1999/292					Ongoing
1997/2179	L	6/08/1998	3/11/2000	C-2000/401					Ongoing
1997/2181	IR	27/07/1998	1/12/1999	C-1999/461					Ongoing
1997/2182	I	21/10/1998	3/12/1999	C-1999/466					Ongoing
1997/2184	S	23/11/1998							Termination
1997/2185	UK	23/04/1999	8/02/2000	C-2000/035					Ongoing
1997/2190	EL	29/09/1998	7/04/2000	C-2000/132					Ongoing
1999/4222	E	26/01/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)									
1999/2258	E	18/09/2000							Ongoing
1999/2260	F	27/07/2000							Ongoing
1999/2261	EL	1/08/2000							Ongoing
1999/2262	IR	25/07/2000							Ongoing
1999/2263	I	3/08/2000							Ongoing
1999/2264	L	25/07/2000							Ongoing
1999/2266	P	1/08/2000							Ongoing
1999/2267	UK	3/08/2000							Ongoing
Information society									
Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection									
2000/2019	B	20/09/2000							Ongoing
2000/2022	A	20/09/2000							Ongoing
2000/2024	NL	1/08/2000							Ongoing
2000/2109	D	30/10/2000							Ongoing
Justice and Home Affairs									
Council Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health									
1997/2207	D	24/07/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services									
1995/4317	F	15/04/1998							Termination
Council Directive 90/364/EEC of 28 June 1990 on the right of residence									
1994/2218	I	11/11/1996	judgment 25/05/2000	C-1998/424					Ongoing
Council Directive 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity									
1994/2218	I	11/11/1996	judgment 25/05/2000	C-1998/424					Ongoing
Council Directive 90/366/EEC of 28 June 1990 on the right of residence for students									
1994/2218	I	11/11/1996	judgment 25/05/2000	C-1998/424					Ongoing
Council Directive 93/96/EEC of 29 October 1993 on the right of residence for students									
1994/2215	F	17/01/1997	16/06/1998	C-1998/221					Termination

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Internal market									
First Council Directive 68/151/EEC of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community									
1990/0322	D	2/06/1992	judgment 29/09/1998	C-1995/191					Termination
Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of Member States relating to electrical equipment designed for use within certain voltage limits									
1989/0228	B	14/05/1990	judgment 24/03/1994	C-1992/080	24/09/1996	5/03/1998; 09/09/1998			Termination
Council Directive 77/453/EEC of 27 June 1977 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of nurses responsible for general care									
1991/4352	E	23/11/1998							Termination
Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies									
1990/0322	D	2/06/1992	judgment 29/09/1998	C-1995/191					Termination
Council Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services									
1990/0412	I	28/11/1991	judgment 01/05/1995	C-1993/040					Ongoing
1995/4336	D	11/03/1999							Termination
1997/4363	P	1/02/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 84/641/EEC of 10 December 1984 amending, particularly as regards tourist assistance, the First Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance									
1998/4727	EL	18/09/2000							Ongoing
Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services									
1997/4319	EL	24/02/2000							Ongoing
1998/2227	B	13/08/1999	5/06/2000	C-2000/222					Ongoing
Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of certain activities in the field of pharmacy									
1991/0820	I	23/12/1992	judgment 29/02/1996	C-1994/307	25/03/1997				Ongoing
Council Directive 88/295/EEC of 22 March 1988 amending Directive 77/62/EEC relating to the coordination of procedures on the award of public supply contracts and repealing certain provisions of Directive 80/767/EEC									
1994/0608	IR	23/02/1996	judgment 17/12/1998	C-1996/353					Termination
Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty									
1992/5047	I	26/01/2000							Termination
Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration									
1995/4533	D	16/02/1999							Termination
1999/2076	E	24/07/2000							Ongoing
1999/2079	P	29/12/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts									
1995/4325	A	21/02/1996	28/10/1996	C-1996/328					Termination
Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors									
1996/4081	A	7/08/1998							Termination
Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering									
1995/2121	A	21/02/1997	action withdrawn	C-1998/290					Ongoing
Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)									
1999/4692	P	20/10/1999							Termination
Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts									
1996/4081	A	7/08/1998							Termination
1997/4076	D	30/12/1998							Termination
1997/4230	I	10/08/1998; 22/12/1998							Ongoing
1997/4530	B	8/02/2000							Ongoing
1997/4949	I	16/08/1999							Ongoing
1997/4956	E	10/02/2000							Ongoing
1998/4452	I	17/07/2000							Termination

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1998/4610	D	10/08/1999							Termination
1999/4247	I	18/09/2000							Ongoing
1997/4540	D	6/03/2000							Ongoing
1998/4905	D	6/03/2000							Ongoing
Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC									
1999/2076	E	24/07/2000							Ongoing
1999/2079	P	29/12/2000							Ongoing
1996/4801	I	21/06/2000							Ongoing
Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property									
1997/4602	UK	24/07/2000							Ongoing
Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts									
1996/4081	A	7/08/1998							Termination
1997/4530	B	8/02/2000							Ongoing
1998/4984	EL	11/08/1999							Termination
1998/5067	D	6/03/2000							Termination
Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts									
1995/2107	F	7/04/1997	judgment 26/09/2000	C-1998/225					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1995/4325	A	21/02/1996	28/10/1996	C-1996/328					Termination
1997/4530	B	8/02/2000							Ongoing
1997/4956	E	10/02/2000							Ongoing
1997/4493	E	25/08/1999	18/07/2000	C-2000/283					Ongoing
1997/4218	I	9/09/1998	27/04/2000	C-2000/155					Ongoing
1998/4255	F	6/08/1999							Ongoing
1998/4428	A	6/08/1999							Termination
1999/4124	UK	12/09/2000							Ongoing
1999/4141	UK	12/09/2000							Ongoing
1998/5068	D	8/09/2000							Ongoing
Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors									
1998/4905	D	6/03/2000							Ongoing
1995/2252	F	7/04/1997	judgment 05/10/2000	C-1998/016					Ongoing
1997/4017	F	5/03/1998	judgment 05/10/2000	C-1998/337					Termination
Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights									
1996/2256	I	2/02/2000							Ongoing
European Parliament and Council Directive 95/26/EC of 29 June 1995 amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non- life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision									

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1999/4692	P	20/10/1999							Termination
Health and consumer protection									
Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat									
1996/2022	F	9/02/1998							Ongoing
1996/2026	IR	24/02/1999							Termination
1997/2152	UK	26/05/1998							Ongoing
1999/2247	F	16/12/1999	4/01/2000	C-2000/001					Ongoing
Council Directive 71/118/EEC of 15 February 1971 on health problems affecting trade in fresh poultrymeat									
1997/2138	UK	24/11/2000							Ongoing
Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries									
1995/2011	EL	13/03/1998	judgment 15/06/2000	C-1998/470					Ongoing
Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer									
1998/2328	E	19/07/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations									
1993/2267	NL	20/10/1994	judgment 13/09/2000	C-1997/341					Ongoing
Council Directive 85/73/EEC of 29 January 1985 on the financing of health inspections and controls of fresh meat and poultrymeat									
1994/2181	EL	19/08/1997	judgment 16/11/2000	C-1998/214					Ongoing
1995/2011	EL	13/03/1998	judgment 15/06/2000	C-1998/470					Ongoing
Council Directive 88/182/EEC of 22 March 1988 amending Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations									
1993/2267	NL	20/10/1994	judgment 13/09/2000	C-1997/341					Ongoing
Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market									
1999/2141	B	5/10/1999							Ongoing
1999/2247	F	16/12/1999	4/01/2000	C-2000/001					Ongoing
Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra- Community trade in certain live animals and products with a view to the completion of the internal market									
1999/2141	B	5/10/1999							Ongoing
Council Directive 90/667/EEC of 27 November 1990 laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC									
1997/2216	P	26/05/1998							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries									
1995/2011	EL	13/03/1998	judgment 15/06/2000	C-1998/470					Ongoing
Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market									
1998/4306	I	3/08/2000							Ongoing
Council Directive 91/498/EEC of 29 July 1991 on the conditions for granting temporary and limited derogations from specific Community health rules on the production and marketing of fresh meat									
1996/2022	F	9/02/1998							Ongoing
1996/2026	IR	24/02/1999							Termination
Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves									
1999/2063	IR	24/07/2000							Ongoing
Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs									
1999/2063	IR	24/07/2000							Ongoing
Council Directive 93/118/EEC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat									
1994/2181	EL	19/08/1997	judgment 16/11/2000	C-1998/214					Ongoing
1995/2011	EL	13/03/1998	judgment 15/06/2000	C-1998/470					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
<i>Taxation and customs union</i>									
Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital									
1991/2193	EL	23/02/1996	26/11/1998	C-1998/426					Ongoing
1998/2320	B	26/01/2000							Ongoing
Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment									
1989/5085	F	22/12/1997	30/12/1998	C-1998/481					Ongoing
1988/0199	EL	8/08/1989	judgment 12/09/2000	C-1998/260					Termination
1988/0200	IR	19/10/1989	judgment 12/09/2000	C-1997/358					Ongoing
1988/0201	NL	19/10/1989	judgment 12/09/2000	C-1997/408					Termination
1988/0202	UK	10/08/1989	judgment 12/09/2000	C-1997/359					Ongoing
1988/0213	F	28/08/1989	judgment 12/09/2000	C-1997/276					Ongoing
1992/4607	F	10/04/1996	18/12/1997	C-1997/429					Ongoing
1993/2142	D	14/06/1996	action withdrawn	C-1997/432					Termination
1993/2174	B	8/07/1998							Termination
1993/2229	D	23/03/1998	26/11/1998	C-1998/427					Ongoing
1994/2099	UK	14/10/1998							Ongoing
1994/2100	NL	22/09/1997	14/09/1998	C-1998/338					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
1995/4515	F	5/03/1998	3/03/1999	C-1999/076					Ongoing
1996/4733	A	27/12/1999							Ongoing
1997/2104	F	24/07/1998	action withdrawn	C-1999/156					Termination
1997/2148	EL	26/08/1999							Termination
1997/2156	FI	4/11/1998	8/05/2000	C-2000/169					Ongoing
1997/2172	E	10/08/1998	8/03/1999	C-1999/083					Ongoing
1997/2215	F	17/11/1998	22/10/1999	C-1999/404					Ongoing
1997/4365	I	9/07/1999	2/03/2000	C-2000/078					Ongoing
1998/2103	F	10/03/1999	17/09/1999	C-1999/345					Ongoing
1998/2140	UK	6/08/1999							Termination
1998/2232	D	26/08/1999	20/07/2000	C-2000/287					Ongoing
1998/4401	F	19/07/1999	11/02/2000	C-2000/040					Ongoing
1998/4747	D	24/01/2000							Ongoing
1999/2192	NL	23/06/2000							Ongoing
1999/2193	F	13/06/2000							Ongoing
1999/2214	D	29/12/2000							Ongoing
1999/2235	E	26/09/2000							Ongoing
1999/4088	EL	9/11/1999							Termination
2000/2033	E	18/09/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Eighth Council Directive 79/1072/EEC of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in the territory of the country									
1992/4607	F	10/04/1996	18/12/1997	C-1997/429					Ongoing
Council Directive 83/182/EEC of 28 March 1983 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another									
1997/4258	EL	29/11/2000							Ongoing
Council Directive 92/77/EEC of 19 October 1992 supplementing the common system of value added tax and amending Directive 77/388/EEC (approximation of VAT rates)									
1994/2178	P	10/06/1997	20/07/1998	C-1998/276					Ongoing
Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products									
1994/4860	B	15/12/1997							Termination
1995/2151	F	12/02/1997	judgment 24/02/2000	C-1997/434					Termination
1997/2148	EL	26/08/1999							Termination
1997/4358	A	17/09/1999							Termination
1999/4037	B	4/08/2000							Ongoing
Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes									
1998/4061	F	26/01/1999	7/08/2000	C-2000/302					Ongoing
Council Directive 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils									
1997/2071	FI	6/08/1998	17/05/2000	C-2000/185					Ongoing
1999/2051	D	13/03/2000							Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils									
1997/2071	FI	6/08/1998	17/05/2000	C-2000/185					Ongoing
Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages									
1995/2151	F	12/02/1997	judgment 24/02/2000	C-1997/434					Termination
Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages									
1995/2151	F	12/02/1997	judgment 24/02/2000	C-1997/434					Termination
Council Directive 94/5/EC of 14 February 1994 supplementing the common system of value added tax and amending Directive 77/388/EEC - Special arrangements applicable to second-hand goods, works of art, collectors' items and antiques									
1995/4689	UK	3/08/2000							Ongoing
Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco									
1994/4034	EL	17/06/1997	judgment 19/10/2000	C-1998/216					Ongoing
1998/4061	F	26/01/1999	7/08/2000	C-2000/302					Ongoing

INCORRECT APPLICATION OF DIRECTIVES

Infringement No	MS	RO or SUPRO sent	Referral 226 EC	Case	LET 228 sent	RO 228 sent	Referral 228 EC	Case	Status on 31/12/2000
<i>Energy and transport</i>									
Council Directive 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation									
1995/4152	B	19/08/1998	22/12/1999	C-1999/504					Termination
Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures									
1996/2059	A	13/01/1997	judgment 26/09/2000	C-1998/205					Ongoing
Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations									
1999/2008	I	16/05/2000							Ongoing
1999/2010	P	5/04/2000							Ongoing



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VOLUME VI

**EIGHTEENTH ANNUAL REPORT ON MONITORING THE
APPLICATION OF COMMUNITY LAW (2000)**

ANNEX V

**JUDGMENTS OF THE COURT OF JUSTICE
UP TO 31 DECEMBER 2000 NOT YET IMPLEMENTED**

ANNEX VI

**APPLICATION OF COMMUNITY LAW
BY NATIONAL COURTS: A SURVEY**

ANNEX V

**Judgments of the Court of Justice up to 31 December 2000
not yet implemented**

Belgium

Judgment given on 27/9/88, Case C-42/87

Judgment given on 3/5/94, Case C-47/93

Discrimination in public financing – non-university further education

In March 2000 the French Community adopted a decree amending its legislation to bring it into line with Community law. The Commission is pursuing its contacts with the Belgian authorities concerning the actual reimbursement of entry fees (application of the rules on limitation periods, budgetary measures).

Judgment given on 19/2/91, Case C-375/89

Aid for Idealspun/Beaulieu

In a ruling given on 16 November 2000, Ghent Court of Appeal upheld the judgment of Kortrijk Commercial Court ordering repayment of the aid. The Commission is awaiting official notification from the Belgian authorities.

Judgment given on 21/1/99, Case C-207/97

Failure to notify programmes to reduce pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

The Belgian authorities have submitted information on the implementation of the measures announced by the Flemish and Walloon regions to comply with the judgment. These measures are being examined by the Commission.

Judgment given on 14/9/99, Case C-170/98

Cargo-sharing arrangements in the bilateral agreement between Belgium and Zaire

The Commission considers that the additional protocol concluded with Congo on 8 June 1999 brought an end to the infringement. The case will be formally terminated as soon as the protocol comes into force.

Judgment given on 14/9/99, Case C-171/98

Cargo-sharing arrangements in bilateral agreement between the BLEU and Togo

The Commission considers that the additional protocol concluded with Togo on 27 September 1999 brought an end to the infringement. The case will be formally terminated as soon as the protocol comes into force.

Judgment given on 14/9/99, Case C-201/98

Cargo-sharing arrangements in bilateral agreements between Belgium and the MCWCS countries

The Commission considers that the agreements concluded with Senegal, Côte d'Ivoire and Mali have been properly adapted. The case will be terminated as soon as the additional protocols come into force.

Judgment given on 9/3/00, Case C-355/98

Restrictions in the field of private security firms

Article 228 proceedings have been commenced. In November 2000 the Belgian authorities sent draft amending legislation, which the Commission is now examining.

Judgment given on 18/5/00, Case C-206/98

Insurance scheme for occupational accidents

Article 228 proceedings have been commenced.

The Belgian authorities have submitted a bill designed to adapt their legislation on insurance against occupational accidents to European directives.

Judgment given on 25/5/00, Case C-307/98

Partial compliance with legislation on the quality of bathing water

Article 228 proceedings have been commenced.

Judgment given on 26/9/00, Case C-478/98

Free movement of capital - subscription to a loan denominated in DEM

The Commission will shortly be contacting the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 16/11/00, Case C-217/99

Labelling of foodstuffs

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 30/11/00, Case C-384/99

Universal service

Recent judgment.

Germany

Judgment given on 22/10/98, Case C-301/95

Incorrect transposal of Council Directive 85/337/EEC on the assessment of the effects of certain public or private projects on the environment

The German authorities have submitted draft legislation. The Commission is awaiting its adoption. The case is to be referred to the Court under Article 228(2) of the Treaty, accompanied by a request for imposition of a penalty payment.

Judgment given on 8/6/99, Case C-198/97

Quality of bathing water

Article 228 proceedings have been commenced. The Commission is examining measures notified by the German authorities at the end of December 2000.

Judgment given on 9/9/99, Case C-102/97

Disposal of waste oils, regeneration

Article 228 proceedings have been commenced.

The Commission is examining draft legislation sent by the German authorities at the end of November 2000.

Judgment given on 9/9/99, Case C-217/97

Access to information

Article 228 proceedings have been commenced and are continuing.

Judgment given on 11/11/99, Case C-184/97

Failure to notify programmes to reduce pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

The Commission has contacted the German authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 15/6/00, Case C-348/97

Failure to collect and pay own resources in respect of butter from the Netherlands

The Commission has contacted the German authorities to ascertain what measures are planned to comply with the Court's judgment.

Greece

Judgment given on 7/4/92, Case C-45/91Village waste in Crete

Greece has not implemented all the measures set out in the Court judgment. The Commission is continuing to press for payment of the fine, the first instalment of which has been paid (covering the period between 4 July and 30 September 2000).

Judgment given on 22/10/97, Case C-375/95Taxes on second-hand cars

Article 228 proceedings are continuing.

The Greek authorities have submitted a bill, which the Commission is now examining.

Judgment given on 11/6/98, Case C-232/95Pollution of Lake Vegoritis - dangerous substances in the aquatic environment

Article 228 proceedings are continuing.

The Greek authorities have presented draft programmes designed to comply with the Court's judgment. The Commission is awaiting adoption of these measures.

Judgment given on 15/10/98, Case C-385/97Failure to notify national measures transposing Council Directive 93/118/EC on the financing of health inspections and controls of fresh meat and poultrymeat

Article 228 proceedings are continuing.

Judgment given on 28/10/99, Case C-187/98Equal treatment of men and women in matters of social security

Article 228 proceedings have been commenced.

Judgment given on 16/12/99, Case C-137/99Failure to notify measures transposing Directive 96/43/EEC amending Council Directive 91/496/EEC laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries

Article 228 proceedings have been commenced and are continuing.

Judgment given on 13/4/00, Case C-123/99Failure to notify national measures implementing Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste

Article 228 proceedings have been commenced.

Judgment given on 25/5/00, Case C-384/97

Failure to notify programmes to reduce pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

The Commission has contacted the Greek authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 15/6/00, Case C-470/98

Veterinary fees for products of agricultural origin from non-Community countries

The Commission will shortly be contacting the Greek authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 19/10/00, Case C-216/98

Price of manufactured tobacco

The Commission has contacted the Greek authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 16/11/00, Case C-214/98

Fees charged for health inspections and checks on fresh meat

Recent judgment.

Judgment given on 14/12/00, Case C-457/98

Failure to notify national measures implementing Directive 96/97/EC amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

Recent judgment.

Spain

Judgment given on 22/3/94, Case C-375/92Restrictions on the freedom to provide services as tourist guides

The Spanish authorities have notified the amendments to their legislation. The Commission is awaiting final adoption of these amendments.

Judgment given on 12/2/98, Case C-92/96Incorrect application of Council Directive 76/160/EEC concerning the quality of bathing water as regards inland waters

Article 228 proceedings are continuing.

The Spanish authorities have sent a reply on the substance of the reasoned opinion, which is being examined by the Commission.

Judgment given on 25/11/98, Case C-214/96Incorrect application of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (Article 7: pollution reduction programmes)

The Commission has had to study the documents sent by the Spanish authorities and conduct additional enquiries.

Judgment given on 13/4/00, Case C-274/98Failure to draw up the programmes provided for in Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

The Commission asked the Spanish authorities what measures were planned to comply with the Court's judgment. It is now examining their reply.

Judgment given on 23/11/00, Case C-421/98Non-conformity of Spanish legislation on the mutual recognition of architectural qualifications (restrictions on activities)

Recent judgment.

France

Judgment given on 11/6/91, Case C-64/88

Fisheries: failure to monitor compliance with technical conservation measures

Article 228 proceedings are continuing.

The French authorities' reply to the additional reasoned opinion is being examined by the Commission.

Judgment given on 13/3/97, Case C-197/96

Night work by women

By Order dated 7 December 2000, the Court decided to extend the suspension of the proceedings until 30 April 2001 to enable France to bring its legislation into line with the Directive and thus comply with the judgment.

Judgment given on 9/12/97, Case C-265/95

Barriers to imports of Spanish strawberries

The Commission is examining the whole case file to check whether the Court's judgment requires further implementing measures.

Judgment given on 15/10/98, Case C-284/97

Failure to notify national measures transposing Council Directive 93/40/EEC amending Directive 81/852/EEC on the approximation of the laws of the Member States relating to analytical, pharmaco-toxicological and clinical standards and protocols in respect of the testing of veterinary medicinal products

Article 228 proceedings are continuing.

Progress is being made. Legislative steps have been taken. The order transposing Directive 93/40/EEC should be adopted in the spring of 2001.

Judgment given on 22/10/98, Case C-184/96

Preparations based on foie gras

A decree incorporating a mutual recognition clause into French legislation on foie gras was published in the French *Journal Officiel* on 21 December 2000. The case will be terminated very soon.

Judgment given on 18/3/99, Case C-166/97

Failure to classify an area of the Seine Estuary as an SPA and incomplete protection measures

Progress is being made.

Measures have been taken to implement the judgment and are gradually being put into effect.

Judgment given on 19/5/99, Case C-225/97

Incorrect transposal of Council Directive 92/13/EEC on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (review procedures)

Article 228 proceedings have been commenced.

Judgment given on 8/7/99, Case C-354/98

Failure to notify national measures transposing Directive 96/97/EC amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

Article 228 proceedings are continuing.

Judgment given on 25/11/99, Case C-96/98

Deterioration of the Marais Poitevin

Article 228 proceedings have been commenced.

Judgment given on 16/12/99, Case C-239/98

Incorrect transposal of Council Directives 92/49/EEC and 92/96/EEC on direct assurance other than life assurance and direct life assurance (third insurance Directives)

Article 228 proceedings have been commenced and are continuing.

The Senate has adopted a bill at first reading. The deadline for application by mutual societies is still 1 January 2003, even though the Directives should have been incorporated into French law in 1994.

Judgment given on 15/2/00, Case C-34/98

Social contribution to reimbursement of the social debt - frontier workers

Article 228 proceedings have been commenced.

Judgment given on 15/2/00, Case C-169/98

Application of general social security contribution to frontier workers

Article 228 proceedings have been commenced.

Judgment given on 23/3/00, Case C-327/99

Failure to notify national measures implementing Council Directive 93/15/EEC on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses

A draft decree sent by the French authorities is being examined by the Commission.

Judgment given on 6/4/00, Case C-256/98

Failure to notify national measures transposing Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora

Article 228 proceedings have been commenced and are continuing.

Judgment given on 15/5/00, Case C-296/98

Incompatibility of French insurance code with the "life" and "non-life" Directives

Article 228 proceedings have been commenced.

The French authorities have notified draft legislation. The Commission is awaiting its adoption.

Judgment given on 18/5/00, Case C-45/99

Failure to notify measures transposing Council Directive 94/33/EC on the protection of young people at work

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 8/6/00, Case C-46/99

Failure to notify measures transposing Council Directive 93/104/EC concerning certain aspects of the organisation of working time

Article 228 proceedings have been commenced.

Judgment given on 13/7/00, Case C-160/99

Maritime cabotage

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

The Commission is examining draft legislation sent by the French authorities on 11 December 2000.

Judgment given on 12/9/00, Case C-276/97

Failure to levy VAT on motorway tolls

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 26/9/00, Case C-225/98

Public works contracts - school buildings in the Nord-Pas-de-Calais Region

The Commission will shortly be contacting the French authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 26/9/00, Case C-23/99

Seizure of spare parts in transit - protection of designs - counterfeiting

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

Progress is being made.

Judgment given on 5/10/00, Case C-16/98

Public works contracts - MPTSE - SDE - Vendée

The Commission is examining the case file to determine whether the Court's judgment requires implementing measures.

Judgment given on 23/11/00, Case C-319/99

Failure to notify national measures transposing Directive 95/47/EC of the European Parliament and of the Council on the use of standards for the transmission of television signals

Recent judgment.

Judgment given on 23/11/00, Case C-320/99

Failure to notify national measures transposing Directive 97/68/EC of the European Parliament and of the Council on measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery

Recent judgment.

Judgment given on 7/12/00, Case C-374/98

Failure to classify a site as an SPA and inadequate conservation measures at Vingrau and Tautavel (Pyrénées Orientales)

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 7/12/00, Case C-38/99

Opening and closing dates for hunting that are incompatible with the requirements of Council Directive 79/409/EEC on the conservation of wild birds

Recent judgment.

Judgment given on 14/12/00, Case C-55/99

Compulsory registration with a medicinal products agency of reagents intended for laboratories performing medical biology analyses

Recent judgment.

Ireland

Judgment given on 21/9/99, Case C-392/96

Non-conformity of Irish legislation with various provisions of Council Directive 85/337/EEC on the assessment of the effects of certain public or private projects on the environment

Article 228 proceedings have been commenced.

The Irish authorities' reply is being studied by the Commission.

Judgment given on 12/10/99, Case C-213/98

Failure to notify national measures transposing Directive 92/100/EEC on rental right and lending right and on certain rights related to copyright in the field of intellectual property

Progress is being made.

According to informal contacts with the Member State, the Irish parliament has adopted the Copyright and Related Rights Bill.

The Commission is now awaiting signature of the Commencement Order and official notification of these legislative measures.

Judgment given on 25/11/99, Case C-212/98

Failure to notify national measures transposing Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission

According to informal contacts with the Member State, the Irish parliament has adopted the Copyright and Related Rights Bill.

The Commission is now awaiting signature of the Commencement Order and official notification of these legislative measures.

Judgment given on 8/6/00, Case C-190/99

Failure to notify national measures transposing Council Directive 96/43/EC amending and consolidating Directive 85/73/EEC on the financing of veterinary inspections and controls on live animals and certain animal products

The Irish authorities have adopted legislation implementing the Court judgment. The case will be terminated very soon.

Judgment given on 12/9/00, Case C-358/97

Failure to levy VAT on tolls on roads and bridges

The Commission has contacted the Irish authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 26/9/00, Case C-408/99

Failure to notify national measures transposing Council Directive 94/55/EC on the transport of dangerous goods by road and Directive 96/86 adapting that Directive to technical progress

The Commission has contacted the Irish authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 14/12/00, Case C-347/99

Failure to notify national measures transposing Council Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road

Recent judgment.

Italy

Judgment given on 1/6/95, Case C-40/93Admission to the profession of dentist

The Italian authorities have submitted a draft decree organising the aptitude test. The Commission is awaiting a detailed report on the conduct of this test and on the adoption of the SLIM Directive.

Judgment given on 29/2/96, Case C-307/94Failure to notify measures transposing the Council Directive coordinating legislation relating to certain activities of pharmacists

Progress is being made. Following the commencement of Article 228 proceedings and discussions with the Member State, the remaining difficulties are in the process of being resolved in conjunction with the amendments to the above Directive, which are expected to be adopted shortly.

Judgment given on 29/1/98, Case C-280/95Failure to comply with Decision 93/496/EEC of 9 June 1993 on the obligation to recover tax aid granted to professional road hauliers for 1992

A bill has been laid before the Italian parliament. The Commission has yet to be notified of its adoption. Article 228 proceedings have been commenced.

Judgment given on 1/10/98, Case C-285/96Incorrect application of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (Article 7: pollution reduction programmes)

The Italian authorities have submitted to the Commission a set of measures designed to give effect to the Court's judgment, and these are being examined.

Judgment given on 25/3/99, Case C-112/97Failure to allow the installation of gas appliances which comply with 90/396/EEC

Following the commencement of Article 228 proceedings, the Italian authorities have notified new regulations.

The criteria which the new regulations lay down for the size of the aperture for ventilation in premises where the heaters are to be installed are deemed to be disproportionate and likely to raise obstacles to the commissioning of such appliances. An additional letter of formal notice has therefore been sent to the Member State. The Commission is in the process of examining its replies.

Judgment given on 9/11/99, Case C-365/97Waste, San Rocco valley

In November the Italian authorities sent an extensive case file, which is being examined by the Commission.

Judgment given on 11/11/99, Case C-315/98

Failure to notify national measures transposing Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions

Since the Commission has not received the measures announced by the Italian authorities, the case is to be referred to the Court under Article 228(2) of the Treaty, accompanied by a request for imposition of a penalty payment.

Judgment given on 9/3/00, Case C-358/98

Legislative barriers to the freedom to provide cleaning services

Article 228 proceedings have been commenced.

The Italian authorities have submitted measures designed to comply with the Court's judgment. The case will therefore be terminated soon.

Judgment given on 9/3/00, Case C-386/98

Failure to notify national measures implementing Council Directive 93/104/EC concerning certain aspects of the organisation of working time

The Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment. Given the absence of any draft measures, Article 228 proceedings have been commenced.

Judgment given on 23/5/00, Case C-58/99

Restrictions on foreign investments in privatised companies

The Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment.

Their reply is being examined.

Judgment given on 25/5/00, Case C-424/98

Incorrect application of Directives on the right of residence of retired persons, students and persons not exercising an occupational activity

The Commission is examining the compatibility of Legislative Decree No 358 amending Decree-Law No 470 transposing Directives 90/364/EEC, 90/365/EEC and 90/366/EEC.

Judgment given on 8/6/00, Case C-264/99

Legislative barriers to the activities of hauliers

The Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 30/11/00, Case C-422/99

Failure to notify national measures transposing Directive 97/51/EC amending Council Directive 90/387/EEC on the establishment of the internal market for telecommunications services through the implementation of open network provision

Recent judgment.

Judgment given on 7/12/00, Case C-395/99

Failure to notify national measures transposing Directive 96/51/EC amending Council Directive 70/524/EEC concerning additives in feedingstuffs, and Council Directive 96/93/EC on the certification of animals and animal products

Recent judgment.

Judgment given on 7/12/00, Case C-423/99

Failure to notify national provisions transposing Directive 98/10/EC of the European Parliament and of the Council on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment

Recent judgment.

Luxembourg

Judgment given on 11/6/98, Case C-206/96

Absence of pollution-reduction programmes regarding 99 substances on list II in the Annex to Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

The Luxembourg authorities have sent an extensive progress report on the measures being taken to implement the judgment, which is being examined by the Commission.

Judgment given on 14/9/99, Case C-202/98

Cargo-sharing arrangements in the bilateral agreement between Luxembourg and the MCWCS countries

Article 228 proceedings are continuing.

Judgment given on 21/10/99, Case C-430/98

Failure to notify national measures transposing Council Directive 94/45/EC on the establishment of a European Works Council for the purposes of informing and consulting employees

The Luxembourg authorities have notified implementing measures, which are being examined by the Commission.

Judgment given on 16/12/99, Case C-47/99

Failure to notify measures transposing Council Directive 94/33/EEC on the protection of young people at work

The Commission contacted the Luxembourg authorities to ascertain what measures were planned to comply with the Court's judgment. They have submitted a precise timetable for the adoption of legislative measures. The Commission is awaiting their adoption.

Judgment given on 16/12/99, Case C-138/99

Failure to notify national measures transposing Council Directive 94/56/EC establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

Article 228 proceedings have been commenced.

Judgment given on 13/4/00, Case C-348/99

Failure to notify measures transposing Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases

The Commission has contacted the Luxembourg authorities to ascertain what measures are planned to comply with the Court's judgment.

Netherlands

Judgment given on 19/5/98, Case C-3/96

Failure to comply with the obligation to designate special protection areas as required by Directive 79/409/EEC on the conservation of wild birds

Progress is being made.

Austria

Judgment given on 26/9/00, Case C-205/98

Increase in tolls on the Brenner motorway

The Commission has contacted the Austrian authorities to ascertain what measures are planned to comply with the Court's judgment.

Portugal

Judgment given on 21/1/99, Case C-150/97

Assessment of certain public and private projects on the environment

Progress is being made.

The last implementing measures will be published shortly.

Judgment given on 4/7/00, Case C-62/98

Cargo-sharing arrangements in bilateral agreements between Portugal and the MCWCS countries

The Commission has contacted the Portuguese authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 4/7/00, Case C-84/98

Cargo-sharing arrangements in the bilateral agreement between Portugal and Yugoslavia

The Commission has contacted the Portuguese authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 13/7/00, Case C-261/98

Incorrect application of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (Article 7: pollution reduction programmes)

The Portuguese authorities have sent reports on the identification and monitoring of 99 substances on list II in the Annex to the above Directive. The Commission has had to study this information and conduct additional enquiries.

Judgment given on 12/12/00, Case C-435/99

Failure to submit information required under Article 2(1) of Council Directive 91/692/EEC standardising and rationalising reports on the implementation of certain Directives relating to the environment

Recent judgment.

United Kingdom

Judgment given on 14/7/93, Case C-56/90

Quality of waters at Blackpool and Southport

The case is to be referred to the Court under Article 228(2) of the EC Treaty, accompanied by a request for imposition of a penalty payment.

Judgment given on 12/9/00, Case C-359/97

Failure to levy VAT on tolls on roads and bridges

The Commission has contacted the United Kingdom authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 7/12/00, Case C-69/99

Non-conformity of legislation on the protection of waters against pollution caused by nitrates from agricultural sources

Recent judgment.

ANNEX VI

APPLICATION OF COMMUNITY LAW BY NATIONAL COURTS: A SURVEY

1. Application of Article 234 of the EC Treaty¹

In 2000, 224 requests for preliminary rulings were made by the national courts to the Court of Justice of the European Communities (hereinafter referred to as "the Court of Justice") in cases where difficulties arose in the interpretation of Community law or where there were doubts as to the validity of Community instruments.

When such references are recorded at the Court of Justice Registry, they are published in full in the *Official Journal of the European Communities*. The table below shows the number of references from each Member State over the last 11 years.²

1. NUMBER OF REFERENCES PER MEMBER STATE

	1.1 Year										
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Belgium	17	17	16	22	19	14	30	19	12	13	15
Denmark	5	2	3	7	4	8	4	7	7	3	3
Germany	34	50	62	57	44	51	66	46	49	49	47
Greece	2	2	1	5		10	4	2	5	3	3
Spain	6	4	5	7	13	10	6	9	55	4	5
France	21	24	15	22	36	43	24	10	16	17	12
Ireland	4	1		1	2	3		1	3	2	2
Italy	25	18	22	24	46	58	70	50	39	43	50
Luxembourg	4	2	1	1	1	2	2	3	2	4	
Netherlands	9	17	18	43	13	19	10	24	21	23	12
Austria						2	6	35	16	56	31
Portugal	2	3	1	3	1	5	6	2	7	7	8
Finland							3	6	2	4	5
Sweden						6	4	7	6	5	4
United Kingdom	12	13	15	12	24	20	21	18	24	22	26
Benelux											1
Total	142	186	162	204	203	251	256	239	264	255	224

After an increase in the number of cases following the 1995 accessions, the number of references has remained relatively stable. The Benelux Court of Justice has for the first time asked the European Court of Justice for a preliminary ruling, in a case concerning trademarks.³ In *Parfums Christian Dior*⁴ the European Court ruled that, since the Benelux

¹ The Commission will here follow the practice of the Court of Justice in its citation of the articles of the Treaty establishing the European Community. Where there is a reference to the Treaty in its form before the entry into force of the Treaty of Amsterdam of 1 May 1999 the number of the article is followed by the words "of the EC Treaty"; where there is a reference to the Treaty in its form after the entry into force of the Treaty of Amsterdam of 1 May 1999, the number of the article is followed by the words "EC".

² The last four reports were published in OJ C 332, 3.11.1997, p.198, OJ C 250, 10.8.1998, p.195, OJ C 354, 7.12.1999, p.182 and OJ C 192, 30.1.2001, p.192.

³ Case C-265/00 *Campina Melkunie v Bureau Benelux des Marques*, pending (OJ C 247, 26.8.2000, p. 25).

⁴ [1997] ECR I-6013.

Court of Justice has the task of ensuring that the legal rules common to the three Benelux States are applied uniformly and the proceeding before it forms a step in the proceedings before the national courts, it must be treated as a national court for the purposes of Article 234 EC.

Except for the Luxembourg courts, the courts of all the Member States referred questions to the Court of Justice. Those 224 cases constituted 44.5% of the 503 cases brought before the Court of Justice in 2000. The table below shows the number of references from courts of final instance in each Member State and identifies the referring courts.

Origin and number of references by courts of final instance in 2000, by Member State

Belgium	Cour de cassation	1
Denmark	Højesteret	1
Germany	Bundesgerichtshof	7
	Bundesverwaltungsgericht	4
	Bundesfinanzhof	5
	Bundessozialgericht	1
Greece		
Spain	Tribunal Supremo	2
France	Cour de cassation	3
	Conseil d'État	1
Ireland	Supreme Court	1
1.1.1 Italy	Corte suprema di cassazione	2
	Consiglio di Stato	4
Luxembourg		
Netherlands	Raad van State	5
	Hoge Raad	6
Austria	Oberster Gerichtshof	7
	Bundesvergabeamt	1
	Verwaltungsgerichtshof	4
	Vergabekontrollsenat	2
	Verfassungsgerichtshof	1
Portugal	Supremo Tribunal Administrativo	5
Finland	Korkein Hallinto-oikeus	2
Sweden	Regeringsrätten	2
United Kingdom	Court of Appeal	4
(Benelux)	Gerechthof/Cour de Justice	1

2. Significant decisions by national courts and the European Court of Human Rights

2.1. Introduction

This analysis reviews the account taken of Community law by national courts and the European Court of Human Rights. Unlike analyses undertaken in previous years, it is accordingly not restricted to the rulings of supreme courts; national courts at first instance are now called on to apply the relevant provisions of Community law.

The Commission has again had access to data compiled by the Research and Documentation Directorate and Computing Division of the Court of Justice; nevertheless, it is the Commission that has drawn up this report. Each year, some 1 200

judgments relating to Community law come to the attention of the Research and Documentation Directorate.

2.2. *The research*

Research was carried out on judgments first delivered or published in 1999 concerning the following questions:

- a. (i) Were there cases where decisions against which there was no appeal were taken without a reference for a preliminary ruling even though they turned on a point of Community law whose interpretation was less than perfectly obvious?
- (ii) Were there any other decisions regarding preliminary rulings that merit attention?
- b. Were there cases where courts, contrary to the rule in Case 314/85 *Foto-Frost*,⁵ declared an act of a Community institution to be invalid?
- c. Were there any decisions that were noteworthy as setting good or bad examples?
- d. Were there any decisions that applied the rulings given in *Francovich*, *Factortame* and *Brasserie du Pêcheur*?

2.3. *Question 1*

2.3.1. Failure to make a reference

In **Germany**, the Federal Administrative Court (*Bundesverwaltungsgericht*) delivered a ruling,⁶ without making a reference to the Court of Justice, that the German rules⁷ requiring a prior authorisation for all German male nationals aged between 17 and 25 intending to leave Germany for a period exceeding three months were compatible with Community law. Proceedings had been instituted before the German court by a German national studying for a doctorate at Oxford University who had been ordered, after the age of 25, to perform civilian service instead of normal military national service. The student had begun his studies without requesting the prior authorisation. Under the German rules, persons failing to meet the requirement of obtaining a prior authorisation may be ordered to perform military service or alternative civilian service after the age of 25.⁸ The German court ruled that the prior authorisation did not come within the scope of Article 8a of the EC Treaty (Article 18 EC), which confers upon citizens of the Union the right to move freely within the territory of the Member States, since the restriction in question involved defence policy. It held that, under the Treaty of Maastricht that applied at the time of the order, the common foreign and security policy, and in particular the defence policy, had not yet been integrated into the European Communities' array of supranational powers, and cooperation remained inter-government. It concluded that national security and defence issues, and those relating to the operation and structure of the armed forces, fell within the powers of the Member States. Moreover, it pointed out that, if the applicant's interpretation of Article 8a of the EC Treaty were upheld, no sanctions would be applicable to nationals subject to military service, who would be able to avoid their national service obligations by moving to another Member State. It considered that its approach was in accordance with the judgment

⁵ [1987] ECR 4199.

⁶ Bundesverwaltungsgericht, decision of 10 November 1999, 6 C 30/98, Entscheidungen des Bundesverwaltungsgerichts 110, 40.

⁷ See Article 3(2) of the National Service Law (Wehrpflichtgesetz).

⁸ See indent 3 of Article 24(1) of the Alternative Civilian Service Act (Zivildienstgesetz).

given by the Court of Justice in *Sirdar*⁹ considering that that case related solely to women's access to the armed forces and was not comparable to the authorisation of periods of residence abroad in order to ensure performance of the general obligation of military service. Even supposing the obligation to obtain an authorisation came within the scope of Article 8a of the Treaty, it would be justified on the grounds of public order, public security and public health referred to in Article 48(3) and 56(1) of the EC Treaty (now Articles 39(3) EC and 46(1) EC), which constitute limitations and conditions for the purposes of Article 8a of the Treaty. The German court further considered that the requirement of an authorisation was not contrary to the first paragraph of Article 6 of the EC Treaty (Article 12 EC) since the military service obligation did not fall within the scope of the Treaty and different treatment of men subject to military service compared to women, foreigners and persons unfit for military service was justified on objective grounds. Lastly, it held that a reference to the Court of Justice was not compulsory since the correct application of Community law was so obvious that no reasonable doubt subsisted.

In **France**, pharmaceutical companies brought an action before the Council of State (*Conseil d'État*), sitting as a court of first and last instance, arguing that orders altering the price of proprietary medicinal products were *ultra vires*. In its ruling of 28 July 2000¹⁰ the French court applied the doctrine of the *acte clair* and held that it was unnecessary to obtain a preliminary ruling from the Court of Justice. As to the substance of the case, the applicants argued that the arrangements determining prices established by Article L.162-38 of the Public Health Code, the basis for adopting the contested orders, were incompatible with, *inter alia*, Article 2, read in conjunction with Article 6, of Directive 89/105/EEC (determination of prices of medicinal products).¹¹ More particularly, the applicant companies challenged the authorities' right to determine at all times the price of medicinal products eligible for reimbursement without reference to any prior application by pharmaceutical companies. The government commissioner, however, emphasised in his opinion that the French court had in the past been "somewhat embarrassed" by the application of Article L.162-38 of the Public Health Code and consequently suggested making a reference to the Court of Justice on the issue of compatibility. Nevertheless, the *Conseil d'État* decided, on the basis of the limited scope of the directive, that the argument based on the incompatibility of Article L.162-38 of the Code of Public Health with the clear objectives of Article 2 of the Community directive could be dismissed without the need for a preliminary ruling from the Court of Justice. It stated that "neither Article 2 of Directive 89/105... nor Article 6 requires that the decision to alter the retail price of a proprietary medicinal product included in the list of medicinal products covered by the health insurance systems should state the reasons on which it is based or that there should be a procedure enabling the companies in question to state their views before the decision is adopted".

Moreover, French courts held on two occasions, in cases concerning the direct effect of international agreements concluded between the Communities and third countries, that it was unnecessary to refer a preliminary question to the Court of Justice.

The Administrative Court of Appeal (*Cour administrative d'appel*), Nancy, on 3 February 2000,¹² annulled the judgment of the Administrative Court (*Tribunal*

⁹ Case C-273/97 [1999] ECR I-7403. The Bundesverwaltungsgericht's judgment was given before 11 January 2000, when the Court of Justice gave its judgment in Case C-285/98 *Kreil* [2000] ECR I-69.

¹⁰ *Conseil d'État*, 28 July 2000 *Schering-Plough*, Application No 205710.

¹¹ Council Directive 89/105/EEC of 21 December 1988 relating to the transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of national health insurance systems (OJ L 40, 11.2.1989, p. 8).

¹² *Cour administrative d'appel de Nancy*, 1ère chambre, 3 February 2000, *Lilia Malaja*, *Droit administratif* 2000, No 208.

administratif), Strasbourg, dismissing an application by a professional basketball player of Polish nationality seeking the annulment of the decision of the French Basketball Federation refusing to treat her as a national of a country of the European Economic Area for the purposes of participating in official competitions.¹³ The Nancy court, guided by the *acte clair* doctrine, refused a request to refer a preliminary question to the Court of Justice. It began by upholding the Strasbourg court's judgment concerning the direct effect of Article 37 of the Europe Agreement between the European Communities and Poland, which states "subject to the conditions and modalities applicable in each Member State, the treatment accorded to workers of Polish nationality, legally employed in the territory of a Member State shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own nationals".

However, although the court of first instance considered that the applicant could not rely on that provision because her contract of employment had not been approved by the French Basketball Federation, as required by its rules, the appeal court ruled that "however, such a condition cannot legally have the object or effect of disapplying the provisions of the Labour Code relating to the conclusion and effects of the contract of employment, in relation to which the Federation is, furthermore, a third party, and thus by withholding approval, preventing the person entitled under the contract from being considered 'legally employed' within the meaning of Article 37 of the Association Agreement; ... [the applicant], who is entitled under a contract of employment which, it is common ground, is valid under the Labour Code and holds a valid residence permit, must consequently be considered 'legally employed' in France at the date of the contested decision; consequently, if the French Basketball Federation refused to grant the applicant ... authorisation to participate in women's league matches, it would be in breach of the principle of non-discrimination laid down by Article 37 of the Agreement...".

On the other hand, the Administrative Court of Appeal (*Cour administrative d'appel*), Paris, in a judgment given on 1 February 2000,¹⁴ did not acknowledge the direct effect of Article 5 of the Fourth Lomé Convention, under which the parties undertook to eliminate all forms of discrimination based on, *inter alia*, nationality. That provision was relied upon by the widow of a Senegal national in receipt of a military retirement pension who was refused an increase in the pension on the ground that, under a 1959 Act, the increase should only be granted to the French successors of French public servants. The Paris court ruled that Article 5 was drafted too generally to apply directly to former state servants or their successors. However, a number of judgments delivered on the same date uphold similar applications made by Mali and Senegal nationals based on Article 14 of the European Convention on Human Rights.

In **Italy**, in a dispute turning on section 1 of Act No 1369 of 23 October 1960, which absolutely prohibits intermediaries and representatives in labour relations, the Court of Cassation (*Corte di cassazione*) declined, in a judgment of 1 February 2000,¹⁵ to make a reference for a preliminary ruling to the Court of Justice on the question whether Articles 59 and 62 of the EC Treaty (now Articles 49 and 50 EC) and Article 62 (repealed by the Treaty of Amsterdam) exclude that prohibition. The appellants, workers formally employed under a contract of employment with a cooperative of porters but actually providing their services for another employer, the Ente Ferrovie dello Stato (the Italian national railway company), initiated proceedings before the labour courts seeking

¹³ Tribunal administratif de Strasbourg, 27 January 1999, *Lilia Malaja*, Nos 98-6193 and 98-6194 (IA/18597-A).

¹⁴ Cour administrative d'appel de Paris, judgment of 1 February 2000, *Bangaly*, *Revue française de droit administratif*, 2000, p. 693.

¹⁵ Corte di cassazione, Sezione lavoro, 1 February 2000, No 1105, *Il massimario del Foro italiano*, 2000, col. 112-113.

a declaration that they had been employed on an indeterminate basis by the Ente Ferrovie from the date when their *de facto* employment began and an order to the Ente Ferrovie to pay the difference in salary between that of the fictitious employment and the actual employment. The Ente Ferrovie, which was unsuccessful in the courts of first instance and appeal, took proceedings before the *Corte di cassazione* relying on, *inter alia*, the incompatibility of the national legislation with the EC Treaty.

The *Corte di cassazione* first of all recalled the conditions to be met if a reference for a preliminary ruling is made, namely the question referred by the national court should concern the interpretation of Community provisions, there should be serious doubt as to their interpretation, scope or purpose and the outcome of the main case should depend on the reply given by the Court of Justice to the preliminary question referred by the national court. In those circumstances, the Italian court declined to make a reference to the Court of Justice since it considered that the conditions were not met. It considered that the actions of the Italian legislature concerning the employment of labour through fictitious posts derived from its discretionary power whose exercise was restricted to regularising unlawful situations in a broader context, i.e. protecting the economic and legal position of employed persons. Further, it considered that the prohibition in section 1 of Act No 1369 did not affect legal positions protected by Community law and consequently was not incompatible with the Community provisions that were invoked.

The *Corte di cassazione* also gave judgment¹⁶ in a case concerning a consumer credit contract but declined to make a reference for a preliminary ruling to the Court of Justice on the scope of certain provisions of Legislative Decree No 50 of 15 January 1992, which transposes into Italian law Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises.¹⁷ The main dispute was between a finance company and a customer who had subscribed a consumer credit contract to obtain the money needed for his daughter to qualify as a beautician. The contract was signed on the premises of the institution providing training. In challenging the order obtained by the finance company to make payment in order to reimburse the sums paid directly to the institution, the appellant claimed first of all that the trial court had no territorial jurisdiction under Article 12 of Legislative Decree No 50 of 15 January 1952, which lays down that the court with territorial jurisdiction is that of the place of residence or permanent residence of the consumer.

The finance company appealed to the *Corte di cassazione*, arguing that those rules did not apply to the case since the contract had not been concluded away from business premises but on the premises of the institution which was acting for and on behalf of the finance company. It also relied on Article 1(a) of Legislative Decree No 50, which applies to contracts signed, *inter alia*, on premises where the consumer is, even temporarily, for the purposes of study, work or therapy. Since the other party had signed the contract in the interest of his daughter, not to finance his own studies, the appellant argued that he was not covered by the Legislative Decree. Although those issues concern new elements, i.e. the meaning of "away from business premises" and "consumer" as described in the circumstances of the case, and the situation envisaged in Article 1(a) of the Legislative Decree is not covered by Article 1 of Directive 85/577/EEC, the *Corte di cassazione* did not consider making a reference for a preliminary ruling to the Court of Justice. It held that the rules in the Legislative Decree, taken as a whole, permitted a sufficiently clear response to be given to the questions. It considered that Legislative Decree No 50 did not apply to the case before it, partly because Article 12 was not applicable unless the dispute concerned the

¹⁶ Corte di cassazione, Sezione III civile, 4 January 2000, No 372, *Il massimario del Foro italiano*, 2000, col. 32.

¹⁷ Council Directive 85/577/EEC of 20 December 1985 (OJ L 372, 31.12.1985, p. 31).

consumer's right to terminate a contract while the case concerned an application to rescind the contract through failure to perform, and partly because Article 1(a) of the Legislative Decree referred only to the consumer, not to members of his family, and consequently the reasons for the studies concerned by that provision could not be invoked in the case. Nevertheless, in a similar situation two preliminary questions were referred to the Court of Justice by the Magistrates' Court (*Giudice di Pace*), Viadana.¹⁸

In **the Netherlands**, the Supreme Court (*Hoge Raad*) delivered a ruling concerning value added tax without making a reference for a preliminary ruling to the Court of Justice; on 25 July 2000¹⁹ it ruled that it was necessary to treat as a taxable person carrying out economic activities for the purposes of Article 4 of the Sixth VAT Directive²⁰ a limited partnership that was renting medical equipment to its limited partner, a hospital, although the equipment had been purchased entirely with capital provided by the hospital and the hospital had chosen the type of equipment, specified the place where it would be installed and was paying the insurance for its use and assuming liability for that use. The Dutch court held that there was no reasonable doubt whether the partnership was carrying out activities involving the exploitation of property for the purpose of obtaining income from it on a continuing basis, defined as "economic activities" in Article 4(2) of the Directive. The partnership should not be considered identical with the hospital and it was entitled to a refund of the VAT paid on the purchase of the equipment.

In **Sweden**, the Supreme Administrative Court (*Regeringsrätten*) ruled on 10 April 2000²¹ that it was not compelled by the third paragraph of Article 234 EC (formerly the third paragraph of Article 177 of the EC Treaty) to make a reference for a preliminary ruling to the Court of Justice before dismissing an appeal on the point whether Swedish legislation imposing a tax on income from advertising²² is contrary to Article 33 of the Sixth VAT Directive,²³ which prohibits Member States from maintaining or introducing taxes, duties or charges which cannot be characterised as turnover taxes, and to Articles 3(1)(g) and 10 EC (formerly Article 5 of the EC Treaty). The main case concerned an enterprise publishing and distributing a free computer magazine financed from advertising revenue. Under Swedish legislation, the publisher is liable to a tax on income from the sale of advertising space but that legislation applies only to advertising intended to be published in Sweden.

¹⁸ Cases C-541/99 *Cape v Idealservice* and C-542/99 *Idealservice v Omai*, pending (OJ C 47, 19.2.1999, p.26).

¹⁹ *Hoge Raad*, judgment of 25 July 2000, *Beslissingen in belastingzaken*, 2000, 307.

²⁰ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system of value-added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p.1).

²¹ *Regeringsrätten*, 10 April 2000, RÅ 1999-630.

²² Advertising and Publicity Taxation Act (1972: 266).

²³ See note No 20.

The *Regeringsrätten* referred to a ruling given in 1999²⁴ in which it had considered this issue in depth; it held that all turnover taxes did not necessarily constitute a tax prohibited under Article 33 of the Directive. The 1999 ruling was based on the judgment of the Court of Justice in *Denkavit*,²⁵ where it was held that the purpose of Article 33 of the Directive is to prevent Member States from introducing or maintaining taxes, duties or charges which are levied on the movement of goods and services in a way comparable to VAT and would jeopardise the functioning of the common system of VAT, and must in any event be regarded as taxation of that kind if they exhibit the essential characteristics of VAT even though they do not resemble it in every respect. In its 1999 judgment the Swedish court ruled that the tax on advertising imposed by Swedish legislation was not of a general nature, was not proportionate to the amount involved in the advertising, was not levied at each stage of production or distribution and was not calculated on the value added. It therefore held that it did not constitute value added tax for the purposes of Article 33 of the Directive.

The *Regeringsrätten* considered that in the case before it there were no grounds for departing from its previous ruling or for making a reference for a preliminary ruling. The appellant, relying on Article 3(1)(g) EC read in conjunction with Article 10 EC, argued that, since the magazines were principally intended for the foreign market and were thus exempt from taxation, they enjoyed a competitive advantage over magazines intended for the Swedish market. He considered that, in view of Member States' duty to cooperate under Article 10 EC, Sweden was not entitled to maintain the tax. The Swedish court held that those arguments did not establish that the Swedish legislation was contrary to the provisions relied upon. Moreover, it dismissed the appellant's request for a preliminary ruling without, apparently, stating the reasons why it did so. And on the same date the *Regeringsrätten* likewise dismissed another appeal based on similar circumstances and arguments.²⁶

2.3.2 Relevant judgments in the context of Article 234 EC

In **Germany**, the Federal Constitutional Court (*Bundesverfassungsgericht*)²⁷ annulled a ruling of the Federal Administrative Court (*Bundesverwaltungsgericht*) on the grounds of infringement of the constitutional principle that no-one may be deprived of the protection of the courts established by law (second sentence of Article 101(1) of the Basic Law (*Grundgesetz*)) since the latter court had declined to make a reference to the Court of Justice.

An appeal was lodged with the *Bundesverfassungsgericht* by a female approved medical practitioner who wished to obtain the right to practise as a fund practitioner in Hamburg but had been refused the title of "general practitioner" by the Professional Association of Physicians of the Municipality of Hamburg on the ground that she had not worked full time for six months with a fund practitioner. Under the Basic Law, the *Länder* have jurisdiction in this area and in the *Land* of Hamburg Directives 86/457 (medical training)²⁸ and 93/16 (mutual recognition of diplomas)²⁹ were transposed in such a way that the Association has since 1990 required as a condition of granting the title full-time professional practice of at least six months in an approved clinic supplemented by six months' full-time practice in the surgery of an approved fund general practitioner or of a practitioner considered equivalent.

²⁴ Regeringsrätten, 26 February 2000, RÅ 1999-8.

²⁵ Case C-200/90 [1992] ECR I-2217.

²⁶ Regeringsrätten, 10 April 2000, RÅ 1999-631.

²⁷ Bundesverfassungsgericht, order of 9 January 2001, 1 BvR 1036/99, <http://www.bverfg.de>.

²⁸ Council Directive 86/457/EEC of 15 September 1986 on specific training in general medical practice (OJ L 267, 19.9.1986, p. 26).

²⁹ Council Directive 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (OJ L 165, 7.7.1993, p. 1).

The appellant, who fulfilled the first condition, had worked for a year in surgery of a fund practitioner but only part time.

The doctor's application to the court of first instance and her appeal were dismissed as was the subsequent appeal to the *Bundesverwaltungsgericht*,³⁰ on the ground that Community law prescribes a condition of a period of full-time training of at least six months in the surgery of a general practitioner, which the appellant had not fulfilled. The Court of Justice had not in fact ruled on the question whether such requirements were contrary to the prohibition of indirect gender discrimination, but, even if the prohibition, which is incorporated in Directive 76/207 (equal treatment for men and women concerning employment),³¹ were applicable in the present case, there was no reason to make a reference for a preliminary ruling to the Court of Justice; Community law itself, in Directives 86/457 and 93/16, laid down clearly and unequivocally that the training of a general practitioner must include training periods completed on a full-time basis. The *Bundesverwaltungsgericht* considered that, on the general principles that specific provisions prevail over general provisions and subsequent legislation prevails over earlier legislation, those Directives took precedence over Directive 76/207. Moreover, those Directives did not infringe either the principles of constitutional law or the fundamental rights of individuals.

Ruling with reference to its settled case-law,³² the *Bundesverfassungsgericht* allowed the appeal on a point of constitutional law brought against that judgment. It took the view that the Court of Justice constitutes a court established by law within the meaning of the second sentence of Article 101(1) of the Basic Law and access to such a court of law has been withheld if a national court fails to fulfil its obligation to make a reference to the Court of Justice for a preliminary ruling. It held that there was an infringement of the obligation to make a reference if a court of final instance failed to comply with its obligations in this area. There is also an infringement where the Court of Justice has not given judgment on an issue of Community law that is liable to determine the outcome of a case or if its existing rulings do not fully deal with the issue. There is an infringement of the second sentence of Article 101(1) of the Basic Law if a court of competent jurisdiction of final instance exceeds its discretion in such cases to an unacceptable degree. There may be an infringement in particular where it is manifestly possible to take issue with the position adopted by that court on a question of Community law on which the outcome in the main case turns. Moreover, the *Bundesverfassungsgericht* considered that it could not conduct its review if it was not adequately acquainted with the reasons why the court of final instance ruling on the merits had declined to make a reference for a preliminary ruling to the Court of Justice. On those grounds, the *Bundesverfassungsgericht* held that the *Bundesverwaltungsgericht*, sitting as a court of final instance, had failed to an unacceptable degree to discharge its obligation to make a reference to the Court of Justice.

Moreover, the *Bundesverfassungsgericht* considered that the response of the *Bundesverwaltungsgericht* to the issue it had itself raised of the conflict between Community directives was unacceptable in the European legal area. The latter court had in fact determined the conflict between Directive 76/207, on the one hand, and Directives 86/457 and 93/16, on the other, without reference to the case-law of the Court of

³⁰ Bundesverwaltungsgericht, judgment of 18 February 1999, 3 C 10/98, Entscheidungen des Bundesverwaltungsgerichts 108, 289.

³¹ Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 39, 14.2.1976, p. 40).

³² Bundesverfassungsgericht, order of 5 August 1998, 1BvR 264/98, Der Betrieb 1998, 1919; Zeitschrift für Wirtschaftsrecht 1998, 1728; Arbeit und Recht 1998, 465; Versicherungsrecht 1998, 1399; Europäische Zeitschrift für Wirtschaftsrecht 1998, 728; Neue Zeitschrift für Arbeitsrecht 1998, 1245; the order is cited in the Sixteenth annual report on monitoring the application of Community law.

Justice or to Community law, referring solely to criteria of German law. It had failed to refer to any judgment of the Court of Justice concerning conflicts between directives, although such rulings exist. It had failed to indicate the provisions of Community law under which it considered itself entitled to determine the conflict of rules on the basis of the principles of German law (the principles that specific provisions prevail over general provisions and subsequent legislation prevails over earlier legislation). Moreover, it had failed to set out the reasons for its judgment, which might have enabled the *Bundesverfassungsgericht* to carry out a review for the purposes of the second sentence of Article 101(1) of the Basic Law. The *Bundesverfassungsgericht* considered that a court that fails to obtain adequate information on Community law is in general in breach of the conditions on which it is compulsory to make a reference for a preliminary ruling.

Moreover, the *Bundesverfassungsgericht* considered that the *Bundesverwaltungsgericht* was also in breach of its obligation to make a reference for a preliminary ruling and of the second sentence of Article 101(1) of the Basic Law by failing to recognise that the principle of gender equality forms part of the fundamental principles of unwritten Community law that are recognised by the Court of Justice. The *Bundesverfassungsgericht* stated that the principle of equal treatment of men and women and the resultant prohibition of all direct or indirect gender discrimination form part of the fundamental general principles of the Community which have been developed by the Court of Justice as criteria that must be applied in the judicial review of action taken by Community institutions. The protection of the applicant's fundamental rights would be set at naught if the *Bundesverfassungsgericht* were unable, for want of jurisdiction, to carry out a substantive review of fundamental rights and if the Court of Justice were unable, by reason of a failure to make a reference for a preliminary ruling, to review Community secondary legislation in terms of the guarantees afforded by the fundamental rights developed by the Community.

Again in Germany, the Federal Court of Justice (*Bundesgerichtshof*) delivered a ruling on the question whether, if the point at issue in a case is whether national rules are contrary to the Basic Law and Community law, it should be referred first to the *Bundesverfassungsgericht* (Federal Constitutional Court) or direct to the Court of Justice. In that case an appeal was brought before the *Bundesgerichtshof* against a decision of the Federal Cartel Office (*Bundeskartellamt*) prohibiting the *Land* of Berlin from requiring that tenderers for public works contracts should comply with the minimum wage fixed by collective agreement applicable in the *Land*. The issue was whether the rules of the *Land* of Berlin were contrary to the Basic Law concerning the powers of the *Länder* and the fundamental freedom of association (*Koalitionsfreiheit*) permitting employers and employees to fix working conditions. The *Bundesgerichtshof* considered that there was doubt as to conformity with the rules on freedom to provide services in Article 59 of the EC Treaty (now Article 49 EC). Regarding the question of conformity with Community law, that court stated that it was not able itself to settle the issue, which would have to be referred to the Court of Justice. It also ruled that the case must first be referred to the *Bundesverfassungsgericht* for an initial ruling on the conformity of the rules with the Basic Law.³³

In **France**, an application was made seeking the opinion of the Council of State (*Conseil d'État*) under Article 12 of Act No 87-1127 of 31 July 1987 on the interpretation of Article 141 EC (formerly Article 119 of the EC Treaty) and the provisions of Directive 79/7

³³ Bundesgerichtshof, order of 18 January 2000, KVR 23/98, *Zeitschrift für Wirtschaftsrecht* 2000, 426; *Der Betrieb* 2000, 465; *Wettbewerb in Recht und Praxis* 2000, 397; *Neue Zeitschrift für Arbeitsrecht* 2000, 327; *Wertpapiermitteilungen* 2000, 842; *Juristenzeitung* 2000, 514; *Deutsche Verwaltungsblätter* 2000, 1056; *Zeitschrift für deutsches und internationales Baurecht* 2000, 316; *Zeitschrift für das gesamte öffentliche und private Baurecht* 2000, 1736.

(equal treatment for men and women in matters of social security),³⁴ to which it responded with a decision of 4 February 2000³⁵ rejecting the application.

Under the French Code on civil and military retirement pensions, only women enjoy a direct claim to retirement rights if their spouse suffers from an incurable disability or disease preventing them from performing any kind of work. A claimant challenged a decision that he was not entitled under that provision on the basis that the French legislation was not compatible with Community law. The Administrative Court (*Tribunal administratif*) with jurisdiction to hear the case decided, as French law in fact empowers it, to refer the case to the *Conseil d'État*. That court found that the question of interpretation referred to it raised an issue identical to that in a case pending before it, *Griesmar*,³⁶ which concerned the premium for children, which, under the Code was granted only to women; it recalled that in that case it had made a reference to the Court of Justice to establish whether the term "pay" referred to in Article 119 of the EC Treaty (now Article 141 EC) must be interpreted as covering retirement pensions such as those granted under the French Code on civil and military retirement pensions or whether those pensions must be treated as social security benefits governed by Directive 79/7.

The *Conseil d'État* took the view that it was up to the *Tribunal administratif* to determine whether, having regard to those factors, it considered that its judgment depended on an additional request to the Court of Justice for a ruling as to whether Community law precluded a difference in treatment such as that established by the relevant provisions of the Code on civil and military retirement pensions. That court then in fact made a reference to the Court of Justice.³⁷

In Italy, the *Corte di cassazione* delivered a ruling on the staying of proceedings pending the reply of the Court of Justice to questions that were relevant to the case. The District Court, Bologna (*Tribunale di Bologna*) had stayed proceedings under Article 295 of the Code of Civil Procedure since the outcome of the case turned on the interpretation of provisions of Community law on which the Court of Justice had already been asked to give a preliminary ruling. In adopting this course, the Bologna court did not consider it necessary itself to make a reference to the Court of Justice. In its ruling of 14 September 1999, the *Corte di cassazione* annulled the order staying the proceedings in that case.³⁸ That ruling involved an interpretation of Article 234 EC since the *Corte di cassazione* stated that a national court not being a court of last instance which considered that the outcome of a case before it involved a question of the interpretation of Community law must either refer that question to the Court of Justice and stay the proceedings or itself answer the question. On the other hand, a national court is not entitled to stay proceedings until the Court of Justice delivers judgment on a reference for a preliminary question made by another court as this would amount to staying the proceedings on grounds of expedience, which is precluded by Article 295 of the Code of Civil Procedure and moreover would deprive the parties to the case of the opportunity of participating in the procedure before the Court of Justice.

³⁴ Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 6, 10.1.1979, p. 24).

³⁵ Conseil d'État, opinion of 4 February 2000, *Mouflin*, *Revue française de droit administratif* 2000, p. 468.

³⁶ Case C-366/99, pending (OJ C 366, 18.12.1999, p.16).

³⁷ Case C-206/00, pending (OJ C 211, 22.7.2000, p. 12).

³⁸ Corte di cassazione, Sezione II civile, 14 September 1999, No 9813, *Caribo v Ministero delle Finanze*.

In the **United Kingdom**, in *R v Secretary of State for Health and Others, Ex p. Imperial Tobacco Ltd and Others*,³⁹ the House of Lords held by a majority that, when a domestic court is asked to grant an injunction to restrain the government of a Member State, during the implementation period, from making regulations pursuant to a directive, the question whether the applicable law is domestic law or Community law cannot be answered without a reference for a preliminary ruling to the Court of Justice.

A number of tobacco companies had sought an injunction from the High Court restraining the government from adopting provisions transposing Directive 98/43 relating to the advertising and sponsorship of tobacco products⁴⁰ pending a ruling of the Court of Justice on the validity of the directive. The High Court had allowed the appeal since it took the view that, because the period for transposition of the directive did not expire until 30 July 2001, the principles applicable to the application for an injunction were those of national law. The Court of Appeal held by a majority that the applicable principles were those of Community law as set out by the Court of Justice in the *Zuckerfabrik* case⁴¹ and, moreover, the tobacco companies had not established that they would suffer irreparable damage if no injunction were granted.

In the meantime, the German Government had introduced an application for the annulment of Directive 98/43. In the course of that application, Advocate-General Fennelly proposed in his opinion of 15 June 2000 that the Court should annul the directive on the grounds that the Community did not have jurisdiction to adopt it on the legal basis that had been cited. Following that opinion, the British Government decided not to transpose the directive in the United Kingdom pending the judgment of the Court of Justice (which ruled that the Directive was invalid in its judgment of 5 October 2000).⁴²

Nevertheless, the House of Lords was asked to declare whether the test for a domestic court hearing an application for an injunction should apply the criteria of domestic law or of Community law. In expressing the majority view, Lord Slynn of Hadley stated that it was at least arguable that, if a directive was implemented in national law before the prescribed final date, any application for interim relief to suspend the operation of the directive would be a matter for Community law and that the position should be the same on an application for interim relief to prevent the directive being adopted. He further stated that that did not exclude the possibility, if such Community test was satisfied, of a court granting interim relief against a national government although, under the decision in *Foto-Frost*, only the Court of Justice was competent to declare a directive invalid. He further stated that, while the *Zuckerfabrik* test and the domestic law test seemed to overlap in many respects, there might be differences, for example as to how far financial damage could be taken into account. Lastly, he indicated that, if, in order to give judgment in the appeal, it had been necessary to consider whether Community law applied and what was the scope of its application in the present case, it would have been necessary and obligatory for the House of Lords to refer a question to the Court of Justice. He added that "any regret that the question should be left open was reduced, at least, by the consideration that on an application of the instant kind the full circumstances had to be taken into account".

Again in the United Kingdom, the Court of Appeal gave judgment on an appeal against a decision to make a reference for a preliminary ruling. In a case before the High Court

³⁹ House of Lords, *R. v Secretary of State for Health and others, ex parte Imperial Tobacco Ltd and Others*, Daily Law Notes (judgment given on 7.12.2000).

⁴⁰ Directive 98/43/EC of the European Parliament and of the Council of 6 July 1998 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products (OJ L 213, 30.7.1998, p. 9).

⁴¹ Joined Cases C-143/88 and C-92/89 [1991] ECR I-415.

⁴² Case C-376/98 *Germany v Parliament and Council*, not yet published in the ECR.

concerning parallel imports of pharmaceutical products, the Court considered it necessary to refer a series of questions to the Court of Justice for a preliminary ruling.⁴³ That Court had already rejected the application by a number of the parties for leave to appeal against the decision making the reference.⁴⁴ Those parties subsequently applied to the Court of Appeal for leave to appeal.

The Court of Appeal, while accepting that the appellants' arguments on the interpretation of the law at issue in the main case might be correct, rejected the appeal, stating that the High Court was right to consider that the questions arising in the case before it were not clear and that the matter should be referred to the Court of Justice, either through the High Court itself or through another court.⁴⁵ Furthermore, the Court of Appeal took the view that, even if leave to appeal had been given, it was most unlikely that that court would conclude that the reply to the questions raised was so obvious that no reference for a preliminary ruling was necessary. Lastly, it added that a decision to make a reference to the Court of Justice should not be adopted until the national procedure had reached a stage enabling the national court to specify the factual and legal framework of the questions to be submitted. The Court of Appeal considered that that stage had been reached after the High Court had given judgment; after thus setting out the facts of the case, the Court of Appeal decided that the High Court enjoyed a discretion as to whether preliminary questions should be referred to the Court of Justice or whether the matter of a reference should be deferred to an appeal court. The Court of Appeal declared that it was not bound to intervene in the High Court's exercise of its discretion unless that court had failed to take account of a matter of which it should have taken account or else it took into account matters that were not material or unless its decision was manifestly wrong. That was not the case with the judgment of the High Court at issue. The Court of Appeal therefore rejected the appeal and the case is now pending before the Court of Justice.⁴⁶

The possibility of a double reference, as was raised in the German case, also exists in **Benelux**, where the three Member States have concluded a treaty regulating certain matters through common uniform laws in place of national legislation, for example the uniform Benelux Laws on trademarks⁴⁷ and designs⁴⁸ under which rights to marks, designs or models provide uniform protection throughout the three countries. In order to secure uniformity, Article 6 of the Statute on the Benelux Court of Justice⁴⁹ lays down a procedure for making a reference for a preliminary ruling to the Benelux Court of Justice which is broadly similar to Article 243 EC. If questions arise on the interpretation of both the above-mentioned uniform Benelux Laws and Directives 89/104 (trademarks)⁵⁰ and Directive 98/71 (designs),⁵¹ the national courts of the Benelux States must make a reference

⁴³ High Court of Justice (England and Wales), Chancery Division, Patents Court, 28 February 2000, *Glaxo Group Ltd and Others v Dowelhurst Ltd and Swingward Ltd*, Common Market Law Reports 2000, Vol. 2, p. 571-652.

⁴⁴ High Court of Justice (England and Wales), Chancery Division, Patents Court, 7 March 2000, *Glaxo Group Ltd and Others v Dowelhurst Ltd and Swingward Ltd*, European Law Reports of Cases in the United Kingdom and Ireland 2000, p. 660-664.

⁴⁵ Court of Appeal (England and Wales) Civil Division, 29 March 2000, *Glaxo Group Ltd and Others v Dowelhurst Ltd and Swingward Ltd*, European Law Reports of Cases in the United Kingdom and Ireland 2000, p. 664-671.

⁴⁶ Case C-143/00, pending (OJ C 223, 12.8.2000, p. 12).

⁴⁷ Traktatenblad 1983, No 187; Mémorial belge of 14 October 1969, amended by the Protocol of 2 December 1992, Traktatenblad 1993, No 12.

⁴⁸ Traktatenblad 1966, No 292.

⁴⁹ Treaty on the establishment of and the statute on the Benelux Court of Justice, done at Brussels on 31 March 1965, Traktatenblad 1965, No 71, 1966, Nos 243 and 244; 1981, No 159 and 1984, No 153.

⁵⁰ First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ L 40, 1.2.1989, p. 1).

⁵¹ Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal

for a preliminary ruling to the two courts having jurisdiction, i.e. the European Court of Justice and the Benelux Court of Justice. The practical problem that arises is whether the double reference should be made successively or simultaneously. In the first case in which this situation came about, concerning parallel sales, the sale outside a closed network of approved sellers of Christian Dior perfumes by Evora, a chain of cut-price chemists, the Netherlands Supreme Court (*Hoge Raad*) referred the case to the two courts at the same time. The Benelux Court of Justice (*Benelux-Gerechtshof*) relied on the primacy of Community law and stayed the proceedings before it pending the judgment of the European Court of Justice in the same case. When the latter court had given its judgment in *Parfums Christian Dior*,⁵² the Benelux Court of Justice resumed the procedure before it and gave judgment on 16 December 1998.⁵³ The Regional Court of Appeal (*Gerechtshof*) at The Hague also adopted this course in a case concerning the absolute refusal by the Benelux Trademarks Office of an application for registration of a trademark in the form of the word "Postkantoor" (post office) on the ground that it was of a descriptive nature.⁵⁴ After the *Parfums Christian Dior* case, in which it was confirmed that the Benelux Court of Justice was entitled to refer a case to the European Court of Justice, the *Hoge Raad der Nederlanden*, in a case again concerning an absolute refusal, this time of an application for registration of a trademark in the form of the word "Biomild", preferred to refer any questions to the Benelux Court of Justice alone, leaving that court to make the reference if it thought fit.⁵⁵ The Benelux Court of Justice duly considered the case and referring it to the European Court of Justice in June 2000,⁵⁶ i.e. two years after the *Hoge Raad's* ruling.

2.4. Question 2

Research revealed no decisions of this type.

2.5. Question 3

In **Germany**, the Bundesverfassungsgericht, in *Bananas II*,⁵⁷ clarified the scope of previous case-law on the primacy of Community law and on own jurisdiction to review the legality of Community secondary legislation in the light of the fundamental rights enshrined in the Basic Law. In proceedings at domestic law brought by Atlanta Group banana importers, the Frankfurt-am-Main Verwaltungsgericht made a reference to the Bundesverfassungsgericht following the Court of Justice judgment of 9 November 1995,⁵⁸ which had indicated that the common system for banana imports in force at the time was valid.

In its judgment, the Bundesverfassungsgericht confirmed that a reference for a preliminary ruling on the validity of an instrument of Community secondary legislation is, moreover, inadmissible if the grounds for the reference do not comprise a detailed argument to the effect that Community law, including Court of Justice case-law

protection of designs (OJ L 289, 28.10.1998, p. 35).

⁵² See Note 4.

⁵³ Benelux Court of Justice, 16 December 1998, Case A-95/4, *Nederlandse Jurisprudentie* 2001, No 133.

⁵⁴ *Gerechtshof t 's-Gravenhage*, order making the double reference of 3 June 1999 initiating Case C-363/99 *KPN v Bureau Benelux des Marques*, pending (OJ C 47, 19.2.2000, p. 11).

⁵⁵ *Hoge Raad der Nederlanden*, order of 19 June 1998, *Nederlandse Jurisprudentie* 1999, No 68.

⁵⁶ Benelux Court of Justice, 26 June 2000, *Nederlandse Jurisprudentie* 2000, No 551, introducing the abovementioned Case C-265/00 (see Note 3).

⁵⁷ Bundesverfassungsgericht, Order of 7 June 2000, 2 BvL 1/97, *Zeitschrift für Wirtschaft* 2000, 1456; *Wertpapiermitteilungen* 2000, 1661; *Europäische Grundrechte* 2000, 328; *Neue Juristische Wochenschrift* 2000, 3124; *Die öffentliche Verwaltung* 2000, 957; *Europäische Zeitschrift für Wirtschaftsrecht* 2000, 702; *Europarecht* 2000, 799; *Bayerische Verwaltungsblätter* 2000, 754.

⁵⁸ Case C-466/93 *Atlanta Fruchthandels-gesellschaft (II) v Bundesamt für Ernährung und Forstwirtschaft* [1995] ECR I-3799.

subsequent to the Bundesverfassungsgericht's "Solange II" judgment,⁵⁹ is located below the necessary level of protection of fundamental rights guaranteed by the Grundgesetz, with the result that, generally speaking, protection is no longer guaranteed. Accordingly, the grounds for the reference should compare the protection of fundamental rights at national level with protection at Community level.

According to the Bundesverfassungsgericht, the reference in question does not meet these requirements. In particular, it is alleged that the referring judge based his decision on a misinterpretation of the Bundesverfassungsgericht's *Maastricht* judgment⁶⁰ when he stated that, henceforth, it would once again exercise its competence to examine Community acts, when in fact it would do so in cooperation with the Court of Justice. The Bundesverfassungsgericht declared that it had not abandoned its rule in *Solange II* in *Maastricht* and that there was no contradiction between the two decisions. In the case in point, given that, in its judgment of 26 November 1996,⁶¹ the Court of Justice had ruled that Article 30 of Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas required the Commission to take any transitional measures it judged necessary in order to assist the transition from national arrangements to the common organization of the markets, the referring judge should have spelt out in even greater detail why protection of fundamental rights was not sufficient. The referring judge should have acknowledged that his reference decision was inadequately reasoned, at the latest when the judgment was given by the Court. Unlike the Bundesverfassungsgericht itself in a previous decision,⁶² the Court of Justice ruled that protection of the right to property entailed the imposition of any transitional measures deemed necessary in order to assist the transition from national arrangements to the common organization of the markets. As such, those decisions could be said to illustrate the correlation of procedures designed to guarantee protection of fundamental rights by the national courts and by the courts of Community law. Accordingly, the Bundesverfassungsgericht rejected as inadmissible the reference for a preliminary ruling from the Frankfurt-am-Main Verwaltungsgericht.

Also in Germany, the Bundesverfassungsgericht declared inadmissible the appeal lodged against the judgment given by the Bundesverwaltungsgericht further to the preliminary ruling by the Court of Justice in the *Alcan* case⁶³ on the grounds that, *in casu*, there was no infringement of the constitutional principles of legal certainty and legitimate expectations.

In accordance with the Court judgment, the Bundesverwaltungsgericht⁶⁴ had rejected the appellant's proceedings for annulment of the decision by the Land of Rheinland-Pfalz requiring it to repay the aid awarded, which was deemed to be illegal. Emphasizing the mandatory nature of the Court's decision, the Bundesverwaltungsgericht stated that the competent national authority was bound to withdraw the aid award decision, which had

⁵⁹ Bundesverfassungsgericht, Order of 22 October 1986, 2 BVR 197/83 (*Solange II*), Entscheidungen des Bundesverfassungsgerichts 73, 339.

⁶⁰ Bundesverfassungsgericht, Judgment of 12 October 1993, 2 BvR 2134/92 and 2 BvR 2159/92 (*Maastricht*), Entscheidungen des Bundesverfassungsgerichts 89, 155.

⁶¹ Case C-68/95 *T. Port v Bundesanstalt für Landwirtschaft und Ernährung* [1996] ECR I-6065.

⁶² Bundesverfassungsgericht, Judgment of 25 January 1995, 2 BvR 2689/94 and BvR 52/95, Zeitschrift für Europäisches Wirtschaftsrecht 1995, 126.

⁶³ Case C-24/95 *Land Rheinland-Pfalz v Alcan Deutschland* [1997] ECR I-1591.

⁶⁴ Bundesverwaltungsgericht, Order of 17 February 2000, 2 BvR 1210/98, Wertpapiermitteilungen 2000, 621; Zeitschrift für Wirtschaftsrecht 2000, 633; Europäische Grundrechte 2000, 175; Internationales Steuerrecht 2000, 253; Deutsche Verwaltungsblätter 2000, 900; Neue Juristische Wochenschrift 2000, 2015; Europäische Zeitschrift für Wirtschaftsrecht 2000, 445; Europarecht 2000, 257; Bayerische Verwaltungsblätter 2000, 655.

been taken contrary to Community law, and to recover the aid, even though German law prohibited recovery on the grounds that the deadline established for that purpose had expired and the aid recipient had not benefited financially. The Bundesverwaltungsgericht also took the view that the appellant's argument to the effect that the Court of Justice had exceeded the powers vested in it by the Treaty and had acted in lieu of the legislature was unfounded. It found that the Court had merely reinforced its previous case-law whereby aid paid in violation of Community law had to be recovered in accordance with the procedures of national law, in so far as those procedures did not make recovery of aid impossible in practice. Regarding the defendant's argument that the Court had failed to observe the fundamental right to respect for legitimate expectations, the Bundesverwaltungsgericht took the view that the Court had observed the principle by ruling that, in principle, a well-informed economic operator can only have confidence in the legality of the aid paid to him if it had been notified to the Commission in application of Article 93(3) of the Treaty (now Article 88(3) EC), and that the appellant could have set out the specific circumstances which could have created expectations meriting protection by filing an application for annulment of the Commission decision establishing the unlawful nature of the aid.

An appeal was subsequently lodged against the decision with the Bundesverfassungsgericht on the grounds that it was unconstitutional. The Bundesverfassungsgericht took the view that the Community's public interest in implementing the Community competition rules should be taken into consideration as part of a decision concerning the recovery of unlawful aid. It also ruled that, in authorising recovery of the aid even though the deadline provided for in German law had expired, the Bundesverwaltungsgericht had merely applied the principle of the primacy of Community law. It also found that the appellant could have realised that the aid was unlawful in terms of form and content when it was paid, or that it could have contested the Commission's decision to recover the aid. Lastly, the Bundesverfassungsgericht noted that the Court's judgment merely applied Article 93(2) of the EC Treaty (now Article 88(2) EC), so that the question of whether it was an act which exceeded the Commission's powers within the meaning of the Bundesverfassungsgericht's *Maastricht* judgment did not arise, and the judgment in question was confined to the individual case at issue and did not create a general administrative rule.

In **Austria**, an appeal was lodged with the Oberste Gerichtshof⁶⁵ in connection with proceedings instituted against two managers of a limited liability company on whom a penalty had been imposed because they had failed to submit the company's annual accounts to the commercial court within the deadline provided for by law. That omission is penalised by the Austrian Act on the accounting obligations of traders and certain types of company, which transposes First Council Directive 68/151/EEC⁶⁶ and Fourth Council Directive 78/660/EEC⁶⁷ into Austrian law. The managers argued before the Oberste Gerichtshof that application of the Austrian Act on accounting obligations infringed their fundamental rights in that they would be obliged to publish their accounts, invoking *inter alia* freedom to exercise a profession, the right to property, the right to protection of personal data and the principle of equality. Referring to the Court of Justice

⁶⁵ Oberster Gerichtshof, Judgment of 9 March 2000, 6 Ob 14/00b, *Wirtschaftsrechtliche Blätter* 2000, p. 286-288.

⁶⁶ 68/151/EEC: First Council Directive of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (OJ L 65, 14.3.1968, p. 8).

⁶⁷ Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (OJ L 222, 14.8.1978, p. 11).

judgment in *Daihatsu*,⁶⁸ the Oberste Gerichtshof ruled that the national legislature was bound to transpose a directive even if it violated rights recognised by the Constitution. The primacy of Community law also applied in respect of national constitutional law. As such, the law transposing a directive which violated such rights could not be declared unconstitutional.

Still in Austria, the Oberste Gerichtshof was called on to examine which guarantee institution has power under Article 3 of Directive 80/987⁶⁹ to pay employees' claims in the event of the insolvency of their employer where that employer is established in a Member State other than the one in which the employee lives and carried out his paid employment. The case in point concerned an Austrian worker employed by a company operating in Austria and working for that company on a temporary basis in Germany. After a few weeks, the company went bankrupt and the worker claimed his pay from the Austrian guarantee institution. The claim was rejected on the grounds that the worker had been employed in Germany and that, as a result, the guarantee institution was not competent. In accordance with the Court of Justice's *Mosbaek* judgment,⁷⁰ the Oberste Gerichtshof ruled that the competent institution was that of the state in which, in accordance with Article 2(1) of the Directive, either the decision had been taken to open the proceedings for the collective satisfaction of creditors' claims or it had been established that the employer's undertaking or business had been closed down, namely in this instance the Austrian institution.⁷¹

With this judgment, the Oberste Gerichtshof abandoned its case-law concerning the application of the territoriality principle as regards the protection of employees' rights in the event of insolvency of the employer. However, it should be noted that the judgment in question does not appear to take account of the Court of Justice's *Everson* judgment,⁷² given about five weeks earlier, which indicates that, where the employees adversely affected by the insolvency of their employer were employed in a Member State by the branch established in that State of a company incorporated under the laws of another Member State, where that company has its registered office and in which it was placed in liquidation, the institution responsible, under Article 3 of Council Directive 80/987/EEC of 20 October 1980, for payment to those employees of outstanding claims is that of the State in whose territory they were employed.

In **Belgium**, in a case concerning the ban on misleading advertising, the Court of Cassation,⁷³ while not accepting the application lodged by one of the parties to refer the case to the Court of Justice for a preliminary ruling, confirmed the interpretation placed by the Liège Court of Appeal on the concept of a consumer protected by the Business Practice and Consumer Protection Act⁷⁴ (the "CPA"). The provisions of the CPA on misleading advertising transpose Directive 84/450⁷⁵ into Belgian law. According to that

⁶⁸ Case C-97/96 *Daihatsu-Händler v Daihatsu Deutschland* [1997] ECR I-6843.

⁶⁹ Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ L 283, 28.10.1980, p. 23).

⁷⁰ Case C-117/96 *Mosbæk Lønmodtagernes Garantifond* [1997] ECR I-5017.

⁷¹ OGH, Judgment of 27 January 2000, 8 ObS 148/99v (published in *Wirtschaftsrechtliche Blätter* 2000, p. 232).

⁷² Case C-198/98 *Everson* [1999] ECR I-8903.

⁷³ Court of Cassation, 12 October 2000, *Revue de jurisprudence de Liège, Mons et Bruxelles*, 2001, p. 188.

⁷⁴ Loi du 14 July 1991 sur les pratiques du commerce et sur l'information et la protection du consommateur (*Moniteur belge*, 29 August 1991).

⁷⁵ Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising

interpretation, the law is designed to protect poorly educated, poorly informed consumers.

The Belgian authorities brought an action for an injunction against a mail order company on the grounds that it had used advertising methods prohibited by the CPA. The action concerned, *inter alia*, an advertising campaign in the form of a survey designed to encourage customers to place orders and a promotional gift linked to the purchase of goods or services. Although the Court of First Instance ruled largely in the Belgian authorities' favour, they appealed against the judgment because they had not been successful in respect of the above two matters. The Liège Court of Appeal allowed the appeal and revised the judgment. The mail order company then appealed to the Court of Cassation. In its first plea, based on the CPA and Directive 84/450, the claimant challenged the Court of Appeal's interpretation of the concept of "protected consumer", which assumed consumers to be poorly informed and lacking critical judgment. It argued that, in so far as the definition of a "protected consumer" underpinning the Court's appeal was wrong, the judgment it had handed down was not justified in law. The Court of Appeal had taken the view that protection should be extended to the most poorly informed consumers who, when confronted by a skilful presentation, lacked critical judgment and were unable to detect tricks, exaggerations or deceptive omissions by the persons who produced the advertisement. The claimant maintained the contrary view that the law in question was designed to protect the average, normally and reasonably well informed consumer. It called on the national courts to interpret the CPA's provisions in the light of Directive 84/450, which they transposed into Belgian law. It also invoked Court of Justice case-law which stated that the concept of "consumer" within the meaning of the Directive should be interpreted as referring to the average, normally and reasonably circumspect consumer. Lastly, the claimant proposed that, in the event of any doubt, the Court of Cassation should refer the case to the Court of Justice for a preliminary ruling.

The Court of Cassation dismissed the appeal. First, it took the view that the Court of Appeal's decision to the effect that the conduct at issue *in casu* was incompatible with fair trading practice was based solely on section 94 of the CPA, which comprises a general ban on any act incompatible with fair trading practice. According to the Court of Cassation, in assessing whether a particular form of conduct is incompatible with fair practice, the judge may take account of the specific situation of certain categories of consumer and of the need to afford them additional protection. Accordingly, it took the view that the decision contained in the judgment to the effect that the purpose of the legislation was to protect poorly educated, poorly informed consumers was founded in law. With regard to the plea drawn from the interpretation of Directive 84/450, the Court of Cassation merely stated that section 94 did not transpose the Directive and that the above considerations demonstrated that the decision underpinning the judgment was founded in law. The Court therefore rejected the arguments based on sections 7 (defining the concept of consumer), 22 and 23 (prohibiting misleading advertising) of the CPA and, accordingly, the arguments derived from the provisions of the Community Directive as transposed into Belgian law.

Still in Belgium, by its judgment of 25 February 2000,⁷⁶ the Court of Cassation confirmed the principle in its judgment of 7 May 1999⁷⁷ concerning the application of competition rules to the liberal professions, in a case against the Order of Pharmacists.

(OJ L 250, 19.9.1984, p. 17).

⁷⁶ Court of Cassation, 25 February 2000, n° D.98.0041.F.

⁷⁷ Court of Cassation, 7 May 1999, *Rechtskundig Weekblad*, 1999-2000, p. 112-11, quoted in the Seventeenth Annual Report on Monitoring the Application of Community Law.

The Court reiterated that the Order of Pharmacists was an "association of undertakings" within the meaning of the Competition Act - based on Articles 81 EC (formerly Article 85) et seq. - and that its decisions, in so far as their object or effect was to distort competition, had to be assessed by the Order's disciplinary bodies with a view to determining whether they were valid in the light of the competition rules. Accordingly, when a body of the Order of Pharmacists imposed competition restrictions on one or more of its members that were not necessary to uphold the fundamental rules of the profession but which were designed in reality to promote certain material interests of pharmacists or to set up, or maintain, economic arrangements, this might constitute a decision by a body of an association of undertakings which could be automatically declared null and void by the appeals board. A decision basing a disciplinary penalty on a general, absolute prohibition on advertising and on any competition on the pharmaceuticals market was not founded in law.

Still in Belgium, in a judgment of 15 September 2000,⁷⁸ the Brussels Court of Appeal issued a ruling on the scope of Community exhaustion and the concept of the trade mark proprietor's "consent" to the sale in the European Economic Area of goods marketed under a trade mark within the meaning of Article 7 of First Council Directive 89/104/EEC,⁷⁹ as interpreted by the Court of Justice. The parties to the dispute were a US company which owned a well-known brand of jeans and a retailer which sold goods of that brand on the basis of parallel imports. The US company took action to oblige the retailer to stop using the brand name unless the goods in question were marketed in the EEA by the trade mark proprietor or with his consent. The appellant asked the Court of Appeal, on a subsidiary basis, to suspend its decision pending the Court of Justice judgment in *Davidoff* and *Levi-Strauss*⁸⁰ and to refer a series of questions concerning Article 7 of the Directive as interpreted in *Sebago*⁸¹ to the Court of Justice for a preliminary ruling.

Firstly, the Court of Appeal ruled that the right conferred by the trade mark to prohibit a third party from using it in the European Economic Area in relation to goods which had been put on the market outside the EEA and which had not been reimported into the EEA with the proprietor's consent was designed, in accordance with Community case-law,⁸² to guarantee the integrity of the internal market. It added, in reply to an argument put forward by the defendant to the effect that this right could not be made subject to the condition that such use also constituted, *prima facie*, an infringement of the trade mark's origin function, or that this use took place in conditions likely to damage the image of the trade mark with the public.

The Court of Appeal pointed out that, given that Article 7 of Directive 89/104/EEC prohibits international exhaustion, the protection extended to the trade mark proprietors within the EEA could not be conditional on the existence of a restriction on exports to the EEA imposed by the proprietor on each of his distributors based in third countries. Deciding to the contrary would, according to the Court, be tantamount to reintroducing the principle of international exhaustion, given that it was impossible for the trade mark proprietor to prove that the world distribution network of the products in question was watertight. Moreover, the fact that the trade mark proprietor had not banned his distributors based in third countries from exporting to the EEA could not have the

⁷⁸ Brussels Court of Appeal, 15 September 2000, *Revue de droit intellectuel*, 2000, p. 263.

⁷⁹ See footnote 50.

⁸⁰ Joined Cases C-414/99 (OJ C 6, 8.1.2000, p. 18) and C-415/99 (OJ C 79, 18.3.2000, p. 5).

⁸¹ Case C-173/98 *Sebago* [1999] ECR I-4103.

Case C-355/96 *Silhouette International Schmied v Hartlauer Handelsgesellschaft* [1998] ECR I-4799.

slightest impact on the obligation incumbent on proprietors to comply with the specific purpose of the trade mark right, namely the exclusive right to use the trade mark for the launch of a product in the EEA. Consequently, the lack of such measures could be taken as constituting implicit consent by the proprietor to products from third countries being placed on the market in the EEA. Lastly, the Court of Appeal pointed out that, in accordance with *Sebago*, the notions of goods being put on the market in the EEA and of goods being put on the market with the proprietor's consent within the meaning of Article 7(1) of the Directive must be analysed, on an individual basis, with reference to the relevant unit or lot of the goods for which exhaustion was invoked. It stipulated that, contrary to what was argued by the defendant, this interpretation could not entail the obligation for the proprietor of the trade mark to attach a sign to the goods whereby resellers could check whether they were intended for the European market or not. It also pointed out that resellers who had any doubts as to whether goods had been lawfully placed on the market in the EEA were obliged to conclude that consent had not been given and to refrain from acquiring the goods in question with a view to resale. With regard to the burden of proof in respect of Community exhaustion, the Court of Appeal specified that the onus was on the adversary of the trade mark proprietor to produce documents showing that the goods it was selling were the same as the goods for which an invoice had been issued further up the sales chain by an authorised seller.

Lastly, with regard to the defendant's argument that the trade mark proprietor was abusing his exclusive right in seeking to restrict competition on the goods concerned within the EEA, the Court of Appeal pointed out that import restrictions within the EEA on products from third countries could not have the effect of hindering intercommunity trade, and that if the principle of a ban on international exhaustion affected such products, its ultimate purpose was to preserve the internal market's integrity.

In **Spain**, in a judgment of 30 November 2000,⁸³ the Tribunal Constitucional confirmed an earlier ruling to the effect that, although Community secondary legislation does not have the same status as constitutional law and cannot therefore be taken into account as a parameter for constitutional review of legislation, it is, nevertheless, a criterion whereby the meaning and the scope of the rights and freedoms enshrined in the Spanish Constitution can be determined. The action was brought by the Spanish Ombudsman for the annulment of certain provisions of the Protection of Personal Data Act,⁸⁴ which transposes Directive 95/46⁸⁵ into Spanish law. The claimant alleged *inter alia* a violation of the fundamental right to respect for privacy as enshrined in the Constitution and a violation of the constitutional restrictions on the use of information technology, which were established with a view to protecting that right. According to the claimant, the Spanish legislature gave a broader scope than the Directive to the exceptions from the obligation incumbent on persons processing data to notify the person required to issue such data and to that person's right of access to such data. Referring to the Directive and to Article 8 of the Charter of Fundamental Rights of the European Union, which reinforce its constitutional interpretation of these rights, the Tribunal Constitucional annulled the relevant provisions of the Protection of Personal Data Act.

⁸³ Tribunal Constitucional, Pleno, 30 November 2000, n° 292/2000, Diario La Ley n° 5213, 27 December 2000.

⁸⁴ Ley Orgánica n° 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal (Boletín Oficial del Estado n° 298, 14 December 1999).

⁸⁵ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

In a decision of 24 April 2000,⁸⁶ given following a preliminary ruling by the Court of Justice,⁸⁷ the Juzgado de Primera Instancia e Instrucción nº 5 in Oviedo took the view that, in that ruling, the Court had missed an opportunity to interpret Directive 93/83⁸⁸ in the light of the Berne Convention and to provide a uniform interpretation, which was necessary for the national courts in the Member States, of the disputed provisions. The Juzgado was attempting to determine whether the fact that a hotel received satellite or cable broadcasting signals and distributed them to its various rooms constituted “communication to the public” or “reception by the public” within the meaning of the Directive. With a view to highlighting the lack of a uniform interpretation of the Directive, the Juzgado carried out a wide-ranging review of examples of contradictory case-law of the Spanish courts and the courts of the other Member States. Referring to the submissions of the Advocate-General in the case, and following the interpretation of the Berne Convention which he had proposed, the Juzgado concluded that the fact of receiving television signals and distributing them by cable to the various rooms of a hotel constituted communication to the public requiring the authorisation of the copyright holders or payment of copyright. The Juzgado based its conclusion on the criterion proposed by the Advocate General, namely that distribution should be for profit, and on the definition of the hotel's customers as a “successive public”, these being elements which enabled a distinction to be drawn between that type of distribution and distribution to private households.

In **France**, in a judgment of 22 February 2000,⁸⁹ the Chambre commerciale of the Court of Cassation rejected a series of appeals contesting the classification of drugs subject to the pharmacists' sales monopoly, which the Amiens Court of Appeal had attributed to a series of products which, it was claimed, were parapharmaceutical products. The Court of Cassation applied Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products and Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products and the judgment of the Court of Justice in *Upjohn*⁹⁰ as regards the definition of medicines “by function” or “by presentation”. It confirmed the position of the Court of Appeal which, referring to *Keck* and *Mithouard*,⁹¹ had taken the view that the prohibition on the sale of certain products outside pharmacies formed part of selling arrangements and thus fell outside Article 30 of the Treaty (now Article 28 EC), in so far as the national rules affected in the same manner, in law and in fact, the marketing of domestic products and of imported products.

The Chambre criminelle of the French Court of Cassation reached the same conclusions in a judgment of 5 September 2000,⁹² which stated that the rules establishing a pharmaceutical monopoly, which applied equally to products imported from the Member States and from the European Community and to domestic products, were justified in the

⁸⁶ Juzgado de Primera Instancia e Instrucción nº 5 de Oviedo, 24 April 2000, Entidad de Gestión de Derechos de los Productores Audiovisuales (EGEDA) c. Hostelería Asturiana, SA (HOASA).

⁸⁷ Case C-293/98 *Egeda v Hostelería Asturiana* [2000] ECR I-629.

⁸⁸ Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6.10.1993, p. 15).

⁸⁹ Court of Cassation, Chambre commerciale, financière et économique, judgment of 22 February 2000, Beiersdorf, Bulletin des arrêts de la Court of Cassation - Chambres civiles 2000, IV, nº 34.

⁹⁰ Case C-112/89 *Upjohn* [1991] ECR I-1703.

⁹¹ Joined Cases C-267/91 and C-268/91 *Keck* and *Mithouard* [1993] ECR I-6097.

⁹² Court of Cassation, Chambre criminelle, judgment of 5 September 2000, Gabard, Bulletin des arrêts de la Court of Cassation - Chambre criminelle, 2000, nº 26.

light of Articles 30 and 36 of the EC Treaty (now Articles 28 and 30 EC) by the need to protect public health.

In a judgment of 14 June 2000,⁹³ the Paris Court of Appeal, drawing its conclusions from the Court of Justice's *Parodi* judgment,⁹⁴ questioned the case-law of the Court of Cassation⁹⁵ with regard to the conditions in which a credit institution based in another Member State could grant a mortgage loan in France. The Court of Appeal stated that the French law predating Council Directive 89/646/EEC⁹⁶ had not merely created an obstacle to freedom to provide banking services in requiring authorised credit institutions based in another Member State to obtain a fresh authorisation from the supervisory authority of the State of destination, but had made it impossible to exercise that Community freedom by coupling such authorisation with a condition of establishment on the national territory for the service provider.

The Court of Appeal then considered the question whether such legislation was necessary in the light of the interests to be protected. In so doing, it took over the distinction which the Court of Justice had drawn in paragraph 29 of the *Parodi* judgment with regard to the nature of the banking activity in question and the risk incurred by the person for whom the service was intended. The Court took the view that the French law went beyond what was objectively necessary to protect the interests it sought to protect and accordingly declared it incompatible with the Treaty.

In **Greece**, by an elliptical reasoning, the Symvoulío tis Epikrateias (Council of State), in its judgment of 30 March 1999,⁹⁷ did not apply the interpretation given by the Court of Justice in its preliminary ruling in *SETTG* of 5 June 1997.⁹⁸ The Court had ruled that the Greek legislation which prescribed a mandatory legal form of employment relation for services provided by tourist guides to tourist offices and travel agencies which organised tourist programmes was incompatible with Article 59 (now, following amendments, Article 49 EC). The Symvoulío tis Epikrateias found that the interpretation given by the Court was not relevant *in casu*, in so far as the dispute was not linked to Community law. In its opinion, the lack of an element linking the dispute to Community law resulted from the fact that none of the parties to the dispute was a Community national established in another Member State which wanted to provide its services in Greece. The legislation referred for a preliminary ruling was thus regarded as a simple legal basis for the arbitration ruling subject to supervision by the Symvoulío tis Epikrateias in the main proceedings, the arbitration ruling in itself forming the real substance of the dispute. Accordingly, the Symvoulío tis Epikrateias completely excluded from the settlement of the dispute the question of the incompatibility of the legislation with Community law and the resulting obligation not to apply it as the legal basis for the arbitration ruling. Apparently, no explanation was given as to the reasons why the Symvoulío regarded the Court of Justice's preliminary ruling as immaterial to the subject-matter of the dispute.

⁹³ Paris Court of Appeal, judgment of 14 June 2000, *SCI Parodi*, Recueil Dalloz, 2000, Jur., p. 614.

⁹⁴ Case C-222/95 *Parodi v Banque H. Albert de Bary* [1997] ECR I-3899.

⁹⁵ Court of Cassation, Chambre commerciale, financière et économique, Judgment of 20/10/98, *SCI Parodi*, Bulletin des arrêts de la Court of Cassation - Chambres civiles 1998, IV, n° 246.

⁹⁶ Second Council Directive 89/646/EEC of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending Directive 77/780/EEC (OJ L 386, 30.12.1989, p. 1).

⁹⁷ Symvoulío tis Epikrateias, 30 March 1999, 1014/1999, To Syntagma, 1999, p. 1129, *Elliniki Dikaïosyni* 2000, p. 1131, *EDDDD* 2000, p. 400.

⁹⁸ Case C-398/95 *SETTG v Ypourgos Ergasias* [1997] ECR I-3091.

Still in Greece, a discrepancy between a preliminary ruling given by the Court of Justice⁹⁹ and the final decision of the appeal court was observed in three judgments of the Athens Administrative Court of 31 August 1999. The Court took the view that the failure to transpose Directive 89/48/EEC¹⁰⁰ did not constitute *in casu* a violation by the State of its Community obligations and, accordingly, did not give rise to an obligation to compensate for loss sustained by individuals because of failure to incorporate the Directive into national law.¹⁰¹ The Administrative Court thus appears to have gone further than the Court of Justice ruling, which merely indicated that the Directive was not applicable in a situation purely internal to a Member State, without entering the debate on the conditions governing the state's civil liability for failing to incorporate the Directive into national law. Furthermore, the fact that Greece had been condemned by a previous Court of Justice ruling on precisely the same grounds¹⁰² was not taken into account.

In **Italy**, in the course of prior review of the organisation of a referendum for the repeal of an Act, the Corte costituzionale issued a ruling on the obligations resulting for Member States from the implementation of a Community Directive.¹⁰³ In Italy, the organisation of a referendum for the repeal of an Act is authorised only on two conditions, namely that the referendum petition is signed by at least 500 000 voters and that the Corte costituzionale has carried out advance checks to ensure that the referendum question is not unconstitutional. In the case in point, the proposed referendum concerned the repeal of section 5 of Act No 863 of 19 December 1984, which restricted the use of part-time employment contracts. This subject was covered by Directive 97/81,¹⁰⁴ which was due to be implemented by 20 January 2000 and which the Italian authorities had not yet incorporated into national law.

Firstly, the Corte costituzionale checked whether the proposed question was constitutional not merely in the light of the restrictions on the use of referenda laid down in Article 75(2) of the Constitution - which prohibits *inter alia* referenda on laws ratifying international treaties - but also in the light of those resulting from a systematic interpretation of the Constitution. An interpretation of that type would entail examining the referendum's compatibility with the Community Directives and checking whether they produced effects which might prevent the repeal of an Act if the repeal would prevent the Italian authorities from complying with their obligations under Community secondary legislation. Having affirmed the primacy of Community law over national law, the Corte costituzionale ruled that the Act in question formed a "hard core" of provisions which already complied with the Directive. As such, it could not be repealed before other measures which met the obligations resulting from the Directive had been adopted. In other words, the situation of "pre-conformity" (*preconformazione*) established by the Act had to be maintained after the deadline for implementing the Directive had expired. In that connection, the Corte costituzionale referred to Court of Justice case-law to the effect that the obligation incumbent on the Member States to cooperate required them to refrain from taking any measures liable seriously to

⁹⁹ Joined Cases C-225/95, C-226/95 and C-227/95 *Kapasakalis and others v Greek State* [1998] ECR 4239.

¹⁰⁰ Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ 1989, L 19, p. 16).

¹⁰¹ Dioikitiko Protodikeio Athinon, 31 August 1999, 8240/1999, 8241/1999 and 8242/1999.

¹⁰² Case C-365/93 *Commission v Greece* [1995] ECR I-499.

¹⁰³ Corte costituzionale, 7 February 2000, Gazzetta Ufficiale della Repubblica Italiana, 2000, Spec. 1, n° 7, p. 65.

¹⁰⁴ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex: Framework Agreement on part-time work (OJ L 14, 20.1.1998, p. 9).

compromise the result prescribed by the Directive between the date on which a Directive entered into force and the end of the period prescribed for transposal.¹⁰⁵ The Corte costituzionale found *in casu* not merely that the period for incorporating Directive 97/81 had expired on 20 January 2000, with the result that the Italian authorities had failed to meet their obligations, but that in addition the Directive specifically stated that its implementation could not serve to justify any regression in relation to the situation which already existed in each Member State in terms of the level of protection for employees. Repealing the relevant Act by means of a referendum would mean the end of the protection for employees enshrined in the legislation governing part-time work. As a result, the Italian authorities would be liable for failing to meet a specific obligation in Community law, which would be an infringement of Article 75(2) of the Constitution.

Still in Italy, on 1 February 2000 the Corte di cassazione had occasion to issue a ruling on the direct effect of a Directive on situations which had come into being before the deadline for its implementation in the Member States expired.¹⁰⁶ Directive 93/13/EEC¹⁰⁷ was implemented by Act No 52 of 6 February 1996, whereas the deadline for incorporation into national law was 31 December 1994. Article 10 states that the Directive is applicable to all contracts concluded after that date. In accordance with the Act of 1996, the new section 1469-*bis* of the Italian Civil Code regards provisions which confer jurisdiction on a court sitting in a place other than that in which the consumer is resident or domiciled as unfair. The Giudice di pace di Roma, ruling on a dispute concerning a contract signed in May 1994 between a member of the professions and a consumer, declared that it had no jurisdiction and that the case should be heard by the court for the place of residence of the consumer (Udine), on the grounds that the protection provided to consumers by the new section 1469-*bis* of the Civil Code was also applicable to contracts concluded before the entry into force of the Act implementing Directive 93/13/EEC by virtue of the latter's direct effect. The Corte di cassazione, ruling on the appeal against the decision filed by the member of the professions concerned, reversed the contested judgment and referred the case to the Giudice di pace di Roma for a decision on the substance. Having noted that the direct effect of a Directive implied that its provisions were unconditional and sufficiently specific in terms of their content, and that the Member State concerned had failed to implement the Directive within the deadline set for that purpose, the Corte di cassazione stated that it was not certain that Council Directive 93/13/EEC met the requirement regarding the unconditional and specific nature of its provisions. However, the Court ruled that, on the date on which the disputed contract was signed (May 1994), the Italian authorities had not failed to comply with their obligations in so far as the deadline for implementing the Directive, i.e. December 1994, had not expired at that point in time. Accordingly, the Corte di cassazione concluded, the self executing effect of Directive 93/13/EEC, which was likely to affect the provisions conferring jurisdiction, as the Giudice di pace di Roma had declared, could not be taken into account.

Lastly, still in Italy, in a case concerning the privatisation of an airport company via the sale of most of its shares, the Consiglio di Stato ruled that a ministerial decree limiting the stake in the company's capital of public bodies, even economic bodies, and State-owned companies to 2% was compatible with Community law.¹⁰⁸ A State-owned

¹⁰⁵ Case C-129/96 *Inter-Environnement Wallonie v Région wallonne* [1997] ECR I-7411.

¹⁰⁶ Corte di cassazione, Sezione I, 1 February 2000, n° 1099, *Giustizia civile*, 2000, p. 1690.

¹⁰⁷ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1994, p. 29).

¹⁰⁸ Consiglio di Stato, Sezione VI, 1 April 2000, *Il Consiglio di Stato*, 2000, I, p. 833.

company in which the *comune* and *provincia* of Milan held a 99% stake petitioned the Tribunale amministrativo regionale Lazio to revoke the clause in the sales notice for the airport company's shares which reproduced that 2% limit. The appellant claimed *inter alia* that the principles of non-discrimination, freedom of establishment and freedom of movement of capital and the principle of proportionality had been violated. In its judgment of 14 July 1999, the Tribunale amministrativo rejected the appeal on the grounds that the principle of proportionality did not constitute an autonomous criterion whereby the lawfulness of Community acts could be assessed, but merely a criterion whereby the Treaty provisions could be interpreted.¹⁰⁹ Ruling in the proceedings filed by the appellant, the Consiglio di Stato, confirming the decision given at first instance, indicated the scope of the principle of proportionality.

The Consiglio di Stato referred to Court of Justice case-law¹¹⁰ which maintains that the principle of proportionality is a general principle of Community law which the institutions of the Member States must take into account when exercising their discretionary powers and which serves to assess the activity of the national legislature as well as legislative acts themselves. While acknowledging that the argument based on an infringement of the principle of proportionality had not been sufficiently elaborated by the parties, the Consiglio di Stato pointed out that the imposition of a limit on holdings by State-owned companies in the capital of a company undergoing privatisation was a necessary and appropriate measure in order to achieve the objectives of the transaction, namely to transfer the shares in a public company to individuals against payment so as to enable the public objectives laid down by law to be achieved more effectively. It would not be possible to realise these objectives if shares could be transferred from the State to a public company and vice versa. In addition, once the legitimacy of the limit had been accepted, it could not be questioned by the courts in so far as it represented an economic policy choice by the Government, which decided what the maximum level of the public-sector holding in the capital of a privatised company should be.

In the **United Kingdom**, in connection with appeals filed respectively against two contradictory decisions by the High Court regarding transfers of undertakings within the meaning of the 1981 Transfer of Undertakings (Protection of Employment) Regulations, by which Directive 77/187¹¹¹ was incorporated into domestic law in the United Kingdom, the Court of Appeal ruled that the transferor's liability in tort to an employee in respect of a personal injury which had accrued before the transfer was transferred to the transferee by virtue of Reg. 5(2) of the 1981 Regulations.¹¹² The Court of Appeal notes that Reg. 5(2)(a) concerns "all the transferor's rights, powers, duties and liabilities under or in connexion with the contract of employment", which implies that the transfer does not concern contractual rights alone but all rights established "in connexion with" the contract of employment. Even in the absence of an explicit reference to liability in tort, these provisions are therefore sufficiently broad to encompass the employer's liability in tort. As a consequence, *in casu* the employer's liability on the grounds of negligence had indeed been transferred to the transferee by virtue of the 1981 Regulations.

¹⁰⁹ Tribunale amministrativo regionale del Lazio, Sezione III, 14 July 1999, No 2155, I tribunali amministrativi regionali, 1999, I, p. 3126-3133.

¹¹⁰ Case 176/84 *Commission v Greece* [1987] ECR I-1193; 19 June 1980, joined Cases 41/79, 121/79 and 796/79 *Testa v Bundesanstalt für Arbeit* [1980] ECR 1979; Case C-427/85 *Commission v Germany* [1988] ECR 1123 and Case C-127/92 *Enderby* [1993] ECR I-5535.

¹¹¹ Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (OJ L 61, 5.3.1977, p. 26).

¹¹² Court of Appeal (Civil Division), *Martin v Lancashire County Council, Bernadone v Pall Mall Services Group Ltd and others*, [2000] ALLER 544 (judgment given on 16.5.2000).

In the second case, the Court of Appeal ruled in addition that the transferor's rights to compensation by virtue of an insurance policy against accidents in the workplace, even though it had been taken out with a third party (the insurer), had also been transferred to the transferee. Pointing out that the purpose of Directive 77/187 was to safeguard employees' rights in the event of transfers of undertakings, the Court of Appeal took the view that the 1981 Regulations, which incorporated the Directive into domestic law in the United Kingdom, should, in so far as possible, be interpreted as meaning that employees should not be deprived of rights which they would have enjoyed vis-à-vis their employer if no transfer had taken place and which had been created by virtue of or in connexion with the contract of employment. Accordingly, in the case in point, the benefit of the insurance policy taken out with the transferor had been transferred to the transferee.

Still in the United Kingdom, the Court of Appeal,¹¹³ setting aside the judgment given in the court below, took the view that Article 7 of Directive 93/104¹¹⁴ was not sufficiently precise and unconditional to have direct effect. In this case, which involved a dispute between a swimming instructor and her employer, a regional authority, the Employment Appeal Tribunal had ruled that the claimant, who was not paid during the school holidays, was entitled to four weeks' annual paid holiday by virtue of Article 7(1) of the Directive which provides that "Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice". At the time of the events in question, in 1997, the Directive had not yet been incorporated into domestic law in the United Kingdom, although the deadline for incorporation had been set at 23 November 1996. Incorporation took the form of the Working Time Regulations (SI 1998, No 1883), which entered into force on 1 October 1998. The claimant argued that the direct effect of these provisions could be pleaded against the administration for the period between those two dates. The Employment Appeal Tribunal concluded that Article 7 was sufficiently precise and unconditional to have direct effect and that the claimant could therefore rely on it against the defendant.

Examining Article 7 within the broader context of the nature, general structure and wording of the Directive, Lord Justice Mummery in the Court of Appeal focused *inter alia* on the concept of "working time", which is defined by Article 2 of the Directive as "any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice". He held that this definition, which was not precisely worded and referred to the national laws of the Member States, was of particular importance in the context of Section II, which included Article 7 on annual leave. Although Article 7 was precise as regards the minimum period of paid annual leave, namely four weeks, it did not follow that the obligation enshrined in that Article was sufficiently precise for an individual to be able to rely on it in the national courts. Since neither Article 7 nor any other article of the Directive specifies the length of "working time" that an employee must accumulate in order to qualify for the annual leave provided for in Article 7, Lord Justice Mummery concluded that the Article could not be deemed to have direct effect.

¹¹³ Court of Appeal (Civil Division) *Gibson v East Riding of Yorkshire District Council*, [2000] CMLR 329 (judgment given on 21.6.2000).

¹¹⁴ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time (OJ L 307, 13.12.1993, p. 18).

Still in the United Kingdom, in connection with proceedings concerning the termination of a commercial agent's contract, the Outer House of the Court of Session¹¹⁵ (in Scotland) reiterated the principle of interpretation in line with Community law and indicated that, where a Directive borrowed one of its elements from the legal system of a Member State, it was possible to rely on the law of that Member State to determine the exact scope of the Directive. Noting firstly that the Commercial Agents (Council Directive) Regulations 1993 relied on by the claimant had been adopted to incorporate Directive 86/653/EEC¹¹⁶ into domestic law in the United Kingdom, Lord Hamilton reiterated the need to interpret national law, in so far as possible, in a way which reflected not merely the wording and objectives of the Directive which it was designed to incorporate, but also the interpretation placed on it by the Court of Justice, rather than adopting a literal interpretation of national law. He also stated, as a general principle, that legislation adopted for the purpose of incorporating a Community Directive amended the other provisions of existing national law in the field in question only where they were incompatible with the Directive. Regarding the possibility of relying in Scotland on the law of another Member State and the practice of the courts of that State in determining the scope of a Community Directive which had borrowed one of its elements from that legal system, Lord Hamilton took the view that this was in line with the objective of approximating the laws of the Member States. Since the Directive in question provided for a solution based on French law, it might be necessary, with a view to achieving a harmonised approach, to take into account the experience of the French courts in the field without necessarily having to call on specialists in French law. Lord Hamilton took the view that this was an exercise in comparative law, for which purpose the Scottish courts were perfectly entitled to take foreign law sources into account.

In a similar case,¹¹⁷ the Inner House of the Court of Session reiterated that the applicable national law had to be interpreted in the light of Community law. Having been advised that the compensation arrangements provided for in Directive 86/653/EEC were based on French law, it proceeded to interpret the domestic legislation in the light of the French law governing the system for compensating self-employed commercial agents on termination of their contract.

Lastly, the Outer House of the Court of Session¹¹⁸ ruled on the exhaustion of trade mark rights in a case concerning the parallel import of Davidoff brand goods from Singapore to the United Kingdom. The case filed by the claimants - who owned the trade mark - which was based on Directive 89/104,¹¹⁹ was designed to secure, in the absence of the defendants' consent, a ban on the distribution by the defendants of goods bearing the trade mark within the European Economic Area. The parties agreed that the dispute mainly concerned the concept of "consent" referred to in Article 7 of the Directive. The claimants argued that neither they themselves nor the transferees had put the goods on the market in the EEA, and that they had made them available to their distributors in Singapore with a view to their resale in that territory. A contract, governed by German law, had been made for the sale of the goods in question, granting the sellers exclusive rights to distribute the goods within the Asian territory specified therein and obliging the distributors to ensure compliance with that restriction by successive resellers.

¹¹⁵ Court of Session, Outer House, *Stewart Roy v M R Pearlman Ltd* [1999] CMLR 1155 (judgment given on 10.3.1999).

¹¹⁶ Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (OJ L 382, 31.12.1986, p. 17).

¹¹⁷ Court of Session, Inner House, *King v T. Tunnock Ltd*, European Law Reports of Cases in the United Kingdom and Ireland 2000, p. 531 (judgment given on 16.3.2000).

¹¹⁸ Court of Session, Outer House, *Zino Davidoff SA v M&S Toiletries Ltd*, [2000] CMLR 735 (judgment given on 4.4.2000).

¹¹⁹ See footnote 50.

The Outer House took the view that the defendants had failed to prove that the claimants had given their consent, arguing that the claimants' intention of restricting the resale of the goods to the territory specified in the contract was clearly indicated in the contract and that the defendants' argument to the effect that the claimants' consent could be implicitly assumed from the fact that they had not taken any measures to prevent the subsequent import of the goods into the EEA (for instance, a specific ban on the goods themselves) did not reflect trading circumstances. Lord Kingarth, sitting in the Outer House, diverged from the decision given in a similar case in April 1999¹²⁰ by Mr Justice Laddie, sitting in the Chancery Division of the English High Court, who had ruled that Davidoff could not rely on its British trade mark against goods imported from Singapore. He took the view that, under English contract law, given that no specific restrictions had been imposed on the distributor when he purchased the goods, the proprietor of the trade mark was presumed to agree to the resale of the goods in the EEA. It should be noted that the English judge referred to the Court for a preliminary ruling on the concept of implicit consent.¹²¹ Lord Kingarth emphasised the differences between the case at issue and the English decision, in particular the fact that the sales contract was made under German law, not English law. He took the view that the defence's argument based on implicit consent was not relevant, given the clear export restrictions laid down in the sales contract, which indicated that the goods in question could be resold only in the specified Asian territories. In that context, the Scottish judge ruled that it was not possible to presume implied consent to subsequent resale in the EEA.

With regard to the concept of "consent" referred to in Article 7 of the Directive in particular, Lord Kingarth ruled that the claimants' case was founded. Without denying the possibility that consent may be implied, the claimants had invoked the principle put forward in the *Silhouette* judgment¹²² that as Article 7(1) derogated from the rights conferred by Article 5(1) on the trade mark proprietor, it must be interpreted restrictively.

Lastly, given that references for a preliminary ruling on the concept of consent had been addressed to the Court in *Davidoff* and *Levi Strauss*, and that none of the parties asked it to refer the matter to the Court, the Scottish court took the view that it was not necessary to do so. The Outer House of the Court of Session¹²³ subsequently granted an interim interdict to the claimants. More specifically, Lord McCluskey considered that deliberate interference with bar coding constituted, at first sight, an attempt to dissimulate the origin of the goods and a violation of the claimants' rights.

Still in the United Kingdom, the High Court of Justice of the Isle of Man,¹²⁴ sitting as an appellate court, gave a judgment on 19 January 1999 holding that neither Article 52 of the EC Treaty nor Community legislation on the free movement of persons and freedom to provide services applied in the Isle of Man and that, as a result, the Court of Justice judgments concerning those fields had no effect on Manx law. It concluded that the Manx courts were not bound to follow the Court's judgments.

The appellant, a British citizen resident on the Isle of Man, had been charged, more than three months but less than one year after arriving on the island, with driving without a licence. At the time of his arrest, he held a valid UK driving licence but had failed to exchange it for a licence issued by the Manx authorities within the three months required by Manx law. The appellant relied, *inter alia*, on a section of the Road Traffic Act 1985

¹²⁰ Davidoff SA/A&G Imports Ltd, [1999] 3 All ER 711.

¹²¹ See joined Cases C-414/99 *Davidoff* and C-415/99 *Levi Strauss*, note 80.

¹²² Case C-355/96 *Silhouette* [1998] ECR I-4799.

¹²³ Court of Session, Outer House, *Zino Davidoff SA v M&S Toiletries Ltd* (judgment given on 8.8.2000).

¹²⁴ High Court of Justice of the Isle of Man, Staff of Government Division, *Fielding v Oake* (judgment given on 19.1.1999).

which, he claimed, obliged the Manx authorities to take the necessary measures to give effect, on the Isle of Man, to Community transport legislation. Rejecting that argument, the High Court pointed out firstly that Community road transport legislation did not apply to the Isle of Man by virtue of Protocol No 3 to the 1972 Act of Accession. It added that, although the section relied on by the appellant empowered the Manx authorities to take measures to make Community law applicable, it created no obligation on them to do so. The appellant also referred to the judgment given by the Court of Justice in *Skanavi and Chryssanthakopoulos*,¹²⁵ in which proceedings against a person holding a licence issued in another Member State but having failed to exchange it for a licence of the Member State of residence within the requisite period were deemed to be incompatible with Article 43 of the Treaty. In that connection, the High Court ruled that neither Article 43 of the Treaty on freedom of establishment nor Community law on free movement of workers and freedom to provide services applied to the Isle of Man, and that consequently the case-law in question was not relevant.

2.6. Question 4

In **Austria**, an appeal was lodged with the Oberster Gerichtshof in two cases concerning refusal to give the necessary administrative authorisation for the purchase of real estate in the Tyrol.

In the first case,¹²⁶ a German citizen had bought a house in the Tyrol in July 1997 with a view to making it his principal residence. The competent authority of first instance (Bezirkshauptmannschaft Schwaz) had refused permission for the purchase of the property pursuant to the Tyrolean provincial law on real estate transactions (*Tiroler Grundverkehrsgesetz*), although the appellant had invoked not only the free movement of persons but also the freedom of establishment, claiming that he had obtained authorisation to pursue a business in Austria. The competent authority, applying to the applicant the rules laid down for all purchases of property by foreigners, argued that such an establishment had no commercial, cultural or social interest for the province of Tyrol.

The Oberster Gerichtshof held that the Bezirkshauptmannschaft should have known that the conditions cited in its decision were not applicable to citizens of a Member State of the European Union, a fact which was also borne out by a circular from the Tyrolean provincial government. Given the precedence of Community law and the decisions of the Court of Justice, the Bezirkshauptmannschaft should have observed the principles of the free movement of persons and freedom of establishment, even if national law stated the opposite. It explained that the government could be held liable, if a provincial authority does not apply Community law or applies it incorrectly. In this particular case, the province of Tyrol was ordered to pay the appellant's legal costs arising from the unlawful decision.

In the second case,¹²⁷ in which the Austrian court of first instance had referred to the Court of Justice for a preliminary ruling,¹²⁸ the Oberster Gerichtshof had ultimately to settle the question of whether it is the province or the federal State which has to make good the damage suffered by an individual because a provincial law does not conform to Community law. Since this is a controversial question for Austrian commentators, the Oberster Gerichtshof, following the Court's reasoning in *Konle* (referred to above), ruled that reparation for damage caused to individuals by national measures taken in breach of

¹²⁵ Case C-193/94 *Skanavi and Chryssanthakopoulos* [1996] ECR I-929.

¹²⁶ Oberster Gerichtshof, 1 Ob 12/00x (judgment given on 10.6.2000).

¹²⁷ Oberster Gerichtshof, 1 Ob 146/00b (judgment given on 25.7.2000).

¹²⁸ C-302/97 *Konle* [1999] ECR I-3099.

Community law need not necessarily be provided by the federal State. By analogy with the Administrative Liability Act (*Amtshaftungsgesetz*), which states that a public authority that commits a breach in accordance with "operational and management criteria" is liable, only the province concerned can be liable for compensation for the damage caused, and not the federal State. The application was therefore rejected, since it was lodged against the State and not the province of Tyrol.

In **Belgium**, in a judgment of 14 January 2000,¹²⁹ the Court of Cassation felt obliged to spell out the criteria for determining the liability of the State where it adopts or approves a regulation contrary to a Community provision having direct effect in the domestic legal system. The case in point concerned the national rules on the technical characteristics of vehicles. The Court of Cassation held that the acts of the administrative authority were to be assessed in the light of the general criteria of Belgian civil liability law, which were wider than those of Community law.¹³⁰

The original appeal contended that, by not allowing the type approval of buses from other Member States which do not meet the Belgian rules on turning circles, contrary to Article 30 of the Treaty (now Article 28 EC) the Belgian State was at fault and as a result the claimant had suffered loss, for which it was claiming damages. In the contested decision, the Brussels Court of Appeal, relying on *Factortame*,¹³¹ had held that an administrative authority that issued a regulation in violation of the Treaty was at fault only if the infringement was sufficiently serious and manifest, explaining that for an infringement of Community law to be regarded as sufficiently serious the decisive criterion is the obvious disregard of that law by the Member State. It had then listed the factors that the court could be asked to consider in order to conclude that an infringement is manifest.¹³² In view of the specific circumstances of the application, the Brussels Court of Appeal had concluded that there was no manifest infringement of Article 30 of the Treaty in this particular case, at least not during the period for which damages were sought.

The Court of Cassation set aside the judgment on the ground that it infringes the national rules on civil liability. The Court first acknowledges that, unless there are grounds for exemption, an administrative authority is at fault where it passes or adopts a regulation which fails to comply with a provision of international law having direct effects in the domestic legal system, with the result that it incurs civil liability if that fault causes damage. The Court then notes that the Appeal Court, without concluding that there were grounds for exempting the State from liability, decided that the infringement committed by the State did not constitute a fault. On the basis of this finding alone, and without commenting on the principles of Community law adduced by the Appeal Court, the Court of Cassation concludes that the judgment breaches the national rules on civil liability.

¹²⁹ Court of Cassation, No C.98.0477.F.

¹³⁰ Article 1382 of the Belgian Civil Code sets out the conditions for civil liability, i.e. fault, damage and a causal link between the two.

¹³¹ Joined Cases C-46/93 and C-48/93 [1996] ECR I-1029.

¹³² These include the degree of clarity of the infringed rule, the extent of the discretion allowed to the national authorities, whether the failure to fulfil obligations is deliberate or involuntary, whether the error of law is excusable or not and whether the attitude taken by a Community authority may have contributed to the omission, adoption or retention of national measures contrary to Community law.

In **Greece**, in judgment 2079/1999 of 26 February 1999¹³³ concerning the defective transposal of Directive 89/48,¹³⁴ the Council of State (Symvoulío tis Epikrateias) did not comment on the problems of *Francovich*, even though the appellant had pleaded the civil liability of the State on account of the defective transposal of the Directive and the Court of Justice had given judgment against Greece for failing to meet its obligations.¹³⁵ While recognising the obligation on the State to transpose the Directive, the Symvoulío tis Epikrateias finds that it is for the legislature and the executive to choose the appropriate legal means of fulfilling that obligation and concludes that the courts have no jurisdiction to intervene in the matter, especially by acknowledging the civil liability of the State for the infringement of its Community obligations.

In **Ireland**, the Circuit Court applied the *Francovich* decision in a novel way in its judgment of 29 October 1999 in *Dublin Bus v Motor Insurers' Bureau of Ireland* (MIBI).¹³⁶ Ireland had transposed the Second Motor Insurance Directive 84/5¹³⁷ through an agreement with the defendant, a private law association representing insurance companies operating in this field. The agreement provided for a wider exemption than that in the Directive with regard to cover for damage caused by unidentified vehicles, which it had extended to cases where the driver cannot be identified. The Court of Justice has ruled that the Directive was wrongly transposed. Moreover, according to the Circuit Court, given the method of transposal selected by the Irish authorities, the MIBI, as a partner of the State, should be associated with the State. The Circuit Court described the MIBI therefore as an offshoot of the State, whose civil liability for a sufficiently serious error of transposal it was possible to establish. Since the MIBI was already aware that the exemption provided for by the agreement was too wide, and had already stated that it would not rely on it in other cases, the Circuit Court held that the tests imposed by the *Francovich* and *British Telecom* judgments were met and ordered the MIBI to pay damages to the party injured by the faulty transposal of the Directive.

In the **Netherlands**, the Supreme Court (Hoge Raad), in a VAT judgment¹³⁸ delivered on 29 March 2000, held that a recovery of tax ordered by the tax authorities in breach of a provision of the Law on VAT, which was deemed to be consistent with the Sixth VAT Directive 77/388,¹³⁹ did not infringe Community law and that there was therefore no need under Community law to grant compensation for the injury suffered by the taxpayer. The Hoge Raad stressed that, while the Netherlands had correctly transposed the Directive, the recovery at issue was not based on the chargeable events within the meaning of the provision concerned and that, therefore, VAT was not due in this particular case. (The taxpayer, who had obtained only the lump-sum repayment laid down by the Law on tax investigations, was claiming compensation in the Hoge Raad for the expenditure actually incurred in bringing an action against the recovery of the tax.) The claim was accordingly rejected.

¹³³ Symvoulío tis Epikrateias, plenary session, 26 February 1999, Deltio Forologikis Nomothesias, 1999, 1783-1787; EDDDD, 2000, 98-104; European Current Law, 2000, Part 6, No 75 (summary in English).

¹³⁴ Council Directive 89/48/CEE of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ L 19, 24.01.1989, p. 16).

¹³⁵ Case C-365/93 [1995] ECR I-499.

¹³⁶ McMahon J., not yet published.

¹³⁷ Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ L 8, 15.2.1984, p. 17).

¹³⁸ Hoge Raad, judgment of 29 March 2000, *Beslissingen in belastingzaken* 2000, 342.

¹³⁹ See footnote 20.

In the **United Kingdom**, as part of the proceedings brought by many thousands of depositors against the Bank of England following the winding-up of the Bank of Credit and Commerce International SA ("BCCI"), the House of Lords gave judgment¹⁴⁰ on, first, the constituent parts of the tort of misfeasance in public office and, second, whether Directive 77/780/EEC on the coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions¹⁴¹ gives individuals a right to damages against the State which they may assert in the national courts. In 1980 the Bank of England ("the Bank"), acting as the supervisory authority for the purposes of the Banking Act 1979 (which transposed the Directive into national law), had authorised BCCI to carry on the business of licensed deposit taking institution. In 1991, at the Bank's request, the High Court appointed receivers to the BCCI. This decision entailed the closure of BCCI in the United Kingdom and considerable losses for thousands of depositors. The collapse of BCCI was mainly due to fraud on a vast scale perpetrated at senior level within BCCI. The depositors then sued the Bank on the basis of, firstly, the tort of misfeasance in public office - they claimed that certain senior officials had acted in bad faith by giving an authorisation to BCCI when it was illegal, by turning a blind eye to what went on after the authorisation had been granted and by failing to take the necessary measures to close BCCI down - and, secondly, of Directive 77/780.

As regards the complaint based on the Directive, the House of Lords held that the Community instrument did not impose obligations on the Member States that created rights on which individuals could base actions for damages. It was not necessary to recognise such rights in order to achieve the purpose of the Directive, which is a first step towards the approximation of laws on the business of credit institution in the Community and seeks to remove the obstacles to the freedom of establishment while recognising the need for rules to protect savings. It follows that the approximation measures must meet the double test of protecting savings and creating a level playing field between credit institutions operating in more than one Member State. According to the House of Lords, while the Directive requires the competent authorities to cooperate where a credit institution pursues its business in one or more Member States other than that where its registered office is situated, it does not go so far as to impose supervisory obligations on the competent authority within each Member State. Applying the theory of the "acte clair", the House of Lords gave its decision without referring the matter to the Court for a preliminary ruling.

¹⁴⁰ *Three Rivers District Council and others v The Governor and Company of the Bank of England*, [2000] CMLR 205 (judgment given on 18.5.2000).

¹⁴¹ First Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (OJ L 322, 17.12.1977, p. 30).