

Official Journal

of the European Communities

ISSN 0378-6986

C 32

Volume 28

2 February 1985

English edition

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I

(Information)

COMMISSION

ECU (*)

1 February 1985

(85/C 32/01)

Currency amount for one unit:

Belgian and Luxembourg franc con.	44,5370	United States dollar	0,700790
Belgian and Luxembourg franc fin.	44,6929	Swiss franc	1,88737
German mark	2,22431	Spanish peseta	122,989
Dutch guilder	2,51584	Swedish krona	6,34706
Pound sterling	0,621268	Norwegian krone	6,43431
Danish krone	7,93610	Canadian dollar	0,929528
French franc	6,79767	Portuguese escudo	121,762
Italian lira	1371,27	Austrian schilling	15,6206
Irish pound	0,715092	Finnish markka	4,65815
Greek drachma	90,9416	Japanese yen	179,613
		Australian dollar	0,866779
		New Zealand dollar	1,49168

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 ECU;
- 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), as amended by Regulation (EEC) No 2626/84 (OJ No L 247, 16. 9. 1984, 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).

ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES
ON SOCIAL SECURITY FOR MIGRANT WORKERS

Rates for conversion of currencies pursuant to Council Regulation (EEC) No 2615/79

(85/C 32/02)

Article 107 (1), (2), (3) and (4) of Regulation (EEC) No 574/72

Reference period: January 1985

Application period: second quarter 1985

	Brussels (Bfrs)	Frankfurt (DM)	Amsterdam (Fl)	London (£)	Copenhagen (Dkr)	Paris (FF)	Milan/Rome (Lit)	Dublin (£ Irl)	Athens (Dr)
Bfrs 100	—	4,99619	5,64401	1,39708	17,8538	15,293	3 072,38	1,60393	203,712
DM 100	2 001,53	—	112,966	27,9628	357,348	306,094	61 494,6	32,103	4 077,34
Fl 100	1 771,79	88,522	—	24,7533	316,332	270,96	54 436,2	28,4182	3 609,35
£ 1	71,5781	3,57617	4,03987	—	12,7794	10,9464	2 199,15	1,14806	145,813
Dkr 100	560,105	27,9839	31,6124	7,82509	—	85,657	17 208,6	8,98368	1 140,00
FF 100	653,893	32,6697	36,9058	9,13538	116,745	—	20 090,1	10,488	1 332,06
Lit 1 000	32,548	1,62616	1,83701	0,454721	5,81106	4,97758	—	0,522047	66,3041
£ Irl 1	62,3469	3,11497	3,51887	0,871034	11,1313	9,53473	1 915,54	—	127,008
Dr 100	49,089	2,45258	2,77059	0,68581	8,76424	7,50719	1 508,2	0,787352	—

1. Regulation (EEC) No 2615/79 determines that the rate of conversion into a national currency of amounts shown in another national currency shall be the rate calculated by the Commission and based on the monthly average, during the reference period defined in paragraph 2, of the exchange rates of those currencies, which are notified to the Commission for the purposes of the European Monetary System.

2. The reference period shall be:

- the month of January for rates of conversion applicable from 1 April following,
- the month of April for rates of conversion applicable from 1 July following,
- the month of July for rates of conversion applicable from 1 October following,
- the month of October for rates of conversion applicable from 1 January following.

The rates for the conversion of currencies shall be published in the second *Official Journal of the European Communities* ('C' serie) of the months of February, May, August and November.

Communication of decisions under sundry tendering procedures in agriculture

(See notice in OJ No L 360, 21. 12. 1982, p. 43)

(85/C 32/03)

Standing invitation to tender	Weekly invitation to tender	
	Date of Commission Decision	Maximum refund
Commission Regulation (EEC) No 1446/84 of 25 May 1984 opening an invitation to tender for the refund for the export of common wheat to countries of zone IV c) and d) (OJ No L 140, 26. 5. 1984, p. 9)	—	No tender received
Commission Regulation (EEC) No 1447/84 of 25 May 1984 opening an invitation to tender for the export of common wheat to countries of zones I, II a), III, IV a) and b), V, VI, VII, the German Democratic Republic and the Iberian Peninsula (OJ No L 140, 26. 5. 1984, p. 12)	31. 1. 1985	21,00 ECU/tonne
Commission Regulation (EEC) No 1604/84 of 6 June 1984 opening an invitation to tender for the refund for the export of barley to countries of zones I, II a), III, IV, V, VI, VII a), VII c), the German Democratic Republic and the Iberian Peninsula (OJ No L 152, 8. 6. 1984, p. 36)	31. 1. 1985	40,98 ECU/tonne
Commission Regulation (EEC) No 3402/84 of 3 December 1984 on an invitation to tender for the refund on export of wholly milled long grain rice to certain third countries (OJ No L 314, 4. 12. 1984, p. 17)	31. 1. 1985	224,86 ECU/tonne

L-Luxembourg: work related to the organization of scientific and technical conferences and the preparation of texts for publication

(85/C 32/04)

Open procedure

1. Commission of the European Communities, Directorate-General for Information Market and Innovation, Scientific and Technical Communication Division, Bâtiment Jean Monnet B4/086, L-2920 Luxembourg (Tel. 4301 2946).
 - English or French — involving various complex aspects;
 - setting of different texts with a view to preparing originals ready for photography for offset printing, reports, working documents, records of conference proceedings, including insertion of illustrations and proof reading;
 - compilation and management of addresses, preparation of lists of persons attending conferences.
2. Public invitation to tender.
3. (a)
 - typing to specification of scientific and technical texts — generally in German,
- (b) Work related to the organization of scientific and technical conferences and the preparation of texts for publication:
 - (c)
 - (d)

-
4. The deadlines for the completion of this work will be short and, in the case of working documents which have to be circulated among participants before or during a conference, must be adhered to.
 5. (a) Address as in 1.
(b) 28 February 1985.
(c)
 6. (a) 21 March 1985.
(b) Address as in 1.
(c) One of the three languages in which the applicants will be called upon to work, i.e. German, English or French.
 7. (a)
(b)
 - 8.
 9. Financing and payment arrangements will be established in one or more one-year outline contracts which may be renewed with the applicant(s) selected.
 - 10.
 11. The work must be carried out on a word processor and the successful applicant will be required to produce:
 - a statement giving details of the resources at his disposal for performing the contract,
 - proof of professional experience in carrying out comparable work in the last three years.
 12. Six months.
 13. Price, technical merit, professional experience, ability to meet short deadlines, liaison with the requester departments (ability to be on hand frequently in Luxembourg).
 - 14.
 15. 22 January 1985.

Commission communication under Article 115 of the EEC Treaty

(85/C 32/05)

By Decision dated 31 January 1985 the Commission has authorized the Italian Republic not to apply Community treatment to fresh bananas, falling within heading No 08.01 of the Common Customs Tariff, originating in certain third countries and in free circulation in the other Member States.

The said Decision is applicable from 1 January to 31 March 1985.

COURT OF JUSTICE

JUDGMENT OF THE COURT

of 10 January 1985

in Case 229/83 (reference for a preliminary ruling made by the Cour d'Appel, Poitiers) Association des Centres Distributeurs Édouard Leclerc and Thouars Distribution v. Au Blé Vert Sàrl (*)

(Fixed prices for books)

(85/C 32/06)

(Language of the case: French)

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

In Case 229/83: reference to the Court under Article 177 of the EEC Treaty by the Cour d'Appel [Court of Appeal], Poitiers, for a preliminary ruling in the proceedings pending before that court between Centres Distributeurs Édouard Leclerc, Paris, and Thouars Distribution, Saint-Verge, on the one hand, and Au Blé Vert Sàrl, Thouars; Georges Lehec, Auxerre; Pelgrim SA, Thouars; Union Syndicale des Libraires de France, Paris; Ernest Marchand, Thouars; and Jeanne Demée, née Palluault, Thouars; on the other — on the interpretation of Articles 3 (f) and 5 of the EEC Treaty, the Court, composed of Lord Mackenzie Stuart, President, G. Bosco and C. Kakouris (Presidents of Chambers), A. O'Keefe, T. Koopmans, U. Everling, K. Bahlmann, Y. Galmot and R. Joliet, Judges; M. Darmon, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 10 January 1985, the operative part of which is as follows:

1. *As Community law stands, the second paragraph of Article 5 of the EEC Treaty, in conjunction with Articles 3 (f) and 85, does not prohibit Member States from enacting legislation whereby the retail price of books must be fixed by the publisher or by the importer and is binding on all retailers, provided that such legislation is consonant with the other specific provisions of the Treaty, in particular those relating to the free movement of goods.*

2. *In the context of such national legislation the following constitute measures equivalent to quantitative restrictions on imports, contrary to Article 30 of the Treaty:*

- (a) *provisions whereby the importer responsible for carrying out the legal-deposit requirement, that is to say the principal distributor, is responsible for fixing the retail price;*
- (b) *provisions requiring the selling price fixed by the publisher to be applied to books published in the Member State concerned and re-imported following exportation to another Member State, unless it is established that those books were exported for the sole purpose of re-importation in order to circumvent the legislation in question.*

JUDGMENT OF THE COURT

(First Chamber)

of 15 January 1985

in Case 168/83: Laura Pasquali-Gherardi v. European Parliament (*)

(Official — Accident at work — Claim for damages)

(85/C 32/07)

(Language of the case: French)

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

In Case 168/83: Laura Pasquali-Gherardi, a secretary/shorthand-typist in Grade C 2, Step 3 at the European Parliament, residing at 17 Boulevard Royal, Luxembourg, represented by V. Biel, of the Luxembourg Bar, with an address for service at the latter's Chambers, 18a Rue des Glacis, against the European Parliament (Agent: M. Peter, assisted by A. Bonn, of the Luxembourg Bar) — application for damages on the ground of a wrongful act or omission on the part of the European Parliament in the performance of its functions — the Court (First Chamber), composed of

(*) OJ No C 295, 2. 11. 1983.

(*) OJ No C 239, 8. 9. 1983.

G. Bosco, President, A. O'Keeffe and R. Joliet, Judges; M. Darmon, Advocate-General; D. Louterman, Administrator, acting for the Registrar, gave a judgment on 15 January 1984, the operative part of which is as follows:

1. *The application is dismissed as inadmissible.*
2. *The parties shall bear their own costs.*

JUDGMENT OF THE COURT

(Fourth Chamber)

of 15 January 1985

in Case 241/83 (reference for a preliminary ruling made by the Bundesgerichtshof): Erich Rösler v. Horst Rottwinkel (¹)

(Brussels Convention, Article 16 (1) — Exclusive jurisdiction — Tenancies of immovable property)

(85/C 32/08)

(Language of the case: German)

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

In Case 241/83: reference to the Court under the Protocol of 3 June 1971 to the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters by the Bundesgerichtshof [Federal Court of Justice] for a preliminary ruling in the proceedings pending before that court between Erich Rösler, Berlin, and Horst Rottwinkel, Bielefeld — on the interpretation of Article 16 (1) of that Convention concerning the exclusive jurisdiction in proceedings which have as their object rights *in rem* in, or tenancies of, immovable property of the courts of the Contracting State in which the property is situated — the Court (Fourth Chamber), composed of G. Bosco, President of Chamber, P. Pescatore, A. O'Keeffe, T. Koopmans and K. Bahlmann, Judges; Sir Gordon Slynn, Advocate-General; Miss D. Louterman, Administrator, acting for the Registrar, gave a judgment on 15 January 1985, the operative part of which is as follows:

1. *Article 16 (1) of the Convention applies to all agreements for the tenancy of immovable property, even those concluded for a limited period and even if they relate only to the letting of a holiday home.*

(¹) OJ No C 316, 22. 11. 1983.

2. *Disputes concerning the respective obligations of the landlord or the tenant under a tenancy agreement, and in particular those concerning the existence or interpretation thereof, its duration, delivery up of possession of the immovable property to the landlord, repair of damage caused by the tenant, or recovery of rent and other supplementary charges payable by the tenant, such as water, gas and electricity charges, are within the exclusive jurisdiction, as stipulated in Article 16 (1) of the Convention, of the courts of the State in which the property is situated. On the other hand, disputes which concern only indirectly the use of the property let, such as those concerning lost holiday enjoyment or travel expenses do not come within the jurisdiction referred to in that Article.*

JUDGMENT OF THE COURT

(Fifth Chamber)

of 15 January 1985

in Case 250/83: Finsider — Società Finanziaria Siderurgica per Azioni v. Commission of the European Communities (¹)

(ECSC — Quotas — National aids)

(85/C 32/09)

(Language of the case: Italian)

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

In Case 250/83: Finsider — Società Finanziaria Siderurgica per Azioni, Rome, represented by Sergio M. Carbone, of the Genoa Bar, and Roberto Barabino, with an address for service in Luxembourg at the Chambers of Nico Schaeffer, 12 Avenue de la Porte Neuve, against Commission of the European Communities (Agent: Oreste Montalto) — application for a declaration that the general Commission Decision No 2748/83 of 30 September 1983 amending for the second time Decision No 2177/83/ECSC on the extension of the system of monitoring and production quotas for certain products of undertakings in the steel industry (²) is void — the Court (Fifth Chamber), composed of O. Due, President of Chamber, C. Kakouris, U. Everling, Y. Galmot and R. Joliet,

(¹) OJ No C 336, 13. 12. 1983.

(²) OJ No L 269, 1. 10. 1983, p. 55.

Judges; C. O. Lenz, Advocate-General, H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 15 January 1985, the operative part of which is as follows:

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

JUDGMENT OF THE COURT

(Fourth Chamber)

of 15 January 1985

in Case 253/83 (reference for a preliminary ruling made by the Finanzgericht Rheinland-Pfalz):
Sektellerei C. A. Kupferberg & Cie. KG a.A. v.
Hauptzollamt Mainz ⁽¹⁾
(Tax system for spirits)

(85/C 32/10)

(Language of the case: German)

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

In Case 253/83: reference to the Court under Article 177 of the EEC Treaty by the Finanzgericht Rheinland-Pfalz [Finance Court Rhineland-Palatinate] for a preliminary ruling in the proceedings pending before that court between Sektellerei C. A. Kupferberg & Cie. KG a.A. and Hauptzollamt [Principal Customs Office] Mainz — on the interpretation of Articles 37 and 95 of the EEC Treaty, Article 3 of the Agreement of 29 June 1970 between the EEC and Spain (Official Journal 1970 No L 182, p. 4) and the first paragraph of Article 21 of the Agreement of 22 July 1972 between the EEC and the Portuguese Republic (Official Journal 1972 No L 301, p. 165) with regard to the application of certain measures in the context of the German Law of 8 April 1922 on the Monopoly in Spirits (Branntweinmonopolgesetz) — the Court (Fourth Chamber), composed of G. Bosco (President of Chamber), P. Pescatore, A. O'Keefe, T. Koopmans and K. Bahlmann, Judges; C. O. Lenz, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 15 January 1985, the operative part of which is as follows:

Articles 95 and 37 of the EEC Treaty, Article 21 of the Agreement between the EEC and the Portuguese Republic and Article 3 of the Agreement between the EEC and Spain must be interpreted as not precluding the de facto reduction made in the price of spirit sold by the Federal Monopoly Administration in a given period

⁽¹⁾ OJ No C 334, 10. 12. 1983.

provided that the rate of taxation actually applied to imported products in that period did not exceed the rate of taxation actually levied on corresponding domestic products.

JUDGMENT OF THE COURT

(First Chamber)

of 15 January 1985

in Case 266/83: Euridiki Samara v. Commission of
the European Communities ⁽¹⁾

(Official — Concepts of 'promotion' and
'recruitment')

(85/C 32/11)

(Language of the case: French)

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

In Case 266/83: Euridiki Samara, an official of the Commission of the European Communities, residing in Strassen, represented by Victor Biel, of the Luxembourg Bar, with an address for service in Luxembourg at the latter's Chambers, against the Commission of the European Communities (Agent: Dimitrios Gouloussis) — application for the annulment of the Commission's refusal to reconsider the classification which the applicant obtained following an open competition — the Court (First Chamber), composed of G. Bosco (President of Chamber), A. O'Keefe and T. Koopmans, Judges; Sir Gordon Slynn, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 15 January 1985, the operative part of which is as follows:

1. *The Commission's decision of 16 February 1983 refusing to reconsider the classification of the applicant and its decision of 5 August 1983 rejecting the applicant's complaint are annulled;*
2. *The Commission is ordered to pay the costs.*

⁽¹⁾ OJ No C 346, 22. 12. 1983.

**ORDER OF THE PRESIDENT OF THE COURT
of 17 December 1984**

**in Case 258/84 R: Nippon Seiko KK against Council
of the European Communities (*)**

(85/C 32/12)

(Language of the case: English)

In Case 258/84 R: Nippon Seiko KK, Tokyo, Japan, 2-3-2 Marunouchi, Chiyoda-Ku, represented by Jeremy Lever, QC, of Gray's Inn, Eleanor Sharpston, Barrister of the Middle Temple, and Robin Griffith, Solicitor, of Coward Chance, Solicitors, Avenue des Arts 21-22, 1040 Brussels, Belgium, with an address for service in Luxembourg at the Chambers of J. C. Wolter, 8 Rue Zithe, against Council of the European Communities (Agents: M. Peeters and E. Stein), intervener: Commission of the European Communities (Agent: J. Temple Lang) — the President of the Court made an order on 17 December 1984, the operative part of which is as follows:

1. *The application is dismissed.*

2. *The costs are reserved.*

(*) OJ No C 326, 7. 12. 1984.

Reference for a preliminary ruling by the Raad van Beroep, 's-Hertogenbosch by order of that court of 20 November 1984 in the case of A. A. ten Holder v. Nieuwe Algemene Bedrijfsvereniging

(Case 302/84)

(85/C 32/13)

Reference has been made to the Court of Justice of the European Communities by an order of the Raad van Beroep [Social Security Court], 's-Hertogenbosch of 20 November 1984, which was received at the Court Registry on 21 December 1984, for a preliminary ruling in the case of A. A. ten Holder, Budel, v. Nieuwe Algemene Bedrijfsvereniging [New General Professional and Trade Association] on the following questions:

1. Does a worker who, in connection with the pursuit of an activity in the territory of a Member State, receives sickness benefits under the legislation of that Member State, and who did not take up employment in the territory of another Member State while he was in receipt of those benefits, continue to be subject to that legislation pursuant to Article 13 (2) (a) of Regulation (EEC) No

1408/71 even though almost a year and a half has elapsed since the award of those sickness benefits and the termination of that activity (and of the employment relationship)?

2. Does the determination of the legislation of a specific Member State as the legislation applicable to a specific worker pursuant to Article 13 (2) (a) of Regulation (EEC) No 1408/71 mean that the worker cannot simultaneously be regarded as insured under the national law of another Member State alone, pursuant to the legislation of that other Member State concerning invalidity benefits, with the result that the operation of Community law deprives him of invalidity benefits to which he is entitled under the national legislation of that other Member State alone?
3. May requirements relating to residence such as those provided for in Article 91 (c) of the Netherlands General Law on Incapacity for Work be relied upon as against a migrant worker within the Community?

**Action brought on 21 December 1984 by the
Commission of the European Communities against the
Kingdom of Belgium**

(Case 305/84)

(85/C 32/14)

An action against the Kingdom of Belgium was brought before the Court of Justice of the European Communities on 21 December 1984 by the Commission of the European Communities, represented by S. Fabro, a member of its Legal Department, with an address for service in Luxembourg at the Chambers of M. Beschel, Bâtiment Jean Monnet, Kirchberg.

The applicant claims that the Court should:

- (a) Declare that, by failing to observe the time limit laid down in Article 38 of Council Regulation (EEC) No 1736/75 (*) when transmitting the data essential for the drawing up of the external trade statistics of the Community and the statistics of trade between Member States, the Kingdom of Belgium has failed to fulfil its obligations under the said Regulation;

(*) OJ No L 183, 14. 7. 1975.

(b) Order the Kingdom of Belgium to bear the costs.

Contentions and main arguments adduced in support

The Commission states that the statistics of the Community's trade with non-member countries constitute an instrument which is necessary for the implementation of the common commercial policy and that the statistics of trade between Member States are necessary for the harmonious functioning of the common market. It considers that the delay in the transmission of the data which are essential for the drawing up of the statistics causes its officers difficulties in regard to the preparation and the monthly publication of the Community results. Continually increasing, this delay is even preventing the full quarterly and annual results from being prepared and published within a reasonable time, thereby causing doubt to be cast on their value.

Action brought on 21 December 1984 by the Commission of the European Communities against the Kingdom of Belgium

(Case 306/84)

(85/C 32/15)

An action against the Kingdom of Belgium was brought before the Court of Justice of the European Communities on 21 December 1984 by the Commission of the European Communities, represented by Mrs C. Durand, a member of its Legal Department, with an address for service in Luxembourg at the Chambers of Mr M. Beschel, Bâtiment Jean Monnet, Kirchberg.

The applicant claims that the Court should:

1. Declare that, by not adopting within the time prescribed all the provisions necessary for compliance with Council Directives 75/362/EEC and 75/363/EEC, the former concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, the latter concerning the coordination of provisions laid down by law, regulation or administrative action, the Kingdom of Belgium has failed to fulfil its obligations under the Treaty and the said Directives;
2. Order the defendant to bear the costs.

Contentions and main arguments adduced in support:

- As regards Directive 75/362/EEC ⁽¹⁾ the Commission states that as far as it is aware the Kingdom of Belgium has not transposed into national law the provisions relating to the conditions under which specialist training courses previously completed may be taken into account; the provisions relating to use of academic title and to the requirement, when taking up the profession for the first time, of proof of good character or good repute or of a certificate of physical or mental health; the provisions relating to the time within which procedure for authorizing the taking up of the profession must be completed and those relating to the terms of the oath or solemn declaration;
- As regards the transposition of Directive 75/363/EEC ⁽¹⁾, the Commission considers that the Kingdom of Belgium must either adapt its specialist training programme in order to comply with the requirement of a minimum period of study of four years or request the removal of tropical medicine, as a recognized specialized subject in Belgium, from the list of the specialized subjects mentioned in Article 7 of Directive 75/362/EEC.

⁽¹⁾ OJ No L 167, 30. 6. 1975.

Action brought on 21 December 1984 by the Commission of the European Communities against the French Republic

(Case 307/84)

(85/C 32/16)

An action against the French Republic was brought before the Court of Justice of the European Communities on 21 December 1984 by the Commission of the European Communities, represented by its Legal Adviser, J. Griesmar, with an address for service in Luxembourg at the office of M. Beschel, Jean Monnet Building, Kirchberg.

The applicant claims that the Court should:

- (a) Declare that by requiring French nationality for appointment to an establishment in permanent employment as a nurse in a public hospital the French Republic has failed to fulfil one of its obligations under the EEC Treaty;

(b) Order the French Republic to pay the costs.

Contentions and main arguments adduced in support:

— The Commission stresses that the prohibition of discrimination based on nationality between nationals of the Member States as regards employment, remuneration and other conditions of employment, laid down in Article 48 of the EEC Treaty and in Regulation (EEC) No 1612/68, is fundamental to the Community legal order. It points out that while Article 48 (4) of the Treaty derogates from the scope of that prohibition with regard to employment in the public service, the derogation does not cover all public service employment.

— It must be borne in mind that the limits laid down by Article 48 (4) of the Treaty to the permitted exceptions to the principle of free movement of workers are placed in the context of the Community. The Court of Justice has held that the employment concerned by that provision is that which 'involves direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the State or of other public authorities' (1).

— The Commission considers that permanent employment as a nurse in a public hospital, which in France implies appointment and establishment as a public servant, does not fall within that definition.

(1) Judgment of the Court of 17 December 1980 in Case 149/79, *Commission v. Belgium* [1980] ECR 3881.

Action brought on 24 December 1984 by Union Siderurgique du Nord et de l'Est de la France (Usinor) against the Commission of the European Communities
(Case 310/84)
(85/C 32/17)

An action against the Commission of the European Communities was brought before the Court of Justice

of the European Communities on 24 December 1984 by Union Siderurgique du Nord et de l'Est de la France (Usinor) whose registered office is at La Défense 9 — 4, Place de la Pyramide, Puteaux (France), represented by L. Funck-Brentano, of the Paris Bar, with an address for service in Luxembourg at the Chambers of M. Neuen-Kauffman, of the Luxembourg Bar, 18, Avenue de la Porte-Neuve.

The applicant claims that the Court should:

1. Declare the action admissible;
2. Declare that the Commission's opinion of 16 November 1984 is void in so far as it is adverse to the proposed construction of an electrolytic chrome-coated steel line;
3. Order the Commission to pay all the costs.

Contentions and main arguments adduced in support:

— Admissibility:

The applicant states that the Commission has delivered an adverse opinion, pursuant to Article 54 of the ECSC Treaty, on an investment proposal. That opinion has the force of a decision within the meaning of Article 14 of the Treaty; the person to whom it is addressed receives a decision adversely affecting him which may be challenged in an action for its annulment.

— Substance:

The applicant challenges the Commission's opinion in so far as it is adverse to the investment proposal regarding the construction of an electrolytic chrome-coated steel line at the Mardyck works for production in the category of tinsplate and tin-free steel. The applicant considers that the conditions laid down by Decisions No 2320/81/ECSC (1) and No 3302/81/ECSC (2) have been complied with since there has been no increase in the total capacity of the Mardyck works as compared with the information provided at the time of its construction and the proposed investment would not result in any new capacity which would require compensatory closure of plant.

(1) OJ No L 228, 13. 8. 1981.

(2) OJ No L 333, 20. 11. 1981.

Reference for a preliminary ruling by the Bundessozialgericht by judgment of that court of 25 October 1984 in the case of Horst Miethe v. Bundesanstalt für Arbeit

(Case 1/85)

(85/C 32/18)

Reference has been made to the Court of Justice of the European Communities by judgment of the Seventh Senate of the Bundessozialgericht [Federal Social Court] of 25 October 1984, which was received at the Court Registry on 3 January 1985, for a preliminary ruling in the case of Horst Miethe, 86 Kesselstrasse, D-5100 Aachen, Federal Republic of Germany, against the Bundesanstalt für Arbeit [Federal Employment Office], 104 Regensburger Strasse, D-8500 Nürnberg, Federal Republic of Germany, on the following questions:

1. Does Article 71 (1) (a) of Regulation (EEC) No 1408/71⁽¹⁾, which provides that the institution responsible for paying benefits to a frontier worker who is wholly unemployed is to be the institution of his place of residence, mean that benefits may be claimed from the competent institution of the place where he was last employed, even if he is entitled to them under the legislation of that State despite his residence abroad, in particular because the unemployed worker is available to the employment service of that State?

2. If so:

(a) Does the institution of the place of residence still retain exclusive competence under Article 71 (1) (a) (ii) of Regulation (EEC) No 1408/71 even if the frontier worker:

Has hitherto worked only in the State in which he was last employed, of which he is a national, and was also resident there until a few years ago;

He maintains an office at the place of his last employment which he used during his employment and uses in seeking employment whilst unemployed, which he has done only in that State;

Besides his office, he has sleeping facilities which he regularly used once or twice weekly when employed and which he uses even more often while seeking employment;

During his absence from the office, another person keeps him informed by telephone of inquiries from clients or from the Arbeitsamt [Employment Office];

Finally, from both the office and his home close to the frontier, he maintains his business and private contacts only in the State in which he was last employed, and all his friends and acquaintances are also in that State?

(b) Is it possible for Article 71 (1) (b) (i) of Regulation (EEC) No 1408/71 to be applied by analogy to such an 'untypical' frontier worker?

Action brought on 4 January 1985 by the Commission of the European Communities against the French Republic

(Case 2/85)

(85/C 32/19)

An action against the French Republic was brought before the Court of Justice of the European Communities on 4 January 1985 by the Commission of the European Communities, represented by D. Jacob, a member of its Legal Department, with an address for service in Luxembourg at the office of M. Beschel, Jean Monnet Building, Kirchberg.

The applicant claims that the Court should:

1. Declare that by giving preference in the award of public contracts to certain recognized occupational groups (workers' cooperatives, tradesmen, tradesmen's cooperatives and artists' cooperatives) and agricultural groups the French Republic has failed to fulfil its obligations under Article 30 *et seq.* of the EEC Treaty;

2. Order the French Republic to pay the costs.

Contentions and main arguments adduced in support:

The Commission states that for the award of public works, supply and service contracts French legislation grants rights of preference, reservations and other

⁽¹⁾ Official Journal, English Special Edition 1971 (II), p. 416.

advantages to certain occupational groups and organizations. The grant of those advantages depends on the French nationality of the persons concerned or the fact that they carry on business in France. The Commission considers that the effect of that practice is to give preference to domestic products and thus to hinder the importation of products from other Member States; the measures creating the advantages referred to therefore constitute measures having an effect equivalent to quantitative restrictions on imports, contrary to Article 30 of the EEC Treaty.

Reference for a preliminary ruling by the Tribunal de Grande Instance, La Roche-sur-Yon, by judgment of that court of 19 November 1984 in the case of Procureur de la République and Directeur Départemental de la Concurrence et de la Consommation v. Marcel Byrotheau; defendant for the purposes of civil liability: Fontenay Distribution SA

(Case 6/85)

(85/C 32/20)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Tribunal de Grande Instance [Regional Court], La Roche-sur-Yon, of 19 November 1984, which was received at the Court Registry on 14 January 1985, for a preliminary ruling in the case of Procureur de la République [Public Prosecutor] and Directeur Départemental de la Concurrence et de la Consommation [Regional Director for Competition and Consumer Affairs] v. Marcel Byrotheau; defendant for the purposes of civil liability: Fontenay Distribution SA, on the following questions:

Must Articles 3 (f) and 5 of the Treaty of 25 March 1957 establishing the European Economic Community be interpreted as prohibiting the establishment in a Member State, by means of laws or regulations, of minimum selling prices for 'regular' and 'super' petrol?

Can the fixing of such minimum prices constitute a quantitative restriction on imports or a measure having equivalent effect within the meaning of Article 30 of the Treaty?

Reference for a preliminary ruling by the Tribunal de Grande Instance, La Roche-sur-Yon, by judgment of that court of 19 November 1984 in the case of Procureur de la République and Directeur Départemental de la Concurrence et de la Consommation v. Henri Vincendeau; defendant for the purposes of civil liability: Shedis Avenue SA

(Case 7/85)

(85/C 32/21)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Tribunal de Grande Instance [Regional Court], La Roche-sur-Yon, of 19 November 1984, which was received at the Court Registry on 14 January 1985, for a preliminary ruling in the case of Procureur de la République [Public Prosecutor] and Directeur Départemental de la Concurrence et de la Consommation [Regional Director for Competition and Consumer Affairs] v. Henri Vincendeau; defendant for the purposes of civil liability: Shedis Avenue SA, on the following questions:

Must Articles 3 (f) and 5 of the Treaty of 25 March 1957 establishing the European Economic Community be interpreted as prohibiting the establishment in a Member State, by means of laws or regulations, of minimum selling prices for 'regular' and 'super' petrol?

Can the fixing of such minimum prices constitute a quantitative restriction on imports or a measure having equivalent effect within the meaning of Article 30 of the Treaty?