

Official Journal

of the European Communities

English edition

Information and Notices

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I

(Information)

COMMISSION

ECU ⁽¹⁾

18 April 1984

(84/C 108/01)

Currency amount for one unit:

Belgian and Luxembourg franc con.	45,5922	United States dollar	0,843949
Belgian and Luxembourg franc fin.	46,6071	Swiss franc	1,84909
German mark	2,23182	Spanish peseta	126,297
Dutch guilder	2,51961	Swedish krona	6,61909
Pound sterling	0,594665	Norwegian krone	6,40304
Danish krone	8,21162	Canadian dollar	1,07966
French franc	6,86763	Portuguese escudo	113,427
Italian lira	1379,22	Austrian schilling	15,6975
Irish pound	0,728799	Finnish markka	4,76156
Greek drachma	88,4374	Japanese yen	189,678
		Australian dollar	0,914949
		New Zealand dollar	1,27968

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the EUA;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1).
Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).
Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

Average prices and representative prices for table wines at the various marketing centres

(Established on 17 April 1984 for the application of Article 4 (1) of Regulation (EEC) No 337/79)

(84/C 108/02)

Type of wine and the various marketing centres	ECU per % vol/hl	Type of wine and the various marketing centres	ECU per % vol/hl
R I		A I	
Bastia	No quotation	Bordeaux	2,420
Béziers	No quotation	Nantes	No quotation
Montpellier	2,554	Bari	2,013
Narbonne	2,554	Cagliari	No quotation
Nîmes	No quotation	Chieti	2,013
Perpignan	No quotation	Ravenna (Lugo, Faenza)	2,274
Asti	2,431	Trapani (Alcamo)	2,013
Firenze	2,163	Treviso	2,424
Lecce	No quotation	Athens	No quotation
Pescara	No quotation	Heraklion	No quotation
Reggio Emilia	2,349	Patras	No quotation (*)
Treviso	2,314	Representative price	2,148
Verona (for local wines)	2,386		
Heraklion	No quotation		
Patras	No quotation		
Representative price	2,441		
			ECU/hl
R II		A II	
Bastia	No quotation	Rheinfalz (Oberhaardt)	No quotation
Brignoles	No quotation	Rheinhessen (Hügelland)	No quotation
Bari	2,312	The wine-growing region of the Luxembourg Moselle	No quotation (*)
Barletta	No quotation	Representative price	—
Cagliari	No quotation		
Lecce	No quotation		
Taranto	No quotation		
Heraklion	No quotation	A III	
Patras	No quotation	Mosel-Rheingau	No quotation
Representative price	2,312	The wine-growing region of the Luxembourg Moselle	No quotation (*)
		Representative price	—
	ECU/hl		
R III			
Rheinfalz-Rheinhessen (Hügelland)	No quotation		

(*) Quotation not taken into account in accordance with Article 10 of Regulation (EEC) No 2682/77.

Eleventh amendment to the list of agencies and laboratories which third countries have made responsible for completing the documents which must accompany each consignment of wine imported into the Community (published under Article 4 (3) of Commission Regulation (EEC) No 2115/76 of 20 August 1976 laying down general rules for the import of wines, grape juice and grape must)

(84/C 108/03)

(Official Journal of the European Communities No C 1 of 1 January 1981; first amendment: Official Journal of the European Communities No C 30 of 11 February 1981; second amendment: Official Journal of the European Communities No C 7 of 13 January 1982; third amendment: Official Journal of the European Communities No C 46 of 20 February 1982; fourth amendment: Official Journal of the European Communities No C 122 of 13 May 1982; fifth amendment: Official Journal of the European Communities No C 233 of 7 September 1982; sixth amendment: Official Journal of the European Communities No C 343 of 31 December 1982; seventh amendment: Official Journal of the European Communities No C 23 of 28 January 1983; eighth amendment: Official Journal of the Communities No C 148 of 7 June 1983; ninth amendment: Official Journal of the European Communities No C 313 of 18 November 1983; tenth amendment: Official Journal of the European Communities No C 40 of 15 February 1984)

Page 15: after the entry for the Czechoslovak Socialist Republic add the following entry:

Pays Länder Paese Landen Country Land Χώρα	Organismes Amtliche Stellen Organismi Instanties Agencies Organ Οργανισμός	Laboratoires Laboratorien Laboratori Laboratoria Laboratories Laboratorium Εργαστήρια
Union of Soviet Socialist Republics	Arbitrage laboratorium der Moskauer Zweigstelle NIIW & W 'Magaratsch' Ul. Rjabinovaja, 53 Moskau (UdSSR)	Arbitrage laboratorium der Moskauer Zweigstelle NIIW & W 'Magaratsch' Ul. Rjabinovaja, 53 Moskau (UdSSR)

Commission Communication pursuant to article 9 (9) of Council Regulation (EEC) No 3420/83 of 14 November 1983

(84/C 108/04)

By virtue of Article 9 (1) of Council Regulation (EEC) No 3420/83 of 14 November 1983 on import arrangements for products originating in State-trading countries, not liberalized at Community level ⁽¹⁾, the Commission has adopted the following change to the import arrangements applied in Italy with regard to the People's Republic of China, with effect from 17 April 1984:

- Exceptional opening for 1984 of a quota for the import of 10 000 ladies' hand-embroidered flax woven nightdresses (Textile category ex 30 A — NIMEXE code 61.04 ex 18).

⁽¹⁾ OJ No L 346, 8. 12. 1983, p. 6.

COURT OF JUSTICE

JUDGMENT OF THE COURT of 13 March 1984

in Case 16/83 (reference for a preliminary ruling made by the Landgericht München II): criminal proceedings against Karl Prantl ⁽¹⁾)

(Free movement of goods — Articles 30 and 36 of the Treaty and industrial and commercial property — Common organization of the market and intervention by Member States)

(84/C 108/05)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 16/83: reference to the Court under Article 177 of the EEC Treaty by the Landgericht München [Regional Court, Munich] II for a preliminary ruling in the criminal proceedings brought against Karl Prantl for contravention of the Weingesetz [Wine Law] — on the interpretation of Articles 30 and 36 of the EEC Treaty — the Court, composed of J. Mertens de Wilmars, President, T. Koopmans and Y. Galmot (Presidents of Chambers), P. Pescatore, Lord Mackenzie Stuart, A. O'Keefe, G. Bosco, O. Due, and U. Everling, Judges; Sir Gordon Slynn, Advocate-General; P. Heim, Registrar, gave a judgment on 13 March 1984, the operative part of which is as follows:

1. Article 30 of the EEC Treaty must be interpreted as meaning that the application by a Member State to imports of wine originating in another Member State of national legislation permitting a specific shape of bottle to be used only by certain national producers when the use of that shape or a similar shape of bottle is consistent with a fair and traditional practice in the State of origin constitutes a measure having an effect equivalent to a quantitative restriction.
2. Article 36 of the Treaty must be interpreted as meaning that measures having an effect equivalent to quantitative restrictions on imports that arise from the fact that national legislation permits a specific shape of wine-bottle to be used only by certain national producers or dealers cannot be justified on grounds of public policy, whether or not the legislation is coupled with penal sanctions; nor can

they be justified by the protection of industrial and commercial property on the ground that such a bottle is traditionally used by national producers if identical or similar bottles are used in another Member State in accordance with a fair and traditional practice for marketing wines produced in that State.

JUDGMENT OF THE COURT (First Chamber)

of 15 March 1984

in Case 310/81: Ente Italiano di Servizio Sociale v. Commission of the European Communities ⁽¹⁾)
(Contribution from the European Social Fund — Compensation for a reduction in payment)

(84/C 108/06)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 310/81: Ente Italiano di Servizio Sociale [Italian Social Services Board] (Counsel: Nicola Catalano) against the Commission of the European Communities (Agent: Armando Toledano Laredo) — application for a declaration that the Commission of the European Communities has failed to fulfil its duties and for an order that it pay damages for having failed to pay the total sum of Lit 371 649 981, together with interest to be determined, the Court (First Chamber), composed of T. Koopmans, President, A. O'Keefe and G. Bosco, Judges; G. F. Mancini, Advocate-General; P. Heim, Registrar, gave a judgment on 15 March 1984, the operative part of which is as follows:

1. The application is dismissed.
2. The applicant is ordered to pay the costs.

⁽¹⁾ OJ No C 7, 13. 1. 1982.

⁽¹⁾ OJ No C 49, 19. 2. 1983.

JUDGMENT OF THE COURT**(First Chamber)****of 15 March 1984**

in Case 313/82 (reference for a preliminary ruling made by the Burgerlijke Rechtbank van Eerste Aanleg, Hasselt): Tiel Utrecht Schadeverzekering NV, Utrecht, v. The Gemeenschappelijk Motorwaarborgfonds, Brussels (¹)

(Road accident — Medical expenses — Recovery by the insurance institution)

(84/C 108/07)

(Language of the case: Dutch)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 313/82: reference to the Court under Article 177 of the EEC Treaty by the Burgerlijke Rechtbank van Eerste Aanleg [Civil Court of First Instance], Hasselt, for a preliminary ruling in the proceedings pending before that court between Tiel Utrecht Schadeverzekering NV and the Gemeenschappelijk Motorwaarborgfonds [Joint Motor Guarantee Fund] — on the interpretation of Article 93 of Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (Official Journal, English Special Edition 1971 (II), p. 416) — the Court (First Chamber), composed of T. Koopmans, President, A. O'Keefe and G. Bosco, Judges; P. VerLoren van Themaat, Advocate-General; P. Heim, Registrar, gave a judgment on 15 March 1984, the operative part of which is as follows:

The term 'institution', referred to in particular in Article 4 (1) of Regulation (EEC) No 1408/71, means, in respect of each Member State, the body or authority responsible for administering all or part of a Member State's legislation relating to the branches or schemes of social security mentioned by that Regulation.

(¹) OJ No C 9, 13. 1. 1983.

Action brought on 14 March 1984 by Robert Surcouf against the Council and Commission of the European Communities

(Case 71/84)**(84/C 108/08)**

An action against the Council and Commission of the European Communities was brought before the Court of Justice of the European Communities on 14 March 1984 by Robert Surcouf, of 35510 Miniac-Morvan,

France, represented by Bertrand Favreau, of the Bordeaux Bar, with an address for service in Luxembourg at the Chambers of Guy Harles, Advocate, 34 Rue Philippe II.

The applicant claims that the Court should:

- declare and adjudge that the European Economic Community must pay to the applicant through its representative bodies the sum of FF 70 541,
- order the Community to pay the costs.

Contentions and main arguments adduced in support:

This action, based on the second paragraph of Article 215 of the EEC Treaty, is for compensation of the damage which the applicant suffers in carrying on his business of pig farming as a result of fluctuations in exchange rates due to the effect of monetary compensatory amounts. The Community institutions manifestly and seriously failed to take account of the limits on the exercise of their duties by continuing to apply monetary compensatory amounts which, created to guarantee the unity of the market by maintaining price unity threatened by monetary fluctuations (see Regulation (EEC) No 974/71 (¹)), have in recent years unbalanced trade to the detriment of French producers. The Community institutions clearly exceeded their powers under Regulations (EEC) No 974/71 and (EEC) No 2759/75 (²) by maintaining monetary compensatory amounts for pork calculated in the absence of an intervention price on a theoretical price based on the basic price.

(¹) Official Journal English Special Edition 1971 (I), p. 257.

(²) OJ No L 282, 1. 11. 1975.

Action brought on 14 March 1984 by Jean Vidou against the Council of the European Communities and Commission of the European Communities

(Case 72/84)**(84/C 108/09)**

An action against the Council of the European Communities and the Commission of the European Communities was brought before the Court of Justice of the European Communities on 14 March 1984 by

Jean Vidou, 35510 Castlenau-Magnoac (France), represented by Bertrand Favreau, of the Bordeaux Bar, with an address for service in Luxembourg at the Chambers of Guy Harles, advocate, 34 Rue Philippe II.

The applicant claims that the Court should:

- declare and adjudge that the European Economic Community must, through its representative authorities, pay to the applicant the sum of FF 74 136 (seventy-four thousand one hundred and thirty-six French francs),
- order the Community to pay the costs.

The contentions and main arguments adduced in support are the same as those in Case 71/84.

Action brought on 19 March 1984 by Hoesch Werke Aktiengesellschaft against the Commission of the European Communities

(Case 74/84)

(84/C 108/10)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 19 March 1984 by Hoesch Werke Aktiengesellschaft, represented by Deringer, Tessin, Herrmann and Sedemund, Rechtsanwälte, 14 Heumarkt, D-5000 Cologne 1, with an address for service in Luxembourg at the Chambers of Jacques Loesch, avocat, 2 Rue Goethe.

The applicant claims that the Court should:

- declare that Commission Decision K(84) 177 of 7 February 1984 addressed to it and notified to it on 13 February 1984 concerning the carrying out of checks on the applicant and various associated undertakings with regard to prohibited pricing practices for steel products within the meaning of Annex I to the ECSC Treaty is void,
- order the defendant to pay the costs.

Contentions and main arguments adduced in support:

- Production of the auditor's report would be contrary to the principle of the protection of professional secrecy for auditors ('auditors' privilege') since, by its nature and function, that report is a strictly confidential consultative document from the auditor to the management of the under-

taking. In addition, the production of such a report is not 'required' within the meaning of Article 47 of the ECSC Treaty in view of the Commission's access to the undertaking's primary business papers and is also contrary to the principle of proportionality.

- In the applicant's view it is, in general, not admissible for private persons to take part in the investigation procedure where such persons are entrusted with the exercise of sovereign powers. The confidentiality of the applicant's business and operations is insufficiently protected in such a situation, particularly since in this case the private persons are employees of a trust company established in a non-member country, which does not work exclusively for the Commission but also serves and advises competitors of the applicant.

Action brought on 21 March 1984 by Thyssen Stahl Aktiengesellschaft against the Commission of the European Communities

(Case 77/84)

(84/C 108/11)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 21 March 1984 by Thyssen Stahl Aktiengesellschaft, represented by Deringer, Tessin, Herrmann and Sedemund, Rechtsanwälte, 14 Heumarkt, D-5000 Cologne 1, with an address for service in Luxembourg at the Chambers of Jaques Loesch, avocat, 2 Rue Goethe.

The applicant claims that the Court should:

- declare that Article 14 B of Commission Decision No 234/84/ECSC of 31 January 1984 on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry (Official Journal 1984 No L 29, p. 1) is void in so far as the allocation of additional quotas is dependent on conditions which exclude the taking into account of reductions in capacity effected before 1 January 1980,
- order the defendant to pay the costs.

Contentions and main arguments adduced in support:

Infringement of Article 58 (2) of the ECSC Treaty and of the Commission's duty to observe the principles contained in Articles 2, 3 and 4 of the ECSC Treaty, especially the prohibition of discrimination; misuse of the Commission's discretion.

- The special provision contained in Article 14 B, in its specific form, fails to take account of the objective of supporting and rewarding the adoption in due time of restructuring measures complying with the aims of the ECSC Treaty. The *arbitrary* choice of 1 January 1980 as the start of the period that can be taken into account discriminates against the applicant. At the same time it favours primarily heavily subsidized undertakings that have, with the help of unlawful aids for the maintenance of their capacity, postponed for years the objectively necessary reductions in capacity.
- There is no basis for making the allocation of additional quotas dependent on steps to reduce capacity prescribed in the Commission's decisions concerning aids since the Commission has not required the plaintiff to effect a specific reduction in capacity in the context of decisions concerning aids adopted to the present time. Even if such a specific obligation to reduce capacity were to be imposed, it would be contrary to Community law since considerations concerning Community law governing aids cannot be applied to the quota system under Article 58 of the ECSC Treaty without further deliberation.

Action brought on 21 March 1984 by Krupp Stahl AG against the Commission of the European Communities

(Case 78/84)

(84/C 108/12)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 21 March 1984 by Krupp Stahl AG, Bochum, represented by Dr Karl Pfeiffer, Professor Kurt H. Biedenkopf, Dr Peter Ossenbach, Rechtsanwälte, 72 Friedrich-Schmidt-Straße, D-5000 Cologne 41, with an address for service in Luxembourg at the Chambers of Jean-Claude Wolter, avocat, 2 Rue Goethe.

The applicant claims that the Court should:

1. Declare that Article 14 B of Commission Decision No 234/84/ECSC of 31 January 1984 on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry (Official Journal 1984 No L 29, p. 1) is void in so far as

- (a) additional quotas may be allocated according to that provision only if, since 1 January 1980, an undertaking has carried out at least 85 % of the closures provided for in its restructuring plan;
 - (b) the allocation of additional quotas is subject to the further requirement that 85 % of the reductions in production capacity required by the Commission in its decisions concerning aids have been carried out;
2. Order the defendant to pay the costs.

Contentions and main arguments adduced in support:

- The first factual element contained in Article 14 B of Decision No 234/84/ECSC, namely the requirement that 85 % of the reductions in capacity provided for in an undertaking's restructuring plan must have been carried out since 1 January 1980, constitutes a misuse of the Commission's discretion and infringes the ECSC Treaty since it excludes the taking into account of closures carried out before 1 January 1980: the appropriate time from which closures should be considered for the purposes of the quota system would be the date on which the Commission first required an undertaking to reduce its capacity.
- The second factual element contained in Article 14 B, namely the requirement that 85 % of the reductions in capacity required by the Commission in its decisions of 29 June 1983 must have been carried out, would, taken as a whole, seem to amount to a misuse of a discretion and an infringement of the ECSC Treaty. The reference to decisions concerning aids, which serve completely different purposes and are therefore subject to completely different rules, and the inclusion of those decisions in the quota system leads inevitably to discrimination: some undertakings are not affected at all by that provision and they may therefore claim additional quotas under Article 14 B without any difficulty, whilst others, in the same situation, will not be allocated additional quotas simply because they are under a duty to effect further closures by virtue of the decision concerning aids dated 29 June 1983 in conjunction with the arrangements provided for in Article 2 (2) thereof. In fact the latter thus suffer from a double disadvantage, first because of the unequal distribution of the burden of closures and secondly because, as a direct consequence thereof, additional quotas under Article 14 B of Decision No 234/84/ECSC are withheld. Thus Article 14 B must be declared void to the extent referred to in the applicant's first claim.

THE COMPETITIVENESS OF THE COMMUNITY INDUSTRY

There has recently been widespread concern that industry in the European Community is losing its competitiveness *vis-à-vis* third countries. One can point to the decline of the Community's traditional industries, to their apparent slow development and the lack of commercial application of new technology and to the threat posed by new competitors to its share of world export markets.

This report, which was originally prepared by the European Commission for the European Parliament, aims to assemble the facts required to make a statistical assessment of the EC's competitive position. It sets out to identify the economic factors which determine how competitive industry is, to analyze the performance of the Community in these areas and to compare it with that of other countries, mainly our major competitors — the USA and Japan.

The factors which have been examined include the pattern of international trade, wage costs, productivity, industrial investment, technology and innovation, human capital and corporate structure and finance. From this detailed analysis an overall conclusion can be drawn — that the Community did in fact not fare too badly during the 1970s, but that important adjustments will be necessary if it is to remain competitive in the years to come, particularly in the field of new technology, where it is clear that the Community has already fallen behind its major competitors.

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The Greek version is not yet available.

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