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COMMISSION

SIXTEENTH ANNUAL REPORT

on monitoring the application of community law

— 1998 —

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(Submitted by the Commission on 9 July 1999)

CONTENTS

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 meets requests from the European Council and the Council for information on specific sectors.

1. **INTRODUCTION**

The Commission has placed the proper application of Community law by the Member States high among its objectives, to enable Community citizens to enjoy the full benefit of European integration. As can be seen from this report, the sixteenth since the resolution passed by the European Parliament on 9 February 1983, it has provided itself with the practical means of attaining this objective, both through the unprecedented enhancement of the facilities for use of the infringement procedures provided for by Article 169 of the Treaty and by greater use of administrative cooperation, notably via the action plan for the internal market.

1.1. **Statistics for 1998**

More than ever in the past, the Commission was active in its role as guardian of the Treaties in 1998, as can be seen from the figures below:

— the number of reasoned opinions issued in the course of the year reached an all-time high at 675; this is 102 % up on the figure of 334 for 1997, and it is the result of far stricter and far quicker action by the Commission following the internal reforms made since 1996 and strengthened in 1998,

— the number of Article 169 letters is down from 1 461 in 1997 to 1 101 in 1998, simply because the number of proceedings for failure to transpose directives fell; Article 169 letters for failure of legislation to comply with Community law or for incorrect application of Community law rose from 432 in 1997 to 486 in 1998, an increase of 12 % (and 42 % up on 1996),

— the number of cases referred to the Court of Justice, at 123, was stable; compared with the number of Article 169 letters and reasoned opinions, this makes it quite clear that the bulk of infringement cases are solved before there is any need to go to the Court,

— in 1998 Commission departments were very active in detecting cases of non-conformity and incorrect application of Community law, since the number of cases detected by them rose by 52 % from 261 in 1997 to 396 in 1998 (this figure includes cases opened as a result of parliamentary questions or petitions),

— the number of complaints received by the Commission continued the upward course started in 1997, rising by 18 % from 957 in 1997 to 1 128 in 1998 (and by 38 % from the 1996 level); the figure would be even higher if the 4 000 or so identical complaints about the new Swedish legislation on controls on shipments and parcels containing spirits and tobacco and the hundreds of complaints about the taxes applied by certain Belgian local authorities on satellite dishes were added (given the number of complaints on the latter subject, a standard-form acknowledgement of receipt was published in the 'C' series of the Official Journal [1] and on the Community institutions' website),

— termination decisions fell by 7 %, from 2 112 in 1997 to 1 961 in 1998, which is evidence of the large number of cases solved in relation to the application of Community law,

— the speed with which cases were dealt with also rose: 25 % of Article 169 letters sent in 1997 concerned infringement proceedings opened in the course of the year, but the figure rose to 48 % in 1998; there was an even sharper rise in the corresponding figure for reasoned opinions, as 19 % of those issued in 1998 concerned proceedings commenced in 1998, as against 1 % in 1997,

— as for transparency, the number of cases on which a press release was issued rose from 248 in 1997 to 334 in 1998.

[1] For example OJ C 339, 7.11.1998, p. 31.

These few statistics clearly reveal the impact of the internal reforms implemented by the Commission, initially in 1996 and then in 1998, to improve the operation of the infringement procedure. These reforms will be described in greater detail in this introduction (point 1.2). There was an improvement in the application of Community law by the Member States as regards the transposal of directives (point 1.3), but compliance in general by the Member States remains sadly inconsistent (point 1.4). There are times when the penalty procedures of Article 171 of the Treaty seem to offer the only possibility of inducing a Member State to come into line (point 1.5).

1.2. **The reform of Commission working methods in relation to infringement proceedings: new improvements in 1998**

In June 1998 the Commission evaluated the operation of its working methods in relation to infringement proceedings under Article 169 of the Treaty, which were reformed in July 1996 [1]. The exercise applied to all forms of infringement proceeding, irrespective of the area of Community law in issue.

The Commission then decided on a range of new internal measures to improve the operation of the relevant procedures, relating to:

— faster handling of cases,

— greater transparency, and also

— better relations with complainants.

1.2.1. *Faster handling of cases*

The improvements here related both to the decision-making machinery and to the implementation of decisions. They are described in a document which has been sent to the European Parliament, the Member States and the Ombudsman (SEC(1998)1733).

One of the main changes to speed up the handling of infringement cases was the general use, from April 1998, of fortnightly meetings devoted specifically to the application of Community law. Until quite recently, all but the most urgent infringement cases were considered in four periodic reports (in March, June, October and December). The use of these periodic reports, taking stock of all suspected infringements (up to the Article 169 letter stage) and established infringements (subsequent stages) [2], secures a consistent approach to the various cases, irrespective of the area of Community law in issue, and regular review of the cases referred to the Commission.

With the 1996 reform, the Commission added a new possibility of dealing with infringement cases at the fortnightly meetings on Community law (mainly devoted to state aids) so that cases ripe for a decision on the merits could proceed more quickly without awaiting the periodic report.

In 1997 only 40 cases were taken at fortnightly meetings, but nearly 400 Commission decisions were dealt with by this new procedure in 1998. Decision-making has thereby been speeded up, since the next stage of the procedure (for example reasoned opinion or referral to the Court) can be embarked on as soon as the time allowed for a reaction from the Member State is up, assuming there is no reaction or only an inadequate reaction. Likewise, where a case is settled, it can be formally terminated more quickly, which gives the Member States a further incentive to come into line with Community law. More generally, the greater frequency of Commission meetings devoted to infringements offers greater efficiency in the processing of cases.

The 'de-dramatisation' of Article 169 letters, which have been restored to their genuine function of seeking observations, and at the same time the decline in the volume of correspondence prior to that stage, have also made it possible for the Commission to take quicker decisions to open infringement proceedings. The Commission now enforces more rigorously the rules on time limits for a reaction to Article 169 letters and action on reasoned opinions, as the next stage of the procedure is launched as soon as the time allowed for a response to a letter or for action on a reasoned opinion has elapsed without a satisfactory reaction.

But there is little point in speeding up decisions if the Article 169 letter or reasoned opinion is not served on the Member State. After all the Member State needs to know the Commission's view of the case before it can furnish an explanation, put an end to the infringement or, if it prefers, let the Article 169 procedure follow its course.

In the past, the time required for notification of Article 169 letters and reasoned opinions was measured in months, but in 1998 the Commission adopted the principle of notifying decisions in the week they are taken. To this end, internal rules were amended in the second half of 1998 to ensure that the notification is prepared as fully as possible before the decision and to detect every unwarranted delay.

As has been seen, the impact of these rules has already been quite considerable, since 19 % of reasoned opinions issued in 1998 concerned proceedings opened in the course of the year whereas only 1 % of those issued in 1997 concerned proceedings opened that year.

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[1] See Fourteenth annual report (OJ C 332, 3.11.1997, p. 9).
[2] Between 1 000 and 2 000 cases.

1.2.2. *Greater transparency*

Since the reform of 1996, publicity by means of press releases has been the general rule for all decisions to issue reasoned opinions or refer cases to the Court. But the Commission generally does not issue a press release when it issues an Article 169 letter [1], since such a letter does not determine the Commission's final position but is confined to seeking observations, after which infringement cases become easier to settle.

As already indicated, the number of press releases announcing infringement cases rose in 1998, to 334 from only 44 in 1996.

This policy of greater transparency will be maintained: information at present available only on paper will be made more accessible via the Internet.

1.2.3. *Better relations with complainants*

Complainants, of course, are not strictly speaking interested parties for the purposes of the procedures of Article 169 of the Treaty, but the fact remains that the Commission attaches great importance to informing them properly of the response to their complaints at all stages of the procedure.

Following an own-initiative inquiry by the Ombudsman in 1996 [2], the Commission now routinely informs complainants where it plans to propose that a case be terminated.

A new version of the complaint form, giving fuller and clearer explanations, has been devised to replace the form in use since 1989 [3], so that complainants can be fully aware what they can expect from the infringement procedure and be informed of the other possibilities for asserting their rights. The principle that complaints are treated on a confidential basis is maintained so as to preserve the necessary relationship of trust with complainants and ensure that they suffer no loss.

1.3. **Transposal of directives in 1998**

The table below gives an overall picture of the rate of notification of national measures implementing all the directives applicable on 31 December 1998.

(1) Except for Article 171 letters and letters relating to failure to notify national measures implementing directives.

(2) See Fifteenth annual report (OJ C 250, 10.8.1998, p. 10).

(3) OJ C 26, 1.2.1989, p. 6.

Member State	Directives applicable on 31 December 1998	Directives for which implementing measures have been notified	Percentage notification rate on 31 December 1998	Percentage notification rate on 31 December 1997
Denmark	1 453	1 427	98,21	97,0
Spain	1 458	1 420	97,39	95,1
Finland	1 453	1 411	97,11	96,3
Sweden	1 454	1 411	97,04	97,3
Germany	1 459	1 411	96,71	93,6
Netherlands	1 459	1 410	96,64	96,4
United Kingdom	1 455	1 402	96,36	94,7
Ireland	1 452	1 387	95,52	94,1
Austria	1 461	1 388	95,0	94,3
Portugal	1 462	1 386	94,80	93,5
Belgium	1 459	1 382	94,72	91,8
France	1 458	1 377	94,44	93,6
Luxembourg	1 457	1 372	94,17	94,2
Greece	1 456	1 366	93,82	92,8
Italy	1 457	1 364	93,62	92,5
EC average	1 457	1 394	95,70	94

On 31 December 1998 the Member States had on average notified 95,7 % of the national measures needed to implement the directives applicable. The general rise in the transposal rate from the 1997 figure of 94 % is due first and foremost to the tougher means applied by the Commission to enforce Community law, either infringement proceedings proper, or less contentious techniques such as administrative cooperation (and particularly the directive missions), or peer pressure generated by the plan of action for the internal market.

Particular attention is drawn to the efforts made by Belgium and Germany to make up their delays, though the transposal rate in Luxembourg, Greece, Italy and, albeit to a lesser degree, France, continues to give cause for concern.

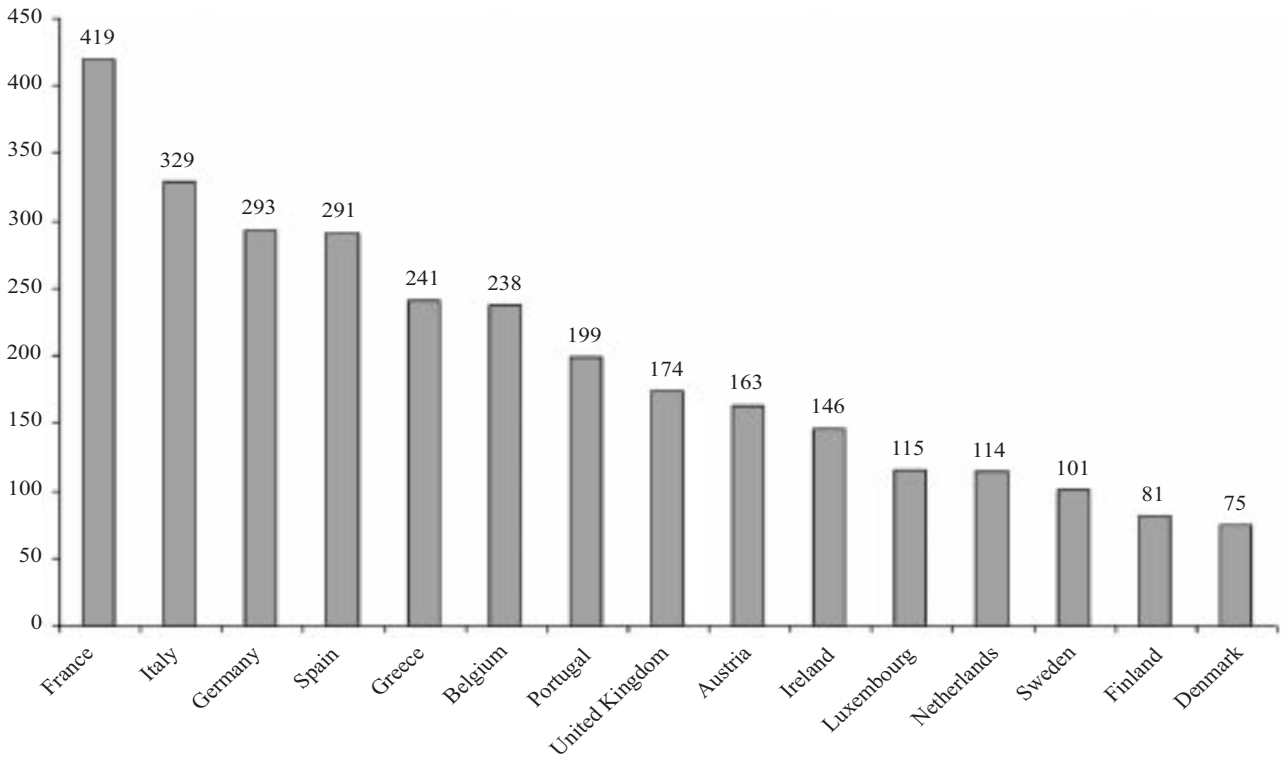
Even though the aggregate figures are encouraging, problems subsist in a number of specific areas, notably transport and agriculture, where there has sometimes been no major improvement.

The table at the end of Annex IV shows the detailed transposal rate for each Member State and each area in 1998.

1.4. General overview of the application of Community law by the various Member States

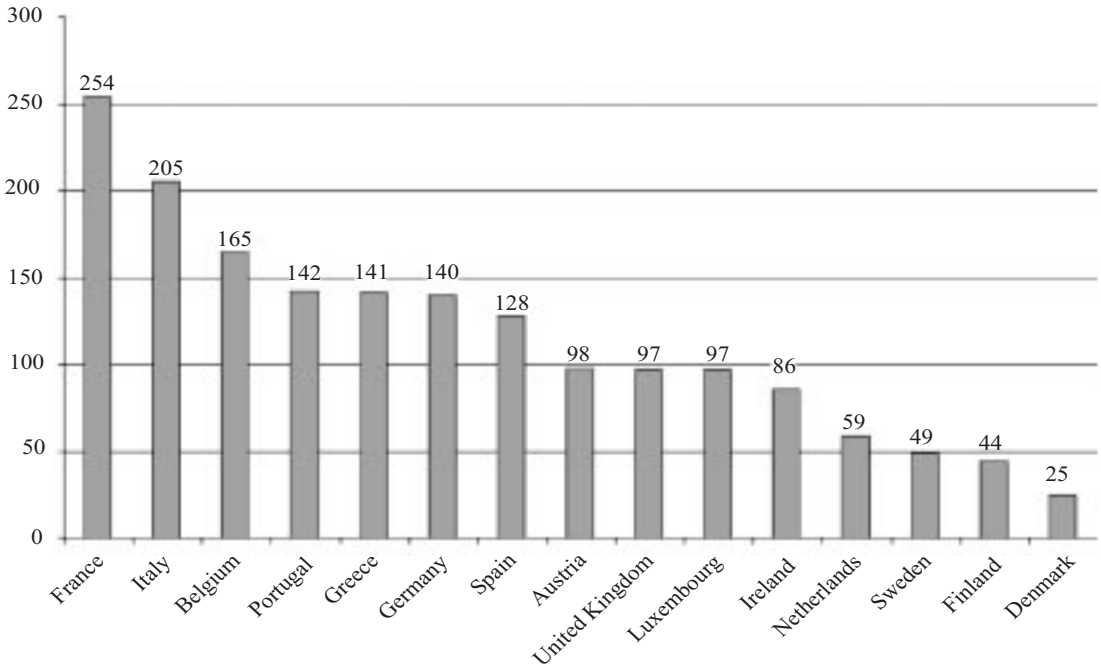
The table below breaks down by Member State the 2 979 infringement cases in motion on 31 December 1998 (including cases where the Commission has not yet decided to commence proceedings and where proceedings are already under way).

Cases in motion at 31 December 1998, by Member State



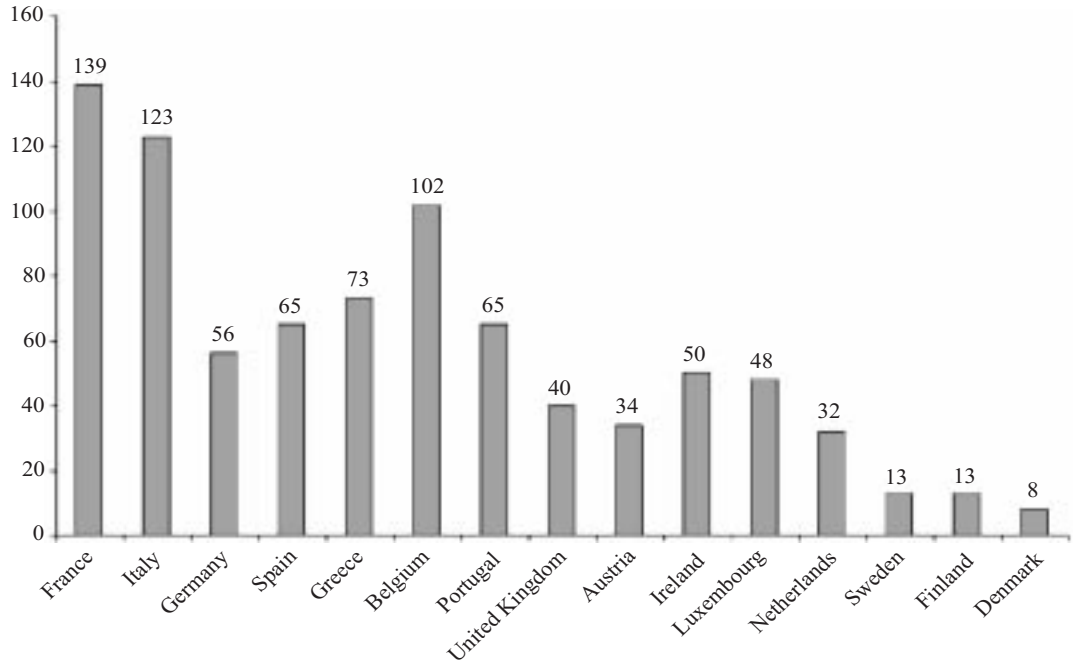
It can be seen that France is the Member State against which the largest number of proceedings are in motion, most commonly concerning non-conformity or incorrect application. It is worth noting that France is the Member State against which the largest number of complaints was lodged in 1998 — 203 out of 1 128, or 18 %. The application of Community law in Italy, Greece and Belgium also gives cause for concern, partly on grounds of failure to transpose Community directives.

Cases at the Article 169 letter stage at 31 December 1998

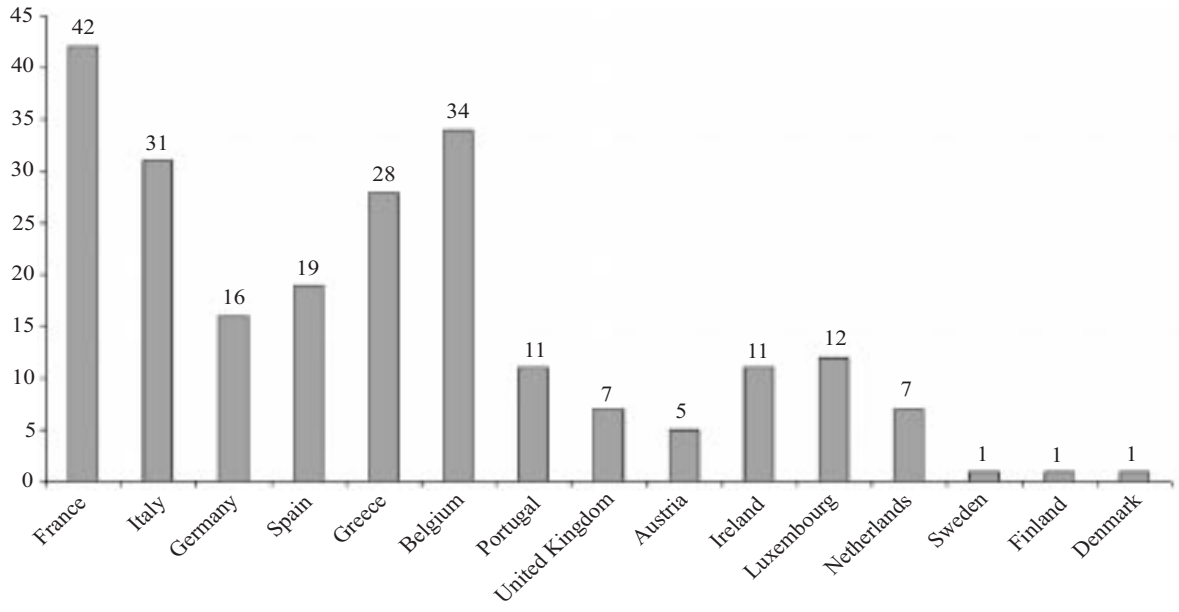


Some Member States are overrepresented at the reasoned opinion and referral stages; the tables below highlight this. The conclusion is that these Member States have greater difficulties in quickly solving cases of infringement of Community law, either because of problems of political or legal substance or simply because they sometimes take a long time to respond to the Commission's Article 169 letters and reasoned opinions.

Cases at the reasoned opinion stage at 31 December 1998



Cases before the Court of Justice at 31 December 1998



1.5. **The continued application of the penalty provisions of Article 171 of the Treaty**

In 1998, the Commission continued to make use of the penalty provisions of Article 171(2) of the Treaty, taking five decisions to apply for penalties when referring cases to the Court of Justice for the second time [1]. Two cases of this kind were actually brought before the Court of Justice in 1998.

For the first time, such a decision was taken in a social affairs case, environmental law ranking ahead of all other areas in the use of this instrument. For the first time a referral with application for penalties was taken against Luxembourg, which thus joins Greece (four decisions), Italy (three decisions), Germany (three decisions), France (two decisions) and Belgium (one decision).

The effectiveness of the mechanism has been borne out, since Member States responded to most penalty decisions by rapidly coming into line with Community law, either before the case was referred to the Court or shortly afterwards.

[1] See Fourteenth report (description of the communication of 6 July 1996 and the method of 8 January 1997).

Member State	Subject	Penalty ECU/day	Date of decision	Stage of procedure at 31.12.1998
Italy	Radiation protection Directive	159 300	29.1.1997	Terminated on 2.12.1998
Italy	Waste and dangerous waste Directives	123 900	29.1.1997	Terminated on 26.6.1997
Germany	Groundwater Directive	158 400	29.1.1997	Terminated on 2.12.1998 (after referral on 24.3.1997 — C-122/97)
Germany	Wild birds Directive	26 400	29.1.1997	Terminated on 26.6.1997 (after referral on 24.3.1997 — C-121/97)
Germany	Groundwater Directive	264 000	29.1.1997	Terminated on 26.6.1997
Greece	Waste — village in Crete	24 600	26.6.1997	Not yet settled Referral on 17.11.1997 (C-87/97)
Belgium	Wild birds Directive	7 750	10.12.1997	Terminated on 25.3.1998
Greece	Nationality requirement for private schools	61 500	10.12.1997	Terminated on 24.6.1998
Greece	Directive on higher education qualifications	41 000	10.12.1997	Not yet settled Referral on 20.5.1998 (C-97/98)
France	Defective products Directive	158 250	31.3.1998	Terminated on 24.6.1998
France	Wild birds Directive	105 500	24.6.1998	Not yet settled Referral on 16.10.1998 (C-73/98)
Greece	Public services contracts Directive	39 975	24.6.1998	Stay of execution decided on 2.12.1998
Luxembourg	Access to public employment	14 000	2.12.1998	Not yet settled
Italy	Urban water treatment	185 850	2.12.1998	Not yet settled

2. SITUATION SECTOR BY SECTOR

2.1. INTERNAL MARKET

2.1.1. Implementation of the action plan for the single market

The action plan for the single market was announced by the Amsterdam European Council in June 1997 with an ambitious 18-month programme ahead. By the time it finished on 31 December 1998, it was clearly a success. Substantial progress was made, both on the legislative and non-legislative fronts. In most, but not all, cases the progress called for by the action plan was achieved.

In spite of the progress made by some Member States, it is clear that the directives which have not yet been implemented will not be before the end of 1998 — one of the objectives set by the action plan.

However, there has been a considerable improvement with regard to the percentage of directives not yet implemented in one or more Member States (the 'fragmentation factor'), which has fallen to 13,7 % (from 35 % in June 1997). However, the situation varies from Member State to Member State, and a continuing delay in the transposal of directives into national law is a serious worry. Eliminating the delay is vital. The Commission is monitoring the situation on the single market scoreboard, the second and third editions were published in May and October respectively, and it submits a regular progress report to the Council.

Following the Commission communication of 13 May 1998 entitled 'Making single market rules more effective' [1], the Council, at its meeting on 24 September, called on the Member States to attach the highest priority to efficient, complete and timely implementation of single market rules.

Initiatives aimed at strengthening the framework for the implementation of legislation and problem-solving, through the setting up of contact points and coordination centres, have been reinforced. Contact points for businesses and the general public are available on the Internet. Support for these efforts is provided by the Karolus programme, under which exchanges are arranged between officials responsible for the implementation of single market rules from different Member States. On 7 April, the European Parliament and the Council decided to extend the programme until 31 December 1999 [2].

If the single market is to function effectively, the relevant legislation must also be correctly implemented by the Member States. The Robert Schuman campaign [3], recently adopted by the European Parliament and the Council for a period of three years, aims to ensure better implementation of Community law by providing more training and information for judges and lawyers. In contributing to greater awareness of the practical aspects of Community law among the legal profession, the Robert Schuman campaign is helping to ensure that the single market works to the maximum benefit of ordinary citizens, consumers and businesses alike. The campaign relies on the cooperation of the bodies responsible for training judges and lawyers. These establishments can apply for financial support for training or information campaigns dealing specifically with Community law.

In the two pilot phases in 1997 and 1998, over 80 local projects were selected for support under the campaign. The results of projects which are already well under way and positive feedback from professionals in the field show that the campaign has so far been a success and highlight the scale of the training needs of judges and lawyers in Community law, which the campaign is endeavouring to address. The first year of the Robert Schuman campaign will kick off with a call for proposals to be published in the *Official Journal of the European Communities* at the beginning of 1999.

Better, simpler legislation remains a high political priority. 1998 saw the conclusion of phase III and the launch of phase IV of the SLIM initiative, while the conferences on better regulation organised by the United Kingdom and Austrian Presidencies showed the increasing attention being given to this subject at national level. The Business Test Panel, which allows businesses to assess in advance the administrative burden and compliance costs of forthcoming legislative proposals, was also launched as a pilot project [4]. The political momentum for simpler, better legislation favours the creation of a business environment enabling businesses and individual citizens to reap the full benefits of the single market.

The dialogue with citizens and business launched at the Cardiff European Council provides information, via telephone and Internet, on how to exercise the rights conferred by Community law. It also provides the Commission with feedback on the problems encountered in doing so. OSIS (the one-stop Internet shop), which goes on line this month as part of the dialogue with business, provides ready access to a wide range of useful information on doing business in the single market.

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(1) COM(1998) 296.

(2) Decision 889/98/EC of the European Parliament and of the Council of 7 April 1998 (OJ L 126, 28.4.1998).

(3) Decision 1496/98/EC of the European Parliament and of the Council of 22 June 1998 (OJ L 196, 14.7.1998).

(4) COM(1998) 197, 30.3.1998.

On the legislative front, three of the four priority measures set out in the action plan have been agreed: the internal market in gas, the legal protection of biotechnological inventions, and the transparency mechanism for information society services. However, the failure to adopt the fourth priority measure, the European Company Statute, has impeded adoption of a number of related proposals, such as the proposal for a 10th Directive on cross-border mergers. The targets set in the action plan in relation to many other legislative measures have been met. Progress has been particularly notable in the area of electronic commerce. Significant progress has also been made on the liberalisation of telecommunications and electricity.

Action to deliver the benefits of the single market to all citizens includes the Commission's proposals for improvements to the rights of entry and residence for workers and its Communication of 1 July outlining a future proposal creating unified rights for all union citizens. The elimination of border controls will now take place within the framework of Article 62 of the EC Treaty as amended by the Treaty of Amsterdam.

In its communication on the follow-up to the recommendations of the High-Level Panel on the Free Movement of Persons (Commission communication to the European Parliament and the Council of 1 July 1998, COM (1998) 403 final), the Commission stressed the need to improve information to citizens regarding their rights and to provide better training and information for all those involved in the exercise of free movement. The purpose of this is to ensure that Community law on the free movement of persons is given practical effect.

2.1.2. **Free movement of persons and citizenship of the Union**

2.1.2.1. *Ending discrimination*

As indicated in the 1997 report, the Commission has been keeping a watchful eye on the question of civil procedure and access to justice, to ensure that national authorities respect the case-law established by the Court in C-43/95 *Data Delecta* [1], C-323/95 *Hayes* [2] and C-122/96 *Saldanha* [3] prohibiting the requirement that Community plaintiffs who bring an action before the courts of a Member State other than their State of their origin must lodge a sum as security for legal costs (the *cautio judicatum solvi*). On 8 July 1998, the Commission sent the German and Spanish authorities two reasoned opinions contesting, under Article 6 of the Treaty, the obligation for Community nationals to provide such a guarantee provided for in the German and Spanish codes of civil procedure. The case against Germany has since been terminated, after the legislation in question was amended in line with the reasoned opinion. In Spain a bill on civil procedure is now in the pipeline. Pending its adoption, the Commission decided to refer the case to the Court in December 1998.

2.1.2.2. *Entry and residence*

The Directives on the right of residence of students (93/96/EC), retired persons (90/365/EEC) and other persons not in active employment (90/364/EEC) have now been transposed by all the Member States, Germany being the last to do so. The infringement proceedings under way for incorrect transposal of the three Directives are continuing.

The Commission decided to take action against France and Italy in the Court of Justice concerning the implementation of provisions on the declaration of financial means by students, the financial means of retired persons and persons not in active employment, sickness insurance for students, retired persons and persons not in active employment.

Other proceedings for incorrect transposal of the three Directives are at an earlier stage (Germany and Austria).

A number of proceedings for incorrect transposal were closed after the national legislation concerned was amended (Spain, Portugal, Finland and Sweden).

On 30 March 1998, the Commission brought an action in the Court of Justice against Greece (Case C-85/98 [4]) because of the Greek authorities' practice of demanding a higher fee for the issue of residence permits to members of EU citizens' families who are nationals of non-member countries than to EU citizens themselves. The Commission believes that this difference of treatment is contrary to the Directives on right of residence.

2.1.2.3. *Right to vote and stand in elections*

Following the entry into force of Directive 94/80/EC on 1 January 1996, Union citizens residing in a Member State of which they are not nationals were able to take part in municipal elections in Germany (Schleswig-Holstein, Bavaria and Brandenburg), Austria (Tyrol), the Netherlands, Ireland, Greece and Spain.

As guardian of the Treaties, the Commission pursued a number of proceedings in 1998 to ensure that Directive 94/80/EC is transposed by all the Member States. Infringement proceedings against France were terminated after it adopted implementing measures in May. The proceedings initiated in 1997 against Germany (Saxony and Bavaria) are continuing.

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(1) [1996] ECR I-4661, judgment given on 26 September 1996.
(2) [1997] ECR I-1711, judgment given on 20 March 1997.
(3) [1997] ECR I-5325, judgment given on 2 October 1997.
(4) Not yet reported.

In its judgment of 9 July 1998 in Case C-323/97 [1], the Court of Justice condemned Belgium for failure to notify national implementing measures.

Infringement proceedings were also initiated against Austria for incorrect transposal in seven of the nine *Länder*.

On 7 January 1998, the Commission adopted a report on the application of Council Directive 93/109/EC on the right of Union citizens residing in a Member State of which they are not nationals to vote and stand in elections to the European Parliament. The report does not propose amendments to the Directive but sets out possible improvements in the way it is applied. Infringement proceedings for incorrect transposal were initiated against Greece and Sweden, while the proceedings against Italy were terminated after the relevant legislation was amended.

2.1.2.4. *Regulated professions*

Court of Justice decisions

The following are noteworthy among the Article 171 cases for failure to comply with earlier Court of Justice judgments:

— the proceedings against Greece following the judgments of 15 March 1988 (Case C-147/86 [2]) and 30 January 1992 (Case C-328/90 [3]) concerning 'frontistiria' and private music and dance schools were terminated after new legislation complying with Community provisions was introduced,

— the Article 171 proceedings against Italy and France concerning the freedom of tourist guides to provide services (judgment given on 26 February 1991 in Cases C-180/89 [4] and C-154/89 [5]) are still in motion. Provisions adopted by the Italian regions are still under examination and the entry into force of the draft decree of which France has sent notification is still awaited,

— it has been decided to refer the case concerning Greece's failure to notify measures transposing Directive 89/48/EEC (first general system) to the Court a second time, with a request for a financial penalty (Case C-365/93 [6], judgment given on 23 March 1995).

With regard to other judgments of the Court as yet not implemented, it should be noted that:

— Following the judgment given against Spain on 22 March 1994 concerning the freedom of tourist guides to provide services (Case C-375/92 [7]), scrutiny of the new decrees on the exercise of that profession adopted by the Autonomous Communities is continuing in cooperation with the Spanish authorities.

Cases pending before the Court of Justice

The Commission has referred the following cases to the Court:

— a case against Germany concerning access to the dental profession (requirements not provided for under the dentists' Directives (78/686/EEC and 78/687/EEC), concerning the admission to the social security register of Community nationals holding diplomas obtained in other Member States which conform to the above directives),

— a case against Spain, relating to national legislation transposing the architects' Directive (85/384/EEC), which restricts the activities of migrant architects. The case does not refer to the maximum length of time architects from other Member States may work in Spain as this restriction was deleted from national legislation,

— a case against France concerning the recognition of diplomas of psychiatric nursing obtained in other Member States under Articles 48, 52 and 59 of the EC Treaty. The French legislation concerning recognition of such diplomas which are not covered under the sectoral directive lays down, in the Commission's view, a procedure which is not in line with Community law.

National implementing measures

The Commission has terminated the proceedings initiated under Article 169 of the Treaty against Greece concerning Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training, which supplements Directive 89/48/EEC, after receiving the transposal measures from the Greek authorities.

The proceedings initiated against several Member States with regard to Directive 94/38/EC amending Directive 92/51/EEC with respect to the level of certain qualifications have all been terminated.

(1) [1998] ECR I-4281.
(2) [1988] ECR I-1637.
(3) [1992] ECR I-425.
(4) [1991] ECR I-709.
(5) [1991] ECR I-659.
(6) [1995] ECR I-499.
(7) [1994] ECR I-923.

Incorrect transposal and incorrect application of directives

In 1997 the Commission received around 50 complaints concerning restrictions in breach of Articles 52 and 59 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.

The Commission pursued a number of proceedings already in motion against Member States for incorrect transposal or incorrect application of directives. Examples include the case against Spain concerning the duration of the training of nurses responsible for general care, which are at the reasoned opinion stage, and the case against Italy, also at the reasoned opinion stage, concerning the provision of services by lawyers and the establishment of legal practices; the restriction on opening a legal practice provided for in the Italian legislation transposing Council Directive 77/249/EEC (freedom of lawyers to provide services) is contrary to the Court of Justice's judgment in Case C-55/94 *Gebhard* [1], and the transposal of Directive 89/48/EEC (first general system for the recognition of diplomas) is incomplete as far as the legal profession is concerned. The Commission has also brought cases against Italy before the Court of Justice concerning a residence requirement for dentists wishing to practise in Italy (contrary to Articles 48 and 52 of the Treaty) and the incorrect transposal of Directives 78/686/EEC and 78/687/EEC, in particular the duplication of procedures for gaining access to the profession.

With respect to the case against Spain concerning the conditions of recognition of diplomas obtained in Latin America, the Commission decided to suspend the proceedings initiated in 1996 as a result of positive developments. The Spanish authorities signalled progress in the renegotiation of clauses in international agreements concerning the recognition of diplomas. Furthermore, a recent judgment given by the Spanish Supreme Court recognised as legally valid the checks carried out by the Spanish Government in relation to training obtained in a non-member country and the examination which is required for the recognition of qualifications where training is found to be insufficient.

Dialogue with national authorities

As a means of consolidating administrative cooperation and resolving problems quickly, in 1998 the Commission maintained regular contacts with the national authorities through the group of coordinators for Council Directives 89/48/EEC and 92/51/EEC (general system for the recognition of diplomas) and committees of high-level officials (on public health, for example).

2.1.2.5. *Independent commercial agents*

On 13 July 1998, the Commission sent Italy a reasoned opinion under Article 169 of the Treaty for failing to take the necessary measures to correctly transpose Directive 86/653/EEC on independent commercial agents. Italy transposed the Directive in 1991, but omitted to transpose several provisions concerning the conditions under which an agent is entitled to a payment at the end of his contract, to receive a written copy of his contract and to a commission on operations concluded as a result of his intervention after the end of the agency contract. On 2 December 1998, the Commission decided to refer the case to the Court of Justice.

The Commission also sent an Article 169 letter to the United Kingdom for incorrect transposal of Directive 86/653/EEC. The Directive had been partially transposed in 1993 by the Commercial Agents Regulations (SI No 3053 and SI No 483). However, these did not apply to agency contracts where the agent conducted his activities in a Member State other than the United Kingdom and the parties concerned had not chosen the law of another Member State as the law applying to their contract. For example, if an agency contract were concluded by an English principal and a French agent and they decided that the contract would be governed by English law, UK legislation transposing the Directive would not apply and the contract would be governed by pre-existing ordinary law. Consequently, the French agent would not be entitled to compensation after the end of his contract as stipulated by the Directive, which is contrary to its objectives. On 19 November 1998, the United Kingdom amended its legislation in line with the Commission's comments and the case has been closed.

2.1.3. **Free movement of goods**

2.1.3.1. *Articles 30* et seq. *of the EC Treaty*

The single market cannot function properly unless the principle of free movement of goods is respected, so the Commission pays particular attention to ensuring that Articles 30 to 36 of the EC Treaty are correctly implemented. The volume of cases challenging state measures likely to create obstacles to trade remains significant, although statistics show that this volume has remained unchanged over the last three years. In 1998, the Commission received 132 new complaints. At 31 December 1998, there were 323 infringement cases pending.

[1] Judgment given on 30 November 1995, [1995] ECR I-4165.

With regard to these figures, it should be noted that litigation surrounding the free movement of goods is evolving. Articles 30 et seq. are more than ever being called on to play the role of a safeguard instrument. Community secondary legislation has reached a highly developed stage and provides single or harmonised rules to avoid a broad range of barriers to trade. However, it is not supposed to replace national law. For one thing, the subsidiarity principle requires Community action to be confined to what it is strictly necessary to do at Community level, i.e. provide legal solutions to problems which extend beyond national limits. For another, even in the most highly regulated industries at Community level there are often aspects affecting products, their presentation, or the activity of businesses in that industry which create problems between different Member States and which must be dealt with on the basis of the Treaty's general rules on the free movement of goods. The preparation of this type of case is increasingly complex from the legal point of view, because it involves determining the extent of the obligations incumbent on the Member States deriving from a multitude of legislative and regulatory sources, both primary and secondary legislation. The cases are also more complex from a technical point of view than they were previously. While Community secondary legislation and the Commission's action on the basis of Article 30 of the Treaty have gradually introduced the principle of free movement into national laws and national administrative practices, this means that cases of barriers with which operators are faced relate less and less to a Member State's acceptance of the principle of mutual recognition, say, but more to the actual way in which the principle is applied in specific cases where certain products are not accepted in the Member State of destination. For the Commission, this involves often in-depth technical analyses of these products, their health or safety implications, and a corresponding analysis of the national rules which prevent them being accepted.

The technical and legal complexity of the cases means that the Commission is continuing to emphasise methods of solving these problems that are based on close collaboration with the national authorities. Meaningful dialogue allows the two sides to reconcile the various interests at stake as much as possible, balancing the legitimate concerns of the Member States in protecting public health and safety with the requirement to ensure uniform and effective application of Community rules. In this spirit, the Community is focusing on package meetings as a framework where an open, informal discussion can achieve rapid solutions to the barriers exposed by operators. In 1998, these meetings took place with all the Member States except Luxembourg. In general, the success rate of these meetings is high: of all the cases examined, more than 50 % have been settled, either during the meeting or by the adoption of a measure by the Member State following a commitment made during the meeting. Disputed cases represent on average only just over 10 % of the cases discussed.

The effectiveness of the package meetings reflects the interest that the Member States have in this instrument. It was the Member States that asked the Commission to pick up its initiative, launched in 1997, of bringing together once a year the chairmen of the national delegations participating in the package meetings. This meeting, which took place for the second time in February 1998, led to the consolidation of an informal network between the Commission departments and the national chairmen, and between the latter, the effectiveness of which in finding rapid, flexible solutions to complaints relating to isolated, specific cases has been proved. The national officials concerned are sometimes also involved in the running of 'compliance units', which could be defined as units in national administrations whose role is to monitor complaints made by operators in the country in question which encounter difficulties in other Member States. These units turn to the Commission when the networks for administrative collaboration are not sufficient for them to resolve the problems raised. They have developed a flexible, informal interface with the Commission departments. To date, units of this kind have been set up in Denmark, the United Kingdom, France and Spain.

Prime among the industries in which Commission activity was most called for in 1998 is the motor industry. European Union nationals who leave a Member State in order to set up in another continue to encounter difficulties in registering their vehicles in the destination country, in spite of the existence of clear guidelines stipulating the formalities accepted under the provisions of the EC Treaty on the free movement of goods. Although their number is decreasing as a result of the Commission's interventions in this field over many years, these complaints still represent around 20 % of all the complaints received by the Commission concerning barriers to trade in goods. In 1998, the Commission managed to resolve problems encountered in France, Portugal and Germany. The competent national authorities have now simplified the procedure for registering cars and motorcycles imported by individuals, for example by reducing the time needed to complete the formalities.

Other sectors in which the Commission frequently receives complaints from operators concern the marketing of food supplements, as well as food products enriched with vitamins and nutrients. The relationship between trade and the environment also affects European businesses. The Commission has had to investigate certain national arrangements for waste processing, particularly of packaging, and certain systems imposing 'eco-taxes'. Parallel imports of pesticides, the criteria for setting the prices of pharmaceutical specialities, the sales description of chocolate products and the marketing of objects in precious metals are other fields where intervention by the Commission continues to be called for by Community operators.

As far as Court of Justice case-law is concerned, there have been two key judgments in the field in question. Starting with the most recent, the Court vindicated the Commission when it attacked France for having omitted, in its legislation on *foie gras* and preparations with *foie gras* as a base, to include a clause of mutual recognition allowing products of this kind that had been lawfully manufactured and/or marketed in other Member States to be accepted. The Court confirmed that the Member States are bound to incorporate such clauses in their legislation each time they subject the marketing of a certain product to precise rules on its composition or other conditions which that product must fulfil (Case C-184/96 [1] *Commission* v *French Republic*, judgment given on 22 October 1998). This formalises the Commission's established practice of requiring Member States (notably under the notification procedures introduced by European Parliament and Council Directive 98/34/EC (see the following heading)) to insert this type of clause into their national legislation in order to avoid creating technical barriers to trade.

The other judgment by the Court whose importance should not be underestimated is that given on 9 December 1997 in Case C-265/95 *Commission* v *French Republic* [2]. Here too, the Court vindicated the Commission when it accused France of infringing Article 30 of the Treaty by not having taken all the necessary and proportionate measures to prevent individuals from creating barriers to the free movement of fruit and vegetables from Spain. In this judgment, the Court established the principle whereby a Member State is bound to contribute actively to safeguarding the principle of the free movement of goods, even against actions by individuals, failing which it may be held to have failed to fulfil its obligations under the Treaty.

This judgment also confirms the validity of the initiative taken by the Commission in response to the request of the Amsterdam European Council of 16 and 17 June 1997 that an appropriate instrument should be proposed so that the Community can react rapidly and effectively to serious attacks on the principle of the free movement of goods. The proposal for a Council regulation creating a mechanism whereby the Commission can intervene in order to remove certain obstacles to trade [3] was given the Council's political agreement on 18 May 1998 and a favourable opinion by the European Parliament on 5 November 1998. It was adopted by the Council on 7 December 1998 [4]. The Commission welcomes the speed at which all the institutions followed up the European Council's call for an instrument to be produced that could meet the expectations both of the various national administrations and of economic operators.

Finally, the Commission welcomes the gradual start-up of the transparency instrument introduced by Parliament and Council Decision No 3052/95/EC, pursuant to which the Member States are bound to notify the Commission of the national measures constituting exceptions to the principle of the free movement of goods. During 1998, 68 national measures were notified, most of them on marketing food supplements.

2.1.3.2. *Preventive rules provided for by Directive 98/34/EC* [5] *(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. Member States are required to report drafts of new technical regulations for vetting before they are finally adopted. The procedure does not cover technical regulations issued to comply with Community provisions.

In 1998, the Commission received 604 drafts of technical regulations which were scrutinised by the relevant departments. This compares with 523 [6] for 1996 and 900 [7] for 1997. These figures show that, in spite of the completion of the internal market, the Member States continue to adopt a great many technical regulations, which could undermine the single market and the integrity of the benefits it has brought to all sectors of the economy.

Of the 604 drafts received by the Commission in 1998, 60 [8] required a detailed opinion recommending changes to the measure to eliminate infringements of secondary Community legislation or to debar the establishment of new barriers to

(1) [1998] ECR I-6917.
(2) [1997] ECR I-6959.
(3) COM(1997) 619, 18.11.1997.
(4) Council Regulation (EC) No 2679/98, (OJ L 337, 12.12.1998, p. 8).

(5) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37; this Directive consolidates and repeals Directive 83/189/EEC and its subsequent amendments), amended by Parliament and Council Directive 98/48/EC which extends the information procedure to the rules on information society services (OJ L 217, 5.8.1998, p. 18).
(6) Statistics on the regulations notified in 1996 are published in OJ C 311, 11.10.1997.
(7) Statistics on the regulations notified in 1997 are published in OJ C 281, 10.9.1998. It should be pointed out that the high number of drafts received in 1997 (900 drafts) was due to the fact that the Netherlands authorities had launched a catch-up operation in the course of which they informed the Commission of 230 texts which they had adopted without going through the notification procedure.
(8) Figure for notifications with a deadline before 1 March 1999. The time limit for issuing detailed opinions on draft regulations reported in 1998 ends on 31 March 1999.

trade. The Member States, for their part, issued 99 [1] reasoned opinions. In one [1] case, measures have been postponed for one year as a draft directive or regulation on the field in question is already before the Council.

Since 1989 the Commission has been monitoring compliance with the notification requirement by routinely scrutinising the official gazettes of all the Member States. When it discovers a breach of Directive 98/34/EC, it starts a dialogue with the Member State concerned in order to rectify the situation, or even commences infringement proceedings under Article 169 of the EC Treaty. At the end of 1998, preparatory work was under way on around 30 procedures of this type.

Furthermore, on 16 June 1998, the Court of Justice clarified, as part of a preliminary ruling, the scope of the principle of non-applicability of the technical rules adopted in breach of Directive 98/34/EC which it established in its CIA-Securitel ruling of 30 April 1996 (see Case C-226/97 *Lemmens*).

2.1.3.3. *Harmonised legislation*

Questions on agricultural products are dealt with in point 2.13.2.

2.1.3.3.1. Foodstuffs

In general, the Member States have adopted national measures implementing the directives on foodstuffs, but not always strictly within the time limits laid down by the directives.

A considerable number of implementing measures were notified to the Commission in 1998. 89 infringement cases for failure to report measures were closed before the end of the year. During 1998, the Commission sent Article 169 letters in 32 cases. 15 reasoned opinions were sent and the Commission referred two cases to the Court of Justice.

In response to the failure to implement directives and regulations on foodstuffs properly, the Commission decided to send two Article 169 letters and closed two cases on which reasoned opinions had been issued.

A further 10 or so complaints were lodged. Quite a few of these cases were settled following correspondence between the Commission's departments and the national authorities.

2.1.3.3.2. Pharmaceutical products

During 1998, almost all the implementing measures which remained to be sent were reported to the Commission. At the end of October 1998, 13 out of 15 Member States had transposed all the directives applicable in the pharmaceutical products sector. Only France and Belgium have yet to complete transposal. Following infringement proceedings initiated by the Commission, the European Court of Justice gave judgment in the following outstanding non-transposal cases in 1998:

— 12 February 1998 in Case C-144/97: failure by France to transpose Directive 92/74/EEC

— 12 March 1998 in Case C-163/97: failure by Belgium to transpose Directive 92/74/EEC

— 15 October 1998 in Case C-283/97: failure by Belgium to transpose Directive 92/73/EEC

— 15 October 1998 in Case C-284/97: failure by France to transpose Directive 93/40/EEC

Certain general problems also remain concerning the interpretation and application of the pharmaceutical directives by Member States. These cases concern mainly the different interpretations given by Member States to the term 'medicinal product' (sometimes resulting in barriers to the free movement of goods) and complaints concerning the alleged failure by the competent national authorities to observe the provisions of the transparency Directive (89/105/EEC). The transposal of Article 4(8)(a)(i) to (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 current infringement proceedings.

The Commission is carefully considering these problems and complaints. It has to be stressed that a draft consolidation of the pharmaceutical legislation (both human and veterinary) is already very advanced and that this consolidation will increase the clarity of the legislation and ultimately the effectiveness of its implementation. It is to be hoped that the Commission communication on the Community marketing authorisation procedures for medicinal products (98/C 229/03), which was published on 22 July 1998 and aims to clarify the centralised mutual recognition procedures, will have the same effect.

2.1.3.3.3. Chemicals

The last directives in the chemistry sector, on restrictions on the marketing of certain dangerous substances and preparations and fertilisers, have been transposed into national law by most of the Member States, often after infringement proceedings were opened.

[1] Figure for notifications with a deadline before 1 March 1999. The time limit for issuing detailed opinions on draft regulations reported in 1998 ends on 31 March 1999.

19 reasoned opinions were sent to various Member States for failure to notify the transposal of Directives 96/55/EC, 97/10/EC, 97/16/EC and 97/64/EC, relating to restrictions on the marketing and use of certain dangerous substances, and Directive 96/65/EC, relating to the classification, packaging and labelling of dangerous preparations, and Directive 97/63/EC on fertilisers. There were many infringement proceedings in relation to Directive 97/63/EC on fertilisers, but only four remain open at the end of 1998.

Directive 97/56/EC, amending for the 16th time Directive 76/769/EEC on restrictions on the marketing and use of certain dangerous substances and preparations, reached its transposal deadline at the end of the year, but has been transposed by only two Member States. However, Directive 98/3/EC on fertilisers, which is in the same situation, has been transposed by seven Member States.

More generally, at the end of 1998, 51 implementing measures for eight directives are still missing. The implementing measures normally comply with the Directives transposed.

2.1.3.3.4. Motor vehicles, tractors and motorcycles

On 1 January 1996 the Community type-approval procedure became mandatory for vehicles of category M1. The separate directives became binding as a result.

The adoption on 14 July 1997 of Directive 97/24/EC on certain components and characteristics of two or three-wheel motor vehicles completed the Community type-approval procedure for motor scooters, motorcycles and tricycles. The transposal of this Directive was planned for 18 December 1998 at the latest. After that date, type-approval of whole vehicles is possible on an optional basis for a period of six months, and will become obligatory from 17 June 1999.

The rate of effective transposal is extremely high and there have been few delays. In the relatively rare cases where there is a delay, opening infringement proceedings is normally sufficient to ensure rapid transposal. However, for certain directives transposal was incomplete at the end of 1998. Seven Member States had not transposed Directive 97/24/EC on certain components and characteristics of two or three-wheel motor vehicles, for instance, while six Member States still had to transpose Directive 98/14/EC on the type-approval of motor vehicles and their trailers, and Directive 97/54/EC on the maximum design speed of wheeled agricultural or forestry tractors. Directives 98/77/EC (measures to be taken against air pollution by emissions from motor vehicles) and 98/90/EC (doors of motor vehicles and their trailers), which should have been transposed by 31 December 1998, had been transposed by only one Member State by then.

2.1.3.3.5. Construction products

Following the Court of Justice's ruling against Belgium (judgment of 18 December 1997), the text of the royal decree transposing Directive 89/106/EEC was notified to the Commission on 26 August 1998.

As far as the transposal of Directive 89/106/EEC by Austria is concerned, infringement proceedings were opened because certain provisions of the Austrian legislation did not comply with the Directive.

As part of a current infringement proceeding against Greece on checks on the quality of certain imported steels, a reasoned opinion was sent to the Greek authorities on 4 December 1998.

2.1.3.3.6. Capital goods

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

In 1998, considerable progress has been made on transposing the directives in these sectors. Thus, most of the directives which had a time limit for transposal of 31 December 1998, and particularly Directives 73/23/EEC, 88/378/EEC, 89/336/EEC, 89/392/EEC, 89/686/EEC, 90/385/EEC and 90/396/EEC, which were mentioned in the Fifteenth annual report (1997), have been transposed into national law in all Member States. However, problems remain for four directives which will be examined below.

As regards cases of incomplete implementation of the directives or where national law conflicts with the directives, there has also been considerable progress. Difficulties do, however, remain, particularly as regards Directives 89/392/EEC (machines), 89/686/EEC (personal protection equipment) and 90/396/EEC (gas equipment), where about two thirds of the difficulties are concentrated.

78 infringement cases were dealt with in 1998, of which 24 were registered in 1998. At the end of 1998, 37 remain, including nine cases of failure to notify and 28 other cases.

In total, in 1998, nine reasoned opinions were sent and one case was referred to the Court of Justice.

For the cases of failure to notify, the situation is as follows.

Council Directive 93/42/EEC concerning medical devices has not yet been transposed by Belgium.

A reasoned opinion has been sent to Belgium regarding Parliament and Council Directive 94/9/EC concerning equipment and protective systems intended for use in potentially explosive atmospheres. Ireland's failure to transpose this directive has also been referred to the Court of Justice.

A reasoned opinion has been sent to France, Italy and Luxembourg concerning Parliament and Council Directive 95/16/EC on lifts.

Finally, as regards Commission Directive 97/53/EC on electrical equipment for use in potentially explosive atmospheres, a reasoned opinion has been sent to Greece, Luxembourg and Portugal. The transition period provided for by this Directive ended on 16 June 1998.

As far as pleasure craft are concerned, at the beginning of 1998 three Member States had not yet transposed Directive 94/25/EC: Belgium, Spain and Ireland. Finland's transposal was only partial, as it was not implemented by the Åland Islands.

In this context, all the Article 169 proceedings under way against Spain, Ireland and Belgium were closed, as was that against Finland following notification by these Member States of the national implementing measures concerned.

2.1.3.3.7. Cosmetics

During 1998, the Commission established that progress had been made in implementing Community legislation on cosmetics.

As far as failure to notify national measures implementing Community directives is concerned, the Commission has been able to close numerous infringement proceedings against Member States. However, the Commission deplores the fact that each of the directives adopted by the Commission since 1995 adapting Council Directive 76/768/EEC to technical progress, as well as the directives on methods of analysis necessary for checking the composition of cosmetic products, currently remain unimplemented by at least one Member State of the Community. It should be pointed out in this context that Directive 97/18/EC (postponing the date from which animal experiments are banned for ingredients or combinations of ingredients) should have been transposed into national law by 31 December 1997 at the latest, in order to provide economic operators with some certainty in the law, whether or not such tests are carried out in the Member States. The fact that the Commission intends shortly to submit to the Council and Parliament a proposal for a directive concerning the banning of trials on animals to test finished cosmetic products and their ingredients does not release the Member States from their obligations. Furthermore, in view of the technical nature of the annexes, the Commission points out the need for each national implementing measure to clearly mention the Directive that it is intended to transpose.

As for Council Directive 93/35/EEC amending for the sixth time Council Directive 76/768/EEC, the Commission's action has been partly recompensed in 1998, since this text has since been transposed in all the Member States, albeit to varying degrees.

Cases of infringement other than those for failure to notify national implementing measures are being scrutinised very thoroughly by the Commission, and the dialogue which is taking place between it and the national authorities is leading to satisfactory solutions both for the cosmetics industry and for the competent authorities.

2.1.3.3.8. Textiles and shoes

Directive 97/37/EC adapting to technical progress Annexes I and II to Directive 96/74/EC of the European Parliament and of the Council on textile names reached its deadline on 1 June 1998. A number of national implementing measures relating to this directive were recorded this year. Only Italy, Belgium and Luxembourg have not transposed this directive, and infringement proceedings are under way against these three Member States.

As regards Directive 94/11/EC of the European Parliament and of the Council, of 23 March 1994, on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer, infringement proceedings have been opened against Luxembourg for failure to notify national implementing measures.

2.1.3.3.9. Liability for defective products

By adopting Act No 389-98 of 19 May on liability for defective products [1], France finally transposed Council Directive 85/374/EEC. The Commission had decided on 31 March 1998 to refer the case to the Court of Justice under Article 171 of the Treaty, in the absence of an implementing text. It was the first time that the Commission had asked that financial penalties should be imposed on France under this provision (ECU 158 250 per day) [2].

2.1.3.4. *Special arrangements relating to freedom of movement*

Cultural goods

On 24 June 1998, the Commission decided to send reasoned opinions to five Member States for failure to notify national measures transposing Directive 96/100/EC of the European Parliament and of the Council amending the Annex to Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State. Following the notification of implementing measures, the Commission decided in December 1998 to close the proceedings concerned for four countries. The Commission is continuing the proceedings against France.

As regards Cases C-413/97 (Germany) and C-415/97 (Italy) opened for failure to notify measures transposing the principal directive, Council Directive 93/7/EEC, the Commission withdrew proceedings following notification of the measures during this year.

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[1] Official Journal of the French Republic, 21 May 1998.
[2] IP/98/311 of 1 April.

Explosives

As regards Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses, the implementing measures basically comply with the directives transposed, with the exception of two cases of infringement for incomplete transposal.

2.1.3.5. *Customs Union*

The European Community's customs activity is developing around several functions, the main one of which consists of devising, implementing and managing the customs instruments needed for the application of the European Community's common policies (commercial policy, agricultural policy, environment, public health, etc.) for the purposes of controlling its external frontiers and guaranteeing the security of European citizens and fair trading for businesses and in the internal market and economic and monetary union.

Checking the correct implementation of Community provisions, of course, remains an essential element of the Commission's activity in this sector. Thus, in response to this activity, Italy adapted its legislation to the Community customs code in order to comply with the rules governing direct or indirect representation in the performance of customs operations.

It should also be pointed out that Germany complied with the Court of Justice ruling of 10 September 1996 in Case C-61/94 [1] on the import of dairy products under the inward-processing arrangements. The Commission had argued that these imports could not be authorised, since the customs value was less than the minimum prices set in accordance with the International Dairy Arrangement, approved by the Commission by Council Decision 80/271/EEC of 10 December 1979 concerning the conclusion of the Multilateral Agreements resulting from the 1973 to 1979 trade negotiations [2], and by Council Regulation (EEC) No 1999/85 [3] of 16 July 1985 on inward-processing relief arrangements.

2.1.4. **Free movement of services and right of establishment**

2.1.4.1. *Articles 52* et seq. *and Articles 59* et seq.

In the area of freedom of establishment the Commission referred two Belgian Acts of 1919 and 1921 on non-profit-making organisations to the Court of Justice because they contain provisions contrary to the general principle of non-discrimination on grounds of nationality.

In another case involving a nationality requirement, the Commission sent a reasoned opinion to the French authorities on the conditions imposed on companies manufacturing and selling arms that might be used by private organisations or individuals.

In the area of freedom to provide services, Dutch law on the registration of certificates requires those who are not domiciled in the Netherlands to provide an address for service there with an official agent. As this requirement is contrary to the principle set out in Article 59, the Commission sent the Dutch authorities a reasoned opinion.

A reasoned opinion was also sent to the Italian authorities because an Act establishing lists of licences for forwarding agents required the registration of all natural and legal persons engaged in this activity on a specific list kept by the local chamber of commerce. This registration requirement interferes with the exercise of this activity by economic operators who are not based in Italy but wish to carry out incidental work there pursuant to Article 59.

The rules on taking aerial photographs as part of a service provided in Portugal state that foreign companies and individuals will be authorised only in duly justified cases. Such discrimination on the basis of nationality, which cannot be justified on grounds of public safety, has also resulted in a reasoned opinion being sent to the Portuguese authorities.

In France, an order on the regulation of gas production and storage equipment states that checks on such equipment under pressure may be carried out outside France only in exceptional circumstances, which puts at a disadvantage companies not based in France that might wish to offer their services there. A reasoned opinion has therefore been sent to the French authorities.

Secondments of employees in the Member States exercising their freedom to provide services encounter many difficulties. Reasoned opinions have been sent to the Belgian authorities, for example, regarding the requirement that foreign service providers contribute to a special welfare fund, the *Fonds de sécurité d'existence* in the metal production industry, the liability for payment of loyalty stamps and bad weather payments in the construction industry, and the obligation to pay bed and board allowances, also in the construction industry. The Commission also referred to the Court of Justice an Austrian regulation making clients of foreign service providers jointly liable for the payment of the salaries of seconded employees, a condition that does not apply to companies based in Austria. Finally, the Commission decided to send a reasoned opinion to the German authorities regarding the discriminatory conditions imposed on foreign companies in the building industry seeking to provide services jointly with other companies as part of an association created specifically for the performance of the service (working group).

(1) [1996] ECR I-3989.
(2) OJ L 71, 17.3.1980, p. 1.
(3) OJ L 188, 20.7.1985, p. 1.

There is a particular problem with the secondment of nationals of non-Member States as regards conditions for visas, residence and work permits. The Commission has sent reasoned opinions to the Belgian and German authorities on this matter.

Certain infringements reveal problems as regards both freedom to provide services and freedom of establishment. Italian state and regional regulations on fairs and exhibitions, for example, give rise to serious problems because they confine the organisation of such events to bodies meeting certain requirements regarding legal status, composition and origin. A reasoned opinion has therefore been sent to the Italian authorities.

In the case of private security services the position adopted by the Commission in the case of infringement proceedings was upheld by the Court of Justice. This sector cannot as such be restricted by discriminatory conditions based on nationality or place of establishment, for example for reasons of public safety. The fundamental freedoms of the internal market, such as the freedom of establishment, freedom to provide services and the free movement of workers, apply in full (Case C-114/97 *Commission* v *Kingdom of Spain* [1]). The Commission has instituted proceedings against Belgium in the European Court for the same reason and has decided to take similar steps against Italy.

EU citizens who are not resident in Spain are required to use the services of a Spanish notary when purchasing real estate located on Spanish territory, even if the deed has already been signed in the presence of a foreign notary. The intervention of the Spanish notary is not concerned with the purchase deed and merely involves a fiscal check on the deed already signed by the parties concerned. The Commission took the view that this regulation violated the right of establishment, freedom to provide services, and the free movement of capital and workers and decided to refer the matter to the Court of Justice.

2.1.4.2. *Financial services*

Dialogue with the national authorities

In an effort to consolidate administrative cooperation and find rapid solutions to the problems encountered, the Commission maintains regular contacts with the national authorities in 1998, through institutional committees (Banking Advisory Committee, Insurance Committee, the UCITS (Undertakings for collective investment in transferable securities) Contact Committee), ad hoc interpretation groups (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).

Complaints and infringements

In 1998 the Commission, acting on complaints, started two new infringement proceedings for breaches of Articles 52 and 59 of the EC Treaty and the banking directives. The first involved apparent discrimination on grounds of nationality in the refunding of tax credits to banks established in Italy. An Article 169 letter was sent to Italy enquiring about the criteria used to draw up the list on the basis of which part of the credits were refunded. The second case concerns the requirement that architects in Luxembourg lodge a security with a Luxembourg bank. The case is currently being examined.

In 1998 the Commission launched two new infringement proceedings under Article 169 for breaches of Articles 52 and 59 of the EC Treaty and the directives in the insurance sector. Both cases arose from complaints. One of the proceedings launched before 1998 was dropped because the Member State in question complied with Community law.

Many of the infringement proceedings reached the stage of reasoned opinion or referral to the Court of Justice in 1998. In the insurance sector the increase in the number of cases of non-compliance or incorrect application may be explained by prolonged infringements on the part of certain Member States. Where dialogue with the national authorities has failed to produce a solution and serious problems of the application of Community law are involved, there is no alternative but to submit the case to the Court of Justice.

In the securities sector the Commission started two new infringement proceedings in 1998 against Italy (Articles 59 and 73b) and France (Articles 52, 59 and 73b), on the basis of a complaint. It agreed that the Italian and French legislation discriminated between the domestic market and that of other EU countries and between domestic service providers and those from other Member States.

Treaty

The infringement case against Greece in the banking sector, relating to the law on subsidies for leased equipment, has been dropped. Greek legislation stated that only equipment leased via a company based in Greece was eligible for state subsidies. The legislation has now been extended to all Community leasing companies.

In the insurance sector, the Commission sent a reasoned opinion to Spain in 1998 because Spanish legislation did not comply with the EU Treaty rules on freedom to provide services (Article 59). The Spanish authorities insist that prior authorisation to practise on Spanish territory must be obtained

[1] Judgment given on 29 October 1998, [1998] ECR I-6717.

not only by professionals wishing to establish themselves permanently in Spain but also by those wishing to perform services for a limited period. The Court of Justice has consistently ruled, however, that this requirement is in breach of Article 59 of the Treaty, because service providers may not be subject to the same conditions required in the case of freedom of establishment. Such a requirement, moreover, cannot be justified on considerations of general interest, such as consumer protection on the Spanish market, as it is neither necessary nor proportional in terms of the objective pursued.

National implementing measures

Failure to notify measures

In the banking sector the infringement proceedings against the United Kingdom for failure to transpose several banking directives for the territory of Gibraltar were dropped. The directives in question were Directive 89/117/EEC on the accounts of branches of credit institutions, Directive 86/635/EEC on the annual accounts of banks, Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions, Directive 94/19/EC on deposit-guarantee schemes and Directive 96/10/EC on the recognition of contractual netting. The United Kingdom has now notified all the laws and regulations implementing these Directives for Gibraltar.

All the reasoned opinions for failure to transpose Directive 95/26/EC (post-BCCI) have been sent to Germany, Spain, Italy, Luxembourg, Belgium, Ireland, France and Greece. On the basis of the replies received to date, the Commission has decided to drop the cases against Greece and the United Kingdom (for failure to transpose the Directive for Gibraltar), as both Member States have now notified the legislation implementing this Directive. France, Spain and Luxembourg have been unable to produce a clear schedule for transposal of the Directive, with the result that the Commission has decided to refer them to the Court of Justice for failure to notify implementing measures.

As Germany has now transposed Directive 94/19/EC on deposit-guarantee schemes and Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions and has notified the Commission of its measures, the proceedings before the Court of Justice have been halted.

In the matter of insurance, the Commission continues to suspend its decision to refer Spain to the Court of Justice, taken in 1996, for failure to notify national implementing measures for Directive 92/96/EEC (third life insurance Directive); in its judgment in the case relating to Directive 92/49/EEC (third non-life insurance Directive), given on 18 December 1997 ([1]), the Court found against Spain for the same breaches (incomplete transposal) as those cited in the case relating to Directive 92/96/EEC. However, the Spanish authorities notified national measures implementing these two Directives in December 1998. The Commission is currently checking whether transposal is now complete, in which case it will ask for the cases to be dropped in 1999.

In the case of Directive 91/674/EEC (annual and consolidated accounts of insurance undertakings) the 1998 decision to refer Spain to the Court did not have to be carried out because national implementing measures were notified. The case has been dropped. The Court ruled against Spain for incomplete transposal of Directive 91/371/EEC (concerning an agreement with Switzerland) in a judgment of 18 December 1997 ([2]). The case has now been suspended pending official notification of the transposal measures recently announced by the Spanish authorities.

Although most Member States have now notified measures implementing the third life and non-life insurance directives the transposal and application of these directives has clearly been problematic. There have been several cases of incomplete or incorrect transposal.

In the area of securities, the Commission sent a reasoned opinion to the United Kingdom for failure to transpose Directives 85/611/EEC, 89/298/EEC and 89/592/EEC for Gibraltar. The United Kingdom notified implementing measures and the proceedings were terminated.

Incorrect implementation or application

In 1998 the Commission sent a reasoned opinion to Germany for incorrect application of Directive 92/49/EEC in the insurance sector. More specifically, in its legislation implementing the Directive, Germany formally removed the provision prohibiting the simultaneous transaction of health insurance and other types of insurance by non-German companies wishing to set up branches on German territory or to operate as service providers there, in line with the third non-life insurance directive, which ruled out this possibility. However, Germany introduced a new provision into its social security legislation whereby the employee would benefit from contributions paid by the employer only if the insurance company did not provide both health insurance and other classes of insurance simultaneously, irrespective of where it had its headquarters. This was an indirect violation of Directive 92/49/EEC.

Cases before the Court

In the banking sector the existence of anonymous accounts in Austria was deemed to be incompatible with the obligation to identify customers when they open an account under Article 3(1) of Directive 91/308/EEC on money laundering. The matter was referred to the Court of Justice, which has not yet given judgment.

([1]) Case C-361/95 [1997] ECR I-7351.

([2]) C-360/95 [1997] ECR I-7337.

As regards applications for a preliminary ruling, the Court has not yet handed down its judgment in Case C-410/96 *Procureur de la République* v *André Ambry*. Under French law a financial guarantee that can be called in immediately is required in order to obtain an administrative licence (to operate as a travel agent). If the institution providing this guarantee is located in a Member State other than France it must have an agreement with a French bank or insurance company. The Court of Justice was asked for a ruling on whether this requirement was compatible with Community law.

Four new insurance cases were referred to the Court of Justice in 1998. The Commission referred France to the Court for incomplete transposal of Directives 92/49/EEC and 92/96/EEC, as no measure to adapt the mutual insurance code to the third non-life and life insurance directives has been notified to date. France was also referred to the Court for incorrect application of the third insurance directives because French regulations require insurers to fill out an information sheet before putting new insurance policies on the market, in breach of Directives 92/49/EEC and 92/96/EEC, which prohibit Member States from stipulating provisions requiring the prior approval or systematic notification of the general and special conditions of insurance policies.

Belgium was referred to the Court because its legislation on the supervision of insurance companies excludes accidents at work from Directive 92/49/EEC. The Commission considers that such risks are covered by the Directive where they are insured by private insurance companies. Finland was also found to be committing the same breach and received an Article 169 letter in 1996.

Finally, Spain was referred to the Court because its legislation implementing Directive 84/5/EEC did not meet the requirement of Article 1(4) that the body set up in the Member States to provide compensation for damage to property or personal injuries caused by an unidentified vehicle provide a reasoned reply to the victim regarding the payment of any compensation.

Cases have been brought against Spain and Luxembourg concerning investment services in the field of securities (Directive 93/22/EEC). However, Spain subsequently notified a law transposing the Directive in November 1998. Proceedings against Germany have been dropped.

2.1.4.3. *Commercial communications*

There is no directive dealing with commercial communications form the single market perspective. However, the Commission received three complaints in this field during the year. It also continued its examination of the ongoing infringement proceedings. It has started discussions with the French authorities on the interpretation of the 'Evin' law prohibiting television advertising of alcoholic drinks in the particular case of sporting events abroad. A reasoned opinion on this matter was sent in 1997. The Commission also sent a reasoned opinion to Germany because its legislation on promotional gifts and discounts is deemed to be in breach of Article 59 of the Treaty. The proceedings were started in response to a complaint by an operator selling goods and services through a 'Club' based in another Member State.

2.1.4.4. *The media*

The Commission received 10 new complaints in the field of the media, some of which were dropped in the course of the year. It also received over 100 complaints about the taxation of parabolic dishes in one Member State. Among the ongoing cases, the Commission dropped proceedings against Spain for its regulations on advertising flights over Spanish territory as Spain had complied with the Commission's reasoned opinion.

2.1.5. **Free movement of capital**

The situation as regards the free movement of capital and payments in the EU and non-member states is generally satisfactory. Further progress was made during the year to remove certain restrictions on the acquisition of real estate in Austria (Vienna). Although some residual restrictions are still being discovered steady progress is being made to eliminate them. Most of the limited number of complaints from economic operators concern restrictions on the purchase of real estate in other EU states. For example, restrictions in the Tyrol very similar to those applied in Vienna were the subject of a reasoned opinion, and the Commission decided to refer Greece to the European Court of Justice for its procedures on property acquisition.

With a view to facilitating cross-border investment, and following the Communication on certain legal aspects concerning intra-EU investment (OJ C 220, 19.7.1997, p. 15) and the circulation of a questionnaire to collect information on national practice, infringement proceedings were started against several Member States in the light of the principles defined in the communication. It was decided to send reasoned opinions to Belgium, in two separate cases, and France. Article 169 letters are to be sent to Ireland, the United Kingdom and Spain. In the case of the latter, a reasoned opinion has also been sent in another case concerning the specific authorisation procedures for intra-EU investment.

Other potential cases are under consideration. In the area of transfers of public assets the Commission has decided to refer the restrictions applied in Italy to the Court. Restrictions on foreign investment by pension funds were the subject of Article 169 letters to Belgium and Finland and an Article 169 letter was sent to France on the subject of the proportionality of fines for non-declaration of physical transfers. The Commission also decided to refer to the Court of Justice Belgian restrictions on the purchase by certain categories of residents of particular government bonds issued abroad.

2.1.6. **The business environment**

2.1.6.1. *Company law*

On 29 September the Court of Justice gave judgment on the action brought by the Commission against Germany for incorrect application of Council Directives 68/151/EEC (companies register) and 78/660/EEC (annual accounts) [1].

Under these Directives, companies limited by shares must disclose their annual accounts and Member States must impose appropriate penalties on companies which fail to give their annual accounts appropriate publicity. About 90 % of German private limited companies do not deposit their accounts with the companies register.

In its judgment, the Court held that the penalties laid down in German law for such omissions were insufficient to ensure compliance with the disclosure requirement laid down by the two Directives. The Court therefore found that Germany had failed to meet its obligations under these Directives.

In 1998 the Commission terminated a number of infringement proceedings for failure to notify national implementing measures, including the cases against Luxembourg concerning transposal of Council Directive 92/101/EEC (amending Council Directive 77/91/EEC on the capital of public limited liability companies) and against Finland concerning Council Directives 78/660/EEC, 83/349/EEC, 90/604/EEC and 90/605/EEC. In all these cases, the Directives in question have been transposed.

However, the Commission brought a new action before the Court of Justice against Greece for failure to notify measures implementing Directive 92/101/EEC.

[1] Case C-191/95, [1998] ECR I-5449.

2.1.6.2. *Intellectual and industrial property*

Industrial property

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

Under the trade marks Directive, the registration of a trade mark confers on its owner exclusive rights allowing him to prohibit its use for commercial purposes by a third party without his consent.

The harmonisation of Member States' legislation on national trade marks is not comprehensive, but confined to aspects which have the most direct impact on 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. In principle, the Directive covers only substantive law on registered trade marks; none of its provisions is aimed at harmonising procedures.

The scope of harmonisation is defined by the Directive as follows: registered trade marks only (arrangements for protecting trade marks resulting from usage are left up to the Member States); all categories of registered trade marks recognised by national legislation (trade marks in respect of products or services, individual trade marks, collective marks and guarantee or certification marks), though this does not mean that the Member States are required to introduce these various categories of trade marks into their legislation; trade marks which have been registered under international arrangements but have effect in the Member States.

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, and the Community framework was 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 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 must introduce the laws, regulations and administrative provisions necessary to comply with the Directive by 30 July 2000.

As is the case with legislation on national trade marks, the harmonisation of the Member States' legislation on designs is not complete but 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, the 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.

Intellectual property

Member States generally adopt national measures implementing the directives relating to this sector only after long delays and often only after infringement proceedings have been launched.

However, the situation has considerably improved, particularly over the last year. All the Member States except Ireland have notified national implementing measures for all the directives applicable on 1 January 1997. However, only nine Member States have notified measures implementing the Directive on databases, which fell due for transposal on 1 January 1998.

The Commission will continue its efforts to make sure that all the Member States transpose the Directives into national law and will also ensure that they are correctly applied, incorrect application appearing to be the main reason for litigation.

All the Member States have now notified their national measures transposing Council Directives 87/54/EEC (legal protection of topographies of semiconductors), 91/250/EEC (legal protection of computer programs) and 93/98/EEC (harmonisation of the term of protection of copyright and certain related rights).

Reasoned opinions have been sent to Greece, Ireland, Italy, Luxembourg, the Netherlands and Portugal for failure to notify national measures implementing Parliament and Council Directive 96/9/EC on the legal protection of databases.

Reasoned opinions have also been sent to Belgium for failure to ratify the last Bern Convention (Paris Act of 1971) and the 1961 Rome Convention, to Portugal for failure to ratify the 1961 Rome Convention and to Ireland for failure to ratify the Bern Convention (Paris Act of 1971).

Infringement proceedings against Italy for failure to comply with Council Directive 93/98/EEC and against the United Kingdom for failure to comply with Council Directive 92/100/EEC (lending right) are at the Article 169 letter stage.

Finally, the Commission decided to bring two actions before the Court against Ireland for failing to notify national measures implementing Directive 92/100/EEC and Directive 93/83/EEC (satellite broadcasting and cable retransmission).

2.1.6.3. *Data protection*

Parliament and Council Directives 95/46/EC and 97/66/EC on the protection of data in the telecommunications field entered into force on 25 October 1998.

Five Member States have notified measures implementing Directive 95/46/EC. Two of them (Greece and Sweden) have fully transposed the Directive, while the others (Denmark, Spain and the United Kingdom) have done so partially. The national measures are being scrutinised to check that transposal is correct and complete.

All the Member States which have yet to notify national implementing measures have been sent an Article 169 letter, except those which have informed the Commission that the notification procedure is under way (for example Portugal).

Germany, Italy and Spain have notified transposal of Directive 97/66/EC. For more details, see point 2.10 on telecommunications.

2.1.6.4. *Public procurement*

For the internal market to be fully operational in a key sector of the European economy such as public procurement, the relevant Community directives must first be correctly transposed. In 1998 a number of directives in this field had still not been incorporated into national law. For example, the Commission has commenced infringement proceedings against Greece for failure to notify national measures implementing Directives 93/38/EEC (special sectors) and 92/13/EEC (legal remedies in special sectors).

An examination of the national measures that have been notified has led to 30 proceedings for failure to comply with Community law, including six 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 directives have been transposed, steps must be taken to ensure that the rules are applied in practice. The Commission therefore 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.

The Commission processed 397 cases, 237 of them being new cases. It was able to settle 115 cases, mostly as a result of action by the awarding authorities or their supervisory bodies to remedy the 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 are worth citing.

Following intervention by the Commission, the Italian authorities have cancelled a number of contracts which were the subject of complaints, including a contract for on-board catering services on ferries, a concession for the distribution of drinking water and a contract for clinical engineering services.

In Portugal, the regional authorities in the Azores have sent a circular to awarding authorities prohibiting them from including in their systems for assessing tenders any rules which bestow an advantage on firms having performed contracts in that region in the past, as such practices are incompatible with Community law.

Germany recently amended the Federal Law against restraints of competition to take account of objections expressed by the Commission in a reasoned opinion concerning remedies in the public procurement field. The new German legislation, which enters into force on 1 January 1999, will ensure that effective scrutiny procedures are available to anyone who has an interest in obtaining a particular public contract and has been or is in danger of being the victim of a suspected infringement.

Other cases will have to be or have already been referred to the Court of Justice.

For example, the Commission has brought an action against Italy for unwarranted use of the negotiated procedure without prior publication provided for in Directive 92/50/EEC for the award of contracts for the maintenance, management and development of the integrated computer system of the *Ragioneria Generale dello Stato* and the Italian Court of Auditors.

In a case concerning Belgium, the Court upheld the Commission's view that a legislative body such as the *Vlaamse Raad* must be considered as forming part of the definition of the state and hence as a contracting authority within the meaning of Directive 93/37/EEC on public works contracts.

2.1.6.5. *Direct taxation*

The Commission is continuing the new, comprehensive approach to tax policy which it launched in the context of the Taxation Policy Group chaired by Mr Monti. It hopes that, in line with the conclusions of the Council (Ecofin) meeting on 1 December 1997, proposals will soon be adopted on the elimination of withholding taxes on interest and royalty payments between associated companies and on the taxation of income from savings.

As outlined in previous reports, the lack of progress in harmonising direct taxation means that many obstacles persist in this field, but only very few can be classified as infringements of Community law. Most disputes are settled as a result of cases being referred by national courts to the Court of Justice for a preliminary ruling.

The taxation of premiums and payments forming part of the cross-border activities of insurance companies is being examined from a legal angle in connection with the rights guaranteed by Articles 8a, 48, 52, 59 and 73b of the EC Treaty. At the same time political preparations are under way for a new initiative to harmonise legislation in this field. The Commission sent a letter to all the Member States asking them for notification of the measures they intend to take, should such measures be necessary, to bring their legislation into line with the judgment of the Court of Justice of 28 April 1998 in the *Jessica Safir* (Case C-118/96), in which the Court held that Article 59 of the EC Treaty precludes the application of national legislation relating to the taxation of capital life assurance such as that in the case in question, where it diverges from the law as declared by the Court.

On 16 July 1998 the Court gave judgment in *Imperial Chemical Industries* concerning the compatibility with Article 52 of the EC Treaty of the requirement that, for tax relief to be granted on losses incurred by members of a consortium, the subsidiaries must be based mainly in the United Kingdom [1]. Recalling previous judgments on this matter, the Court held that Article 52 'precludes legislation of a Member State which, in the case of companies established in that state belonging to a consortium through which they control a holding company, by means of which they exercise their right to freedom of

[1] Case C-264/98 [1998] ECR I-4695.

establishment in order to set up subsidiaries in other Member States, makes a particular form of tax relief subject to the requirement that the holding company's business consist wholly or mainly in the holding of shares in subsidiaries that are established in the Member State concerned'. As regards the scope of Article 5 of the Treaty for the national courts, in the event of the UK legislation being incompatible with Community law, in cases where the holding company mainly controls subsidiaries established in non-member countries, the Court found that, in these circumstances, 'Article 5 of the Treaty does not require the national court to interpret its legislation in conformity with Community law or to disapply the legislation in a situation falling outside the scope of Community law'.

The proceedings against Greece for incorrect application of Directive 69/335/EEC concerning indirect taxes on the raising of capital [1]. Greece imposed a capital duty of 1,3 % on company formations and capital increases, whereas the Directive allows no more than 1 %, and also imposed a 0,5 % levy on the same basis of assessment for the lawyers' welfare fund. But the Commission was able to terminate proceedings against Greece for late transposal of Council Directive 90/434/EEC of 23 July 1990 [2] (common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States), as Greece finally adopted national legislation implementing the Directive (Act No 2578 of 16 February 1998) just before the Article 169 judgment given by the Court on 19 February [3].

The Commission was also able to terminate proceedings in a number of cases relating to failure to reimburse charges already held by the Court to be incompatible with Community law: one of these was the *concessione governativa* held incompatible with Directive 69/335/EEC (Cases C-71/91 and C-178/91 *Ponente Carni* and *Cispadana Costruzioni*, judgment given on 20 April 1993 [4]).

In its judgment of 5 March 1998 in response to a reference for a preliminary ruling in *Solred SA*, the Court maintained the broad interpretation of Article 10 of Directive 69/335/EEC expressed in earlier judgments, taking into account the aims of that Directive [5]. The Court held that the prohibition of all indirect taxes under Article 10 of the Directive also applies to taxes which are not imposed on capital contributions as such, but are nevertheless imposed on account of formalities connected with the company's legal form, in other words on account of the instrument employed for raising capital, so that their continued existence would similarly risk frustrating the aims of the Directive (paragraph 21). Article 10 of the Directive therefore precluded the imposition, on operations for the raising of capital, of a general stamp duty charged on all notarial deeds (paragraphs 23 to 25). In a separate judgment given on 27 October 1998, the Court held that Article 11(b) of the Directive must be interpreted as meaning that the prohibition of taxation on debenture loans applies to the duty on notarial deeds recording the repayment of loans. Such a duty cannot come within the derogation provided for in Article 12(1)(d) of the Directive [6].

In relation to the same Directive, the Court interpreted the Member States' obligations under Community law regarding reimbursement of amounts wrongly charged in its preliminary rulings in Joined Cases C-10/97 to C-22/97. Giving judgment on 22 October 1998 it held that the national courts must disapply national legislation that imposed charges contrary to Community law and must accordingly rule in favour of those applying for reimbursement of amounts paid by way of such charges. But the reimbursement must be made in accordance with national law, provided it is no less favourable than that applicable to purely domestic actions [7]. Moreover, in Case C-228/96 the Court held, on 17 November, that Community law does not preclude Member States from imposing national limitation periods on actions for reimbursement of charges levied contrary to Community law, even if the Member State has not yet changed its rules to bring them into line with Community requirements. The limitation runs from the time when the charge is levied and not from the time when the national charge is subsequently held to be contrary to Community law.

2.1.6.6. *VAT*

Strictly speaking this area is not covered by the tax package adopted by the Council (Ecofin) in December 1997, which sought mainly to relaunch the issue of direct taxation. Nevertheless, the Commission must also pursue a whole series of measures and activities aimed at eliminating distortions to the single market in the field of indirect taxation, in particular VAT. The adoption of a common system based on the country-of-origin principle is still the main goal towards which all efforts in this field are directed. However, given the rate of progress, the Commission is also seeking to push ahead with the simplification and modernisation of the VAT system and with essential harmonisation work arising from specific technical problems.

(1) OJ L 249, 3.10.1969, p. 25.
(2) OJ L 225, 20.8.1990, p. 1.
(3) Case C-8/97 [1998] ECR I-823.
(4) [1993] ECR I-1915.
(5) Case C-347/96 [1998] ECR I-937.
(6) Cases C-31/97 and C-32/97 [1998] ECR I-6491.
(7) [1998] ECR I-6307.

The Commission must also pursue tax policy by ensuring strict compliance with VAT provisions already adopted, in particular the sixth VAT Directive of 17 May 1977 (77/388/EEC) on the uniform basis of assessment [1]. Numerous infringement proceedings have been commenced against Member States which have failed to meet their obligations under the Directive.

Austria: Contrary to Articles 2 and 28a(1)(a) of the Directive, Austria grants an exemption from VAT for supplies, imports and intra-Community acquisitions of gold ingots, gold coins considered as legal tender, unprocessed gold and related intermediate transactions. Exemptions for gold other than gold for industrial use may by granted only for a transitional period by Member States which already applied such a measure when the Directive was adopted or are authorised to do so by the relevant Act of Accession. Austria is not covered by this transitional provision.

Belgium: The commission received by a travel agency established in Belgium from a German tour operator whose tours it sells is taxed twice. The Belgian authorities consider that the Belgian travel agency is acting for and on behalf of the traveller and hence as a travel agent within the meaning of Article 26(1) of the sixth Directive, so that the VAT must be collected in Belgium. However, the activities of the Belgian travel agency consist of procuring travel services organised by the German tour operator, while acting for and on behalf of that tour operator. Since it is not acting on its own behalf vis-à-vis the traveller, the agency is therefore providing a service for the tour operator. Under Article 28b(E)(3) of the sixth VAT Directive, the provision of services must be taxed in the country of the customer, i.e. the tour operator established in Germany.

Spain: The Commission has instituted proceedings against Spain for lowering the rate of VAT on motorway tolls from 16 % to 7 %. The Commission believes that this measure contravenes the sixth Directive as it falls outside the scope of Annex H, which lists the transactions to which the reduced rate of VAT can be applied.

Finland: Finnish legislation grants exemption from VAT for the sale of works of art by artists or their agents and imports of works of art purchased direct from the artist. Such exemptions are not covered either by Finland's Act of Accession to the European Union, which allows Finland to exempt VAT for a transitional period for the provision of services by artists, authors and performers under the sixth Directive, or by Article 13(A)(n) of the sixth Directive, which concerns 'certain cultural services and goods closely linked thereto supplied by bodies governed by public law or by other cultural bodies recognised by the Member States concerned'.

France: Infringement proceedings have been brought against France because of the French tax authorities' refusal to exempt from VAT the fees charged for sending the results of medical analyses between laboratories on the grounds that there is no direct link with the medical treatment. This approach is contrary to Article 13 of the sixth VAT Directive and with Community case-law on transactions which are ancillary to exempt transactions. In a second case, infringement proceedings are in motion regarding the VAT levied on the compensatory sums payable by persons leasing cars to car lease companies in the event of theft of or loss involving the leased vehicle, as compensatory payments by way of damages fall outside the scope of VAT. The third case in which infringement proceedings are under way is similar to the case in Germany concerning the use of money-off coupons [2]. The fourth case concerns the distinction made in French law between two types of equipment for disabled persons, those entered in the Interministerial Health Services Tariff (Tarif Interministériel des Prestations Sanitaires, TIPS), being covered by the social security system and taxed at the reduced rate of 5,5 %, and others, not so covered and taxed at the standard rate of 20,6 %.The two types of equipment are identical but one is one the TIPS list and the other is not; they are taxed at different rates on the grounds of a purely administrative criterion that has nothing to do with the intrinsic qualities of the product. The principle that identical goods or services must be taxed at the same rate is not explicitly laid down by the Community VAT directives, but it is inherent in the very nature of the tax. And the last case concerned French rules allowing certain taxable persons to deduct from the basis of assessment to VAT the percentage of the price accounted for by the service charge (in establishments such as hotels, restaurants and clinics)in certain circumstances. This is defined in terms of 'administrative tolerance'. But the effect of Article 11(A)(1)(a) of the sixth VAT Directive is that this percentage must be regarded as an integral component of the price and therefore incorporated in the basis of assessment to VAT since the customer is obliged to pay the service charge. Moreover, the tolerance applies only to certain establishments and the result can be distortions of competition contrary to the principle of competitive neutrality that underlies the VAT system.

United Kingdom: UK legislation allows employers who are liable to VAT to deduct either part of the flat-rate allowance

[1] OJ L 145, 13.6.1977, p. 1.

[2] See above.

paid to their employees to compensate them for the costs they incur in using their private vehicle for business purposes or the VAT paid in respect of the fuel costs actually incurred by their employees. These rules infringe Articles 17 and 18 of the sixth Directive, as the deduction is made without the trader being the recipient in the transaction or holding invoices in his name.

The Commission has also referred four cases to the Court of Justice in connection with the proper application of the sixth VAT Directive. The first is against Portugal for applying a reduced rate to gas oil, fuel oil and corresponding blends and to agricultural equipment and machinery. The second is against the Netherlands for allowing persons liable to VAT to deduct a percentage of the payments made to their employees to compensate for the expenses incurred through the use of their own vehicle for company purposes. The third is against Greece for failing to collect VAT on the tolls levied on the use of certain motorways, despite the fact that this a taxable activity falling under Article 2 of the sixth Directive. The last infringement has a detrimental effect on the collection of the Community's own resources. And the fourth is against Germany, which does not allow readjustment of rights to deduct in respect of money-off and cash-back coupons used by final consumers to obtain goods at a reduced price. Such readjustment was acknowledged by the Court as being legitimate in terms of Article 11 of the sixth Directive in *Elida Gibbs Ltd* [1]. Even so, Germany has not yet taken measures enabling taxable persons to obtain reimbursement.

A number of earlier VAT proceedings have been closed.

F r a n c e: Following action by the Commission, France has adopted measures to comply with Articles 11 and 13 of the sixth VAT Directive, as interpreted by the European Court of Justice in *Muys en De Winter's Bouw* [2], to the effect that the interest charged by a taxable person, after the good concerned has been supplied, in respect of payments by instalments, must be exempt from VAT under Article 13 of the sixth Directive. By contrast, in an Article 169 judgment given on 18 June 1998 (Case C-43/96), the Court rejected the Commission's argument that France was failing in its obligations under the sixth Directive, in particular Article 17(2), by maintaining in force legislation which denied taxable persons the right to deduct VAT on means of transport constituting the very tools of their trade. The Commission was also able to terminate the proceedings commenced in 1989 concerning dual taxation of advertising services, on which the Court gave judgment on 17 November 1993 [3].

S p a i n: The Commission had taken Spain to task for failing to bring its legislation into line with Article 18(4) of the sixth Directive, which grants traders the right to repayment of non-deducted tax where the amount of authorised deductions exceeds the amount of tax due for a given tax period. The Spanish authorities have now amended their legislation as requested by the Commission.

The Spanish authorities have given effect to the judgment given by the Court of Justice in Case C-124/96 (7 May 1998), holding that 'VAT exemption for services closely linked to sport or physical education applies only to those private establishments whose membership fees do not exceed a specified amount' is contrary to Community law.

In two cases the Commission dropped proceedings for failure to notify national implementing measures after receiving the relevant notifications: the case against France concerning Directive 96/95/EC amending the sixth Directive with regard to the standard rate of VAT [4] and against Germany concerning Council Directive 95/7/EC on new simplification measures with regard to VAT [5]. However, the Commission also decided to refer to the Court a case against Greece for failure to notify national measures implementing Council Directive 96/42/EC amending the sixth Directive as regards the reduced rate applicable to agricultural outputs of the floricultural and horticultural sectors [6].

2.1.6.7. *Other indirect taxes*

The Commission is pursuing its efforts to harmonise excise duties and hopes that the Council will soon adopt its proposal on the taxation of cigarettes and other manufactured tobacco products. It is planning to take steps to implement the recommendations of the high-level group on preventing fraud in excise duties, in particular by setting up an early warning system on movements of and checks on excisable goods pending the establishment of the computerised surveillance of such goods. A feasibility study will be undertaken in 1999.

Monitoring the proper application of the directives already in force and Article 95 of the Treaty is a very important task.

(1) Case C-317/94 [1998] ECR I-823, judgment given on 24 October 1996.
(2) Case C-281/91 [1993] ECR I-5405, judgment given on 27 October 1993.
(3) Case C-68/92 [1993] ECR I-588.
(4) OJ L 8, 11.1.1997, p. 12.
(5) OJ L 102, 5.5.1995, p. 18.
(6) OJ L 170, 9.7.1996, p. 34.

In this context two proceedings have been opened against France. The first case concerns the rules for determining the engine rating of vehicles for tax purposes, which are unfavourable to cars imported from other Member States. The second relates to the tax introduced on drinks obtained by the prior mixing of non-alcoholic and certain alcoholic beverages, which infringes not only Council Directive 92/83/EEC on the structure of excise duties [1] but also Article 95 of the Treaty, since it affects in particular 'pre-mixed' drinks based on non-French alcoholic beverages.

Proceedings are also under way against Finland for allowing the general use, subject to certain conditions, of 'red fuel', i.e. fuel reserved for heating and hence subject to a reduced rate of excise duty, as a fuel for means of transport, in breach of Articles 8(2) and 8(3) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils [2] and Article 5(1) of Council Directive 92/82/EEC on the approximation of the rates of excise duties on mineral oils [3].

The Commission had occasion to bring proceedings against recent Italian legislation allowing exemption from excise duty only for spirit used in cosmetic products classed as *buon gusto* or *neutro*. The condition applies likewise also to denatured spirit from other Member States where the denaturing is in accordance with national requirements. But under Community legislation, and specifically the first and second indents of Article 27(1) of Directive 92/83/EEC [4], once spirit has been denatured in accordance with national requirements, the other Member States are obliged to accept it for the purposes of exemption from harmonised excise duties and may impose no further national conditions in relation to denaturing.

Finally, a case has been brought before the Court of Justice against Greece concerning legislation granting the Ministry of Finance the power to set the minimum retail sale price of manufactured tobacco. Under Article 9 of Council Directive 95/59/EC [5] on the structures of excise duties on manufactured tobacco, the manufacturers or importers of these products are free to determine their maximum retail price.

2.2. **COMPETITION**

The number of individual proceedings initiated against Member States has not significantly increased since 1997. Even more than in previous years, infringement of the competition rules by the Member States primarily affected the telecommunications industry, which accounted for three quarters of infringement cases handled by the Commission in this field. In contrast, there was a considerable reduction in the number of cases relating to transport and airport services.

The joint team set up in 1997 continued its work on monitoring transposal of Directives concerned with competition in the telecommunications industry. The team has produced two reports dealing with transposal. The first was adopted by the Commission on 8 February 1998 and the second on 25 November. This second report focuses on effective implementation in the Member States and is partly based on the findings of audits on this topic carried out by independent consultants. In parallel, the Commission has been pushing ahead with ongoing Article 169 proceedings against certain Member States, and has started some new ones.

2.2.1. **Public enterprises**

Proceedings were closed in nine telecommunications cases but opened in 12 new ones.

The Commission decided in 1998 to send reasoned opinions to Belgium, Luxembourg, Greece and Italy. Belgium has still not decided what cost-accounting principles Belgacom must use to calculate the cost component in its interconnection fees. Luxembourg has not yet notified the Commission of its national numbering plan, which means that the Commission is unable to check that there is an adequate numbering system to accommodate all telecommunications services. Portugal has not yet fully liberalised the setting up and provision of infrastructure for supplying services other than voice telephony. Greece has not yet notified the Commission of all the measures taken in that field. Nor has it adopted the regulatory framework authorising the supply of DECT and DCS 1800 mobile services; it still forces mobile operators to interconnect to foreign networks via OTE, the publicly-owned company. Lastly, Italy has not given Telecom Italia permission to adjust to its charges or notified the Commission of a detailed timetable for the gradual ironing out of imbalances in charges.

The Commission has also decided to refer to the Court of Justice the matter of Luxembourg's failure to implement in full Directive 94/46/EC liberalising the provision of communication services by satellite.

With regard to individual cases, the Commission initiated proceedings based on Articles 90 and 86 of the Treaty, concerning the Italian Government's decision to allow Telecom Italia, a company with special rights, to operate its DECT service, 'Fido'. The authorisation was given to Telecom in a way which encouraged it to give preference to its own DECT service over similar services its competitors wanted to supply from Telecom's fixed public network. Furthermore, Italy has not granted similar authorisations to all Telecom's potential competitors who had applied for them. However, the proceedings were suspended when Telecom decided to stop actively marketing its Fido service.

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[1] OJ L 316, 31.10.1992, p. 21.
[2] OJ L 316, 31.10.1992, p. 12.
[3] Ibid. p. 19.
[4] Ibid. p. 21.
[5] OJ L 291, 6.12.1995, p. 40.

Regarding Directive 93/84/EEC amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings, the Commission decided on 15 October 1997 to send Greece a reasoned opinion as a result of the disagreement over the scope of Member States' notification obligations under the Directive. On 2 July 1998, Greece notified the Commission of the provisions it had adopted to incorporate the Directive into Greek law. The provisions in question are contained in section 27 of Act No 2579. However, in view of the continuing disagreement between the Commission and Greece over the scope of the Member States' responsibilities under the Directive, the Commission has asked for additional information from the Greek authorities before deciding whether or not to close the infringement proceedings.

In the field of transport, on 28 June 1995 [1] the Commission had adopted a decision under Article 90(3) in conjunction with Article 86, to the effect that Belgium had infringed Article 90(1) read in conjunction with Article 86 by imposing a discriminatory system of landing-fee discounts to be implemented by the Belgian airways authority, the publicly-owned company that runs Brussels' airport. Belgium did not comply with the Decision so, on 19 March 1997 [2], the Commission asked the Court to rule that Belgium had failed to implement it. By royal decree of 20 January 1998, the Belgian Government made changes which put an end to the infringement and the Commission decided not to continue with the proceedings.

On 21 October 1997, the Commission adopted a Decision under Article 90(3) in conjunction with Article 86 on the system of reductions in piloting tariffs in the port of Genoa [3]. By decree of 8 June 1998 setting tariffs applicable from 1 July 1998, the Italian Government put an end to the infringement.

2.2.2. **Monopolies**

There were no infringements against Article 37 in 1998.

2.3. ENTERPRISE POLICY, DISTRIBUTIVE TRADES, TOURISM AND COOPERATIVES

Two complaints were made in 1998. One of these, against Austria, concerns unfair skiing fees discriminating against non-Austrian EU nationals not residing in the region. The other, against Italy, concerns reduced charges for the over-60s for admission to the Doges' Palace in Venice. These discriminate on grounds of nationality between Italians and nationals of other EU Member States.

In 1996 and 1997, four complaints were made against Greece for continuing to discriminate by banning non-Greeks from fishing in Greece. After it was sent an Article 169 letter, Greece adopted circular No 253866 on 18 September 1998 which does comply with Community law.

In 1998, the Commission continued to deal with a complaint concerning an Austrian law, making establishment in Austria a pre-condition for obtaining a licence to operate a rafting business. In July 1998, the Austrian authorities replied that the relevant law had been changed. It has been established that this no longer infringes Community law and the case has been closed.

A complaint was received in 1995 concerning discriminatory charges for Spanish fishing permits for non-Spaniards from EU countries who were not resident in Spain. An Article 169 letter was sent, following which Spain sent the relevant laws of the 15 autonomous communities. The laws have been examined and found to comply with Community law, so the case has been closed.

2.4. EDUCATION, TRAINING AND YOUTH

The Commission has obtained good results in dealing with complaints from the public on higher education.

It has done so through contacts with authorities in the Member States, greater use of instruments set up to ensure that suspected infringements brought to the Commission's attention through the NARIC network (National Academic Recognition Information Centres) are dealt with swiftly, and administrative cooperation. This strategy has proved effective in enforcing the rules laid down in the Treaty.

A number of complaints were received regarding suspected infringements of Articles 6, 126 and 127 of the EC Treaty, involving administrative practices which discriminated against students from other Member States. Discrimination on grounds of nationality regarding access to higher education may operate through quotas, additional examinations, *numerus clausus* and higher matriculation fees for students from other Member States. Such discrimination is one of the major problems encountered by students wanting to exercise the rights conferred on them by the Treaty.

In particular, France recently amended certain administrative practices laid down in an administrative circular that restricted access to students from other Member States on the grounds that the courses in question were available in their own countries and that the resources the relevant institutions could devote to them were limited. This state of affairs constituted discrimination with regard to access to education, which is prohibited by Article 6 of the EC Treaty as interpreted by the Court of Justice. Following intervention by the Commission, France amended the administrative circular which had been challenged by the complainant.

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(1) OJ L 216, 12.9.1995, p. 8; see Fifteenth annual report, p. 52.
(2) Case C-155/97, *Commission* v *Belgium*.
(3) OJ L 301, 5.11.1997, p. 27; see Fifteenth annual report, p. 53.

2.5. SOCIAL AFFAIRS

A major effort has been made to transpose the Directives in this field correctly into national law. Of the 69 directives, 54 have already entered into force, requiring the adoption of national instruments in the 15 Member States [1]. Thus far 35 of the Directives, 64,8 %, have already been transposed in all Member States. Denmark, Spain, Finland and Sweden have a 100 % transposal rate. The Commission is addressing qualitative issues: it is in the process of identifying and trying to remedy cases where the Directives have been badly implemented. It is also looking out for administrative practices that infringe the Directives, as it explained in its communication to Parliament and the Council on measures taken in response to the recommendations of the High-Level Panel on the Free Movement of people [2].

The social action programme for 1998 to 2000, adopted on 29 April 1998 [3], is concerned with the next stage in the development of the social policy, providing a framework for its renewal.

2.5.1. Free movement of workers

Proceedings are under way against a number of Member States regarding implementation of Regulations (EEC) No 1612/68 and (EEC) No 1408/71.

The Commission dropped Article 171 infringement proceedings against Greece concerning compliance with the Court's judgment of 1 June 1994 in Case C-123/94 [4], which centred on the conditions to be met by nationals of other Member States to be able to teach a foreign language in Greece. The adoption of Presidential Decree 394/97 satisfied the requirements of Community law as interpreted by the Court in its judgment. However, the Commission is continuing with infringement proceedings against Belgium for failing to implement the Court's judgment in Case C-47/93 [5], concerning the allocation of funding to Belgian universities for students who have come from other Member States solely to follow a university course.

On 24 September 1998, the Court gave judgment in Case C-35/97 [6] concerning discrimination by France against frontier workers. Frontier workers residing in Belgium had not been awarded supplementary retirement pension points after being placed in early retirement. This was found to be incompatible with Article 48(2) of the EC Treaty and Article 7 of Regulation (EEC) No 1612/68.

Infringement proceedings continue against Germany regarding the granting of welfare benefits to migrant workers when their families come to join them and the rule making welfare benefits conditional on the presentation of a residence permit. In response to measures taken by the Commission, the United Kingdom amended its regulations concerning reduced university matriculation fees and study grants for spouses of EU citizens working in the United Kingdom.

The Commission sent Denmark a reasoned opinion concerning Danish rules and practice restricting the use by frontier workers in Denmark of vehicles which were registered in another Member State and belonged to their employer based in that country. Reasoned opinions were also sent to France, Luxembourg, Spain and Belgium, where frontier workers were not eligible for reduced fares on public transport for large families solely on the grounds that they were not resident in the country in question. France has already reacted positively to the reasoned opinion.

Lastly, the Commission sent the Netherlands a reasoned opinion because unemployed Belgian frontier workers were not eligible for benefits paid from a fund to pay for supplementary pension insurance while workers are not in paid employment. The Commission is also pursuing the matter of charges for the issuing of permanent residence papers with the Dutch authorities.

As regards access to civil service jobs, on 12 March 1998, the Court of Justice gave judgment in Case C-187/96 *Commission* v *Greece* [7] concerning the taking into account of a person's seniority in another Member State's civil service (France's in this case) when that person enters the Greek civil service. The Court ruled that Article 48 meant Greece had to take account of time served in the civil service of another Member State as if it had been served in Greece's. In a recent preliminary ruling [8], the Court laid down the same principle in relation to public-sector collective agreements. The effect of the judgment is that Member States must take account, when recruiting someone to their civil service, of time served in another Member State's civil service. Seniority in the civil service can have significant career implications in some Member States. It affects, for instance, grade, salary and promotion prospects.

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(1) Council Directive 98/59/EC on collective redundancies (OJ L 225, 12.8.1998, p. 16) consolidates and repeals Directives 75/129/EEC and 92/56/EEC. Council Directives 97/74/EC (European Works Council), 97/75/EC (parental leave), 98/23/EC (part-time work) and 98/52/EC (burden of proof discrimination based on sex) have to be transposed by the United Kingdom only.

(2) COM(1998) 403 final.

(3) COM(1998) 259 final.

(4) [1995] ECR I-1457.

(5) [1994] ECR I-1593.

(6) [1998] ECR I-5325.

(7) [1998] ECR I-1095.

(8) Case C-15/96 Schöning [1998] ECR I-0047 (judgment given on 15 January 1998).

The Commission also wants to ensure that Member States eliminate all unwarranted restrictions on public-sector jobs and so has decided to continue with Article 171 proceedings against Luxembourg for failing to comply with the Court's judgment of 2 July 1996 in Case C-473/93 [1] concerning the nationality criterion for access to the Luxembourg civil service. It also sent a reasoned opinion to Spain on the same grounds.

With regard to the coordination of national social security systems, actions were brought before the Court concerning the French authorities' decision to deduct a 'General welfare contribution' (*Contribution sociale généralisée* or CSG) [2] and a 'levy to repay social-security debt' (*Cotisation pour le remboursement de la dette sociale* or CRDS) [3] from frontier workers' income and income-substitution benefits.

The Commission sent France a reasoned opinion regarding the interpretation of the administrative conditions laid down by Article R313.5 of the French Social Security Code in cases where the person applying for invalidity benefit was not working on French territory when the risk of invalidity arose.

The Commission continued with the case against Belgium concerning the deduction of a personal contribution of 13,07 % from Belgian pensions paid to people resident in another Member State and in receipt of another pension from that Member State. An action was brought before the Court of Justice [4]. Since the Belgian institution is not responsible for benefits in kind received in the Member State in which the recipient resides, there are no grounds for deducting the contribution.

A reasoned opinion was sent to Germany, which, under a special act relating to artists' social security contributions *(Kunstlersocialversicherungsgesetz (KSVG))*, takes a contribution from remuneration paid by German publishers to writers who are not covered by German legislation under Regulation (EEC) No 1408/71, concerned with determining which country's law is applicable.

2.5.2. **Equal treatment for men and women**

The Commission terminated Article 171 proceedings against Belgium for not taking measures to comply with the Court's judgment of 17 February 1993 in Case C-173/91 [5], concerning legislation making women over 60 years ineligible for additional redundancy compensation, after Belgium notified the Commission of measures amending the legislation which infringed Article 119 of the Treaty. However, it continued with two sets of Article 171 proceedings against France (reasoned opinion) and Italy (Article 171 letter), both of which had failed to take measures to comply with the judgments the Court gave against them 1997 [6] with regard to women and night work.

Regarding Council Directive 92/85/EEC on protection of pregnant workers, the Commission terminated proceedings against Luxembourg after it duly notified the Commission of its national transposal measures.

The Commission has decided to bring actions before the Court against Greece [7], France [8], and Luxembourg [9] for failing to notify the Commission 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. Under Article 3 of the Directive, the Member States should have adopted implementing measures by 1 July 1997.

2.5.3. **Working conditions**

Proceedings are still in progress against a number of Member States. For example, the Commission sent reasoned opinions to France, Greece, Luxembourg and Portugal regarding Council Directive 93/104/EC concerning certain aspects of the organisation of working time, and brought an action against Italy [10] on the grounds that they failed to report some, or indeed all, of the national measures required to give the Directive effect in national law.

Progress is being made on transposal of Council Directive 94/33/EC concerning the protection of young people at work. However, proceedings against France, Italy and Luxembourg continue. The Commission has referred Italy's case to the Court of Justice [11].

Furthermore, Council Directive 94/45/EC on the establishment of a European Works Council has still not been incorporated into national law in Luxembourg or Portugal. The Commission has now taken these two countries to the Court of Justice [12].

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(1) [1996] ECR I-3207.
(2) Case C-169/98.
(3) Case C-34/98.
(4) Case C-347/98.
(5) [1993] ECR I-693.
(6) Cases C-197/96 *Commission* v *France* ([1997] ECR I-1489) and C-207/96 *Commission* v *Italy* ([1997] ECR I-6869).
(7) Case C-457/98.
(8) Case C-354/98.
(9) Case C-438/98.
(10) Case C-386/98.
(11) Case C-385/98.
(12) Cases C-430/98 and C-12/99, respectively.

2.5.4. **Health and safety at work**

With regard to Council framework Directive 89/391/EEC, its individual Directives [1] and the 'independent' Directive (92/29/EEC, medical treatment on board vessels), all Member States have notified the Commission of their national implementing measures except Luxembourg, Ireland and Italy [2]. In this connection, the Court found in its judgments of 27 and 29 October 1998 that Ireland had failed to incorporate Directive 93/103/EC [3] into national law and that Luxembourg had not transposed Directive 92/29/EEC [4].

Despite improvements, the transposal situation is still not entirely satisfactory for basic directives and those amending individual directives to adapt them to technological progress [5]. Consequently infringement proceedings are continuing against Member States which have not yet reported all the requisite national implementing measures. Some cases have already been referred to the Court.

Checks are still being carried out to ensure that national implementing measures for the framework directive and its individual directives comply fully. The Commission has sent Germany, Italy and the Netherlands reasoned opinions for incorrect transposal of Directive 89/391/EEC.

2.5.5. **Public health**

In accordance with Article 129 of the EC Treaty, which states that 'Health protection requirements shall form a constituent part of the Community's other policies', the Commission regularly provides information on how it is applying this principle in practice. The Fourth Report, covering activities in 1997, will be published in 1999.

2.6. **REGIONAL AND COHESION POLICY**

Article 7 of Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and Article 8(1) of Regulation (EC) No 1164/94 establishing the Cohesion Fund lay down the principle that measures which are co-financed by the Community must comply with Community law. The consequence of this is that, if a measure is found not to comply, funding can be suspended initially and subsequently reduced or withdrawn (see Article 24 of Regulation (EEC) No 4253/88 and Article H of Annex II to Regulation (EC) No 1164/94).

Furthermore, in accordance with the guidelines set out in C(97) 3151 final-II on net financial corrections within the scope of Article 24 of Regulation (EEC) No 4253/88, the Commission may call for definitive withdrawal of funding, or it can propose that the project be replaced. However, it is under no legal obligation to allow one project to be replaced with another in cases where there is an incompatibility with Community law.

With the new programming period (2000 to 2006) in mind, the Commission has proposed the adoption of a regulation containing general rules for the Structural Funds, as part of its policy on enforcing Community law.

In accordance with the principle of subsidiarity, the national authorities bear primary responsibility for checking that Community law is correctly applied in relation to measures co-financed through the Structural Funds. However, this does not affect the Commission's rights under Article 169 of the Treaty and Article 24 of Regulation (EEC) No 4253/88, or the corresponding provision in Regulation (EC) No 1164/94.

Although, in its judgment of 23 September 1994 in Case T-461/93 *An Taisce* v *The National Trust for Ireland and WWF*, the Court confirmed that infringement proceedings and the procedure provided for by Article 24 of Regulation (EEC) No 4253/88 were not dependent on each other, there must be a degree of consistency between the two.

Thus, in principle, if an Article 171 letter is sent as part of infringement proceedings, payments are suspended. Furthermore, after a reasoned opinion is sent, the procedure for reducing or withdrawing funding is started. If, on the other hand, Article 169 infringement proceedings are stopped, the Commission is still entitled to withdraw Community funding.

Before a decision is taken concerning reduction or withdrawal of Community funding, the Commission assesses the seriousness of the infringement on a case-by-case basis. This is to ensure that serious infringements do not escape without funding penalties and that the development of poor regions or regions affected by restructuring is not hit disproportionately as a result of minor infringements. Following a Commission decision to reduce or withdraw funding, the Member State in question is entitled to appeal to the Court of Justice under Article 173 of the Treaty.

Most infringements involving operations cofinanced by the ERDF and the Cohesion Fund are against environment Directives or Community public-procurement rules. The most common offence is failure to comply with Directive 85/337/EEC (environmental impact assessment). There has, however, also been an increase in the number of complaints against alleged infringements of Directive 92/43/EEC on habitats.

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(1) 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.
(2) Case C-362/98, concerning Council Directive 93/103/EC, (work on board fishing vessels).
(3) Case C-364/97, [1998] ECR I-6593.
(4) Case C-410/97, [1998] ECR I-6813.
(5) Directives 91/382/EEC, 91/322/EEC, 93/88/EEC, 95/30/EC, 97/59/EC, 96/94/EC and 97/65/EC.

Only a relatively small proportion of infringements (suspected or established) against environment and public-procurement rules are (or could be) linked to Community cofinancing: 6,2 % of environment cases and 6,9 % of public-procurement cases. Moreover, some proceedings under Article 24 of Regulation (EEC) No 4253/88 were started for other irregularities that do not constitute infringements of Community rules on the environment or public procurement.

These figures are given as a guide only; the Commission faces objective difficulties in assessing the scope of infringements linked to Community co-financing. Certain cases do not come to the Commission's attention, owing to the way that Community ERDF funding is granted (to operational programmes rather than individual projects) and to the fact that national management systems are not accessible to the Commission. In other cases, it is difficult to establish the link between the infringement and the existence of Community co-financing. Identifying infringements is easier with the Cohesion Fund, which gives support to individual projects rather than programmes.

Nevertheless, in spite of the difficulties referred to above, funding has been suspended. Furthermore, in cases of established public-procurement infringements deemed serious enough (failure to publish notices in the Official Journal, request that tenderers register with a national professional association), funding has been withdrawn. In other cases, felt to be less serious, the Commission has agreed to let the Member State in question replace the offending projects. In one case involving an infringement against the environmental regulations, the option of withdrawing funding is being considered.

2.7. **BUDGET MATTERS**

The Commission has started infringement procedures in two cases concerning own resources:

— one involving Belgium, which authorised debtors to pay in instalments, but did not make available own resources paid to it until the full amount had been recovered,

— another involving Italy, which, without providing sufficient grounds, deducted amounts from its own resources payments relating to customs duties on imports bound for San Marino.

2.8. **ENERGY**

2.8.1. **Introduction**

In 1998, the negotiations on the internal market for natural gas resulted in the adoption of Directive 98/30/EC. The rate of transposal of directives is up on the rate for 1997.

2.8.2. **Internal market for electricity and natural gas**

Directive 96/92/EC of the European Parliament and the Council of 19 December 1996 concerning common rules for the internal market in electricity, which must be transposed by 19 February 1999 at the latest, has already been transposed by Austria and Spain.

On 22 June 1998, Directive 98/30/EC of the European Parliament and the Council concerning common rules for the internal market in natural gas was adopted [1]. It must be transposed by 10 August 2000 at the latest.

2.8.3. **Energy efficiency**

Belgium and Italy have still not transposed Directive 96/57/EC of the European Parliament and the Council on energy requirements for household electric refrigerators, freezers and combinations thereof.

Infringement proceedings continue regarding the Directives implementing framework Directive 92/75/EEC on the indication of energy consumption.

Commission Directive 94/2/EC regarding household electric refrigerators, freezers and combinations thereof has been transposed by all Member States, as have Commission Directives 95/12/EC on household washing machines and 95/13/EC on household electric tumble-dryers. Belgium has still not implemented Commission Directive 96/60/EC on energy-labelling of household combined washer-dryers and has also yet to transpose Commission Directive 96/89/EC amending Directive 95/12/EC. Commission Directive 97/17/EC on energy-labelling of household dishwashers, for which the deadline for transposal was 15 June 1998, has been transposed only by France, Greece, Ireland, Luxembourg, the Netherlands and Spain. On 27 January 1998 the Commission adopted Directive 98/11/EC on energy-labelling of household lamps [2].

2.8.4. **Oil and gas**

All Member States have transposed Directive 94/22/EC of the European Parliament and the Council on conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons.

2.9. **TRANSPORT**

The number of transport directives remains unchanged compared with 1997, as 10 directives were repealed while 10 new ones were due for transposal in 1998.

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[1] OJ L 204, 21.7.1998.
[2] OJ L 71, 10.3.1998.

Most of the repealed directives were removed as part of the Commission's rationalisation and clarification campaign, which aims to consolidate legislation in the interests of openness. For example, Directive 96/96/EC consolidated the legislation on the approximation of the laws in the Member States relating to roadworthiness tests for motor vehicles and their trailers, repealing the original Directive and its six subsequent amendments.

Most of the new directives with deadlines for transposal in 1998 were adopted to incorporate the new rules on safety at sea in international agreements in Community legislation and to maintain efforts to control ships carrying dangerous substances or pollutants.

Regrettably, as in previous years, most of the Member States were very late in adopting national measures. This has resulted in a very poor rate of notification of national measures implementing directives with a deadline for transposal in 1998.

However, once infringement proceedings were started there was a rapid increase in notification of national transposal measures. This is evidenced by the fact that over two thirds of the 100 or so proceedings started in 1997 or the first few months of 1998 and were then terminated involved failure to notify national implementing measures.

2.9.1. **Road transport**

Following the entry into force in 1997 of Community legislation aimed at approximating the Member States national standards on the transportation of hazardous goods, 13 Member States have transposed Directive 94/55/EC, the basic legislation governing the transport of hazardous goods by road and applying the ADR (European agreement on the international carriage of dangerous goods by road) to national and international transport, while 11 Member States have transposed amending Directive 96/86/EC. Only one Member State still has to notify national measures implementing Directive 95/50/EC on uniform procedures for checks on the transportation of dangerous goods by road, in order to enforce safety rules more effectively.

Significant progress has been made on legislation concerning the maximum weights and dimensions of vehicles, with only three Member States still to notify the Commission of national measures implementing Directive 96/53/EC which brings together in a single instrument provisions concerning weights, dimensions, certain other technical characteristics of certain road vehicles and proof of compliance.

However, very little progress was made with regard to driving licences in 1998. There is still concern regarding the transposal of Directive 91/439/EEC. Examination of national transposal measures reveals that in nine Member States there are numerous discrepancies regarding such areas as the minimum age for a vehicle category, renewal of licences for EU citizens no longer residing in the Member State of issue, the criteria used for vehicles used for tests, the duration of the practical test and minimum requirements in terms of physical and mental aptitude. The procedures devised for the 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. Finally, infringement proceedings are still continuing against three Member States for failure to notify national measures implementing the latest amending Directive 97/26/EC.

With regard to tax matters, the Commission dropped proceedings against France for failure to notify measures giving effect to Directive 93/89/EEC on taxes, tolls and charges. However, proceedings continue against Belgium for incorrect transposal. The Commission has brought an action against Austria before the Court, on the grounds that the decision to increase the toll on the Brenner motorway amounts to incorrect application of the Directive.

As regards technical controls, in 1998, Directive 77/143/EEC and its six amending Directives were repealed by the entry into force of Directive 96/96/EC, which consolidated the legislation on the approximation of the laws relating to roadworthiness tests for motor vehicles and their trailers. However, the repeal of the earlier directives did not entitle the Member States to disregard their obligations regarding deadlines for transposal and implementation, which is why proceedings against Ireland (Directive 91/328/EEC) and Portugal (Directive 94/23/EC) continue. Proceedings against a further five Member States for failure to notify national measures implementing the new Directive will similarly continue.

The general trend on the road transport front is positive, despite the odd problem with transposal and difficulties concerning the implementation of the new provisions on driving licences. The Commission receives few complaints on the application of Community law in this field, which suggests that the older directives have been properly transposed and implemented.

2.9.2. **Combined transport**

Although all Member States have now transposed Directive 92/106/EEC establishing common rules for certain types of combined goods transport between Member States, the Commission has started proceedings for incorrect application of incompatibility of national implementing measures.

2.9.3. **Inland waterways**

The deadline for transposal of Directive 96/75/EC on chartering and pricing systems in national and international inland waterway transport in the Community passed in 1997. The three Member States still to transpose the Directive, Belgium, France and the Netherlands, have now done so.

The Commission has started proceedings in two cases for failure to notify national measures implementing Directive 96/50/EC on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community.

The Commission also decided to send Article 169 letters in conjunction with proceedings started against two Member States which concluded bilateral inland waterways agreements with third countries, on the grounds that this is exclusively a matter for the Community.

2.9.4. **Rail transport**

Directive 91/440/EEC on railway development, which aimed to facilitate the adaptation of the Community railways to the needs of the single market and increase their efficiency by separating the management of railway operation and infrastructure from the provision of railway transport services, has been reinforced by Directive 95/18/EC on the licensing of railway undertakings and Directive 95/19/EC on the allocation of railway infrastructure capacity and the charging of infrastructure fees. The two Directives, which should have been transposed no later than 1997, have put rail transport on the right track for a competition-led revival.

The Commission regrets that, although it was possible to drop half the infringement proceedings for failure to notify implementing measures in connection with Directives 95/18/EC and 95/19/EC in 1998, proceedings continue in other cases, some of which have already been referred to the Court of Justice.

Furthermore, there are still problems with transposal of Article 10 of Directive 91/440/EEC, concerning access to infrastructure, particularly in France, Luxembourg and the United Kingdom. The problems encountered by France and the United Kingdom with regard to the transposal of Article 10 concern the Channel Tunnel linking the two countries, and there are plans to adopt bilateral rules.

Although definite progress was made in 1998, the situation still gives cause for concern, as transposal of Directives 95/18/EC and 95/19/EC, which aim to open up access to rail networks to a certain degree of competition, is of prime importance for the development of the Community railways strategy.

2.9.5. **Sea transport**

The Commission is persisting with measures to improve safety and prevent pollution of the seas, both by enforcing international standards for flag states more effectively and by setting up a harmonised system for port state control as a surveillance instrument. The Commission therefore regrets the fact that the Member States are behind with transposal of the relevant directives.

It took three years for the Member States to implement Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods, and there are still problems with Belgium, Germany and the United Kingdom. Furthermore, the deadlines for transposing Directives 96/39/EC and 97/34/EC, which were adopted to bring Directive 93/75/EC into line with the most recent international standards, passed in 1997 without Belgium, Portugal and the United Kingdom notifying the Commission of implementing measures, and although the deadline for the implementation of the latest amending Directive 98/55/EC was 31 December 1998, no Member States have notified national implementing measures.

Clear progress has been made on transposing Directive 94/57/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 maritime pollution. However, while all infringement proceedings for non-notification have been dropped, the Commission has been obliged to start infringement proceedings in two cases for incorrect transposal and to commence proceedings against nine Member States (Austria, Finland, France, Germany, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom) for failure to notify it of national measures transposing amending Directive 97/58/EC, which should have been transposed by 30 September 1998.

As to human resources, the Commission has decided to bring an action against Belgium for the incomplete transposal of Directive 94/58/EC on the minimum level of training of seafarers, with particular reference to communication on board ship.

The Commission has dropped infringement proceedings against Belgium and Portugal for incorrect implementation of Regulation (EC) No 2978/94, which aims to promote the use of segregated-ballast oil tankers in order to minimise the risk to the marine environment from pollution from traditional tankers. Proceedings continue against one Member State for incorrect implementation of the Regulation.

There are still difficulties with Directive 95/21/EC (port state control) which harmonises criteria for inspecting ships, detention rules and grounds for refusing them access to Community ports. All Member States have notified the Commission of their transposal measures with the exception of Italy, and this case has been referred to the Court of Justice. However, proceedings have been started against Belgium, Ireland and Portugal for incorrect transposal. Late notification also seems to be the order of the day for amending Directives 98/25/EC and 98/42/EC. Most Member States have still not notified their implementing measures, although the deadlines for transposal were 1 January and 30 September 1998 respectively. However, all proceedings for failure to notify measures implementing Directive 96/40/EC establishing a common model for an identity card for inspectors carrying out port state control under Directive 95/21/EC have been dropped, although proceedings have been started against one Member State for incorrect application.

Directive 96/98/EC on marine equipment provides a perfect illustration of the late transposal of sea transport directives. Proceedings have been started against 12 Member States for failure to notify national implementing measures (only Germany and France communicated their national measures ahead of the deadline for transposal, while Greece notified its measures after the final date).

Problems also remain regarding compliance with Community legislation on the registration of vessels and the granting of flag rights. The national rules governing these matters in Belgium, France and the Netherlands are still discriminatory, and infringement proceedings continue. In 1997, the Court of Justice ruled against Ireland [1] and Greece [2] for retaining nationality rules which contravened Community law regarding the registration of merchant vessels and the Commission has started proceedings against them under Article 171 of the Treaty for failure to comply with the Court's rulings.

The Commission has referred France to the Court of Justice for infringement of Community rules on maritime cabotage in that France retains laws allowing only domestic vessels to transport goods between domestic ports, in contravention of Regulation (EEC) No 3577/92, which provides for the opening up of maritime cabotage to Community shipowners operating in and flying the flag of a Member State from 1 July 1993.

Real progress has been made regarding cargo-sharing agreements between Member States and third countries, but some Member States still flout the principle of freedom to provide services guaranteed by Regulation (EEC) No 4055/86. In 1998 the Commission dropped proceedings against Italy over its agreements with Morocco, Senegal and Côte d'Ivoire and against Spain over its agreements with Tunisia and Gabon. Portugal has also amended its agreements with Senegal, São Tomé and Principe and Cape Verde. Following the ruling against Belgium and Luxembourg by the Court of Justice on 11 June 1998 [3], the cargo-sharing clause in their agreement with Malaysia was also removed. Three Member States, Belgium, Luxembourg and Portugal, continue to contravene the Regulation and, following referral to the Court of Justice by the Commission, actions are continuing against Belgium for its agreement with the Congo (former Zaire), Belgium and Luxembourg for their agreements with Côte d'Ivoire, Senegal, Mali and Togo, and against Portugal for its agreements with Angola and the former Yugoslav States.

The Commission strives constantly for more effective implementation of Community law on sea transport, particularly in matters of safety at sea and the unhindered supply of services. However, with regard to safety at sea a large number of Directives aim at more rapid implementation or are intended to enforce international rules within the Community and some States encounter problems with the rapid transposal of measures which are wholly or in part provided for under international agreements to which they have signed up.

2.9.6. **Air transport**

Liberalisation of civil aviation within the Community was completed in 1997. Liberalisation, however, goes hand-in-hand with several technical or air-traffic related directives and, at the end of 1998, their transposal was not entirely satisfactory. The Commission is more concerned about delays or failure to transpose than about incorrect application by the Member States, and a distinction between the two aspects should be drawn.

Looking first at failure to transpose legislation, Directive 96/67/EC on ground-handling had still not been transposed into national law in six Member States by the end of December 1998, although the final deadline for transposal was November 1997 and the ground-handling market has been open to competition since 1 January 1999.

(1) Case C-151/96 *Commission* v *Ireland*, Judgment of the Court (fifth chamber) of 12 June 1997 [1997] ECR I-3327.

(2) Case C-62/96 *Commission* v *Greece*, Judgment of the Court (fifth chamber) of 27 November 1997 [1997] ECR I-6725.

(3) Joined cases C-176/97 and C-177/97 *Commission* v *Belgium and Luxembourg*, Judgment of the Court (fifth chamber) of 11 June 1998 [1998] ECR I-3557.

Similarly, over half the Member States have not transposed the basic principles governing the investigation of civil aviation accidents and incidents established by Directive 94/56/EC, although the deadline for transposal expired on 26 November 1996. The Commission regrets that eight Member States have still to notify it of their implementing measures.

However, the Commission has dropped all proceedings in respect of Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems. Proper application of this Directive harmonising air-traffic-management systems in the Member States is even more important now that the deadline for transposal of the amendments contained in Directive 97/15/EC has passed (1 December 1997). The amendments supplement the Directive and bring it into line with the new Eurocontrol standards. The Commission has started proceedings against four Member States (Austria, Germany, Greece and Luxembourg) for failure to notify it of their national implementing measures.

As regards the implementing measures themselves, in 1998 there was a marked reduction in the number of complaints and proceedings concerning compliance with Directive 91/670/EEC on civil-aviation personnel licences. However, not all problems have been resolved and proceedings continue for incorrect application of the Directive on the mutual recognition of civil-aviation pilots in Belgium, France and Germany.

It is still too early to assess Member States' implementation of Directive 96/67/EC on access to the ground-handling markets, as to date only self-handling has been liberalised.

The Commission has also been called on to deal with several cases of infringements in the air transport sector. Certain Member States impose varying rates of airport tax depending on passenger destinations (internal flights/intra-Community and/or international routes). This sort of distinction is incompatible with the principle of the freedom to provide services provided for in the field of air transport by Regulation (EEC) No 2408/92. The Commission has notified Greece, Ireland, Italy, the Netherlands, Portugal, Spain and the United Kingdom of infringement proceedings against them for discriminatory implementing measures. Proceedings against France were terminated following the adoption by France of amending legislation setting the same rate of airport tax whatever the flight destination.

Infringement proceedings concerning the open skies agreements concluded by several Member States with the United States continued in 1998. These agreements impinge on the exclusive powers of the Community to conclude such agreements and also appear incompatible with Article 52 of the Treaty, in that they discriminate on the basis of the nationality of the air service provider. For these reasons the Commission decided to refer to the Court of Justice the agreements concluded by eight Member States (Austria, Belgium, Denmark, Finland, Germany, Luxembourg, Sweden and the United Kingdom), and Article 169 letters were sent to a further two Member States.

The Commission adopted two decisions on the basis of Article 8(3) of Regulation (EEC) No 2408/92:

— on 22 July 1998 it decided that Sweden could not, beyond operational considerations such as curfews (from 10 p.m to 7 a.m), restrict access to the new airport of Karlstad in services from other Community airports for noisy aircraft (i.e. those not meeting the requirements of Chapter 3, Volume I, of Annex 16 to the Convention on International Civil Aviation),

— on 9 September 1998 it declared its opposition to Italian rules on the distribution of traffic at Milan's airports, whereby all links from Linate were transferred to Malpensa, with the sole exception of the Linate-Rome service. Given the inadequacy of access infrastructure at Malpensa, the Commission considered that this constituted discrimination in favour of Alitalia, the national airline, and that the new rules were disproportionate to the Italian authorities' objective of creating a viable hub facility at Malpensa. The Italian authorities subsequently changed the rules governing the distribution of traffic at Milan's airports.

2.10. **TELECOMMUNICATIONS**

The directives making up Community telecommunications legislation set the date of 1 January 1998 for the creation of a liberalised and harmonised European telecommunications market. All but one of the directives [1] were in place at the beginning of 1998 and due to be transposed in the course of the year, which explains the increase in Commission activity in relation to implementation by the Member States.

[1] The missing directive was 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: (OJ L 268, 3.10.1998, p. 37) (transposal deadline 31 December 1998).

As announced in last year's report, the Commission adopted its third report on the report on the implementation of the telecommunications regulatory package [1]. The report offers an overview of progress in implementing telecommunications directives and a series of indicators of the situation on the public telephony markets and public infrastructure networks in the Member States. Its overall assessment of the implementation situation in January 1998 is that transposal measures have largely been adopted by the Member States so that the accent will henceforth be on ensuring that national measures ensuring free access to the market are applied effectively.

This was the spirit underlying the Commission's fourth report, adopted on 25 November 1998 [2], which concludes that:

— the further progress made in relation to the more recent directives means that the bulk of the measures in the package have been transposed into national legislation,

— national measures giving effect to the principal regulatory themes underpinning the package (national regulatory authorities, licensing, interconnection, universal service, tariffs, numbering, frequency, rights of way) are being applied in practice, although there are, as might be expected with an exercise of this complexity, a considerable number of details remaining to be resolved,

— dynamic telecom markets are evolving rapidly in the Member States.

As regards the state of transposal of the various directives and decisions, the situation is as follows.

Framework Directive 90/387/EEC prescribing the principles to be applied to the implementation of open network provision (ONP) has been transposed by all the Member States.

All the Member States have notified national measures implementing Directive 92/44/EEC (leased lines). Most of the proceedings still running for failure to notify were terminated in 1998. Scrutiny of measures notified revealed that they were incomplete in Belgium, Greece, Luxembourg and Portugal.

Directive 97/51/EC amended the two foregoing Directives to adapt them to a competitive environment in telecommunications. In December the Commission decided to send reasoned opinions to the Member States, France, Greece, Italy, Portugal and Sweden, that had not yet notified it of transposal measures.

All the Member States except Greece have notified national measures transposing Directive 95/62/EC on the application of open network provision (ONP) to voice telephony, though these are not complete in the case of Belgium. In December the Commission decided to send reasoned opinions to the two Member States. It also decided to send Portugal a reasoned opinion regarding the implementation of the Directive's provisions on cost accounting.

Regarding the new voice telephony Directive (98/10/EC), which repealed Directive 95/62/EC with effect from 30 June 1998, a few Member States (Greece, Ireland, Italy and Sweden) have yet to notify their transposal legislation; in December the Commission accordingly decided to send them a reasoned opinion. Notifications from the other Member States which received an Article 169 letter (France, the Netherlands and Portugal) are being scrutinised.

In December the Commission decided to send reasoned opinions to Austria, Belgium, France, Italy and Luxembourg as their measures transposing Directive 97/13/EC (licences) did not comply with the Directive. Greece and the Netherlands received Article 169 letters for failure to notify the Commission of transposal measures. The Commission is currently scrutinising certain aspects of Spain's transposal measures for possible non-conformity.

Directive 97/33/EC (interconnection) has been transposed by all Member States except Greece, Portugal and Sweden; in December the Commission decided to address reasoned opinions to these three Member States. An Article 169 letter was addressed to the Netherlands for failure to notify transposal measures. And in December the Commission decided to address a reasoned opinion to Belgium, France and Luxembourg as their measures were incorrect.

Only five Member States (Austria, Germany, Italy, Portugal and Spain) have notified measures transposing Directive 97/66/EC (data-protection), which fell due on 24 October 1998. In December the Commission decided to send reasoned opinions to the other Member States.

Directive 91/263/EEC on telecommunications terminal equipment and Directive 93/97/EEC on the equipment of ground satellite tracking stations have been transposed by all the Member States. The two Directives were, incidentally, consolidated by Directive 98/13/EC of 12 February 1998.

All the Member States have notified national measures implementing the three Directives on frequencies, Directives 87/372/EEC (GSM), 90/544/EEC (ERMES) and 91/287/EEC (DECT).

[1] COM(1998) 80 final.
[2] COM(1998) 594 final.

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, though the number became operational in Greece only at the end of the year.

All the Member States have already introduced '00' as the standard code for access to the international network in the Community, in accordance with Decision 92/264/EEC. But the code is apparently not yet operational in Sweden, as a complaint has been made to the Regional Administrative Court.

Finally, eight Member States (Denmark, Finland, Germany, Ireland, Luxembourg, Portugal, Spain, and the United Kingdom) have notified national measures transposing Directive 95/47/EC on the use of standards for the transmission of television signals. Infringement proceedings against the other Member States that were opened in 1997 continued in 1998 with reasoned opinions.

2.11. INFORMATION, COMMUNICATION, CULTURE AND AUDIOVISUAL MEDIA

As far as the audiovisual field is concerned, it should be emphasised that all the Member States have notified national measures to implement Directive 89/552/EEC (television without frontiers).

Several infringement proceedings are in motion against Belgium, Finland, France, Greece, Italy and Luxembourg.

On 30 July 1997, the new television without frontiers Directive came into force (Parliament and Council Directive 97/36/EC of 30 June 1997 (OJ L 202, 30.7.1997, p. 60).

This Directive amends the 1989 Directive regulating television broadcasting activities, updating it and clarifying its provisions. The main amendments clarify certain definitions such as the concepts of 'television advertising', 'teleshopping', 'European works', and the broadcasting of 'events of major importance for society', introduce rules on teleshopping and channels exclusively devoted to self-promotion, strengthen the protection of minors, in particular by making it compulsory to include a warning identifying unencoded programmes which could be harmful to minors and asking the Commission to carry out a survey of the efficiency of v-chip type filtering systems; and they set up a forum for consultation between the Member States and the Commission on the application and development of legislation in this field, on which subject the Commission will write a periodic report surveying new technological developments.

The Member States were to bring the laws, regulations and administrative provisions necessary to comply with the Directive into force no later than 30 December 1998.

By 31 December most of the Member States still had to notify the Commission of their national transposal measures.

2.12. ENVIRONMENT

The Commission monitors the application of Community environmental law on the basis of Article 155 of the Treaty establishing the European Community, employing the procedure laid down in Article 169. In practical terms this entails checking that transposal measures are notified and that they implement directives properly, and monitoring the application of regulations. The Commission carries out these tasks either on its own initiative or in response to complaints, questions from Members of the European Parliament and petitions received by the European Parliament exposing possible infringements of Community law.

A few general figures will give the reader some idea of the Commission's activities and the vigilance it exercises in monitoring the implementation of Community environmental law. In 1998 the Commission referred 15 cases against Member States to the Court of Justice (one of them on the basis of Article 171) and sent them 118 original or supplementary reasoned opinions (four of them on the basis of Article 171).

In 1998 the Commission continued to refer environmental cases to the Court of Justice in accordance with Article 171 of the Treaty. Under the second subparagraph of Article 171(2), as amended by the Treaty on European Union, where a Member State fails to comply with a judgment delivered by the Court on the basis of Article 169, in which it finds that the state in question has failed to implement Community law, the Commission may bring the case before the Court again, this time requesting that financial penalties (fines or periodic penalty payments) be imposed. Article 171 has proved its effectiveness in this instance, since Member States may now be assumed to know that following a judgment given against them for failure to perform their obligations they must come into line without delay. In the environment field most cases were terminated. Seven of the 10 cases in which the Commission applied for financial penalties in fresh proceedings since January 1997 have been settled.

The Commission decided to refer two new Article 171 cases to the Court, one against France regarding transposal of the Directive on conservation of wild birds (79/409/EEC) and the other against Italy regarding transposal of the Directive on treatment of urban waste water (reference pending). A further 12 proceedings for failure to notify measures, notification of

incorrect transposal measures or incorrect application reached the Article 171 letter or reasoned opinion stages. These cases will be considered in greater detail in the sections dealing with the different sectors below.

It must be borne in mind that the Commission's monitoring activity is not confined to actions in the Court nor even to the final pre-litigation stage, the transmission of reasoned opinions and the scrutiny of Member States' responses to them. These are but the final stages of the infringement procedure, whereas many cases are settled without reaching those stages. This phenomenon is particularly common in the environmental field, where a large number of situations to which the Commission's attention is drawn by complaints, parliamentary questions and petitions turn out not to be infringement situations as there is no legal basis in Community law or the allegation by the complainants or petitioners is unfounded in fact or in law. The national administrations engage in extensive correspondence and regular contacts (package and ad hoc meetings) with the Commission, which thus exercises its function of watchdog of Community environmental law.

The problems highlighted in previous reports with the implementation of environmental law remain much the same, the difficulties encountered by certain Member States in transposing and applying it and the limits on the Commission's ability to monitor them. In 1998 the Commission sought to tackle these problems and pursue active monitoring activities with the reform of its internal rules for handling infringement proceedings aiming to boost their speed and effectiveness.

It also continued work on the communication adopted in October 1996 ('Implementing Community environmental law') ([1]).

On 16 December 1998 the Commission adopted a proposal for a Council recommendation providing for minimum criteria for environmental inspections in the Member States ([2]). The proposal is based on a study prepared by the IMPEL network (implementation and enforcement of EU environmental law) and sets out guidelines for inspections, consisting of minimum criteria for organisation, operation, monitoring and publicity. The recommendation would apply to environmental inspections of industrial plant and other plant emitting pollutants and discharges that require authorisation; this includes nuclear installations, also including research and medical facilities. The aim is to boost the monitoring of the application of Community law in national legislation and ensure that Community environmental legislation is evenly applied in all the Member States.

As announced in the Communication on implementing Community environmental law, there will be an annual survey to amplify the information given in this section of the annual report on monitoring the application of Community law by adding fuller information on the environmental aspects. The first annual survey covers the period from October 1996 to December 1997; the next one will be published this year.

The first annual survey begins with a presentation of the follow-up to the communication on implementing Community environmental law, including information on the IMPEL study on minimum criteria for environmental inspections, access to justice in the Member States and environmental complaints and verification procedures, training for the judiciary in a number of Member States, a pilot training scheme in Community environmental law in several universities and the proposals for penalty provisions in future Community legislation. It then takes stock of action on a number of horizontal matters such as the White Paper on environmental liability, the review of Directive 90/313/EEC (freedom of access to information on the environment) and the requirements of Directive 91/692/EEC on the standardisation and rationalisation of reports on the implementation of certain environmental directives. It enumerates Commission publications on the application of Community and international law (reports, communications, etc.), gives details of the IMPEL network's structure and work programme, and provides information on progress in the implementation of Community environmental law, including a table of references to national legislation transposing directives scheduled for implementation during the period covered by the survey.

More generally, the Commission remains attentive to the prospects offered for the implementation of Community environmental law by a series of developments to which it has contributed actively or which have flowed from Community initiatives, use of agreements on environmental protection, civil liability in environmental matters in the Member States, extension of the IMPEL network (implementation and enforcement of EU environmental law) and account taken of environmental considerations in other Community policies. There was a Commission communication to the Cardiff European Council (June 1985) on this latter point with a view to developing a Community strategy for integrating the environment into European Union policies ([3]).

As already stated, the Commission's monitoring of the application of Community law takes account of three aspects: monitoring the notification of national transposal measures, scrutinising measures for conformity with the directives they transpose and monitoring the practical application of directives and regulations.

([1]) COM(1996) 500 final, 22 October 1996.
([2]) COM(1998) 772 final, 16 December 1998.
([3]) COM(1998) 333 final.

No significant developments have occurred since last year's report in the notification by Member States of measures implementing environmental directives.

Directives are legal instruments which are binding on Member States as to the result to be achieved, but leaving them free to choose the form and methods to be used. They generally require national measures to be adopted to ensure that the obligations they lay down are actually met. Each new directive sets a time limit (usually one to two years) for Member States to amend their own law in line with its provisions. Member States must notify transposal measures by this deadline. Moreover, every time a new directive is adopted, the Commission takes pains to remind all the Member States that transposal must take place by the prescribed deadline.

Delays in notifying the Commission of transposal measures are generally, and logically enough, the result of delays in enacting them. Moreover, the measures enacted are all too often notified only with several months' or more delay, and infringement proceedings have to be commenced even though there is no real need for them. At any rate the Commission commences proceedings whenever transposal measures are not notified.

Looking beyond the obligation to notify measures transposing a new directive immediately, and within the time allowed by the directive itself, the Member States' authorities also need to remember to notify subsequent measures taken within the field covered by the directive as long as it is still in force. The Commission regrets the all too frequent failure to do so.

The causes of the delays in transposing directives are the same as those highlighted in previous reports — internal institutional and administrative structures of the Member States, transposal techniques, specific difficulties in particularly sensitive areas (chemicals, biotechnology), and possible lack of coordination between representatives of the Member States who negotiate the directives and the bodies in the Member States which will be responsible for implementing them.

It is essential that the legal and administrative work needed to determine exactly what needs transposing be started in due time (in some cases, existing provisions may already suffice) and then to prepare the legal instruments effecting the transposal in national law. Given the time generally taken to adjust the national legal situation to the requirements of the directive, especially where parliamentary time must be set aside for amending legislation, experience suggests that advantage should be taken of all the time available for the purpose; that would obviate the need for Commission infringement proceedings.

A noteworthy judgment of the Court of Justice in this context was the judgment given on 18 December 1997 in Case C-126/96 *Inter-environnement Wallonie ASBL* v *Région Wallonne*, on an application for a preliminary ruling from the Belgian Conseil d'État relating to Directive 91/156/EEC. The Court held that 'the second paragraph of Article 5 and the third paragraph of Article 189 of the EC Treaty, and Directive 91/156/EEC, require the Member States to which that Directive is addressed to refrain, during the period laid down therein for its implementation, from adopting measures liable seriously to compromise the result prescribed'. The Court specified [1] that, '[it] is for the national court to assess whether that is the case as regards the national provisions whose legality it is called upon to consider' and that, '[in] making that assessment, the national court must consider, in particular, whether the provisions in issue purport to constitute full transposition of the Directive, as well as the effects in practice of applying those incompatible provisions and of their duration in time. For example, if the provisions in issue are intended to constitute full and definitive transposition of the Directive, their incompatibility with the Directive might give rise to the presumption that the result prescribed by the Directive will not be achieved within the period prescribed if it is impossible to amend them in time'.

The Commission has decided to commence proceedings in the Court of Justice against the United Kingdom regarding the transposal of several environment directives in Gibraltar. The proceedings concern directives which the United Kingdom acknowledges are applicable in Gibraltar but for which it has notified no implementing measures, Directives 80/51/EEC, 83/206/EEC, 86/629/EEC and 92/14/EEC (limitation of noise emissions from subsonic aircraft). In 1998 the United Kingdom notified measures transposing Directive 94/67/EC (incineration of hazardous waste), in respect of which infringement proceedings had been commenced.

Several fresh directives fell due for transposal in 1998:

— Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) [2],

— Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management [3],

[1] At paragraphs 46 to 48.
[2] OJ L 243, 24.9.1996, p. 31.
[3] OJ L 296, 21.11.1996, p. 55.

— Commission Directive 96/54/EC of 30 July 1996 adapting to technical progress for the 22nd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ([1]),

— Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC ([2]),

— 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 ([3]),

— Commission Directive 97/49/EC of 29 July 1997 amending Council Directive 79/409/EEC on the conservation of wild birds ([4]),

— Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof ([5]),

— Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC ([6]).

In 1998 as in previous years, the Commission was obliged to commence infringement proceedings in numerous cases of failure by all the Member States to notify it of transposal measures, though there were only one case involving Finland and two involving Luxembourg. Details of these cases are given in the sections relating to individual sectors and directives.

Regarding the conformity of national measures implementing Community law, there are infringement proceedings in all areas of environmental legislation and against all the Member States. The Member States are under a duty not only to adopt measures transposing directives but also to see to it that such measures are in conformity with Community law. They do not all do so.

Some of the causes for this have been considered in earlier reports: distribution of powers among the different tiers of government (national, regional and other) in the Member States, difficulties in transposing environmental-protection obligations into other areas of action (agriculture, transport, industry, etc.), pre-existing national legislation inspired by principles differing from those of the Directive and consequently needing adjustment.

In any event the Commission is at pains to check that the Member States bring their domestic legal systems into line with the obligations flowing from environmental Directives, and indeed makes this aspect of its monitoring activities a priority. At the pre-litigation stages of the infringement procedure the Member States and the Commission have the chance to clarify points relating to this conformity of national legislation with Community law. But the Commission sadly still has cause to regret that the Member States do not all routinely take the trouble, as Denmark, Finland, Germany and Sweden do, to attach detailed explanations and concordance tables matching national provisions with the corresponding Community provisions, whenever they notify the Commission of legislation and regulations designed to transpose directives. This would cut down on misunderstandings and make problems easier to spot. It would also make conformity checks at Community level easier, while the Member States would benefit directly from having fewer infringement proceedings brought against them. The Commission's monitoring tasks are further complicated by the choice of certain legislative techniques for transposal (e.g. the use of several legal instruments), so that there is a special need to work more closely with Member States which choose such methods, in order to explain the details of transposal.

Finally, it is worth noting the progress made by the three newest Member States, Austria, Sweden and Finland, in incorporating Community environmental law since joining the Community on 1 January 1995. When they acceded they were given a four-year period of grace for certain national provisions relating to public health and the environment by specific provisions of their Act of Accession ([7]), described as review clauses. That period expired on 31 December 1998. During the transitional period the Union accordingly reviewed the standards it had laid down in this field. In nearly all cases the review process culminated in proposals for or adoption of tighter environmental standards for the Union as a whole, notably as regards the sulphur content of petrol ([8]) and the labelling of dangerous substances ([9]). In other cases, the new Member States will keep their existing standards for a longer period. The extension is needed for further review and for the elaboration of Community solutions ([10]). On 11 December 1998 the Commission adopted a communication on the review clauses, that is to say on strengthening environmental and health standards after the accession of Austria, Finland

([1]) OJ L 248, 30.6.1996, p. 1.
([2]) OJ L 236, 18.9.1996, p. 35.
([3]) OJ L 59, 27.2.1998, p. 1.
([4]) OJ L 223, 13.8.1997, p. 9.
([5]) OJ L 67, 7.3.1998, p. 29.
([6]) OJ L 343, 13.12.1997, p. 19.

([7]) Articles 69, 84 and 112 of the Act of Accession of Austria, Finland and Sweden provide for transitional measures for certain environmental standards.
([8]) Commission proposal in COM(97) 88 (12.3.1997) to replace Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels (OJ L 74, 27.3.1993, p. 81).
([9]) Several technical adaptations to Directive 67/548/EEC.
([10]) The further review concerns different aspects of Directive 67/548/EEC and of Council Directive 76/769/EEC on the approximation of provisions laid down by law, regulation or administrative action of the Member States on restrictions on the marketing and use of certain dangerous substances and preparations, as amended.

and Sweden to the European Union, in which it takes stock of the process [1].

The Commission is also responsible for checking that Community environmental law (directives and regulations) is properly applied. This means ensuring that Member States fulfil certain general obligations (designation of areas, implementation of programmes, etc.) and examining specific cases where a particular administrative practice or decision is alleged to be contrary to Community law. But whether the problems at issue are general or specific, the Commission's task of monitoring application is an important one.

Complaints and petitions sent to the European Parliament by individuals and non-governmental organisations, and written and oral parliamentary questions, play a vital role in keeping the Commission informed of how far the obligations arising from directives and regulations are actually complied with. The information the Commission obtains in this way is a valuable adjunct to the periodic reports on the application of directives, drawn up on the basis of information supplied by the Member States and the Member States' replies to its requests for information.

The number of complaints, after falling for two years in succession, has risen again. The largest number concerned Spain, Germany and France, while Luxembourg, Finland and Sweden were the least affected. If we analyse the complaints registered in 1998 by broad categories, bearing in mind that they often raise more than one problem, we find that one in every two complaints was concerned with nature conservation and one in every four with environmental impact, while waste-related problems were raised in one in 10 cases, as were air pollution and water pollution.

As it stated in the previous report, in its scrutiny of individual cases, the Commission must analyse, from a factual and legal standpoint, problems that are very tangible and are of direct concern to the public. This can give rise to certain practical difficulties, since proper scrutiny demands detailed knowledge of the case in point, but the Commission is geographically remote and it lacks both the powers and the ability to conduct investigations, having no resources to carry out inspections in the environmental field. Yet scrutiny is a vital task in the Commission's eyes, because what matters most to individual citizens is that the law is effectively applied to their own particular circumstances, and because there is a danger that Community law may be formally transposed without any changes in actual behaviour to the extent required by Community rules. Moreover, it is obvious that what matters most to the general public is whether the law is properly applied in the situations of concern to them.

Complaints, parliamentary questions and petitions were mostly about specific and very practical problems directly affecting the complainants and petitioners, environmental impact assessment (Directive 85/337/EEC) and the deterioration of areas designated or awaiting designation as special protection areas under Directive 79/409/EEC (wild birds). These problems sometimes typify an underlying situation in one or more Member States. A significant number of problems mentioned in complaints stem from the incomplete or incorrect transposal of directives. This is why, without neglecting the monitoring of incorrect application cases which reveal questions of principle or administrative practices that contravene the Directives or horizontal questions, the Commission concentrates its efforts on dealing with problems of conformity. In this respect, the application of Community law might improve if national civil servants in particular were better informed about Community law and received better training.

2.12.1. **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 the Member States have notified national measures transposing the Directive, there are many cases where national law still has to be brought into line with its requirements. The Court of Justice has not yet given judgment in Case C-217/97 *Commission* v *Germany* relating to the designation of the authorities to whom the Directive applies, the exceptions from the principle of communication, part-communication and reasonable costs of communication. The Commission has also sent the same Member State a reasoned opinion concerning certain aspects of implementation of the Directive in Schleswig-Holstein.

The Commission commenced Court proceedings against Spain on several points on which the transposal of the Directive is not in conformity with Community law (reasonable costs, excluded categories of information). It also referred to the Court a case against Portugal, firstly for failure to notify the Commission of the report required by Article 8 of the Directive, and secondly for non-conformity of its legislation transposing the Directive with reference to the designation of the authorities to whom it applies, the persons enjoying the right of access, the nature of the information to be given and the excluded categories of information.

[1] Communication from the Commission to the Council and the European Parliament. The review clause: Environmental and health standards four years after the accession of Austria, Finland and Sweden to the European Union: COM(1998) 745 final.

A reasoned opinion was addressed to Belgium on several aspects in which transposal was incorrect, both at federal level and in the Flanders and Wallonia Regions. The United Kingdom amended its earlier regulations in response to the Commission's proceedings. Proceedings are still in motion against other Member States, though those against Italy have been terminated, as have those against Ireland following notification of new legislation and the Netherlands following notification of an Act passed on 12 March 1998.

The Commission is continuing to receive complaints concerning the non-conformity of transposal measures. Among the most common subjects of complaint are the refusal by national authorities to respond to requests for information, the time taken for replies, a tendency by national government departments to adopt an excessively broad interpretation when allowing exceptions to the principle of disclosure, and demands for payment of unreasonably high fees.

As required by Article 8 of Directive 90/313/EEC, the Commission will present its own report to Parliament, probably before the end of 1998, together with any proposals it has for revising the Directive. On 25 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. This Convention can be seen as a step forward in the protection of individuals' rights to live in a clean environment where health and well-being are secured. The fact that the Community signed the Convention is significant as this is the first legally mandatory instrument applying explicitly to the Community institutions. The Commission will be attaching priority to its ratification.

Finally, in Case C-321/96 *Wilhelm Mecklenburg* v *Kreis Pinneberg — Der Landrat* the Court of Justice gave a preliminary ruling requested by a German court interpreting certain concepts contained in the Directive. It held that, 'Article 2(a) of the Directive must be interpreted as covering a statement of views given by a countryside protection authority in development consent proceedings if that statement is capable of influencing the outcome of those proceedings as regards interests pertaining to the protection of the environment'. It thus acknowledged that the Community legislature was attaching a broad meaning to the concept of information relating to the environment, extending to both data and activities affecting these sectors without excluding any of the activities of public authorities. The Court made clear that the term "measures" serves merely to make it clear that the acts governed by the Directive included all forms of administrative activity... . It is sufficient for the statement of views put forward by an authority, such as the statement concerned in the main proceedings, to be an act capable of adversely affecting or protecting the state of one of the sectors of the environment covered by the Directive'.

Moreover, the Court held that the expression 'preliminary investigation proceedings' (third indent of Article 3(2)) must be interpreted as 'including an administrative procedure which merely prepares the way for an administrative measure, only if it immediately precedes a contentious or quasi-contentious procedure and arises from the need to obtain proof or to investigate a matter prior to the opening of the actual procedure'. The preliminary investigation must therefore be seen as the preliminary to the judicial inquiry or procedure. Where there is an exception from the principle of freedom of access to information on the environment secured by the third indent of Article 3(2) of the Directive, this cannot be interpreted as extending beyond what is necessary to secure the protection of the interests it is intended to uphold.

2.12.2. **Environmental impact assessment**

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment is still the most widely cited legal instrument relating to matters of the environment. The Directive requires environmental issues to be taken into account in many decisions which have collective effects.

Belgium has now given effect to the judgment given by the Court of Justice on 2 May 1996 (Case C-133/94) by rectifying the defects in its transposal of Annex I to the Directive [1]; it has also amplified its transposal of the provisions for cross-border consultations [2] and of Annex II [3]; the Commission has accordingly terminated its proceedings.

The deadline for transposal of Directive 97/11/EC amending Directive 85/337/EEC falls on 14 March 1999; transposal ahead of deadline is always an option.

On 20 October 1998 the European Parliament gave its opinion at first reading on the Commission proposal of December 1996 for a directive on the assessment of the effects of certain plans and programmes on the environment [4]. The aim of this proposal is to incorporate environmental considerations into the preparation and adoption of instruments setting the context for future projects.

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(1) Royal Decree of 23 December 1993 (protection of the people and workers against the dangers of ionising radiation); Decrees of the Flemish Government of 4 February 1998 (environmental impact assessment of certain categories of establishment emitting nuisances; other works and actions).

(2) Decree of the Government of the Brussels Region; see Decrees of the Flemish Government of 4 February 1998, *supra*.

(3) Decree of the Flemish Government of 10 March 1998.

(4) COM(1998) 511 final.

Many complaints received by the Commission and petitions presented to Parliament denounce, if only in passing, the incorrect application of Directive 85/337/EEC by national authorities. Complaints and petitions are concerned primarily with the quality of impact assessments (especially the lack of adequate assessment of the indirect effects of the project) and the lack of weight given to recommendations arising from the evaluation of the impact assessment (particularly following public enquiries) in the final decision. As stated in the past, it is obviously difficult for Commission departments to investigate cases where the quality of impact assessments is questioned or it is contended that their findings are not properly acted upon. Although the Directive contains Articles regarding the content of impact assessments [1], it is difficult to verify the compliance with them by the national authorities; moreover, it is not always easy to contest the merits of a choice taken by the national authorities. Most of the cases brought to the Commission's attention concerning incorrect application of this Directive revolve around points of fact (existence and definition). There is therefore every chance that the most effective way to verify any infringements will be at a decentralised level, particularly through the national courts.

In 1998 the Court of Justice gave two judgments clarifying the scope of certain provisions of Directive 85/337/EEC.

In its judgment of 18 June in Case C-81/96 *Burgemeester en Wethouders van Haarlemmerliede en Spaarnwoude* et al v *Gedeputeerde Staten van Noord-Holland* the Court gave a preliminary ruling requested by the Dutch Raad van State on the application of the Directive's impact assessment procedure to new land-use structural plans. The question was whether it was compatible with the Directive to carry out a project on the basis of an authorisation given before the Directive entered into force without undertaking an environmental impact assessment, the project now being in Annex I (assessment compulsory in all cases) and the authorisation not having been acted on immediately.

The Court held that Directive 85/337/EEC did not empower a Member State to release from environmental impact assessment obligations projects listed in Annex I where they were authorised before 3 July 1988, the deadline for transposal of the Directive, but the authorisation was not preceded by an assessment meeting the Directive's requirements and was not acted on and a new authorisation procedure formally commenced after that date.

Germany's infringement, concerning the projects covered, was then acknowledged by the Court of Justice on 22 October (Case C-301/95), when it ruled on the Commission action against it for failure to discharge its obligations. The Court held first that the German Government had not adopted the measures required to comply with the Directive, notably at *Länder* level, within the time allowed. As for failure to apply the Directive to projects approved after 3 July 1988, the Court held that, by failing to impose an obligation to assess the environmental impact of all projects assessable under the Directive where the authorisation procedure had been commenced after that date, Germany had failed to discharge its obligations. Regarding incomplete transposal of Article 2 of the Directive in relation to the projects listed in Annex II, the Court held that by the advance exclusion of the obligation to assess the environmental impact of all of the classes of projects listed there, Germany had again failed to discharge its obligations. But on the question of the incomplete transposal of Article 5(2), the Court held that this provision stipulated the minimum content of the information to be given by the project manager. It held that where, by reason of the federal structure of the Member State, other specific provisions enacted by the federal or *Länder* Governments imposed requirements corresponding to the particular needs of the various areas of activity covered by the Directive, Article 13 empowered the Member States to enact more stringent rules than those of the Directive. The Court accordingly dismissed the action.

The actions for incorrect transposal against Ireland (Case C-392/96) and Portugal (Case C-150/97) are still in motion.

On 17 December 1998 Mr Advocate-General Tesauro presented his submissions in Case C-392/96, proposing that the Court hold that, by not adopting all the necessary measures to properly transpose Article 4(2) as regards projects falling within points 1(b), (d) and (e) 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. The case related particularly to Ireland's determination of thresholds for types of project such as allocation of uncultivated land and land in a semi-natural state for reuse for intensive farming, initial reforestation where there was a potential negative ecological impact, and land clearance with a view to

[1] For example Articles 3 and 5 and Annex III.

use of the land for a different purpose, farms capable of being used for poultry-farming or peat-extraction, the thresholds being 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).

On 13 October Mr Advocate-General Mischo presented his submissions in Case C-150/97 *Commission* v *Portugal* proposing that the Court declare 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 the obligations of Article 12(1) of the Directive. The action concerned not only failure to comply with the deadline for transposal but also the fact that, under the Portuguese legislation transposing the Directive after the due date was passed [1], it did not apply to projects for which the authorisation procedure was in progress when it entered into force, on 7 June 1990. Here the Advocate-General refers to earlier cases in which the Court had held that there was nothing in the Directive to allow the Member States to interpret it as authorising them to release from the assessment obligation projects for which the authorisation procedure was in progress on the 3 July 1988 deadline.

The Commission decided on similar action against Germany regarding its Motorways Act. A supplementary reasoned opinion was addressed to Italy and a reasoned opinion to the United Kingdom. However, in the United Kingdom, new transposal measures for England, Wales and Scotland were adopted in 1998. Infringement proceedings are also in motion concerning incorrect application in Ireland. The Commission decided to send a supplementary reasoned opinion to Spain regarding the absence of provision for impact assessments for most Annex II projects.

2.12.3. **Air**

Some proceedings in this sector were terminated after the situations that had given rise to them were put right. There are still certain problems outstanding in connection with the directives on incineration and directives with imminent transposal deadlines.

There was marked improvement in the application of Directive 92/72/EEC (air pollution by ozone), which led to the termination of infringement proceedings that had been instigated. For example, in 1998 the Commission had decided to refer a case against France to the Court of Justice for incorrectly applying the Directive by failing to notify the Commission of the locations of the measuring stations or of ozone levels exceeding the population information and warning thresholds (180 µg/m^3 and 360 µg/m^3) laid down in Annex 1 to the Directive. However, France subsequently took steps to improve its application of the Directive. The proceedings against Sweden for failure to report the transposal measures were similarly terminated, once Sweden had adopted the appropriate measures.

Germany put an end to its delays in reporting its national measures transposing Directive 94/63/EC (emissions of volatile organic compounds) and the Commission terminated the proceedings against it accordingly.

Italian courts referred cases to the Court of Justice for preliminary rulings concerning the interpretation and validity of Council Regulation (EC) No 3093/94 on substances that deplete the ozone layer. The main issue at stake is the question of restrictions on the production and use of halons and HCFCs (hydrochlorofluorocarbons), gases which are dangerous for the environment. In its judgments given on 14 July 1998 in Cases C-284/95 and C-341/95, the Court held that Article 5 of the Regulation was to be interpreted as prohibiting entirely the use and, consequently, the marketing of hydrochlorofluorocarbons for fire-fighting and that consideration of the questions submitted had not disclosed any factor of such a kind as to affect the validity of the Article.

Council Directive 96/62/EC on ambient air quality was due to be transposed by 21 May 1998. This Directive is to form the basis for a series of forthcoming Community instruments designed to set new limit values for atmospheric pollutants, starting with those already covered by existing Directives, to lay down information and alert thresholds, to harmonise air quality assessment methods and to improve air quality management with a view to protecting human health and ecosystems. The Commission decided to send a reasoned opinion to Greece, Spain, Portugal, Ireland, Italy, Sweden and the United Kingdom, given their total or partial failure to enact national transposal measures by the prescribed deadline.

Council Directive 97/68/EC 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. The Commission decided to send a reasoned opinion to Belgium, Greece, France, Portugal, Ireland, Italy, Luxembourg, Austria and the United Kingdom, given their total or partial failure to enact national transposal measures by the prescribed deadline.

[1] Decree-Law 278/97, 8 October 1997.

Finally, 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/EEC [1] was adopted in 1998; it will shortly be due for transposal.

2.12.4. **Water**

The Commission takes the task of monitoring implementation of Directives seriously. Around a quarter of all current environmental infringement proceedings concern water. In addition, the Commission must respond to complaints and petitions to Parliament. Consequently, it spends quite a considerable amount of time on Community legislation on water quality. This state of affairs is a result of the quantitative and qualitative significance of the responsibilities imposed on the Member States by Community law, and also the growing public concern about water quality.

There are several proceedings currently under way relating to 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 drawing up of systematic organic action plans (Article 4(2)) as an essential part of the campaign to protect water quality (from excessive quantities of nitrates, pesticides, etc.). Others are concerned with the criteria for obtaining exemptions under Article 4(3). The Commission terminated the Article 171 proceedings opened against Germany following the Court's judgment of 17 October 1991 in Case C-58/89, after Germany notified the Commission of a systematic organic plan for the whole of the country. This meant the Commission dropping Case C-122/97 it had taken to the Court of Justice.

The Court of Justice found against Portugal in two cases. The first was the judgment of 17 June 1998 in Case C-214/97 for failure to have a systematic organic action programme for the whole country. 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 in them, because there was no timetable for water improvement and they did not cover certain waterways; nor did they not make for a proper framework for making substantial improvements to water quality. However a systematic action plan has since been notified.

In the second case (C-229/97) judgment was given on 15 October 1998; it related to inaccurate and incomplete sampling methods pursuant to Directive 79/869/EEC, adopted on the basis of Directive 75/440/EEC. However, a decree-law designed to bring national law in line with the Directive was adopted on 1 August 1998 and reported to the Commission.

The Commission also decided to take France to the Court of Justice for its use of nitrate-polluted water in Brittany to produce drinking water without having implemented a plan for managing this water resource to eventually restore its quality. An additional reasoned opinion was sent to Italy regarding its lack of a systematic organic action programme for the whole country. The United Kingdom notified measures for the transposal of the Directive and action programmes.

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. However, infringement proceedings are still open against roughly half the Member States in cases where implementation still falls a long way short of the requirements laid down by the Directive.

While the infringement proceedings against Finland for failure to report national implementing measures for Åland were dropped, the same does not go for Austria, which the Commission decided to take to the Court of Justice. The Commission also sent a reasoned opinion to Germany with the same objections concerning the six new *Länder*, following which it received notification of the national implementing measures for five of them.

The Commission had to commence Article 171 proceedings against the United Kingdom in the Blackpool case for its failure to comply fully with the Court's judgment of 14 July 1993 (Case C-56/90). Case C-198/97, relating to water quality and frequency of sampling in Germany, is still in motion.

In Case C-92/96 *Commission* v *Spain* the Court of Justice gave judgment on 12 February 1998 holding that Spain had failed to fulfil its obligations to take the necessary measures to bring the quality of inland bathing waters into line with the limit values set by Article 3 of Council Directive 76/160/EEC of 8 December 1976. This was the first case in which a Member State was prosecuted for complete failure to bring its bathing water in line with the quality requirements of the Directive.

The Commission also brought action against Belgium for inadequate monitoring and for several of its bathing areas not satisfying the requirements (Case C-307/98).

The Commission sent reasoned opinions to France and the Netherlands concerning water quality and the frequency of sampling and decided to address one to Portugal. Infringement proceedings concerning the application of the Directive are also under way against Italy. And a reasoned opinion is to be sent to Denmark and Finland for failure to take measures relating to the total coliforms parameter, one of the mandatory provisions of the Directive.

[1] OJ L 350, 28.12.1998, p. 58.

The Commission has received a large number of complaints about the grant of the 'blue flag' in relation to the quality of bathing waters. This a valuable consumer-information initiative but it is not a Community measure and is not provided for by Directive 76/160/EEC; the Commission is accordingly unable to act on these complaints.

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 other Directives setting levels for individual substances.

In its judgment of 11 June 1998 in Case C-206/96 the Court of Justice found against Luxembourg for its failure to notify the Commission of programmes aimed at reducing the water pollution by dangerous substances on List II in the Annex to Directive 76/464/EEC and for the inadequacy of the programmes it did report. This was the first Court judgment concerning a Member State's complete failure in this respect. The Court found that Luxembourg had not adopted pollution reduction programmes for 99 substances on List II. The waters concerned are those affected by pollution as defined in Article 1 of the Directive. Luxembourg has subsequently notified the Commission of a plan designed to bring it in line with Article 7 of the Directive.

On 1 October the Court gave judgment against Italy in Case C-285/96, where, as in the Luxembourg case, it held that there had been a failure to fulfil obligations in respect of 99 substances on List II and confirmed that the Member States concerned by pollution by the substances to which Directive 76/464/EEC applies must prepare specific programmes to reduce such pollution. On 25 November it gave judgment in Case C-214/96, which the Commission had brought against Spain on the same grounds but in relation to all the List II substances as the proceedings were not confined to the 99.

Court of Justice proceedings based on the same objections, that were initiated in 1996 and 1997, are still under way against Germany (Case C-184/97), Belgium (Case C-207/97) and Greece (Case C-384/97). In 1998 the Commission also instigated proceedings against Portugal (Case C-261/98) and the Netherlands (Case C-152/98). There are also proceedings against France. The proceedings against Ireland are still under way, although certain progress is now being made. But the Commission was able to drop the proceedings against Denmark after it adopted and implemented programmes complying with the requirements of Article 7 of Directive 76/464/EEC. The United Kingdom made considerable progress and reported measures for Scotland and Northern Ireland [1], for which there had been no programmes previously. These developments bear out the Commission's view that the programmes for reducing water pollution from dangerous substances laid down in Article 7 of Directive 76/464/EEC may play a significant role in improving water quality. The Commission is committed to seeing these programmes implemented in all Member States.

The Court of Justice also found against Portugal in two cases relating to discharges of dangerous substances. In its judgment of 18 June 1998 in Case C-208/97 the Court found that Portugal had no programmes specifically designed to eliminate discharges of mercury as laid down in Directive 85/156/EEC. In its judgment of 28 May 1998 in Case C-213/97 the Court found that Portugal had incorrectly transposed Directive 86/280/EEC as amended, pursuant to Article 6 of Directive 76/464/EEC laying down limit values and quality targets for certain substances. In both cases the Commission decided to initiate Article 171 proceedings.

The Commission has continued to observe that the inadequacy of the reduction programmes leads to many instances of incorrect application of the Directive, such as pollution of certain watercourses by agricultural or industrial discharges, and that only a comprehensive approach to the problem can solve these case-specific difficulties. Furthermore, there are still problems in certain Member States concerning the lack of systematic authorisation prior to discharge operations. For example, in its judgment of 11 June 1998 in Joined Cases C-232/95 and C-233/95, the Court found that Greece had not implemented pollution reduction programmes for Lake Vegoritis, the Soulos river or the Gulf of Pagasai in relation to the substances in List II of Directive 76/464/EEC. The judgment also stated that since there were no Article 7(1) programmes, no prior authorisation under Article 7(2) could have been given, since such authorisations include emission standards and have to be based on the programme's quality targets.

The Commission decided to commence Article 171 proceedings. The Commission also sent a reasoned opinion to Portugal concerning discharges from an agri-food factory in Santo Tirso and the Portuguese authorities replied by reporting measures which look likely to resolve the problem satisfactorily.

The Court of Justice has also been asked for (but has not yet given) two preliminary rulings by the Dutch Raad Van State (Cases C-231/97 and C-232/97) concerning interpretation of Directive 76/464/EEC, and particularly the definition of the term 'discharge' with regard to polluted vapours concentrating directly or indirectly in surface waters and leaching of creosoted wood (creosote is derived from tar and is used as an

[1] The Surface Water (dangerous substances)(classification) Regulations (Northern Ireland) 1998 (SR. 1998 No 397); The Surface Waters (dangerous substances)(classification) (Scotland) (No 2) Regulations 1998 (SI 1998 No 1344).

antiseptic) into surface waters. The second question also relates to the meaning of the term 'pollution from significant sources', as it appears in Directive 86/280/EEC on limit values for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC.

Progress was made on Directive 78/659/EEC on freshwaters supporting fish life and Directive 79/923/EEC on shellfish waters. The Article 171 proceedings that had been started against Germany concerning Directive 78/659/EEC following the judgment of 12 December 1996 in Case C-298/95 were dropped after satisfactory measures were taken. Further to the judgment of 9 March 1994 in Case C-291/93 concerning the same Directive, Italy made considerable progress, designating most of the waters concerned and adopting pollution reduction programmes. Infringement proceedings against Italy are still open following the judgment of the Court of 4 December 1997 in Case C-225/96 finding that Italy had failed to set binding or recommended values for certain dangerous substances or to designate all waters qualifying as shellfish waters as required by Directive 79/923/EEC. In 1998 the United Kingdom notified new measures transposing Directives 78/659/EEC and 79/923/EEC.

A number of infringement proceedings have been initiated with regard to implementation of Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances. In its judgment of 18 June 1998 in Case C-183/97 the Court found against Portugal for non-compliance, but, as mentioned above, Portugal then notified the Commission of the decree-law of 1 August 1998, which was intended to transpose the Directive. The Commission also went ahead with proceedings against the United Kingdom for polluting underground waters with substances used in sheep rearing, although the case may be dropped before the legal proceedings start, since the Commission has been notified of several regulations that look likely to resolve the problem. The Commission brought an action against Ireland (Case C-331/98) for its legislation not complying with Directive 80/68/EEC as regards certain aspects of discharges by the health authorities.

The Court has yet to give judgment in Case C-340/96 concerning the British undertakings on Directive 80/778/EEC on the quality of water intended for human consumption, where the undertakings were felt by the Commission to be unsatisfactory both in substance and in form. Proceedings are also under way against Portugal for non-compliance, although it has notified the Commission of a decree-law of 1 August 1998 which is designed to transpose the Directive.

The Commission sent a reasoned opinion to Austria for the manner in which it had opted to transpose the Directive. In contrast, the Commission was able to drop the proceedings that had been started against France following a petition received by the European Parliament concerning the distribution of water in the *département* of Eure (nitrates present in water), since the latest information received showed that the Directive was being complied with as a result of proper action taken by the authorities.

Although the Commission continues to receive many complaints concerning incorrect implementation of this Directive, not all of them result in infringement proceedings as the burden of proof is on the Commission and complainants often have problems obtaining evidence.

As of the year 2003 Directive 80/778/EEC will be superseded by Council Directive 98/83/EC on the quality of water intended for human consumption [1], which was adopted on 3 November 1998.

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

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 urban waste water collection and treatment systems. Up to now, the Commission's task has been restricted to checking that implementing measures were reported and complied with the Directive. 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. Through the Cohesion Fund and regional policy, the Community is also supporting the Member States' efforts to install the necessary facilities.

The Commission was able to drop the Article 171 proceedings against Germany following the judgment of 12 December 1996 in Case V-297/95 and the Article 169 proceedings against Portugal, following adoption of the requisite measures by the two Member States. In contrast, it decided to take Italy to Court a second time (Article 171 proceedings) for not having national legislation transposing the Directive. Proceedings are also continuing against Greece, Belgium and Spain for transposing the Directive incorrectly or not applying it properly.

On 27 February the Commission adopted Directive 98/15/EC amending Directive 91/271/EEC as regards certain provisions of Annex I [2].

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(1) OJ L 330, 5.12.1998, p. 32.
(2) OJ L 67, 7.3.1998, p. 29.

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 attach considerable importance to proceedings initiated to enforce this Directive. Proceedings are under way against most Member States, focusing on various obligations imposed by the Directive: adoption of implementing measures, designation of vulnerable areas, drawing up of codes of practice for agriculture, drawing up of action programmes, monitoring of the concentration of nitrates in waters and reporting on implementation of the Directive. As different proceedings have been instigated, it has become clear that while things have, generally speaking, been moving in the right direction in certain areas, such as notification of implementing measures and designation of areas, new difficulties have arisen in other areas, such as problems with the drawing up of action programmes and their contents.

For example, in its judgment of 1 October 1998 in Case C-71/97 the Court of Justice found against Spain for failure to draw up codes of practice or designate vulnerable areas. This is the first major judgment concerning the action to be taken on the practical obligations imposed by the Directive. Action is now, however, being taken in Spain to come in line with the Directive.

Another action was brought against Spain (Case C-274/98) for its lack of action programmes. The Court has yet to rule in the proceedings against Italy on similar objections (Case C-195/97). The Commission was able to drop Case C-173/97 against Greece and Case C-227/97 against Portugal, after they reported their national implementing measures and designated the vulnerable areas.

The Commission brought an action against Italy concerning the drawing up of action plans and the sending in of reports. It also sent reasoned opinions to Belgium concerning reporting national implementing measures, the drawing up of codes of practice and the designation of vulnerable areas, to the United Kingdom concerning the designation of areas and drawing up of programmes and Luxembourg concerning the drawing up of codes of practice and programmes and the sending in of reports. The Commission dropped the proceedings against Finland and Portugal concerning the lack of monitoring and action programmes. France, which had been sent a reasoned opinion by the Commission, finally adopted action programmes for all the vulnerable areas in the country.

The Commission also sent reasoned opinions to Portugal and Germany concerning certain transposal measures or the non-compliance of the action programmes implemented, respectively. It decided to take the same action against Greece, too, concerning action programmes.

The Court of Justice has yet to rule on the request for a preliminary ruling by a British court (Case C-293/97) on the definition of 'waters affected by pollution'. Under Article 3 of Directive 91/676/EEC, areas draining into water known to be affected by pollution must be designated as vulnerable zones. The Advocate-General presented his submissions on 8 October.

The Commission also started infringement 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 obliged to draw up on the implementation of certain directives or had sent them in late or incomplete. As a result the Commission has not been able to draw up properly the Community reports it is required to produce. In this light, the Commission sent a reasoned opinion to Ireland and decided to take the same action against Luxembourg, Belgium, Portugal and Italy.

Lastly, it should be pointed out that Community legislation on water is currently being revised to reflect the changes which have taken place in the 20 years since the policy was first formulated. This involves introducing stricter standards and introducing the concept of river basin management. The framework Directive proposed by the Commission in February 1997 on harmonising water quality parameters and protecting all types of water is in the process of being adopted. Once adopted and implemented, the Directive will replace a number of existing Directives on groundwater (Directive 80/68/EEC) and surface water to be used for drinking water (Directive 75/440/EEC) or for fish (Directive 78/659/EEC) or shellfish (Directive 79/923/EEC). The regulations set out in Directive 76/464/EEC (discharges into water) and related implementing Directives should also come within the scope of the framework Directive.

Directive 76/160/EEC on bathing water is still in the process of being revised; an amended proposal was adopted by the Commission in November 1997. Lastly, Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) contains rules on water pollution.

2.12.5. **Nature**

There are two major Community Directives aimed at protecting nature: Directive 79/409/EEC on the conservation of wild birds and Directive 92/43/EEC making increased demands on Member States with regard to the conservation of natural habitats and of wild fauna and flora.

The transposal of Directive 79/409/EEC is moving ahead, but there have also been some less encouraging developments. Some progress has been made, particularly with regard to systems of protection for wild species (Article 5) and the conditions for derogating from the obligation to protect birds (Article 9). As a consequence the Commission was able to drop Article 171 proceedings against Belgium (transposal of Articles 5 and 9) following the adoption in December 1997 of a Decree by the Flemish Region. Similarly, Spain adopted the Act of 5 November 1997 which sets out derogation possibilities in line with Article 9, and Finland adopted a decree on hunting on 27 November 1998 aimed at bringing national legislation into line with Directive 79/409/EEC.

However, other implementation problems remain unresolved. Article 171 proceedings against France (transposal of Article 5 in relation to several species of birds) have been referred to the Court for a second time (Case C-373/98) for failure, 17 years after the Directive entered into force and 10 years after the ruling, to implement the Directive properly and in full. When referring the case to the Court the Commission also proposed that France should be required to pay a daily fine of ECU 105 000 from the date of the second judgment. In several Member States provision is not always made for certain activities (such as hunting, regulation of species and trade) in line with Article 9. The Commission has therefore decided to refer cases involving France and Italy to the Court of Justice for failure to transpose Article 9, and Belgium, as regards Article 6.

The Commission has also decided to refer the matter of the opening and closing dates of the hunting season for migratory birds in France to the Court for non-compliance with Article 7(4); it had received numerous complaints on the subject, and Parliament had received numerous petitions, some supporting and some opposing the French system of open and closed seasons to which the Commission took objection.

Although the deadline for transposal of Directive 92/43/EEC expired in June 1994, a number of Member States had not notified the Commission of all, or in some cases, any of the measures required to implement the Directive. The main provisions to be transposed concern Article 6 on the protection of habitats in the special conservation sites which are to be set and Articles 12 to 16 on protection of species.

Following the Court's judgment finding against Greece for failure to notify implementing measures [1], the Commission has pursued the implementation of the ruling on the basis of Article 171 of the Treaty, sending a reasoned opinion to the Greek authorities. The Commission has also referred a case involving France to the Court for failure to transpose Article 6 of the Directive [2] and has decided to do the same with regard to Finland's problems with the Åland islands, if the recently adopted legislation does not transpose the Directive in full. Since then Finland has, however, notified legislation transposing the Directive in the Province.

The proceedings which resulted in a judgment against Germany were terminated following the adoption of legislation in 1998 [3]. Spain also issued a royal decree in June 1998 to ensure that its legislation was in line with Article 16 of the Directive on conditions for derogating from the obligation to protect species, while Finland issued the abovementioned decree on hunting on 27 November 1998, avowedly to bring Finnish legislation into line with Directives 92/43/EEC and 79/409/EEC.

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

Problems still arise in several Member States with Article 4 of Directive 79/409/EEC, which requires that sites shall be designated special protection areas (SPAs) for wild birds wherever the objective ornithological criteria are met. Though the special protection areas for wild birds are set to join the Natura 2000 network, the obligation imposed by Article 4 of Directive 79/409/EEC is legally quite distinct from the obligation under Directive 92/43/EEC concerning the step-by-step creation of the Natura 2000 network linking all sites of Community importance containing any of the species or habitats referred to by Directive 92/43/EEC.

The sites concerned provide a habitat for the species referred to in Annex 1 to the Directive, and migratory species. Particular importance is attached to the protection of wetlands, especially those of international significance. There is no question as to the meaning of Article 4, as interpreted by the Court of Justice in its judgment of 11 July 1996 (Case C-44/95) concerning the Lappel Bank site in the Medway estuary near the port of Sheerness in Kent (United Kingdom): special protection areas must be selected and their borders drawn on the basis of ornithological and ecological criteria only; economic and social criteria may not be taken into consideration.

The Commission is therefore pressing ahead with infringement proceedings in certain key cases. Following the Court judgment on the Santoña marshes in Spain, it is continuing with Article 171 proceedings with a view to obtaining full implementation of the ruling. The proceedings against France

[1] Judgment of 26 June 1997, Case C-329/96.

[2] Case C-256/98.

[3] Judgment of 11 December 1997, Case C-83/97.

in connection with the Seine estuary (Case C-166/97) are continuing (the Advocate-General presented his submissions on 10 December) and the Commission has also referred to the Court the cases of the Marais Poitevin (Case C-96/98) and the Basses Corbières/Vingrau (Case C-374/98). Proceedings are continuing against France in connection with the Baie de Canche and the Platier d'Oye, the Plaine des Maures and the Basse Vallée de l'Aude. The Commission has brought an action against the Netherlands in connection with the Waddenzee area (Case C-63/98), but has dropped proceedings against Spain concerning Fuerteventura in the Canary Islands.

Although areas should have been designated 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.

On 19 May the Court of Justice delivered a significant judgment against the Netherlands in an infringement case (Case C-3/96). The Court confirmed, as it did on 2 August 1993 in *Commission* v *Spain* (Case C-355/90), that 'while the Member States have a certain margin of discretion in the choice of SPAs, the classification of those areas is nevertheless subject to certain ornithological criteria determined by the Directive. It follows that the Member States' margin of discretion in choosing the most suitable territories for classification as SPAs does not concern the appropriateness of classifying as SPAs the territories which appear the most suitable according to ornithological criteria, but only the application of those criteria for identifying the most suitable territories for conservation of the species listed in Annex I to the Directive. Consequently, Member States are obliged to classify as SPAs all the sites which, applying ornithological criteria, appear to be the most suitable for conservation of the species in question. Thus where it appears that a Member State has classified as SPAs sites, the number and total area of which are manifestly less than the number and total area of the sites considered to be the most suitable for conservation of the species in question, it will be possible to find that that Member State has failed to fulfil its obligation under Article 4(1) of the Directive. The Court accordingly dismisses the Netherlands Government's argument that the Commission must establish, territory by territory, specific infringements of that provision'.

The Court went on to acknowledge the relevance of the Inventory of Important Bird Areas in the European Community prepared for the competent Directorate-General of the Commission by the Eurogroup for the Conservation of Birds and Habitats in conjunction with the International Council of Bird Preservation and in cooperation with Commission experts. That inventory, although not legally binding on the Member States concerned, could, by reason of its acknowledged scientific value in the present case, be used by the Court as a basis of reference for assessing the extent to which the Kingdom of the Netherlands had complied with its obligation to classify SPAs. In the circumstances, IBA 89 had proved to be the only document containing scientific evidence making it possible to assess whether the defendant State had fulfilled its obligation to classify as SPAs the most suitable territories in number and area for conservation of the protected species. The situation would have been different if the Kingdom of the Netherlands had produced scientific evidence in particular to show that the obligation in question could be fulfilled by classifying as SPAs territories whose number and total area were less than those resulting from IBA 89.

The Commission is continuing Article 171 proceedings to obtain implementation of the judgments against the Netherlands.

It continued proceedings against other Member States, sending reasoned opinions to Finland, Germany, Italy and Portugal. Proceedings have been started against other Member States, but the Commission has deferred its decision to bring an action against Luxembourg at the Court of Justice, after Luxembourg designated several SPAs in October 1998.

Significant progress has been made as regards the setting up of the Natura 2000 network, the Community's network linking all sites set up under Directive 92/43/EEC, demonstrating growing appreciation of the innovative approach of the Directive, which involves gradually building up the network, extensive discussions between the Commission and the Member States and a legal set-up for special conservation sites which paves the way for management plans (possibly even contractually binding ones), and makes allowance for exemptions from the ban on deterioration and disturbance where this conflicts with overriding public interests.

Member States continued to propose conservation sites within the meaning of Directive 92/43/EEC, which is to be welcomed, even if none of them had provided the Commission with a full list of proposed sites by the June 1995 deadline laid down by the Directive. The Commission dropped proceedings against Greece and Portugal for complete or partial failure to produce a list. Austria, Denmark, Italy, Luxembourg, the Netherlands, Spain and Sweden all sent in comprehensive lists of sites currently being studied, and the Commission was accordingly able to suspend infringement proceedings in these cases at the end of 1998. At the end of the year France, Germany and Ireland were still lagging behind and the Commission has decided to bring actions against them.

A court in the United Kingdom has asked for a preliminary ruling under Article 177 of the EC Treaty regarding the scope of the obligation to select sites to constitute the Natura 2000 work (Case C-371/98).

In many cases, the details given on sites and the species they support are neither complete nor appropriate. This makes it difficult to proceed to the subsequent stages of the plan laid down in Directive 92/43/EEC, but the Commission is pressing ahead and is trying to ensure that the delays do not jeopardise 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 Structural Funds (particularly objectives 2 and 5b) very thoroughly for compliance with environmental regulations.

The Commission is still receiving a large number of complaints concerning unsatisfactory implementation as a result of specific local problems, underlining the practical difficulties which sometimes arise where there is a potential for conflict between the need to protect sites and social and economic considerations. Another explanation is that Directives 79/409/EEC and 92/43/EEC are two of the best-known pieces of Community environment legislation and the practical ways in which they help protect nature are widely acknowledged. Consequently, the number of complaints concerning implementation of the Directives must be seen both as a measure of their success and an indicator of the work still to be done by the Member States.

The two main problems are the failure to designate areas fulfilling the objective ornithological criteria as special protection areas and projects affecting sites. In the first case, the Commission continues to investigate individual complaints carefully, though it tends to deal with them through the general proceedings referred to above concerning the general lack of special protection sites. In most cases, the problems complained of are settled while the matter is still being investigated, before Article 169 letters are sent. However, proceedings were started against several Member States in 1998, including a reasoned opinion which was sent to Belgium concerning an SPA in Flanders (the Zwarte Beek valley).

Regarding projects with a potential effect on sites which have been or are likely to be designated as special protection sites, Article 6 of Directive 92/43/EEC prohibits significant deterioration or disturbance except under certain conditions. First a proper impact assessment must be carried out and alternative sites must be sought for the project. If there are no alternatives, the project may be carried out, but only then if there are imperative reasons of overriding public interest, including economic reasons, compensation is provided and the Commission is notified. Many complaints concern the fact that these conditions have not been met.

Problems with the implementation of Directive 92/43/EEC may also arise with regard to the protection of species rather than sites. For example, the Commission has started infringement proceedings against Greece for threats to the loggerhead turtle (*Caretta caretta*) on the island of Zakynthos.

In response to infringement proceedings commenced by the Commission, Greece notified Act 2637 of 27 August 1998 properly implementing Regulation (EC) 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 Commission terminated proceedings against France concerning the implementation of Regulation (EEC) No 3254/91 on leghold traps following the adoption of a decree on 28 November 1997 eliminating all incompatibility with the Regulation.

2.12.6. **Noise**

As in the past, implementation of Directives on noise poses few problems. The Directives in question set standards for new products. They do not apply to ambient noise from multiple sources (for example, noise in cities caused by traffic jams or industrial activity near residential areas). However, the complaints received by the Commission in fact relate to ambient noise but since there is no specific Community legislation to give effect to an overall policy regarding health and the quality of life, they cannot be addressed at Community level.

Infringement proceedings in respect of old and noisy aeroplanes using Brussels (Zaventem) and Ostend airports in contravention of Directive 92/14/EEC on the limitation of the operation of certain categories of aeroplanes remain open, but the authorities have taken measures and some of the aeroplanes concerned seem likely to be exempted under the provisions of Directive 92/14/EEC, as amended by Directive 98/20/EC.

The Court of Justice gave a preliminary ruling on 14 July 1998 in Case C-389/96 *Aher-Waggon GmbH* v *Germany* at the request of the German Federal Administrative Court concerning German regulations banning the registration of aircraft which exceeded certain noise limits but which were already registered in other Member States, while allowing the continued use of craft registered in Germany before the Regulation came into force. The Court held that 'Article 30 of the EC Treaty does not preclude national legislation which makes the first registration in the national territory of aircraft previously registered in another Member State conditional on compliance with stricter noise standards than those laid down by Council Directive 80/51/EEC ... on the limitation of noise emissions from subsonic aircraft, as amended ... , while exempting from those standards aircraft which obtained registration in national territory before that Directive was implemented'.

On 15 October 1998 the Court of Justice found against Italy (Case C-324/97) and Belgium (Case C-326/97) for delays in notifying the Commission of implementing measures for Directive 95/27/EC amending Directive 86/662/EEC on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders. Italy notified its implementing measures (Decree Act of 26 June) and proceedings were duly dropped, while proceedings against Belgium continue.

2.12.7. **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. It is particularly important in this field to exercise precaution as a matter of principle. However, Member States wish Directives to remain the principal instrument used in this sphere, with the consequence that they are very often required to adopt implementing measures. These measures must also be in conformity with the Directives, but they are not always. In such circumstances the Commission must commence infringement proceedings to ensure that there is no ban on the marketing of substances that have been authorised by Community directives, nor any marketing of banned substances.

One of the features of Directive 67/548/EEC on the classification, packaging and labelling of dangerous substances is the frequency with which it has to be amended, in line with scientific and technical developments. Several directives amending Directive 67/548/EEC fell due for transposal in 1998:

— Commission Directive 96/54/EC of 30 July 1998 adapting to technical progress for the 22nd time Council Directive 67/548/EEC [1],

— Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC [2],

— Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC [3].

The Commission adopted Directive 98/73/EC on 18 September 1998 [4] and Directive 98/98/EC on 15 December 1998, [5] making the 24th and 25th adaptations to technical progress of Directive 67/548/EEC.

With this rapid change in Community texts, delays in transposal are all too frequent. In this case the Commission automatically commences proceedings and has no hesitation in referring cases to the Court of Justice wherever necessary.

Belgium adopted a royal decree on 13 November 1997 (published on 26 March 1998), thereby regularising its position with regard to several infringement proceedings commenced by the Commission concerning the transposal of Directives 92/32/EEC, 92/69/EEC, 93/67/EEC, 93/105/EC, 93/21/EEC, 91/410/EEC, 93/90/EEC, 93/72/EC and 93/101/EC. The Court delivered judgments on these cases on 12 December 1996 and 29 May and 11 December 1997. Failure to transpose Directive 94/69/EC led the Commission to refer Belgium to the Court of Justice (Case C-79/98) and to decide to do likewise for Portugal. The proceedings started against Ireland, however, regarding transposal of Directive 94/69/EC, were dropped following notification of regulations.

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 decided to send reasoned opinions to Belgium, Germany, Portugal and Greece as none of them had transposed it.

Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market [6] will shortly by due for transposal.

As regards Directive 86/609/EEC (protection of animals used for experimental and other scientific purposes), the Court of Justice gave judgment in Case C-268/97 on 15 October 1998; this was a Commission action against Belgium recognising its failure to transpose Articles 14 (training of laboratory staff)

[1] OJ L 248, 30.9.1996, p. 1.
[2] OJ L 236, 18.9.1996, p. 35.
[3] OJ L 343, 13.12.1997, p. 19.
[4] OJ L 305, 16.11.1998, p. 1.
[5] OJ L 355, 30.12.1998, p. 1.
[6] OJ L 123, 24.4.1998, p. 1.

and 22 (mutual recognition). Case C-299/97 against Portugal concerning inspections in establishments where animals are used is continuing. The Commission also decided to bring a Court action against Luxembourg, to send a supplementary reasoned opinion to Ireland and a reasoned opinion to France for incorrect implementation. Following the commencement of infringement proceedings, Sweden finally notified the Commission of its implementing measures, which consisted of an act amending the Act on the protection of animals and a regulation amending the animals protection regulation, together with guidelines on the treatment of animals used for experimental purposes. Proceedings against the United Kingdom were terminated in August, when the law on scientific procedures involving animals was amended.

The Commission still receives complaints concerning the application of the Directive, particularly as regards the use of stray dogs for experimental purposes and the welfare and accommodation afforded to animals used for experiments, and strives to ensure that the Directive is properly observed.

The Directives on genetically modified organisms (GMOs), 90/219/EEC (contained use) and 90/220/EEC (release), were adapted to technical progress in 1994 by Directives 94/51/EC and 94/15/EC respectively. More recently Annex III to Directive 90/220/EEC has been amended by Directive 97/35/EC.

Directive 90/219/EEC was amended by Council Directive 98/81/EC of 26 October 1998 (contained use of genetically-modified micro-organisms) [1], which must be transposed by 5 June 2000. It focuses primarily on adapting administrative procedures to the real risks arising from activities involving GMOs, which will now be classified in four rather than two risk categories. The Directive defines minimum containment and control measures for each group and simplifies the procedure for adapting the Directive to technical progress.

The proposal for an amendment to Directive 90/220/EEC adopted by the Commission at the end of 1997 [2] seeks to introduce a more transparent approval procedure for the marketing of GMOs, to establish a system for the labelling of products using such organisms, to set out common principles for risk assessment and to adapt administrative procedures to the risks involved, including indirect ones.

In a judgment given on 29 May 1997 (Case C-357/96), the Court found that Belgium had failed to fulfil its obligations by not notifying measures implementing Directive 94/15/EC. As the Belgian authorities have still not taken appropriate remedial action, the Commission is pursuing infringement Article 171 proceedings and has sent Belgium a reasoned opinion. On 16 July the Court also found that Belgium had failed to transpose Directives 90/219/EEC, 90/220/EEC and 94/51/EC (Case C-343/97), and in this case too the Commission is continuing Article 171 proceedings. The Commission has also decided to bring an action against Belgium before the Court for failure to transpose Directive 97/35/EC.

In a further judgment on 16 July 1998 (Case C-339/97), the Court found that Luxembourg had failed to fulfil its obligations by not notifying measures implementing Directives 94/15/EC and 94/51/EC. While Luxembourg has notified measures concerning Directive 94/15/EC [3], it has failed to do so with regard to the other Directive, and consequently the Commission is pursuing Article 171 proceedings in this respect.

Again on 16 July 1998 (Case C-285/97), the Court found that Portugal had failed to fulfil its obligations by not notifying measures implementing Directive 94/51/EC. On 7 May 1998 a decree-law was adopted ensuring the transposal of the Directive and therefore the Commission terminated the proceedings. Even so, the Commission decided to bring an action before the Court on the grounds that several aspects of Portuguese law are incompatible with Directives 90/219/EEC and 90/220/EEC.

The Commission also dropped legal proceedings against Germany for incorrect transposal of Articles 14 (emergency plans), 15 (information supplied to the authorities by users in the event of accidents) and 16 (consultation between the Commission and the Member States on emergency plans in the event of accidents) of Directive 90/219/EEC, as Germany notified the Commission of legislation transposing the Directive [4].

The Commission also decided to refer Greece to the Court of Justice for failure to transpose Directive 97/35/EC.

2.12.8. **Waste**

Infringement proceedings in relation to waste continue to abound; they concern both formal transposal and practical

(1) OJ L 330, 5.12.1998, p. 13.
(2) OJ C 139, 4.5.1998, p. 1.
(3) Grand Ducal Regulation of 17 April 1998 determining the information to be given in applications for authorisation of projects involving the voluntary release or the marketing of GMOs (Mémorial A, 28.4.1998, p. 458).
(4) *Gentechnik-Notfallverordnung*, published on 16.12.1998.

application. The most likely explanations for the difficulties in enforcing Community law in these matters are the need for changes in the conduct both of private individuals and of public services and business firms and the resultant costs. But the Commission is highly attentive to compliance with Community legislation relating to waste.

Regarding the framework directive on waste, Directive 75/442/EEC, as amended by Directive 91/156/EEC, the Commission was able to terminate the Article 171 proceedings against Spain and France following the two judgments given against them on 5 June 1997 (Cases C-107/96 and C-223/96). Spain notified the Commission of an Act passed on 21 April 1998 and France notified it of a Decree issued on 30 July and two Orders issued on 12 August and 9 September. Italy also notified a series of instruments (Decree-Act dated 8 November 1997 and implementing Decrees dated 5 February and 1 April 1998) but transposal is still neither complete nor fully in order.

Most of the difficulties concern application. This is at the root of the large number of complaints primarily concerned with dumping of waste (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 or reprocessing sites; in the case of waste-disposal, the authorisation must impose conditions to contain the environmental impact. However, the Commission's scope for action on waste disposal is particularly limited as there are as yet no detailed Community rules specifically addressing the issue. But the Community legislation is evolving: the proposal for a Council Directive on the landfill of waste [1] has reached the common position stage [2].

That said, the Commission uses individual cases to seek more general problems, such as the absence or inadequacy of waste management plans: an illegal dump may be evidence of an unsatisfied need for waste management. This was the spirit behind the Commission's second referral of a Greek case to the Court of Justice under Article 171 (C-389/98) for failure to give effect to the Court's judgment in Case C-45/92 (17 April 1992) concerning a specific case of an environmentally unsound waste disposal situation in Kouroupitos in Crete and the lack of any waste-management plan to deal with it. In another case, however, the Commission decided to take Italy to the Court of Justice over an illegal tip in the San Rocco valley (Case C-365/97), and that case is still proceeding.

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 one to have established a planning system for waste management. The focus of the procedures varies, from the lack of plans required under Article 7 of the framework Directive, to plans for management of dangerous waste, provided for by Article 6 of Directive 91/679/EEC, to packaging waste, for which special planning is required under Article 14 of Directive 94/62/EC. The Commission decided to commence proceedings in the Court against Ireland (three categories of plans) and Belgium (waste packaging materials). A reasoned opinion was sent to France, Greece, Italy, Luxembourg, the Netherlands and Spain, and the Commission further decided to send a reasoned opinion to Germany, Sweden and the United Kingdom. Furthermore, the Commission is continuing with Article 171 proceedings against Germany for failing to implement in full the Court's judgment of 10 May 1995 (Case C-422/92) regarding the lack of management plans for dangerous waste in a number of *Länder*, though it was notified of plans at the end of the year.

Under Community law, management plans must cover all waste falling within the scope of the Directive, must deal with the type, quantity and origin of the waste to be reprocessed or disposed of, and must contain general technical rules as well as special provisions on particular types of waste and specify what sites and what plant are suitable for waste disposal. Management plans must aim to limit production, reduce the amount of waste, switch to recycling, minimise the environmental risks involved in disposal and create an integrated network of waste-disposal plants with sufficient capacity. It is clear from these ambitious objectives that the Member States need to formulate plans covering their whole territory and to update them regularly.

Directive 75/442/EEC is supplemented by Directive 91/689/EEC on dangerous waste. The United Kingdom, the last Member State to notify transposal measures covering the entire national territory, having received a reasoned opinion from the Commission in 1998, notified measures for Northern Ireland on 14 August, and the proceedings were terminated. Some of the Member States, however, have not supplied certain information it needs on facilities for disposal and processing of dangerous waste, and it has sent a reasoned opinion to Belgium, Greece, Italy and Portugal.

(1) OJ C 156, 24.5.1997 p. 10.
(2) OJ C 333, 30.10.1998, p. 15.

There has been significant progress in the implementation of the Directives on batteries and accumulators containing certain dangerous substances (91/157/EEC and 93/86/EEC). The delays in the adoption of transposal measures by France, Germany and Italy, for which those Member States had had judgments given against them by the Court of Justice, were made up. The Commission withdrew its action against Italy in Case C-286/96 concerning Directive 93/86/EEC, as, following the judgment given in Case C-303/95 holding that it had failed to transpose Directive 91/157/EEC and new Article 171 proceedings commenced by the Commission for failure to give effect to that judgment, Italy remedied the situation by issuing a decree implementing the two Directives on 20 November 1997. France also remedied its situation in response to Article 171 proceedings for failure to give effect to the judgment given on 29 May 1997 in Joined Cases C-282/96 and C-283/96 (failure to transpose Directives 91/157/EEC and 93/86/EEC): a decree transposing them both was issued on 30 December 1997. On 13 November 1997 Germany had a judgment given against it (Case C-236/96) for failure to transpose the two Directives, but later notified the Commission of implementing measures [1].

Secondly, the Commission has pursued infringement proceedings against Member States which have not yet set up programmes under Article 6 of Directive 91/157/EEC. The Court of Justice gave its first judgment in this matter on 28 May (Case C-298/97, against Spain). The programmes include reductions in the heavy-metal content of batteries and accumulators and promotion of the marketing of batteries and accumulators containing lesser quantities of dangerous substances, the reduction of the quantities of batteries in household waste, promotion of research and separation for disposal purposes. Spain argued that these objectives had been attained through various measures such as infrastructure investments to provide collection facilities for batteries and accumulators. But there was no full programme for the implementation of the Directive's specific objectives. The Commission, and the Court held that that Spain was accordingly acting in default. The Commission has since commenced Article 171 proceedings.

The Court of Justice is still considering Case C-347/97 *Commission* v *Belgium* on the same grounds. The Commission had also brought comparable proceedings against France (Case C-178/98) and Greece (C-215/98). But the proceedings against Italy were terminated after measures were taken. A reasoned opinion was sent to Portugal.

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 substances [2] will shortly be due for transposal.

The Commission commenced infringement proceedings for failure to transpose Directive 94/62/EC on packaging and packaging waste, scheduled for 30 June 1996. It decided to take Belgium, Finland, Greece, Ireland and Luxembourg to Court, though three of these Member States then remedied their situation: Finland notified instruments for the Province of Åland, Ireland notified regulations issued on 8 October 1998 and Luxembourg notified Grand-Ducal regulations adopted on 31 October. The Commission also sent reasoned opinions to the United Kingdom and Portugal. France notified a decree issued on 20 July 1998, transposing several provisions of the directive, but the infringement proceedings are still running. Germany notified an amended version of its packaging regulations (28 August 1998), which continue to promote the reuse of packaging materials. The Commission then sent Germany a supplementary reasoned opinion, raising a number of issues concerning reuse.

But even if Directive 94/62/EC is formally transposed, it must still be applied properly. This would not seem to be the case in Denmark, which has received a reasoned opinion from the Commission as metal cans for drinks and other types of non-reusable packaging are banned there.

Directive 94/62/EC contains an innovatory Article regarding the transposal of directives. Under Article 16 draft implementing measures must be sent to the Commission and the Member States for scrutiny prior to adoption, in accordance with the procedure laid down by Directive 83/189/EEC [3]. The procedure includes a three-month waiting period; only once this has expired can the Member State adopt the draft measure. This gives the Commission and the other Member States time to examine whether the draft is compatible with Community regulations on the free movement of goods and with the Directive itself, and to warn the Member State wishing to

[1] Batterieverordnung, published on 2.4.1998.

[2] OJ L 1, 5.1.1999, p. 1.

[3] Now replaced by Directive 98/34/EC of the European Parliament and the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37).

adopt it of any potential problems. By bringing together the Commission and the Member States to discuss transposition, Article 16 helps prevent problems with the measure itself and subsequently the way in which it is applied. This provision applies not only to actual transposal measures but also to instruments amending existing transposal measures.

The Commission is pursuing its proceedings against Germany and France for preventing the transportation of certain types of waste in contravention of Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community. This Regulation often causes problems in cases where the nature of the waste is at issue, as the rules to be applied differ according to the degree of toxicity of the waste. Similarly, determining the type of processing the waste will undergo once it has been shipped is also a problem: the procedures, and indeed the authorities' power to prohibit shipment, differ according to whether the waste is to be disposed of or recycled.

On 25 June the Court of Justice gave two preliminary rulings on the interpretation of Regulation (EEC) No 259/93, requested by the Netherlands Raad van State.

One of them concerned various points of interpretation of Regulation (EEC) No 259/93 on shipments of waste in the context of a case concerning imports of waste from Germany into the Netherlands without notification of the Netherlands authorities (Case C192/96 *Beside BV and I. M. Besselsen*). It held that 'the expression "municipal/household waste" in ... the amber list in Annex III to Regulation (EEC) No 259/93 ... includes both waste which for the most part consists of waste mentioned on the green list in Annex II to the Regulation, mixed with other categories of waste appearing on that list, and waste mentioned on the green list mixed with a small quantity of materials not referred to on that list.' It also held that '[t]he reference to the storage of materials in ... Annex IIB to Council Directive ... 75/442/EEC, as amended ..., must be interpreted as covering not only cases in which storage takes place in the undertaking in which the other operations mentioned in that Annex must be carried out but also cases in which storage precedes transport to such an undertaking, regardless of whether the latter is established inside or outside the Community'. Thirdly, it held that, 'The information listed in Article 11(1) of Regulation (EEC) No 259/93 constitutes the minimum evidence which the competent authority may, in the absence of notification, require in order to establish that "green waste" is intended for recovery'. And lastly, it held that 'Regulation (EEC) No 259/93 must be interpreted as meaning that the Member State of destination may not unilaterally return waste to the Member State of dispatch without prior notification to the latter; the Member State of dispatch may not oppose its return where the Member State of destination produces a duly motivated request to that effect'. Thus the responsibility of each Member State for waste generated in its territory is clearly affirmed.

In Case C-203/96 *Chemische Afvalstoffen Dusseldorp BV and Others* v *Minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer*, the Court of Justice gave judgment on 25 June 1998, holding that 'Directive 75/442/EEC ... as amended ... and Regulation (EEC) No 259/93 ... cannot be interpreted as meaning that the principles of self-sufficiency and proximity are applicable to shipments of waste for recovery. Article 130t of the EC Treaty does not permit Member States to extend the application of those principles to such waste when it is clear that they create a barrier to exports which is not justified either by an imperative measure relating to protection of the environment or by one of derogations provided for by Article 36 of that Treaty'. This confirms that waste for recovery (recycling, composting, incineration and energy-generation) qualifies for greater freedom of movement than waste for disposal (incineration without energy-generation, landfill) and that the Member States cannot submit the two categories to a single, more restrictive set of rules.

Commission Regulation (EC) No 2408/98 amending Annex V to Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community was adopted on 6 November 1998 [1].

Other more specific directives are worth mentioning by reason of the infringement proceedings to which they give or have given rise.

For instance, France notified a Decree of 8 January and two Orders of 2 February 1998 implementing Directive 86/278/EEC on the protection of the soil when sewage sludge is used in agriculture.

Regarding the first Community Directive concerning waste, Directive 75/439/EEC on the disposal of waste oils, the Commission decided to refer to the Court the proceedings against Portugal as its legislation transposing the Directive was not in order; the legislation failed to require waste-oil regeneration facilities to use the best available technology where that did not entail excessive costs, did not prohibit the use for fuel purposes of waste oils with a PCB content exceeding 50 ppm for equipment used before the Directive entered into force and contained no provisions on periodic inspection of facilities. Case C-102/97 against Germany is still in motion. It concerns problems of incorrect application of the Directive in relation to the regeneration treatment of waste oil.

[1] OJ L 298, 7.11.1998, p. 19.

Lastly, with regard to the disposal of PCB and PCT, two particularly dangerous products, Directive 96/59/EC, which supersedes Directive 76/403/EEC, was to be transposed by the Member States by 16 March 1998. The Commission addressed reasoned opinions to Denmark, Germany, Greece, Italy, Portugal, Spain and the United Kingdom for failure to notify it of transposal measures.

2.12.9. **Environment and industry**

In an area related to dangerous substances, Directive 82/501/EEC, the 'Seveso' Directive, concerns the prevention of major industrial accidents. The Commission has terminated the action brought in the Court of Justice against Germany (Case C-192/97) because its legislation transposing the Directive was too restrictive with regard to the plants and substances covered. On 20 April 1998 Germany adopted a Regulation rectifying the situation. Another case is pending before the Court against Italy (Case C-336/97) for failure to apply the Directive correctly in respect of emergency plans, inspections and control measures.

It is worth noting that, with effect from 3 February 1999, Directive 82/501/EEC will be replaced by Directive 96/82/EC, which must be transposed by 3 February 1999. The new Directive aims to extend the scope of its predecessor to cover more establishments which are a potential source of hazardous accidents and to develop the exchange of information between Member States.

The Commission referred a case against Portugal to the Court in relation to Directive 84/360/EEC (air pollution from industrial plants), as its authorisation system does not cover all the types of plant to which the Directive applies.

The proceedings against Belgium for non-conformity of measures implementing Directive 87/217/EEC (prevention and reduction of environmental pollution by asbestos) continued with a reasoned opinion addressed in 1998.

There are still certain problems with regard to the two Directives on the prevention of air pollution from municipal waste incineration plants, 89/369/EEC (new plants) and 89/429/EEC (existing plants). The Commission terminated Article 171 infringement proceedings against Italy following the Court's judgment of 26 June 1996 (Case C-237/95) censuring the Italian authorities for failing to notify measures implementing the two Directives. Proceedings have also been commenced against Belgium, as its legislation transposing the two Directives, a Decree of the Brussels Region of 28 May 1998 and a Decree of the Flemish Region of 24 March 1998, was found not to comply with requirements. A reasoned opinion was addressed to Spain for permitting the Canary Islands to operate incinerators not complying with Directive 89/369/EEC.

Directive 94/67/EC on the incineration of hazardous waste fell due for transposal on 31 December 1996. Infringement proceedings against Denmark, Finland, Ireland, the Netherlands, Portugal and Sweden were terminated after they notified transposal measures, but others are still in motion. The Commission referred Greece (Case C-388/98) to the Court and decided to refer Austria also. It addressed reasoned opinions to Belgium, Italy and the United Kingdom.

Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), adopted on 24 September 1996, is to be implemented by 30 October 1999. This Directive belongs to a new generation of Community initiatives on the environment which adopt a broad-based subsidiarity-compliant approach, encouraging the participation of all interested parties and synergy between industry and the environment. The Commission has observed that not all the Member States have the requisite transposal instruments and accordingly feels justified in advising them to begin work on transposing the Directive as soon as possible. Indeed it has set up an informal group of experts, which met in the course of 1998, to assist them in the task of transposal. A forum for the exchange of information between Member State and industry on the best available techniques met regularly in 1998 on the basis of Article 16(2). And the committee provided for by Articles 15 and 19 to prepare an inventory of the principal emissions and sources responsible also met during the year.

The Commission decided to take Belgium to the Court in relation to Regulation (EEC) No 880/92 of 23 March 1992 on a Community eco-label award scheme, as it had failed to adopt the necessary national implementing measures (designation of competent bodies, practical rules for assessment of applications for the award of an eco-label).

Likewise, the Commission addressed reasoned opinions to Greece and Portugal for failure to adopt the necessary national measures implementing Regulation (EEC) No 1836/93 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme.

The Commission decided to send a reasoned opinion to Belgium on the principle of the conformity with Community law of the tacit authorisation scheme, where authorisation is deemed to be given if after a specified period the competent body has not opposed it. The Court held in relation to Directive 80/68/EEC (groundwater) that, where a directive provides for authorisations to be given, withheld or withdrawn by an express decision in accordance with specified procedural requirements entailing a number of necessary conditions that determine individual rights and duties, a tacit authorisation will not be compatible with the directive's requirements [1]. Consequently, certain aspects of the Belgian legislation relating to Directives 75/442/EEC as amended (waste), 76/464/EEC (dangerous substances discharged into the aquatic environment), 80/68/EEC (groundwater), 85/337/EEC (environmental impact assessment) and 84/360/EEC (air pollution from industrial plants) are not compatible with Community law.

2.12.10. *Radiation protection*

Although the legislation on radiation protection is based on Article 2(b) and Chapter III of the Treaty establishing the European Atomic Energy Community, it is not confined to nuclear energy but also covers all exposure of the general public and workers to ionising radiation, including medical uses. Article 33 of the Euratom Treaty requires the Commission to be consulted whenever national legislation is being drafted. This gives the Commission a useful instrument for preventing the adoption of national legislation which violates Community law. The right of control over the implementation of Community law on radiation protection under Article 141 of the Euratom Treaty, which is the Treaty provision corresponding to Article 169 of the Treaty establishing the European Community, is in addition to this prior control procedure.

The infringement proceedings against Austria, Finland and Sweden for failure to notify measures under Council Directive 80/836/Euratom laying down the basic standards for radiation protection have been dropped. This means that all the Member States have sent notice of their transposal measures. Directive 80/836/Euratom is to be replaced by Directive 96/29/Euratom, which has to be transposed by 13 May 2000. Taking up Recommendation No 60 by the International Commission on Radiological Protection, it lowers the radiation tolerances for workers and the general public. As the old basic standards are soon to be replaced by the new ones, the Commission is holding back on the infringement proceedings against Luxembourg and the Netherlands for failure to conform with the standards common to both the old and the new directives.

There have been improvements in the implementation of Council Directive 84/466/Euratom on protection of persons undergoing medical examination or treatment. Ireland and Italy have notified legal instruments transposing parts of the Directive which were not yet being complied with. The Commission has therefore dropped the relevant infringement procedures. In response to the Court of Justice's judgment against it (given on 9 October 1997, Case C-96/21), Spain has also made progress towards transposing the Directive by eliminating several points at issue in the infringement proceedings for failure to comply. The Belgian legislation as notified, on the other hand, still does not meet the requirements of the Directive; proceedings against that country for failure to comply are still under way.

Directive 84/466/Euratom is to be replaced by a new Directive (97/43/Euratom on medical exposure), which has to be transposed by 13 May 2000. The Commission is therefore also holding back in respect of action on points common to both the old and the new directives.

Finland has notified its measures transposing Directive 89/618/Euratom on informing the general public in the event of a radiological emergency. The Commission has therefore dropped the case against Finland for failure to comply. The proceedings against Germany for failure to comply are going ahead.

The infringement proceedings against France for failure to comply with Directive 90/641/Euratom on the operational protection of outside workers remain open.

Following notification of their transposal measures by Germany and Belgium, the Commission has dropped its action against those countries before the Court of Justice for failure to notify measures under Directive 92/3/Euratom on the supervision and control of shipments of radioactive waste (Cases C-97/220 and C-97/277 respectively). All the Member States have now sent notice of their measures transposing the Directive.

2.13. **AGRICULTURE**

2.13.1. **Free movement of agricultural produce**

The free movement of agricultural produce in the single market is one of the basic principles of the common agricultural policy (CAP) and of the common organisation of markets.

The Court of Justice has had regular occasions to recall that Articles 30 and 34 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.

[1] Case C-360/87 *Commission* v *Italy* [1991] ECR I-791, paragraphs 30 and 31 (judgment given on 28 February 1991,

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 trend in recent years for cases concerning new cases of traditional barriers to trade in agricultural produce, routine import checks and demands for import licences, for instance, to decline has been confirmed this year. France's insistence on authorising only such lawn-seed mixtures as have been entered in the French national catalogue was held to be contrary to Article 30 of the EC Treaty and supported by none of the exceptions available in Article 36, this business being harmonised by Directives 66/401/EEC and 70/457/EEC.

Given the refusal by the German authorities to make the CMA quality label (*Markenqualität aus deutschen Länden*), 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 declared that the label was a mandatory restriction as to the place where processed products could come from, contrary to Article 30 of the EC Treaty as interpreted by the Court of Justice in *Eggers* (Case 13/78 [1978] ECR 1935, judgment given on 12 October 1978) and *Montagne* (Case C-321/94 [1997] ECR 2343, judgment given on 7 May 1997).

On 12 December 1998 the Court of Justice gave judgment in Case C-102/96 *Commission* v *Germany*, ruling against the obligation imposed by the German authorities to mark and heat-treat certain types of fresh pigmeat from Denmark; this was seen as a barrier to trade [1].

Regarding the less traditional forms of barriers to trade, such as the repeated acts of violence by individuals against fruit and vegetable imports from other Member States, in particular from Spain, and the authorities' failure to take measures to prevent them, it is worth recalling the judgment given by the Court of Justice on 9 November 1997 in Case C-265/95, 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, in conjunction with Article 5 of that Treaty, 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 Commission trusts that the situation will be good in the years ahead.

[1] Case C-102/96; see 13th report (1995).

2.13.2. **Markets**

In addition to its efforts to remove barriers to freedom of movement, 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) No 3950/92 and (EEC) No 536/93.

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

In Italy, although purchasers were ordered to collect an advance on the levy payable by producers, they were not required to pay the authorities the sums collected for 1995/1996 and 1996/1997. The Italian authorities considered that before they did so it was necessary to undertake a detailed verification of the level of the reference quantity for each producer and of the level of production for the relevant years. The results of the verification are still provisional.

In Spain, only a fraction of the levy payable for 1993/1994, 1995/1996 and 1996/1997 has actually been paid by producers. Both producers and buyers have commenced large-scale actions against decisions affecting them. The Commission is considering the Spanish authorities' argument that the bulk of the amounts due by way of the levy is actually covered by the security lodged with the courts or is being seised by the tax authorities.

The Commission brought an action before the Court of Justice against France because of the discriminatory way in which it distributes the reference quantities released under the scheme for the cessation of milk production (Case C-198/96). Furthermore, under the Community rules the Member States are obliged to offset the linear reduction (2,15 %) occurring in 1990/1991 by supplementary allocations. The quantities allowed in France were not satisfactory in all cases.

The case has been withdrawn from the Court's register since the French Government adopted measures guaranteeing that the reduction would be removed and introducing a scheme whereby the quantities released by cessation arrangements would be partly covered by a mutual system. The Commission is now monitoring the application of the latter mechanism to check whether the degree of mutualisation is satisfactory.

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

In the milk sector, it continued infringement proceedings against the Netherlands for authorising the marketing of a form of drinking milk (skimmed to 25 % of the fat content of whole milk) not provided for by Council Regulation (EEC) No 1411/71 laying down additional rules on the common organisation of the market in milk and milk products, which exhaustively determines the composition of drinking milk. The proceedings were withdrawn when the offending product was removed from marketing circuits.

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. One of the features imposed by Regulation (EEC) No 1576/89 on whisky is an alcoholic strength of at least 40°, and the addition of water to spirits is prohibited to avoid the nature of a product being distorted.

A preliminary ruling was requested on the same subject by the Tribunal de Grande Instance at Paris (Case C-136/96). The Court of Justice ruled on 16 July 1997 that Community rules prohibited such product designations.

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

In the tobacco sector, the Commission issued a reasoned opinion regarding the additional conditions imposed by Greek legislation concerning deliveries of raw tobacco, not provided for by Regulation (EEC) No 1067/95.

2.13.3. **Harmonised areas**

General points

Overall, the Commission has noted a slight improvement in the situation as regards transposal in the agricultural field over 1998. There has been considerable progress in several Member States, particularly Germany, Austria and Italy. In three of the others, however, France, Luxembourg and Portugal, where the situation was far from satisfactory in 1997, there has still been little or no change. Generally speaking, infringement proceedings are taking less time. The number of cases referred to and ruled on by the Court has fallen heavily. No proceedings under Article 171 of the Treaty have had to be taken this year.

Seeds and seedlings

All the directives in this sector have been transposed.

Plant health

There are relatively few major problems still outstanding in this sector. In 1998 the German authorities adopted a new law on the placing of plant protection products on the market, thereby responding to the judgment in Case C-96/137 of 27 November 1997, in which the Court found against Germany for having failed to transpose Directive 91/414/EEC.

The Commission decided to refer to the Court the failure by France and Belgium to transpose Directive 97/75/EC amending Annex VI to Directive 91/414/EEC.

In Luxembourg and Austria there have been considerable delays in transposing Directives 96/32/EC and 96/33/EC on the fixing of maximum levels for pesticide residues.

Feedingstuffs

The deadlines for transposing several important directives fell in 1998. These include Directives 95/53/EC (organisation of official inspections), 95/59/EC (approving and registering certain establishments and intermediaries), 96/29/EC (circulation of feed materials), 96/51/EC (major amendments to the legislation on additives) and 98/67/EC (revising the annexes to Directive 96/25/EC). The complexity of the Community provisions to be transposed and implemented is such that there have been many delays, sometimes considerable, in transposing them, which explains the marked fall in the rate of transposal in this area.

In many Member States there has had to be a radical overhaul of the national legislation on feedingstuffs, leading in some cases to delays in implementing other directives as well.

The Court has also been asked to rule on infringement cases relating to failure by France to notify the Commission of measures transposing Directives 93/74/EC, 94/39/EC, 95/9/EC and 95/10/EC (feedingstuffs intended for particular nutritional purposes).

Veterinary matters

There has been a considerable improvement in the rate of transposal of directives in this sector.

The Commission is none the less very concerned at the failure of eight Member States to enact provisions transposing Directive 96/43/EC on the financing of veterinary inspections

and controls on live animals. It has therefore decided to refer the matters to the Court. It has also been decided to ask the Court to rule on the failure by Italy, France, Ireland and Portugal to transpose Directives 96/22/EC (prohibition on the use of certain substances having a hormonal or thyrostatic action and of ß-agonists) and 96/23/EC (measures to monitor certain substances and residues thereof in live animals and animal products).

Austria has finally completed transposal of the zootechnical directives which form part of existing Community law. It has not, however, yet transposed Directive 90/428/EEC (equidae intended for competitions).

Directive 96/93/EC on the certification of animals and animal products, which, *inter alia*, lays down provisions to prevent fraudulent certification, has yet to be transposed in six of the Member States. Reasoned opinions will very probably have to be sent to the Member States concerned.

With regard to animal welfare, it must be pointed out that Directive 95/29/EC has only been partly transposed in France. In Austria, the province of Salzburg has not adopted measures implementing Directive 93/119/EC (on the protection of animals at the time of slaughter or killing).

Incorrect transposal and incorrect application

Unlike the situation in previous years, when very few cases reach a stage where reasoned opinions have to be sent or the matter has to be referred to the Court, the Commission sent several reasoned opinions regarding the conformity or the application of measures transposing directives. Apart from the case involving Luxembourg's incorrect transposal of Directive 91/414/EEC (marketing of plant protection products), there were three areas in which reasoned opinions had to be sent.

Following surveys conducted in the Member States, the Commission sent three reasoned opinions, to Italy, Greece and Luxembourg, concerning national legislation that fails to comply with Directive 93/118/EC on the financing of health inspections and controls of fresh meat and poultrymeat as regards inspections of meat imported from non-member countries and also to Belgium and France as regards the internal market aspects and meat imported from non-member countries.

As for the infringement proceedings against Member States who failed to fulfil their obligations concerning Community legislation on bovine spongiform encephalopathy (BSE), the Commission sent a reasoned opinion to France for failing to apply Decision 96/449/EC on the approval of alternative heat-treatment systems for processing animal waste with a view to the inactivation of spongiform encephalopathy agents. The infringement was terminated when a Ministerial Decree of 6 February 1998 gave effect to the Decision. The Commission also sent a reasoned opinion to the United Kingdom after visits by the Food and Veterinary Office showed that the checks conducted by the UK inspectorate at slaughterhouses and cutting rooms were inadequate in terms of Directives 64/433/EEC and 89/662/EEC and Decision 96/239/EC, partly because of a shortage of veterinary inspectors. Spain was sent a reasoned opinion for misapplying Decision 96/449/EC by omitting to apply it to low-risk materials; the authorities there have now rectified the situation. And the Commission sent Portugal a reasoned opinion in respect of the deficiencies observed by Community inspectors from the Food and Veterinary Office in the application of Directive 90/667/EEC and Decision 96/449/EC.

A third problem concerns the persistence of serious hygiene and structural defects repeatedly observed in certain French slaughterhouses in the course of visits by inspectors from the Food and Veterinary Office; a reasoned opinion was sent. But the findings of the last visit showed that there was real progress towards full compliance. The Commission also sent a reasoned opinion to France in respect of the Order of 3 September 1994, which, contrary to Directives 64/433/EEC, 71/118/EEC, 91/445/EEC and 91/495/EEC, authorises certain establishments marketing meat and meat-based products to be released from health-inspection obligations.

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

In 1998, as in previous years, the Commission received notice of a great many drafts pursuant to Directive 98/34/EC (formerly 83/189/EEC), 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 the agricultural sector, the Commission, under Article 30 of the EC Treaty and secondary law, considered 158 draft legislative instruments notified by the Member States (143) and the EFTA countries (15) and, after studying them, called for amendments to some of them by delivering reasoned opinions (in 12 cases) or observations (in 17). In three other

cases, since the Commission had made or was proposing to make proposals to the Council for rules covering the matter referred to in the notified draft instrument, the instrument notified was held up for a period of 12 months, pursuant to the third and fourth paragraphs of Article 9 of Directive 98/34/EC.

Following the *Securitel* judgment on 30 April 1996, the Court was also asked for preliminary rulings on various issues relating to the unenforceability on third parties of instruments of which notification was not sent prior to adoption in line with the procedure laid down by Directive 98/43/EC (formerly 83/189/EEC). The agricultural sector was involved in applications for prior rulings C-425 to 427/97 and C-426/98, both of which related to the rules adopted by the Netherlands in 1991 in connection with that country's prohibition on administering veterinary medical preparations with sympathicomimetic effect containing clenbuterol to cattle for fattening and on the sale or purchase of cattle for fattening to which such medical preparations have been administered.

As regards infringements involving failure to notify technical standards or regulations at the project stage, the Portuguese authorities have agreed to amend their legislation on fruit and vegetables in order to comply with the reasoned opinion delivered by the Commission.

2.14. 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 for compatibility with Community law.

2.14.1. Resources

With respect to the procedures for allocating quotas and the establishment by the Member States of the control system for the common fisheries policy, the United Kingdom was sent a reasoned opinion on 14 January as part of proceedings for failure to carry out its obligations under the provisions on non-discrimination on grounds of nationality and failure to comply with a previous Court judgment (judgment of 4 October 1991 in Case C-246/89 *Commission* v *United Kingdom*). The Commission considers that, notwithstanding the Court judgment, the United Kingdom has not yet put satisfactory measures in place to end discrimination in the awarding of fishing quotas. A reasoned opinion was also sent to Denmark on 24 July as part of proceedings for failure to meet the obligation to carry out checks, owing to the exceeding of certain quotas allocated to that Member State.

2.14.2. Grant of flag rights and fishing licences

In 1998 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 Italy in connection with the granting of flag rights and fishing licences was dropped owing to the adoption in 1998 of national legislation compatible with Community law.

2.15. CONSUMER PROTECTION

2.15.1. Safety and health

Directives 92/59/EEC on general product safety and 87/357/EEC on dangerous imitations of food products have been transposed by all Member States. There are no infringement proceedings under way at the present time.

2.15.2. Protection of consumers' economic interests

As regards Directive 94/47/EC on timesharing contracts, the deadline for transposal of which was 29 April 1997, the Commission received notification of transposing measures from Finland and France in 1998. Five Member States have still not notified their national implementing measures, however. The Commission has brought the case against four states (Belgium, Spain, Italy and Luxembourg) before the Court of Justice; it will bring the case against Greece before the Court in the near future.

Directive 93/13/EEC on unfair terms in consumer contracts has now been transposed by all Member States. Spain was the last Member State to enact unfair terms legislation, in April 1998; the procedure which had been initiated before the Court of Justice has been closed.

There were also two references to the Court for a preliminary ruling in this field. One (C-82/96 *The Queen* v *Secretary of State and Industry*) was made by order of the High Court of Justice (Queen's Bench Division) and concerns the organisations entitled to take legal action to request an end to the use of unfair contract terms; following agreement between the parties the case was finally struck from the list. The other request (C-240/98 *Oceano Grupo Editorial* v *Murciano Quintero*) was lodged by the Barcelona Juzgado de Primera Instancia and raised the question whether Directive 93/13/EEC allowed the national courts to rule as a matter of course on the unfair nature of a provision of a contract submitted for their assessment when they are examining the admissibility of a complaint.

Article 169 letters were sent to Finland and Germany in connection with the transposal of *Directive 90/314/EEC on package holidays*, but the cases were shelved following satisfactory responses from the two Member States concerned. Infringement proceedings are also under way against Italy and Greece for incomplete transposal of Article 7 of the Directive.

The transposal of Article 7 of *Directive 90/314/EEC on package holidays*, which requires organisers and/or retailers of package holidays to provide security so that, in the event of insolvency, consumers can be reimbursed and repatriated, is currently the subject of a study by the competent Commission department. This study is necessary because the national measures transposing this Directive are very varied and in some Member States the level of protection afforded to consumers seems to be barely adequate.

The problems associated with the transposal of Article 7 of Directive 90/314/EEC are also clearly illustrated by the number of referrals for a preliminary ruling to the Court of Justice. In cases C-178/94 (*Dillenkofer and Others* v *Germany*) and C-364/96 (*Verein für Konsumenteninformation* v *Österreichische Kreditversicherung AG*), the Court adopted important decisions regarding the scope of this instrument. Cases C-140/97 (*Rechberger and Others* v *Austria*, which concerns, among other things, the question of what legislative measures would be sufficient to transpose Article 7 of Directive 90/314) and C-237/97 (*AFS Finland ry* v *Kuluttajavirasto*, on the question as to whether the statutory activity of the AFS, namely the placement of students on school exchanges, falls within the scope of the Directive and whether, as a result, the AFS must provide the security provided for in Article 7) are still pending.

The Court's preliminary rulings on these matters and the results of the abovementioned study will serve as a basis for the prosecution by the Commission of any infringements of Article 7 of Directive 90/314/EEC.

A request was made for a preliminary ruling on *Directive 90/88/EEC concerning consumer credit* (C-208/98 *Berliner Kindl Bräuerie AG* v *Siepert*) as to whether the Directive applied to contracts of guarantee.

2.15.3. **Progress in implementing consumer protection Directives**

Of the 12 Directives covered by this Chapter, 11 have been transposed by all Member States. Only Directive 94/47/EC has not yet been transposed by five Member States.

2.16. **COMMUNITY STAFF**

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.

A reasoned opinion was sent to the Spanish authorities on 13 September 1996 regarding their failure to meet their obligations under Article 12(b) of the Protocol on the Privileges and Immunities of the European Community. Following the issue to non-Spanish officials and other staff of the European Communities of a document enabling them to prove they are legally resident in Spain while assigned to a post there, the Commission, before taking a decision on further action, wishes to establish that the new permits do actually solve the problems raised in the reasoned opinion.

Although the Court of Justice ruled on 17 July 1997 (Case C-52/96 *Commission v Kingdom of Spain*) that Spain was failing to fulfil its obligations under Article 11(2) of Annex VIII to the Staff Regulations for Officials of the European Communities, relating to the transfer of pension rights, it has not yet adopted the necessary domestic measures. Infringement proceedings against it therefore still stand.

Greece has also complied with the Staff Regulations by approving national measures allowing the transfer of pension rights of officials and other staff to the Community scheme. The Commission has therefore dropped the infringement proceeding.

2.17. **STATISTICS**

The Member States' obligations in statistical matters are mainly to supply figures at predetermined intervals on specific questions. There are no major problems as regards either the application of statistical methods or compliance with deadlines in the actual application of directly applicable Community law.

However, infringement proceedings already begun against the Spanish and French authorities for failure to submit monthly data on the quantities and average prices of landings of fishery products (Council Regulation (EEC) No 1382/91) and annual catch statistics (Regulation (EEC) No 3880/91) continued in 1998.

In the absence of undertakings from the French and Spanish authorities that they would comply with Community law, the Commission sent a reasoned opinion to France and two to Spain.

Following on from this, France began to submit the data requested. The Commission was finally able to close the case when it was established that France had introduced a statistical system that met the requirements of Regulation (EEC) No 1382/91.

As for the two infringements involving Spain, it should be said that the Spanish authorities have done all in their power to bring their statistical system into line with the two fishing Regulations.

Indeed, the Spanish authorities have begun to submit the data requested and sent a 'Global action plan on fishery statistics in Spain'. Examination of the document as a whole is very positive. Work on the full installation of a suitable statistical system is expected to be completed early in 1999. It would appear from the present situation that it might be possible to close the case in 1999.

On the question of transposing Community directives into national law, it is evident that, as a general rule, most of the delays in notifying national measures are linked to the institutional and administrative structures in the Member States.

A number of Member States had not yet notified the Commission of the national measures transposing two Directives, namely Council Directive 95/57/EC on the collection of statistical information in the field of tourism (six Member States) and Council Directive 96/16/EC on statistical surveys of milk and milk products (14 Member States).

Commission action to make the Member States comply with the deadlines contained in the two Directives had the desired effect.

The 20 infringement cases initiated in 1997 were closed in 1998 following notification of national implementing measures.

Germany, Italy, Portugal and the United Kingdom (in the case of Directive 95/57/EC) and Belgium, Denmark, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal, Finland, Sweden and the United Kingdom (in the case of Directive 96/16/EC) have submitted all the information necessary (national law or administrative act) for the infringement case to be closed.

However, France, in the case of Directive 95/57/EC, and Ireland, in the case of both Directives, notified their national implementing measures only after the Commission had sent them a reasoned opinion.

Directive 95/57/EC and Directive 96/16/EC can now at last be said to have been transposed in all Member States.

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	Parliamentary questions	Petitions		
1995	955	297	30	4	459	1 711
1996	819	257	22	4	1 079	2 155
1997	957	261	13	4	760	1 978
1998	1 128	396	18	7	610	2 134

(1) In 1998, 52,86 % of the infringement cases originated in complaints, as opposed to 48,38 % in 1997.
(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.

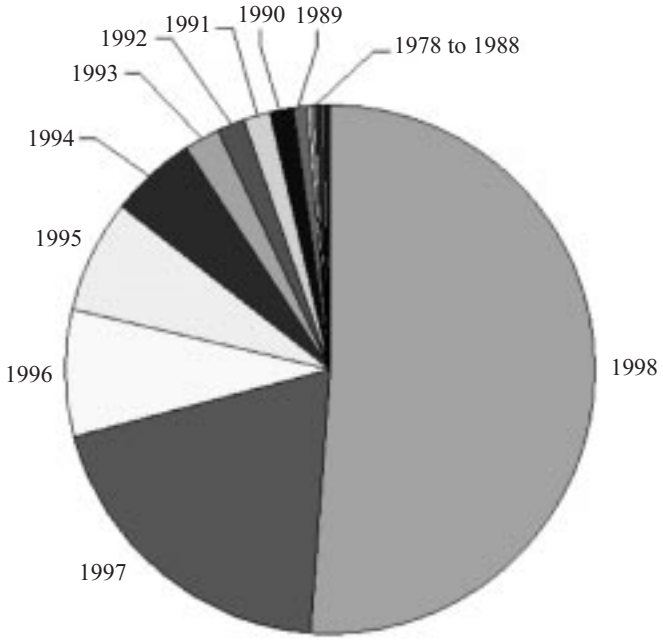
Cases under examination by the Commission as of 31 December 1998, by year of opening (1)

Opened	Amount	Under examination as of 31.12.1998	Percentage of cases under examination	Complaints	Own initiative cases	Non-communication
1998	2 134	1 525	71,46	804	349	372
1997	1 978	582	29,42	291	138	153
1996	2 068	238	11,51	91	93	54
1995	1 979	204	10,31	88	91	25
1994	2 432	158	6,50	66	70	22
1993	2 374	69	2,91	26	35	8
1992	2 531	49	1,94	19	29	1
1991	2 279	44	1,93	11	31	2
1990	2 570	41	1,60	10	30	1
1989	2 976	25	0,84	10	13	2
1988	2 328	12	0,52	3	8	1
1987	1 768	5	0,28	1	2	2
1986	1 600	4	0,25	1	2	1
1985	1 279	7	0,55	0	7	0
1984	905	9	0,99	0	3	6
1978	136	7	5,15	0	7	0
		Total 2 979		Total 1 421	Total 908	Total 650

(1) The cases under examination are the cases opened following a complaint, an own Commission's initiative or a case of non-communication, whether or not an infringement procedure was initiated.

Figure 1.2.1.

Cases under examination as of 31.12.1998, by year of opening



1.3 — BREAKDOWN BY MEMBER STATE OF THE CASES OPENED IN 1998

Table 1.3.1.

Own initiative cases detected by the Commission in 1998, by Member State

Member State	Opened		Under examination as of 31.12.1998	
Total	**396**		**349**	
Spain	48	12,12 %	42	12,03 %
Italy	38	9,60 %	30	8,60 %
France	34	8,59 %	31	8,88 %
Austria	33	8,33 %	27	7,74 %
Belgium	32	8,08 %	29	8,31 %
Greece	31	7,83 %	29	8,31 %
Germany	28	7,07 %	22	6,30 %
Portugal	27	6,82 %	26	7,45 %
Sweden	23	5,81 %	23	6,59 %
Ireland	22	5,56 %	19	5,44 %
Finland	18	4,55 %	15	4,30 %
United Kingdom	17	4,29 %	16	4,58 %
Luxembourg	17	4,29 %	14	4,01 %
Netherlands	14	3,54 %	12	3,44 %
Denmark	14	3,54 %	14	4,01 %

Figure 1.3.1.1.

Own initiative cases detected by the Commission in 1998, by Member State

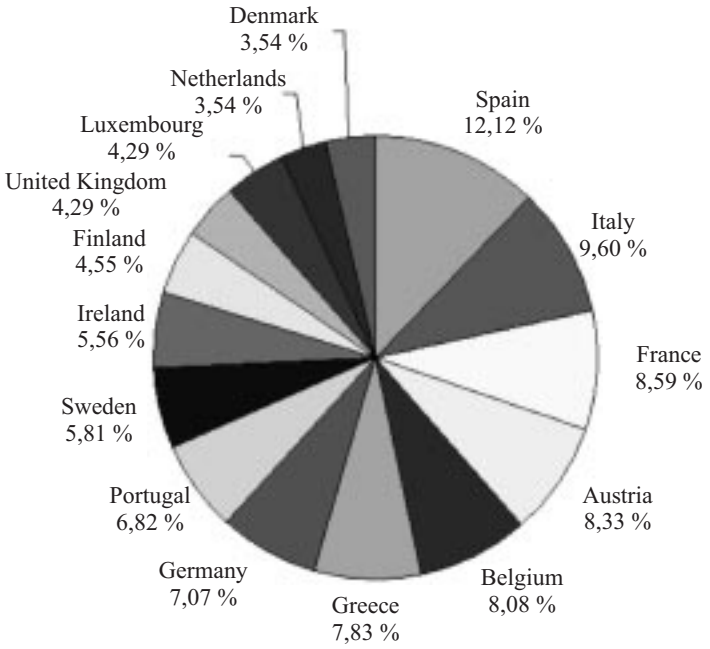


Table 1.3.2.

Complaints received in 1998, by Member State

Member State	Received		Cases under examination as of 31.12.1998	
Total	**1 128**		**804**	
France	203	18,00 %	121	15,05 %
Germany	163	14,45 %	110	13,68 %
Spain	145	12,85 %	104	12,94 %
Italy	121	10,73 %	91	11,32 %
Greece	75	6,65 %	61	7,59 %
Belgium	66	5,85 %	45	5,60 %
Ireland	66	5,85 %	46	5,72 %
United Kingdom	59	5,23 %	44	5,47 %
Austria	48	4,26 %	40	4,98 %
Sweden	48	4,26 %	31	3,86 %
Netherlands	39	3,46 %	32	3,98 %
Portugal	38	3,37 %	33	4,10 %
Denmark	33	2,93 %	25	3,11 %
Finland	20	1,77 %	18	2,24 %
Luxembourg	4	0,35 %	3	0,37 %

Figure 1.3.2.1.

Complaints received in 1998, by Member State

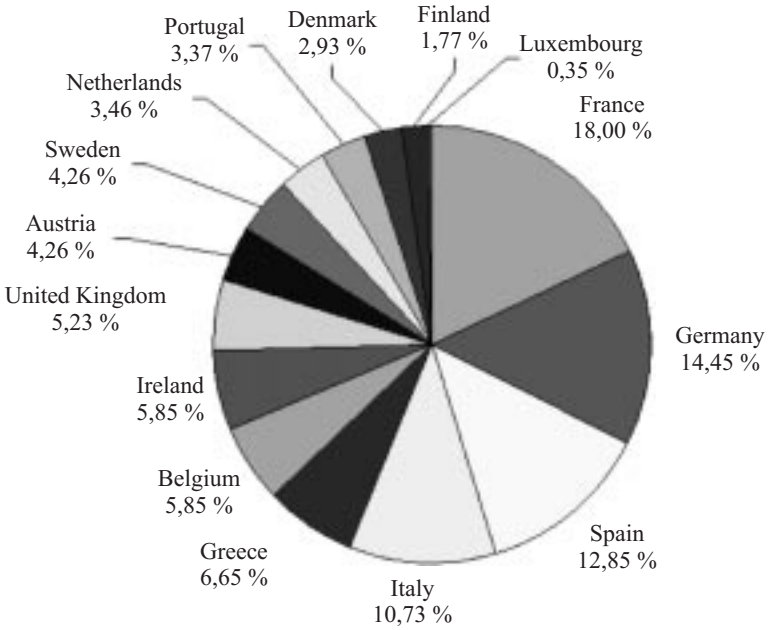


Table 1.3.3.

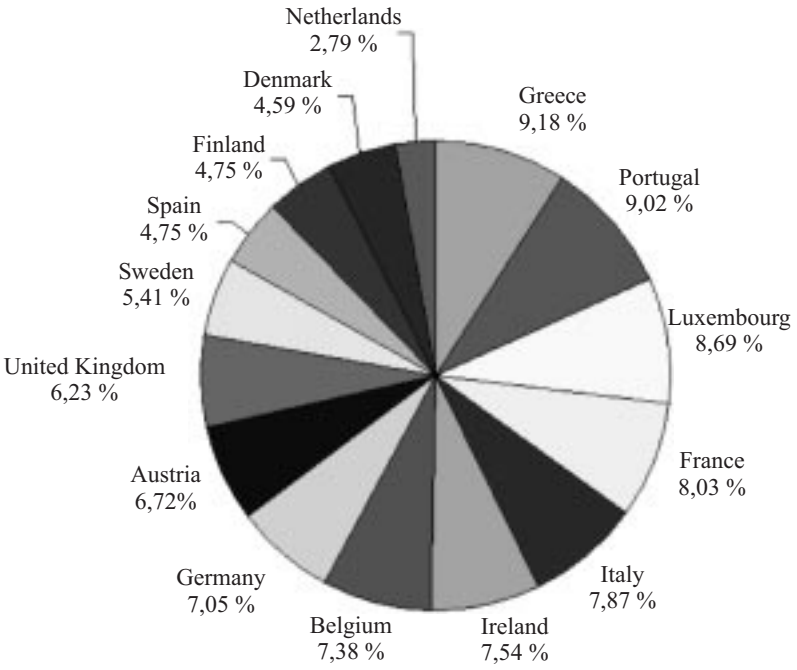
Non-communication cases opened in 1998, by Member State

(non-communication of measures transposing directives and of technical regulations under Directive 98/34/EC)

Member State	Opened		Under examination as of 31.12.1998	
Total	**610**		**372**	
Greece	56	9,18 %	40	10,75 %
Portugal	55	9,02 %	45	12,10 %
Luxembourg	53	8,69 %	44	11,83 %
France	49	8,03 %	30	8,06 %
Italy	48	7,87 %	35	9,41 %
Ireland	46	7,54 %	26	6,99 %
Belgium	45	7,38 %	25	6,72 %
Germany	43	7,05 %	23	6,18 %
Austria	41	6,72 %	29	7,80 %
United Kingdom	38	6,23 %	22	5,91 %
Sweden	33	5,41 %	13	3,49 %
Spain	29	4,75 %	10	2,69 %
Finland	29	4,75 %	15	4,03 %
Denmark	28	4,59 %	6	1,61 %
Netherlands	17	2,79 %	9	2,42 %

Figure 1.3.3.1.

Non-communication cases opened in 1998, by Member State



ANNEX II

INFRINGEMENTS PROCEDURES – BREAKDOWN 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				
	1994	1995	1996	1997	1998	1994	1995	1996	1997	1998	1994	1995	1996	1997	1998
B	77	80	72	93	88	41	19	62	33	78	10	6	20	18	20
DK	57	42	22	64	40	14	1	0	1	10	0	0	0	0	1
D	90	92	62	116	88	66	25	37	35	46	5	10	8	19	5
EL	96	113	58	109	95	85	26	51	23	51	17	12	17	10	16
E	86	81	59	104	78	53	15	30	23	36	9	6	9	7	6
F	90	97	88	157	121	49	17	46	49	94	8	6	11	15	23
IRL	70	67	43	86	63	47	3	36	14	46	12	6	4	6	10
I	102	114	75	123	110	60	36	71	36	91	12	17	9	20	16
L	64	71	39	74	62	36	9	28	14	39	6	3	4	8	11
NL	73	59	32	65	28	20	4	9	11	23	4	0	2	3	3
A	0	4	132	109	76	0	0	2	38	38	0	0	1	0	4
P	96	115	54	116	80	54	22	49	35	57	5	4	6	14	5
FIN	0	2	290	78	52	0	0	0	8	16	0	0	0	0	1
S	0	2	69	75	54	0	0	0	6	15	0	0	0	0	1
UK	73	77	47	92	66	21	15	14	8	35	1	2	1	1	1
Total	974	1 016	1 142	1 461	1 101	546	192	435	334	675	89	72	92	121	123

Table 2.2

Infringement proceedings classified by Member State, stage reached and legal basis

		1994					1995					1996					1997					1998				
			Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions
		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem	
	Article 169	77	58	4	11	4	80	59	3	8	10	72	31	8	16	17	93	72	4	7	10	88	45	10	14	19
B	RO	41	36	1	4	0	19	15	0	1	3	62	48	4	7	3	33	15	1	5	12	78	41	10	11	16
	REF	10	6	1	1	2	6	4	1	1	0	20	19	0	1	0	18	11	2	3	2	20	9	0	2	9
	Article 169	57	51	1	2	3	42	36	0	6	0	22	18	0	2	2	64	53	6	2	3	40	28	1	3	8
DK	RO	14	12	0	0	2	1	1	0	0	0	0	0	0	0	0	1	0	0	1	0	10	4	2	2	2
	REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
	Article 169	90	63	5	19	3	92	63	5	14	10	62	31	6	17	8	116	71	12	22	11	88	43	8	21	16
D	RO	66	58	1	3	4	25	15	4	5	1	37	23	6	5	3	35	22	4	5	4	46	21	7	9	9
	REF	5	2	0	2	1	10	7	2	1	0	8	7	0	1	0	19	12	2	4	1	5	1	0	3	1
	Article 169	96	72	0	20	4	113	90	1	13	9	58	34	0	16	8	109	87	3	7	12	95	58	8	17	12
EL	RO	85	80	2	3	0	26	14	0	8	4	51	43	2	6	0	23	14	0	5	4	51	34	2	6	9
	REF	17	12	0	2	3	12	8	0	2	2	17	13	0	1	3	10	8	1	1	0	16	7	0	8	1
	Article 169	86	62	1	14	9	81	61	1	12	7	59	22	7	9	21	104	68	10	11	15	78	31	4	28	15
E	RO	53	48	0	4	1	15	9	0	4	2	30	13	3	10	4	23	8	4	7	4	36	15	3	7	11
	REF	9	8	0	0	1	6	5	0	1	0	9	3	1	4	1	7	2	0	3	2	6	3	1	2	0
	Article 169	90	64	2	11	13	97	70	3	11	13	88	33	6	29	20	157	74	9	44	30	121	49	14	26	32
F	RO	49	38	1	6	4	17	8	0	5	4	46	31	4	7	4	49	14	3	18	14	94	43	6	22	23
	REF	8	5	0	0	3	6	4	0	0	2	11	6	0	3	2	15	9	1	4	1	23	7	3	8	5
	Article 169	70	62	2	3	3	67	59	1	3	4	43	28	5	9	1	86	71	4	10	1	63	46	2	11	4
IRL	RO	47	45	0	0	2	3	3	0	0	0	36	34	0	1	1	14	9	2	3	0	46	39	0	4	3
	REF	12	11	0	0	1	6	6	0	0	0	4	1	1	1	1	6	5	0	1	0	10	9	1	0	0
	Article 169	102	66	2	21	13	114	85	3	10	16	75	30	9	18	18	123	65	11	26	21	110	48	10	25	27
I	RO	60	56	2	2	0	36	16	1	10	9	71	50	3	7	11	36	18	4	5	9	91	45	8	22	16
	REF	12	5	0	4	3	17	13	0	2	2	9	5	0	3	1	20	14	1	5	0	16	14	0	1	1
	Article 169	64	58	4	0	2	71	66	0	3	2	39	32	2	3	2	74	65	5	3	1	62	54	3	3	2
L	RO	36	36	0	0	0	9	6	1	1	1	28	26	2	0	0	14	10	2	1	1	39	30	1	6	2
	REF	6	5	0	0	1	3	3	0	0	0	4	1	0	3	0	3	7	0	0	1	11	9	0	0	2
	Article 169	73	49	3	20	1	59	47	1	8	3	32	14	0	9	9	65	46	4	9	6	28	15	2	6	5
NL	RO	20	17	0	3	0	4	1	1	2	0	9	4	1	3	1	11	3	1	5	2	23	12	3	3	5
	REF	4	2	0	1	1	0	0	0	0	0	2	0	0	2	0	3	1	0	2	0	3	0	0	3	0

		1994					1995					1996					1997					1998				
			Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions		Directives			Treaties/ Regulations/ Decisions
		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem		Total	No notification	Implementation problem	Application problem	
	Article 169	0	0	0	0	0	4	0	0	2	2	132	123	0	9	0	109	85	4	11	9	76	43	14	11	8
A	RO	0	0	0	0	0	0	0	0	0	0	2	0	1	1	0	38	33	0	4	1	38	25	3	6	4
	REF	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	4	1	0	2	1
	Article 169	96	70	5	12	9	115	98	4	9	4	54	34	5	12	3	116	85	7	18	6	80	53	5	12	10
P	RO	54	49	1	3	1	22	15	1	4	2	49	37	8	4	0	35	18	6	5	6	57	37	5	10	5
	REF	5	5	0	0	0	4	4	0	0	0	6	5	1	0	0	14	7	5	2	0	5	0	0	2	3
	Article 169	0	0	0	0	0	2	0	0	1	1	290	284	0	5	1	78	64	2	8	4	52	29	7	9	7
FIN	RO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	8	0	0	0	16	8	1	6	1
	REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
	Article 169	0	0	0	0	0	2	0	0	1	1	69	61	1	4	3	75	58	8	4	5	54	34	7	6	7
S	RO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	6	0	0	0	15	8	2	2	3
	REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
	Article 169	73	57	3	10	3	77	65	1	4	7	47	26	3	16	2	92	65	8	14	5	66	39	12	9	6
UK	RO	21	21	0	0	0	15	11	0	2	2	14	11	1	1	1	8	1	2	5	0	35	22	6	3	4
	REF	1	0	1	0	0	2	2	0	0	0	1	0	1	0	0	1	0	0	1	0	1	0	0	0	1
	Article 169	974	732	32	143	67	1 016	799	23	105	89	1 142	801	52	174	115	1 461	1 029	97	196	139	1 101	615	107	201	178
Total	RO	546	496	8	28	14	192	114	8	42	28	435	320	35	52	28	334	179	29	69	57	675	384	59	119	113
	REF	89	61	2	10	16	72	56	3	7	6	92	60	4	20	8	121	76	12	26	7	123	60	5	31	27

RO = Reasoned opinion.
REF = Referral.

Figure 2.2.1.

Letters of formal notice sent in 1998, by legal basis and Member State

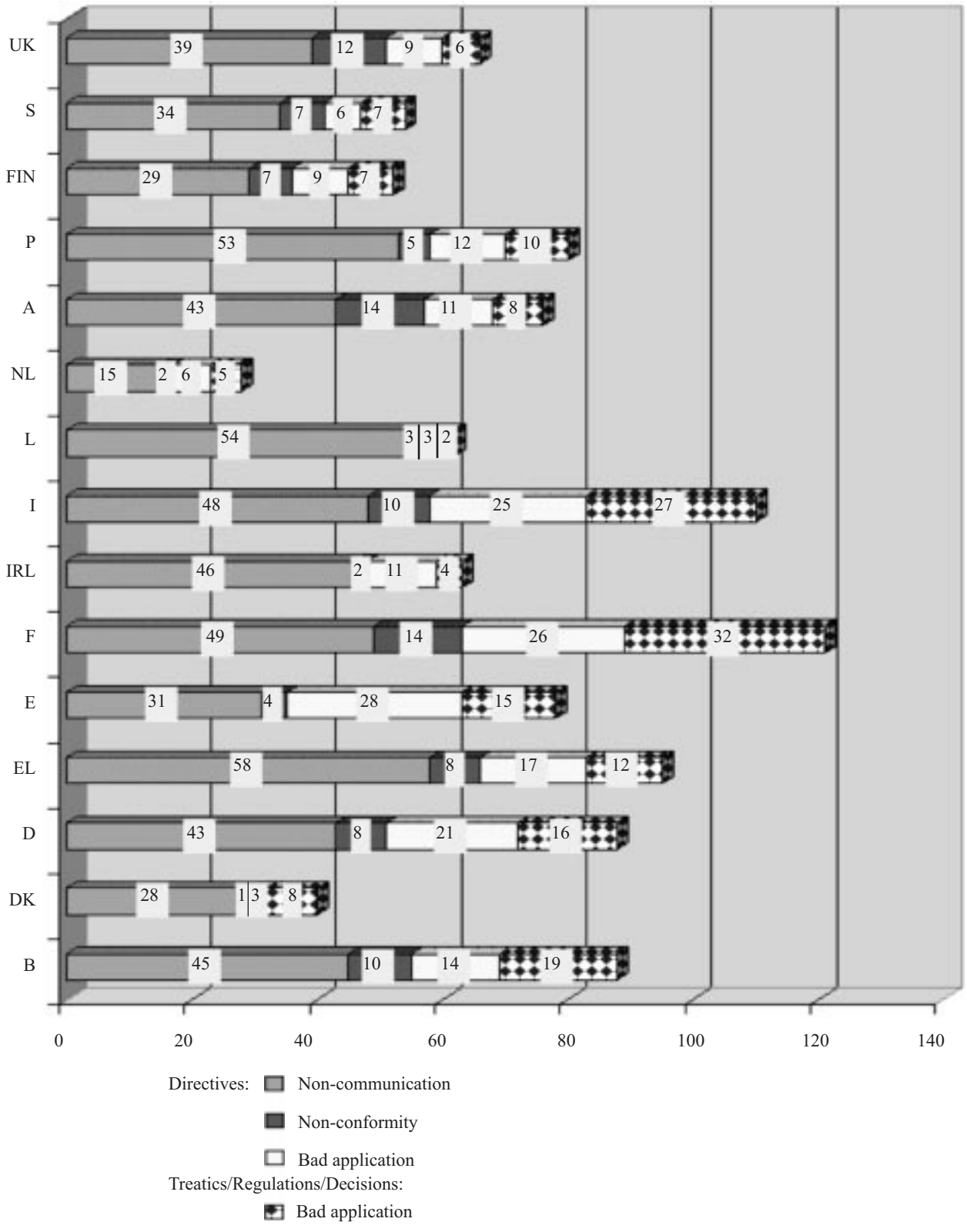


Figure 2.2.2.

Reasoned opinion sent in 1998, by legal basis and Member State

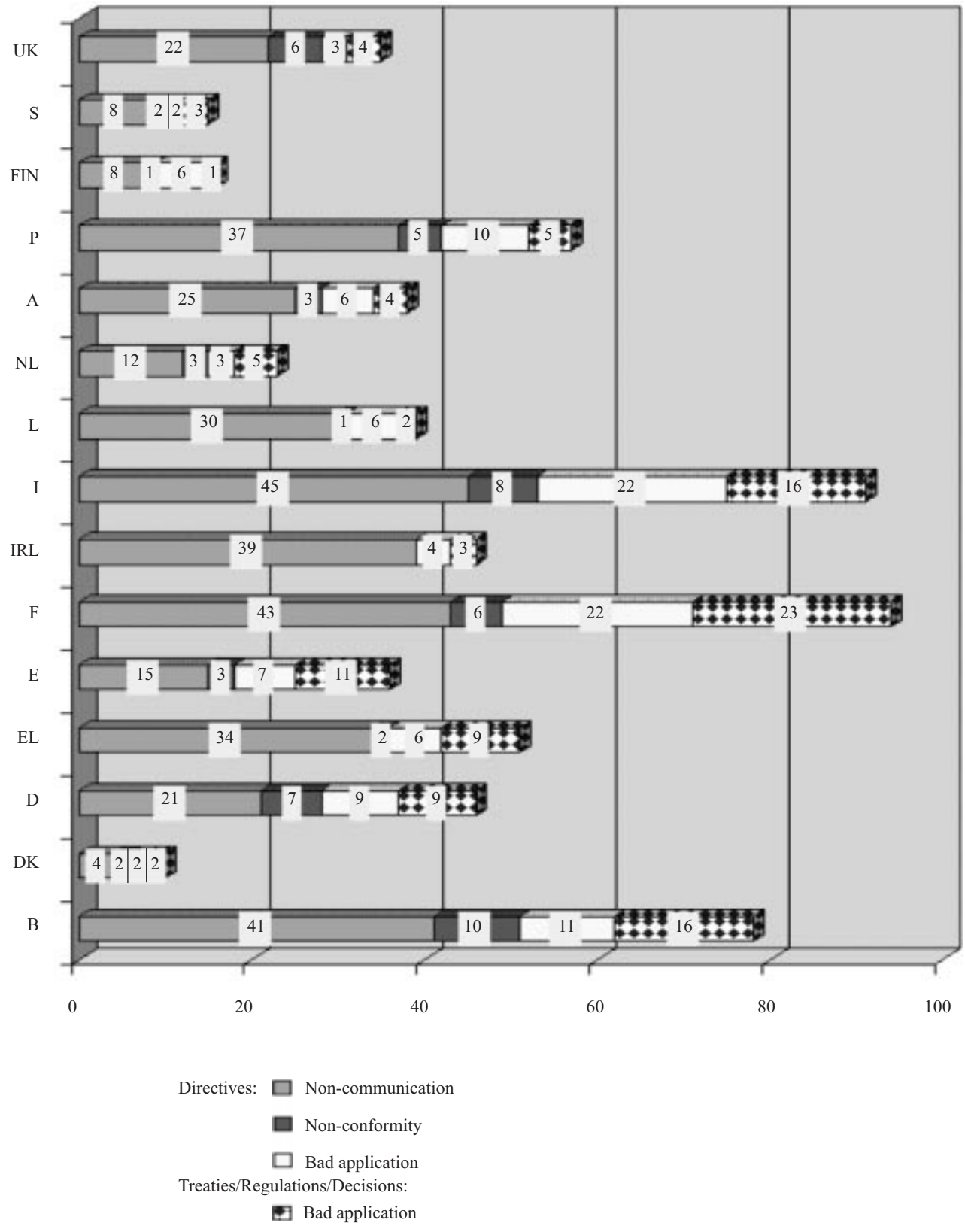


Figure 2.2.3.

Referrals to the Court in 1998, by legal basis and Member State

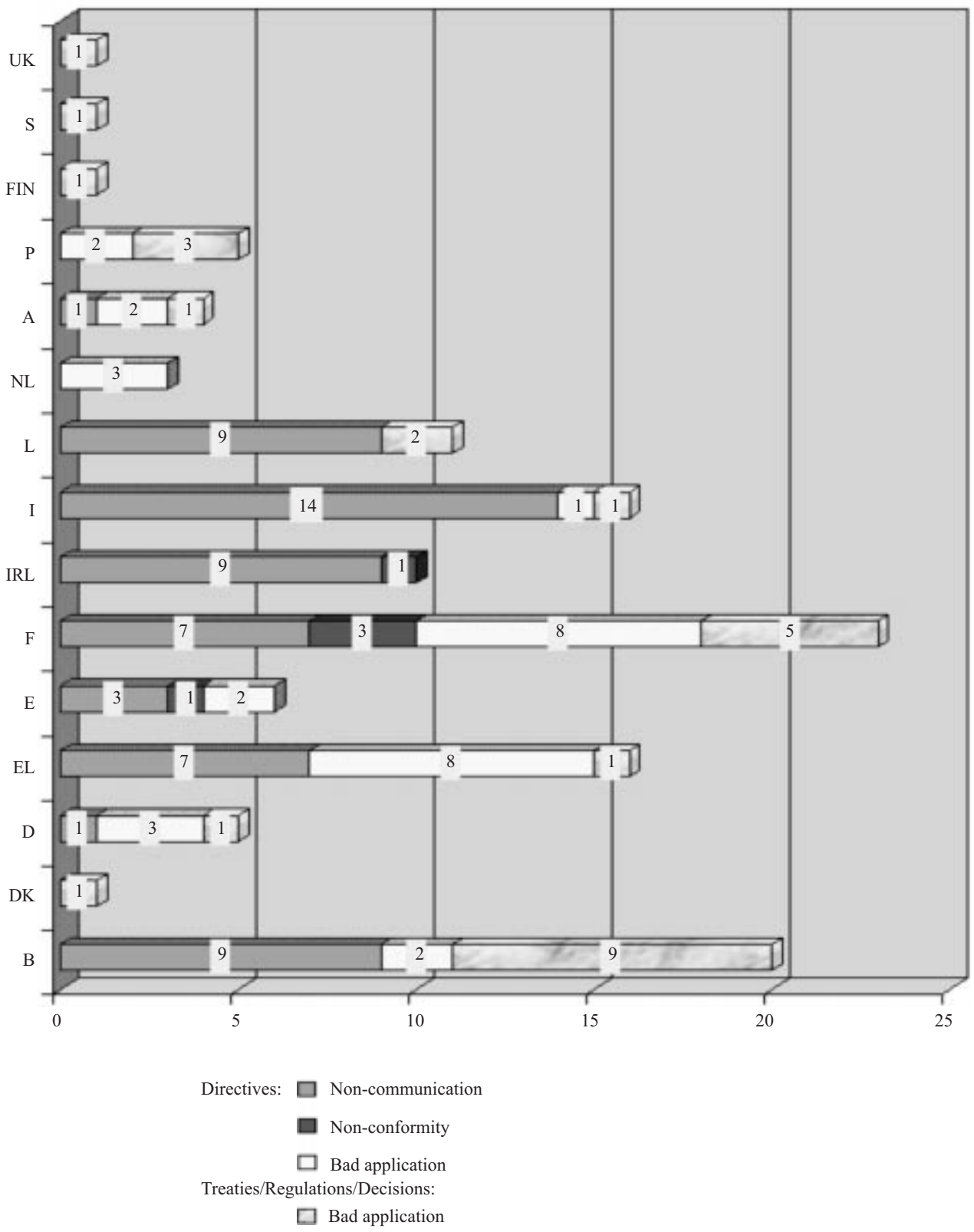


Figure 2.2.4.

Letters of formal notice, reasoned opinions and cases referred to the Court of Justice: comparison between 1997 and 1998 by stage of proceeding and legal basis

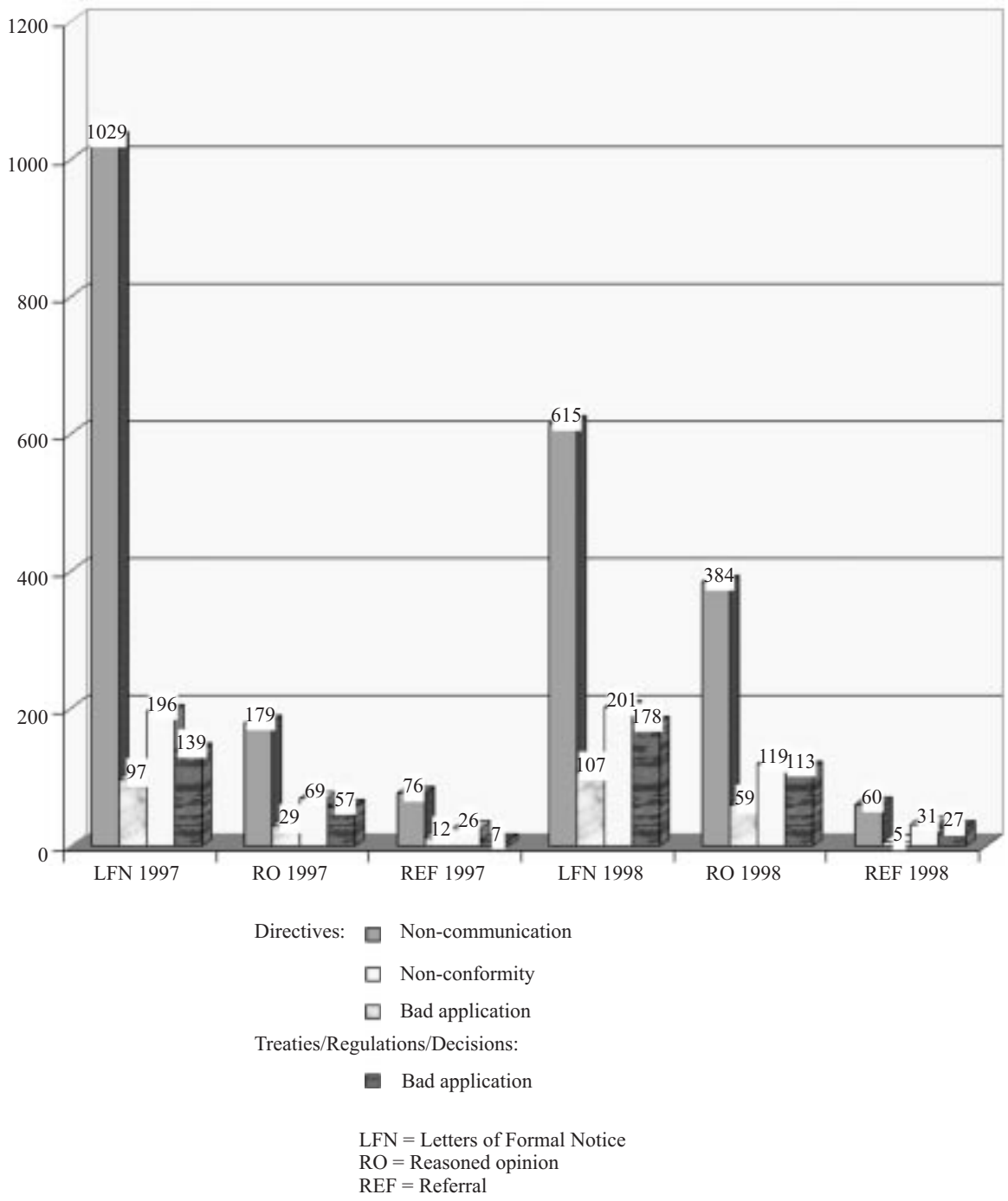


Table 2.3.

Cases under examination — procedure statement as of 31.12.1998, by Member State

	Total		(1)		(2)	(3)		(4)	(5)		(6)	(7)
Total	**2 979**		**1 730**		**58,07 %**	**861**		**49,77 %**	**226**		**13,06 %**	**39**
France	419	14,07 %	254	14,68 %	60,62 %	139	16,14 %	54,72 %	42	18,58 %	16,54 %	6
Italy	329	11,04 %	205	11,85 %	62,31 %	123	14,29 %	60,00 %	31	13,72 %	15,12 %	6
Germany	293	9,84 %	140	8,09 %	47,78 %	56	6,50 %	40,00 %	16	7,08 %	11,43 %	2
Spain	291	9,77 %	128	7,40 %	43,99 %	65	7,55 %	50,78 %	19	8,41 %	14,84 %	2
Greece	241	8,09 %	141	8,15 %	58,51 %	73	8,48 %	51,77 %	28	12,39 %	19,86 %	10
Belgium	238	7,99 %	165	9,54 %	69,33 %	102	11,85 %	61,82 %	34	15,04 %	20,61 %	5
Portugal	199	6,68 %	142	8,21 %	71,36 %	65	7,55 %	45,77 %	11	4,87 %	7,75 %	2
United Kingdom	174	5,84 %	97	5,61 %	55,75 %	40	4,65 %	41,24 %	7	3,10 %	7,22 %	3
Austria	163	5,47 %	98	5,66 %	60,12 %	34	3,95 %	34,69 %	5	2,21 %	5,10 %	0
Ireland	146	4,90 %	86	4,97 %	58,90 %	50	5,81 %	58,14 %	11	4,87 %	12,79 %	1
Luxembourg	115	3,86 %	97	5,61%	84,35 %	48	5,57 %	49,48 %	12	5,31 %	12,37 %	2
Netherlands	114	3,83 %	59	3,41%	51,75 %	32	3,72 %	54,24 %	7	3,10 %	11,86 %	0
Sweden	101	3,39 %	49	2,83 %	48,51 %	13	1,51 %	26,53 %	1	0,44 %	2,04 %	0
Finland	81	2,72 %	44	2,54 %	54,32 %	13	1,51 %	29,55 %	1	0,44 %	2,27 %	0
Denmark	75	2,52 %	25	1,45 %	33,33 %	8	0,93 %	32,00 %	1	0,44 %	4,00 %	0

(1) = Cases under examination as of 31.12.1998 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 31.12.1998 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 31.12.1998 concerning this Member State.
(5) = Cases brought to the Court of Justice and percentages with regard to all cases.
(6) = Percentage of cases referred to the Court of Justice with regard to all cases under examination as of 31.12.1998 for this Member State.
(7) = Cases for which the Article 171 procedure of the Treaty has been opened.

Figure 2.3.1.

Cases under examination as of 31.12.1998 for which the infringement procedure has been opened, by Member State

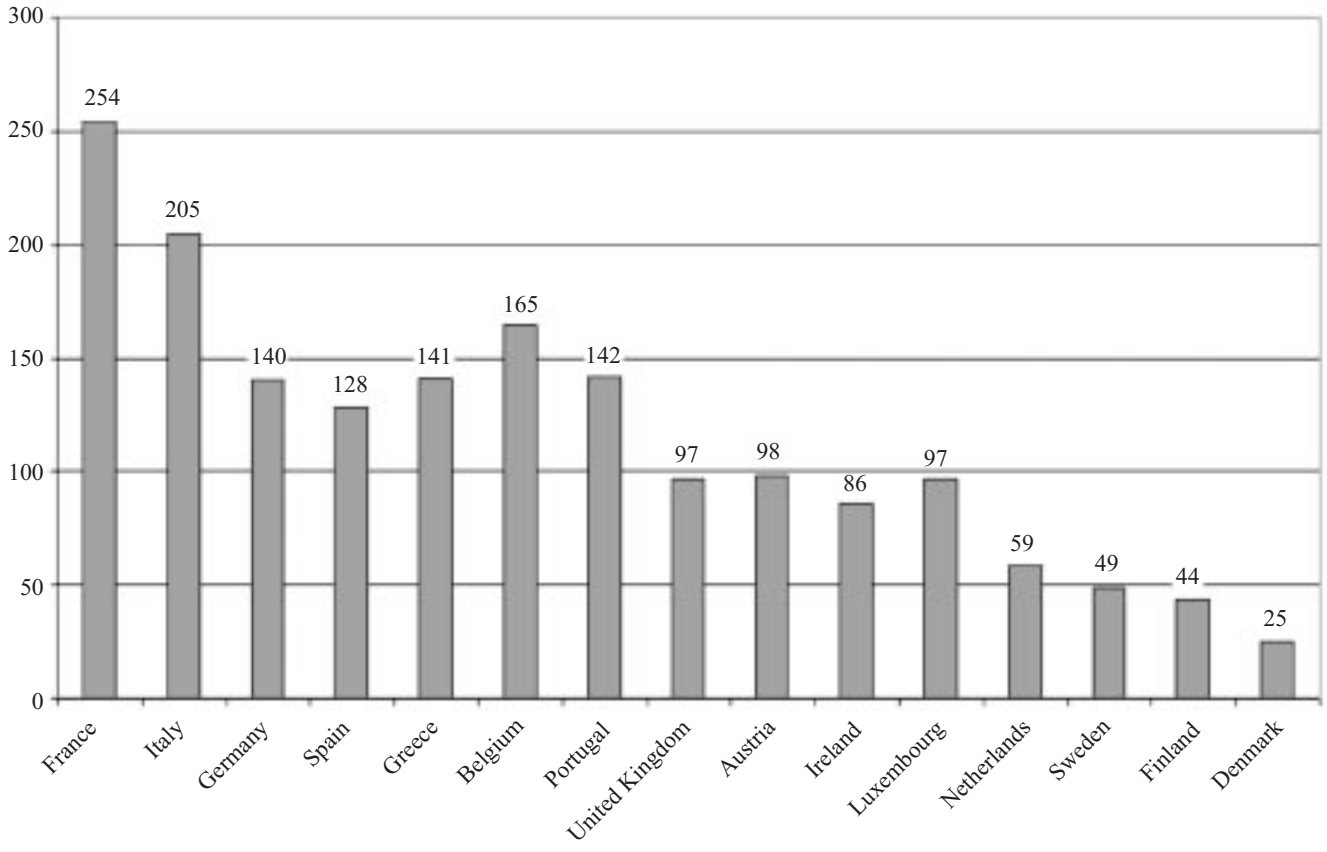


Figure 2.3.2.

Cases under examination as of 31.12.1998, for which a reasoned opinion has been sent, by Member State

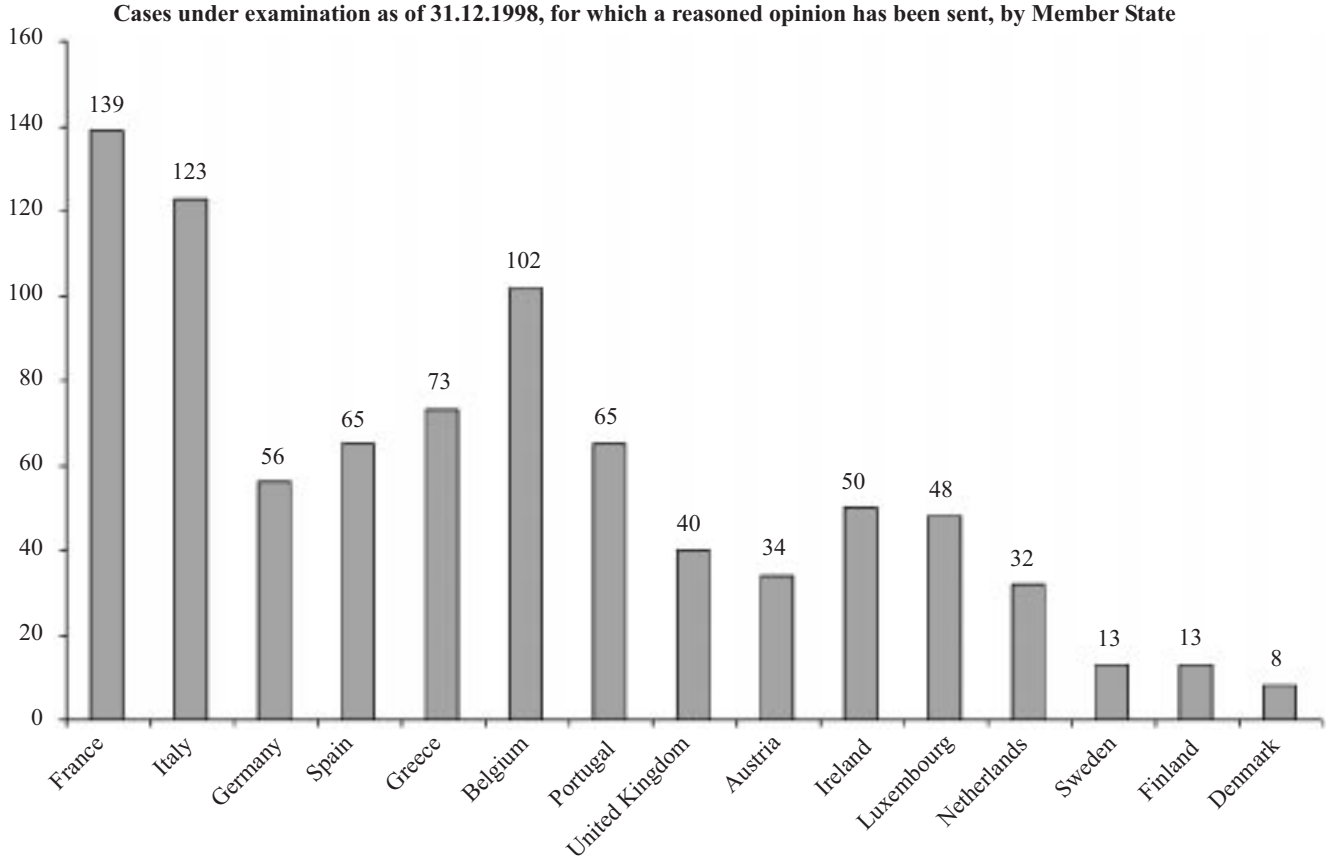


Figure 2.3.3.

Cases under examination as of 31.12.1998 referred to the Court of Justice of the European Communities, by Member State

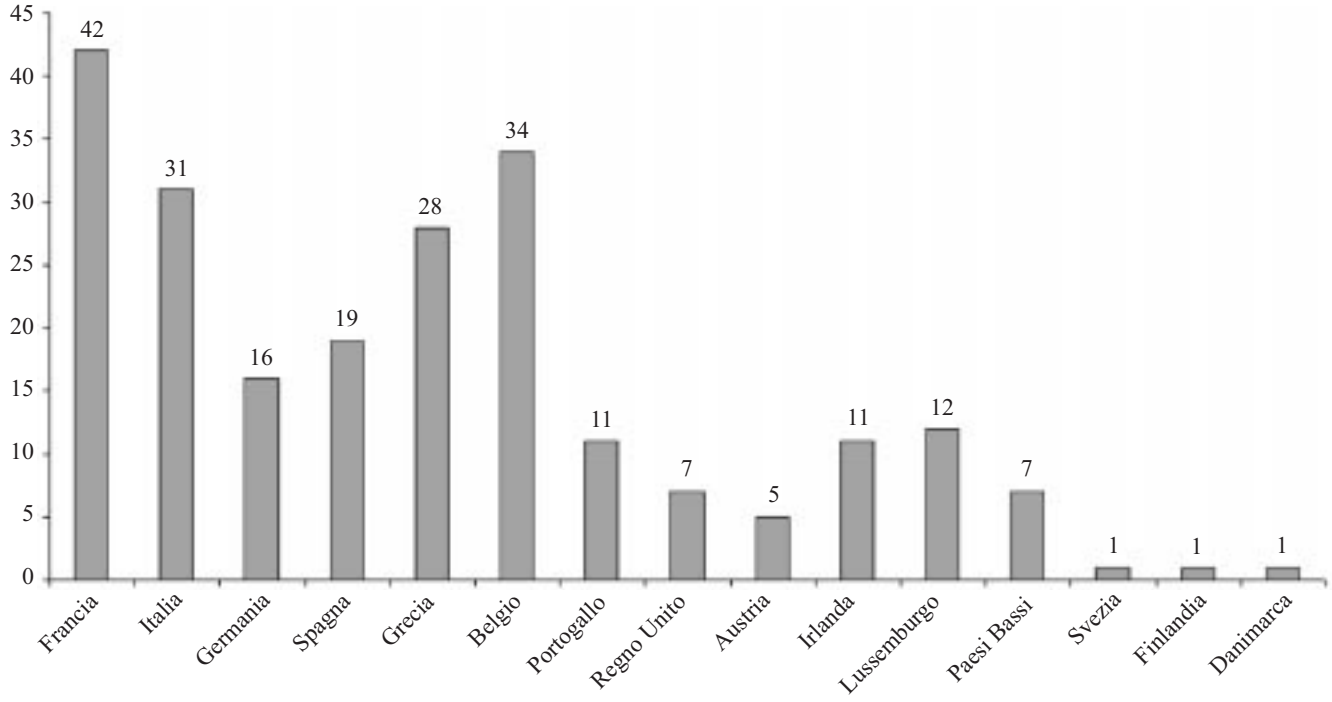


Figure 2.3.4.

Cases under examination as of 31.12.1998, for which the Article 171 procedure has been opened, by Member State

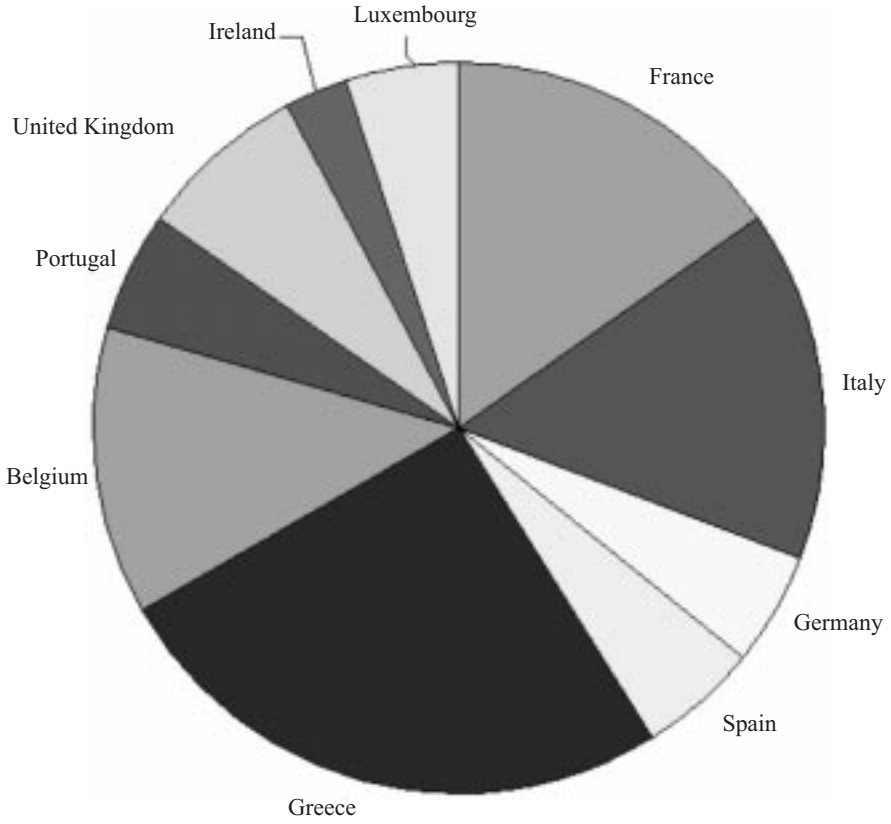


Table 2.4.

Cases under examination as of 31.12.1998, by sector

Sector	Total		(1)		(2)	(3)		(4)	(5)		(6)	(7)
Total	**2 979**		**1 730**		**58,07 %**	**861**		**49,77 %**	**226**		**13,06 %**	**39**
Environment	772	25,91 %	321	18,55 %	41,58 %	203	23,58 %	63,24 %	58	25,66 %	18,07 %	14
Internal Market	750	25,18 %	417	24,10 %	55,60 %	190	22,07 %	45,56 %	49	21,68 %	11,75 %	8
Agriculture	406	13,63 %	251	14,51 %	61,82 %	110	12,78 %	43,82 %	17	7,52 %	6,77 %	
Industry	259	8,69 %	216	12,49 %	83,40 %	82	9,52 %	37,96 %	13	5,75 %	6,02 %	2
Social affairs	179	6,01 %	117	6,76 %	65,36 %	61	7,08 %	52,14 %	25	11,06 %	21,37 %	8
Customs and taxation	178	5,98 %	106	6,13 %	59,55 %	52	6,04 %	49,06 %	18	7,96 %	16,98 %	1
Transport	169	5,67 %	150	8,67 %	88,76 %	97	11,27 %	64,67 %	25	11,06 %	16,67 %	2
Competition	66	2,22 %	26	1,50 %	39,39 %	8	0,93 %	30,77 %	3	1,33 %	11,54 %	1
Telecommunications	68	2,28 %	41	2,37 %	60,29 %	9	1,05 %	21,95 %	0	0,00 %	0,00 %	
Consumers	29	0,97 %	16	0,92 %	55,17 %	10	1,16 %	62,50 %	5	2,21 %	31,25 %	
Fisheries	28	0,94 %	18	1,04 %	64,29 %	11	1,28 %	61,11 %	2	0,88 %	11,11 %	2
Financial affairs	26	0,87 %	19	1,10 %	73,08 %	12	1,39 %	63,16 %	4	1,77 %	21,05 %	
Budgets	16	0,54 %	15	0,87 %	93,75 %	3	0,35 %	20,00 %	1	0,44 %	6,67 %	
Audiovisual	7	0,23 %	6	0,35 %	85,71 %	3	0,35 %	50,00 %	1	0,44 %	16,67 %	1
Energy	6	0,20 %	6	0,35 %	100,00 %	6	0,70 %	100,00 %	4	1,77 %	66,67 %	
Education	6	0,20 %	1	0,06 %	16,67 %	0			0			
Tourism	5	0,17 %	0	0,00 %	0,00 %	0			0			
External relations	2	0,07 %	0	0,00 %	0,00 %	0			0			
Personnel	2	0,07 %	2	0,12 %	100,00 %	2	0,23 %	100,00 %	1	0,44 %	50,00 %	
Regional policies	2	0,07 %	0	0,00 %	0,00 %	0			0			
Statistical Office	2	0,07 %	2	0,12 %	100,00 %	2	0,23 %	100,00 %	0			
Justice	1	0,03 %	0	0,00 %	0,00 %	0			0			

(1) = Cases under examination as of 31.12.1998 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 31.12.1998 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 31.12.1998 concerning this sector.
(5) = Cases brought to the Court of Justice and percentages with regard to all cases.
(6) = Percentage of cases referred to the Court of Justice with regard to all cases under examination as of 31.12.1998 for this sector.
(7) = Cases for which the Article 171 procedure of the Treaty has been opened.

Figure 2.4.1.

Cases under examination as of 31.12.1998 for which the infringement procedure has been opened, by sector

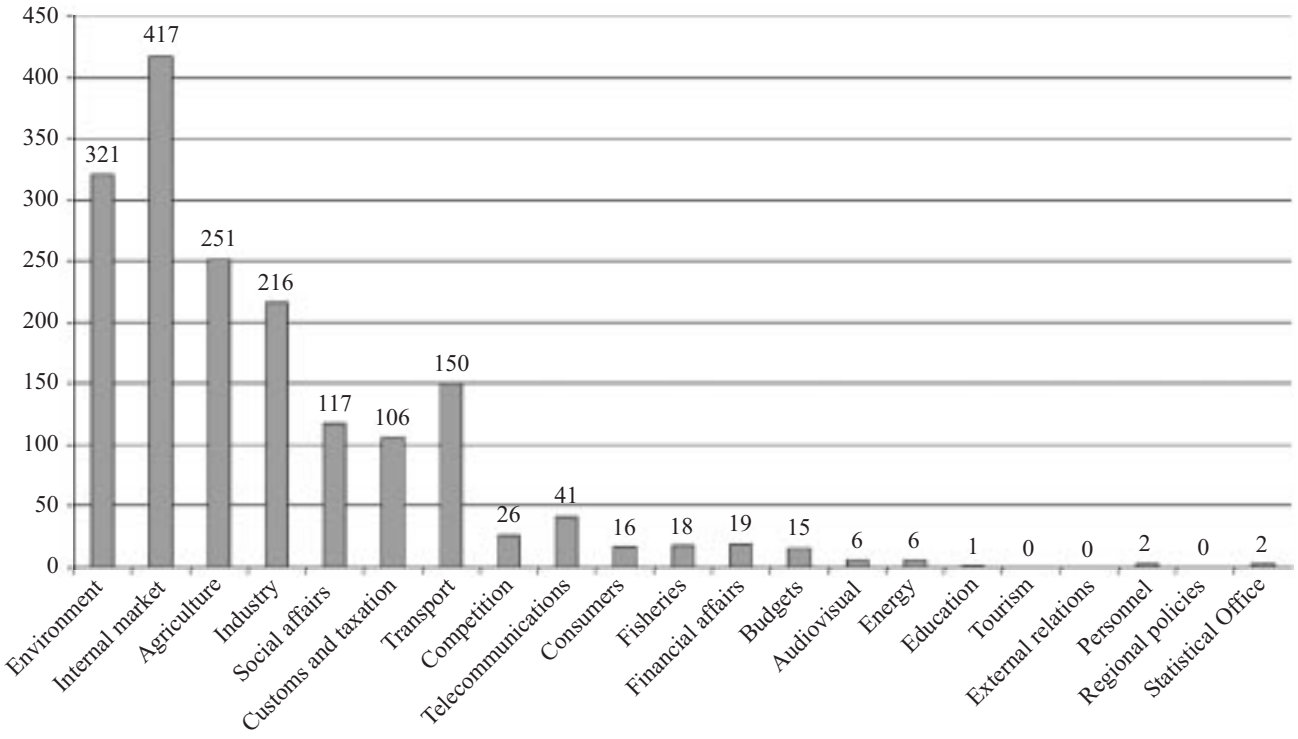


Figure 2.4.2.

Cases under examination as of 31.12.1998 for which a reasoned opinion has been opened, by sector

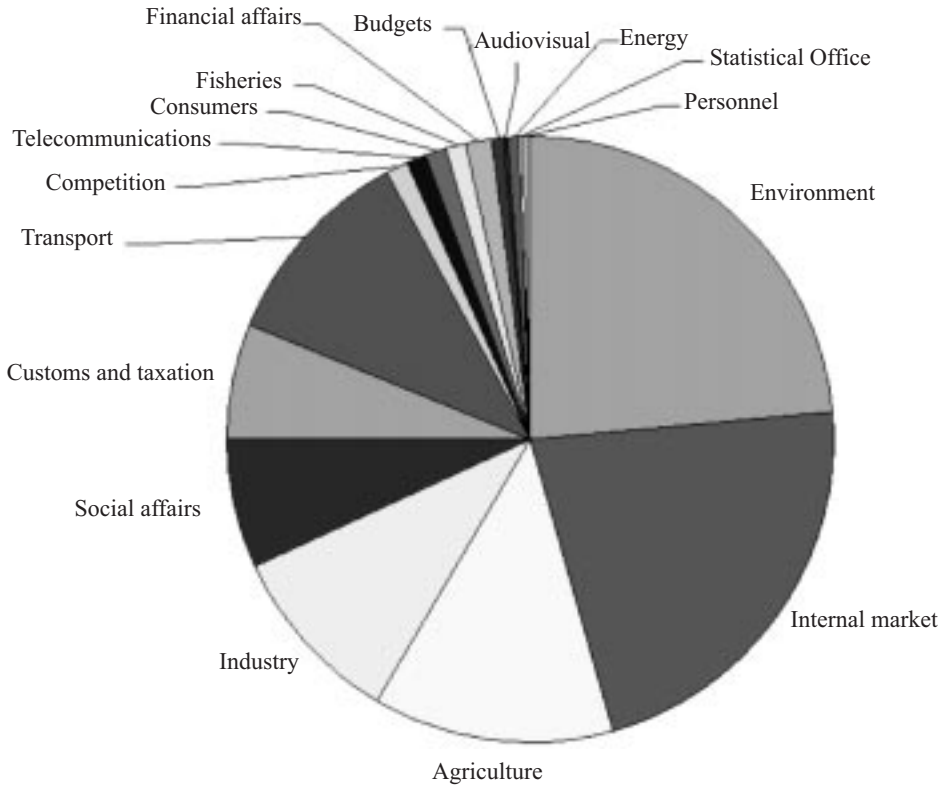


Figure 2.4.3.

Cases under examination as of 31.12.1998 referred to the Court of Justice, by sector

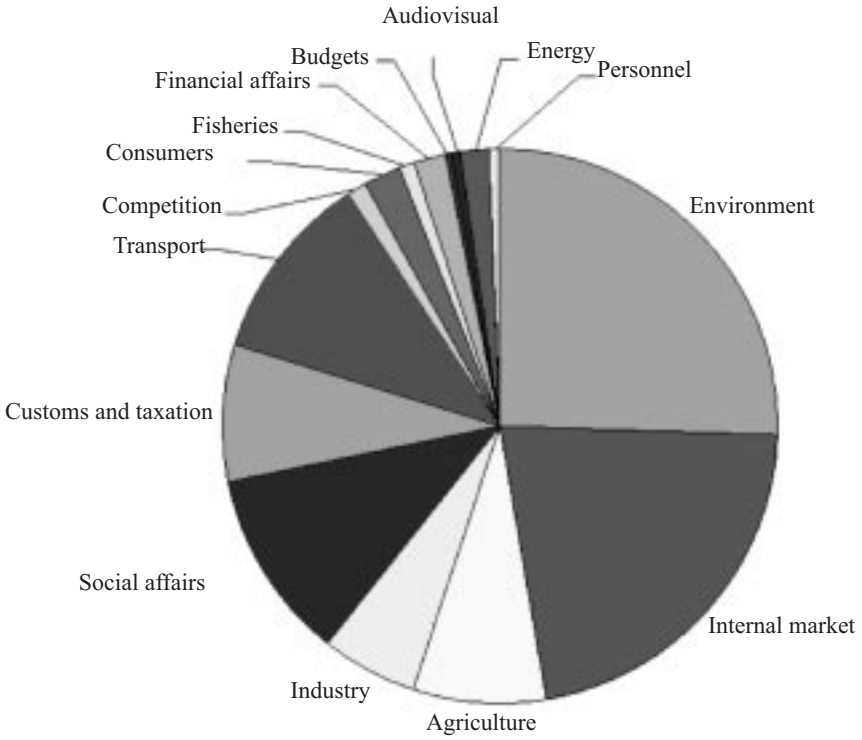


Figure 2.4.4.

Cases under examination as of 31.12.1998 for which a procedure ex-Article 171 has been initiated, by sector

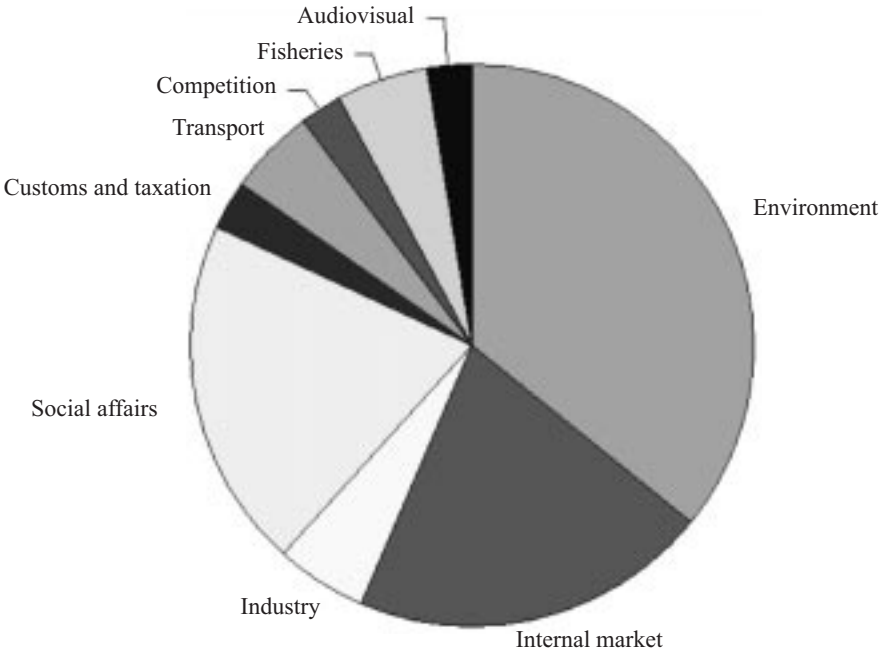


Table 2.5.

Cases closed in 1998

By stage	Total		Non-communication		Except non-communication	
before sending a letter of formal notice	679	34,63 %	8	0,88 %	671	63,72 %
before sending a reasoned opinion	844	43,04 %	587	64,65 %	257	24,41 %
before deciding to bring the case to the Court of Justice	207	10,56 %	148	16,30 %	59	5,60 %
before the referral to the Court of Justice	97	4,95 %	61	6,72 %	36	3,42 %
withdrawal	55	2,80 %	48	5,29 %	7	0,66 %
before sending the Article 171 formal notice	56	2,86 %	41	4,52 %	15	1,42 %
before sending the Article 171 reasoned opinion	13	0,66 %	10	1,10 %	3	0,28 %
before deciding to bring the Article 171 case to the Court of Justice	5	0,25 %	3	0,33 %	2	0,19 %
before the Article 171 referral to the Court of Justice	4	0,20 %	2	0,22 %	2	0,19 %
withdrawal	1	0,05 %	0	0,00 %	1	0,09 %
Total	**1 961**		**908**		**1 053**	

Figure 2.5.1.

Cases closed in 1998, by stage

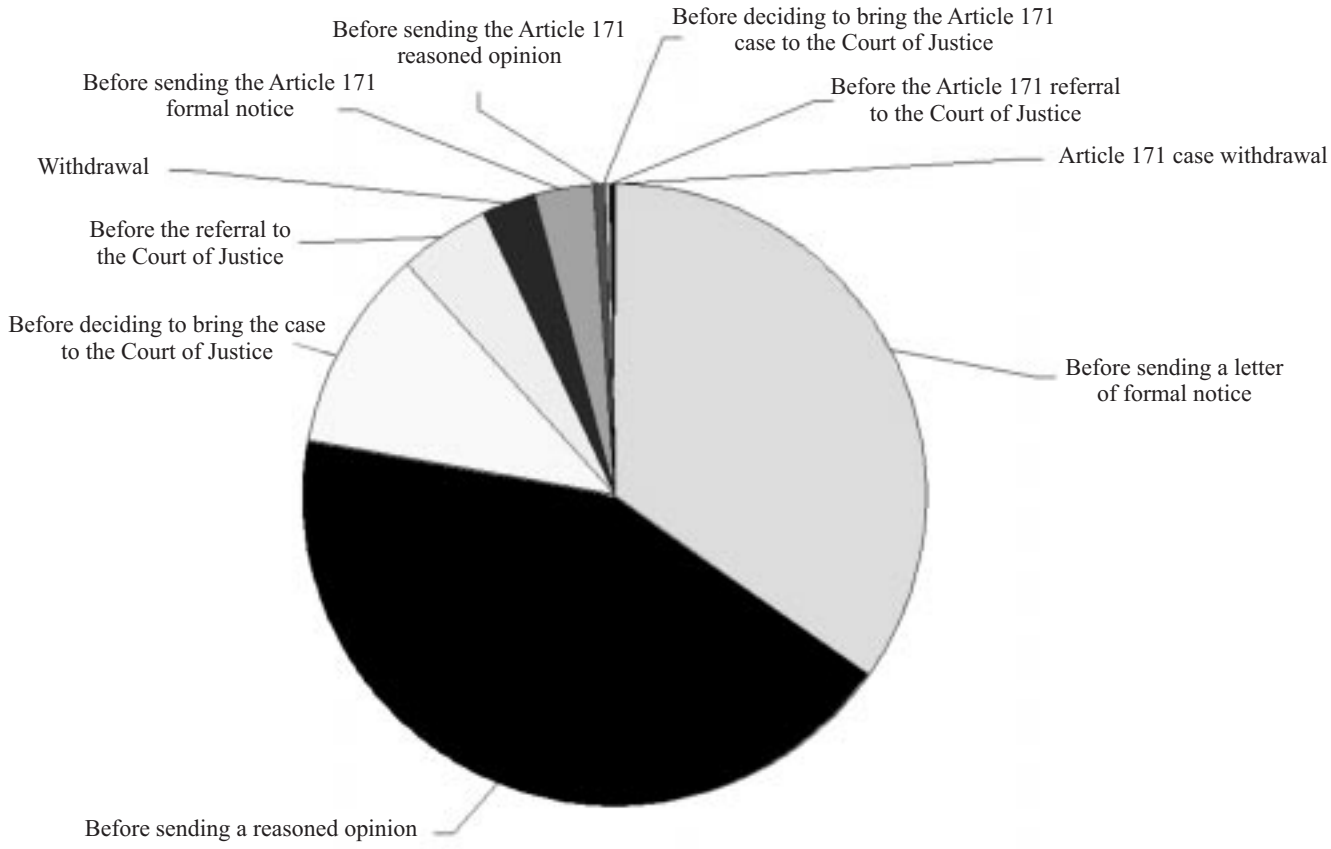


Figure 2.5.2.

Cases of non-communication closed in 1998, by stage

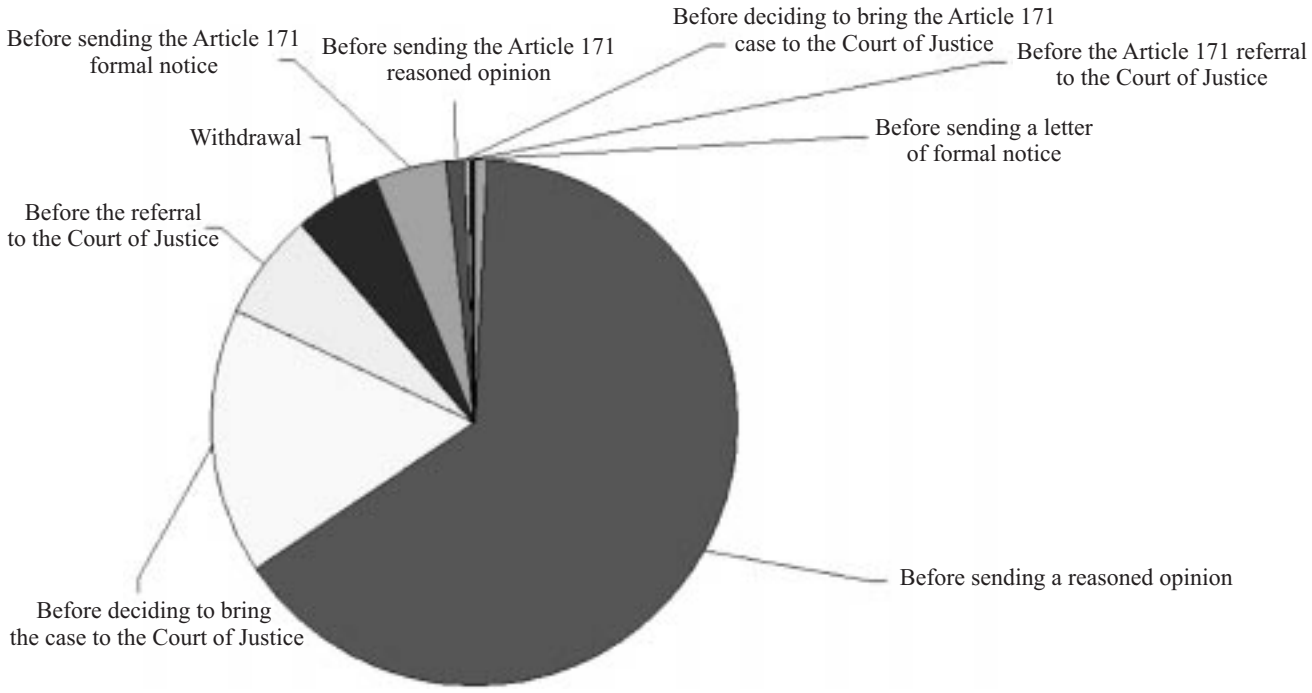


Figure 2.5.3.

Cases closed in 1998 except non-communication, by stage

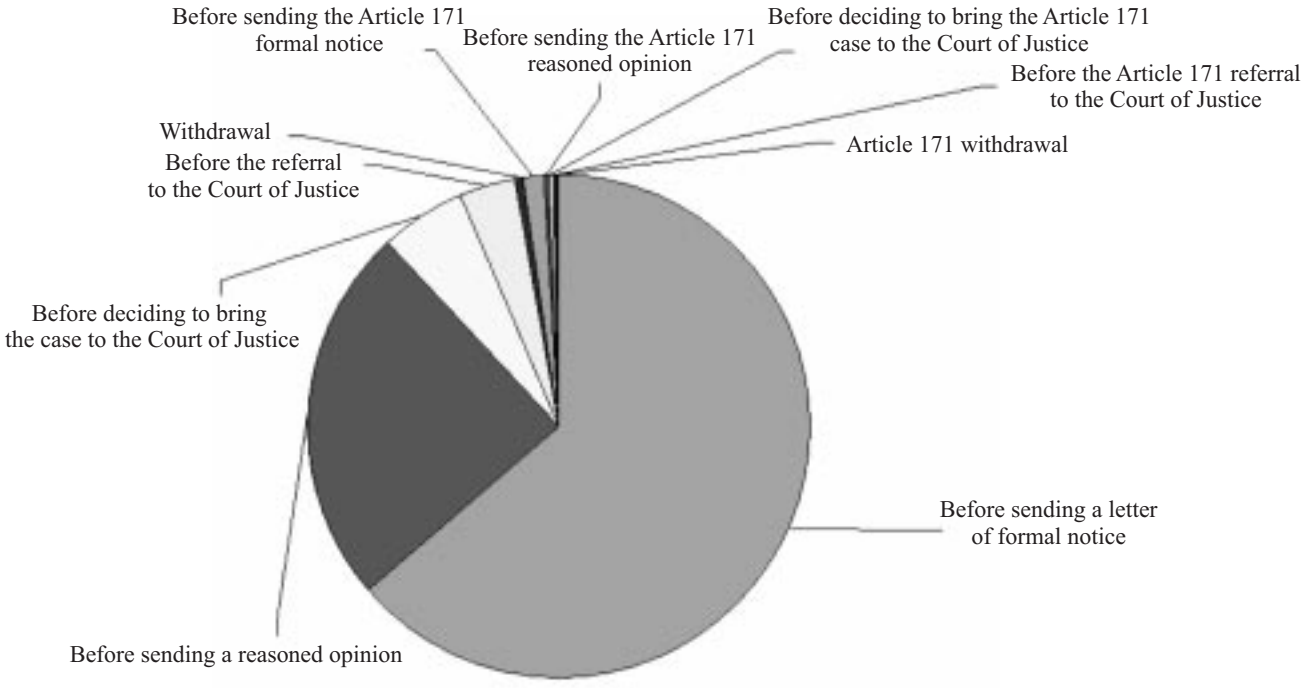


Table 2.6.

Evolution of the closure decisions

Year	Total of the closure decisions	Closure of an opened infringement procedure
1998	1 961	1 282
1997	2 112	1 494
1996	1 483	670
1995	1 975	1 332
1994	1 189	648

ANNEX III

INFRINGEMENTS OF TREATIES, REGULATIONS AND DECISIONS

ECONOMIC AFFAIRS AND FREE MOVEMENT OF CAPITAL

AUSTRIA

INFRINGEMENT: 96/4512
LEGAL BASIS (CELEX CODE): 157E073;
TITLE: ADMINISTRATIVE AUTHORISATION FOR PURCHASES OF LAND (WITH OR WITHOUT BUILDINGS) BY NON-NATIONALS
98/10/28: TERMINATION

AUSTRIA

INFRINGEMENT: 95/4372
LEGAL BASIS (CELEX CODE): 157E073;
TITLE: FREE MOVEMENT OF CAPITAL — RIGHT OF RESIDENCE
REASONED OPINION SENT: 98/05/29: SG(98)D/04257

BELGIUM

INFRINGEMENT: 98/2090
LEGAL BASIS (CELEX CODE): 157E052;157E073;
TITLE: PROCEDURE FOR AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS 'SNTC'
REASONED OPINION SENT: 98/12/18: SG(98)D/12024

BELGIUM

INFRINGEMENT: 98/2089
LEGAL BASIS (CELEX CODE): 157E052;157E073;
TITLE: PROCEDURE FOR AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS 'DISTRIGAZ'
REASONED OPINION SENT: 98/12/18: SG(98)D/12028

BELGIUM

INFRINGEMENT: 94/5075
LEGAL BASIS (CELEX CODE): 157E073;
TITLE: FREE MOVEMENT OF CAPITAL/SUBSCRIPTION TO A LOAN DENOMINATED IN DEM
REASONED OPINION SENT: 97/04/16: SG(97)D/2920
FIRST REFERRAL TO COURT PRESENTED: 98/12/21
NUMBER OF CASE IN COURT OF JUSTICE: C-98/478

SPAIN

INFRINGEMENT: 96/2154
LEGAL BASIS (CELEX CODE): 157E052;157E058;157E073;
TITLE: RESTRICTIONS CONCERNING FOREIGN INVESTMENTS
REASONED OPINION SENT: 98/10/16: SG(98)D/8696

FRANCE

INFRINGEMENT: 94/2190
LEGAL BASIS (CELEX CODE): 157E052;157E059;
TITLE: ADMISSION OF SECURITIES TO THE CAPITAL MARKET
REASONED OPINION SENT: 97/04/14: SG(97)D/02812
FIRST REFERRAL TO COURT PRESENTED: 98/07/08
NUMBER OF CASE IN COURT OF JUSTICE: C-98/245

FRANCE

INFRINGEMENT: 94/2209
LEGAL BASIS (CELEX CODE): 157E052;157E073;
TITLE: PROCEDURE FOR AUTHORISATION TO EXCEED INVESTMENT THRESHOLDS — GOLDEN SHARE ELF-AQUITAINE
REASONED OPINION SENT: 98/12/11: SG(98)D/11608

GREECE

INFRINGEMENT: 95/4535
LEGAL BASIS (CELEX CODE): 157E073;
TITLE: RESTRICTIONS ON ACQUISITION OF REAL PROPERTY
REASONED OPINION SENT: 98/04/07: SG(98)D/02935
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 94/2210
LEGAL BASIS (CELEX CODE): 157E052;157E073;
TITLE: RESTRICTIONS CONCERNING FOREIGN INVESTMENTS IN PRIVATISED COMPANIES
REASONED OPINION SENT: 98/08/10: SG(98)D/06985
NUMBER OF CASE IN COURT OF JUSTICE: C-99/058
REFERRAL DECIDED ON IN 1998

PORTUGAL

INFRINGEMENT: 91/2097
LEGAL BASIS (CELEX CODE): 157E052;157E058;157E221;
TITLE: DISCRIMINATION REGARDING FOREIGN INVESTMENT IN PRIVATISED COMPANIES
REASONED OPINION SENT: 95/05/29: SG(95)D/6717
FIRST REFERRAL TO COURT PRESENTED: 98/10/14
NUMBER OF CASE IN COURT OF JUSTICE: C-98/367

INDUSTRY

GREECE

INFRINGEMENT: 94/4276
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: QUALITY CONTROL — CERTAIN IMPORTED STEEL PRODUCTS
REASONED OPINION SENT: 98/12/04: SG(98)D/11287

SWEDEN

INFRINGEMENT: 96/2188
LEGAL BASIS (CELEX CODE): 393R2309;
TITLE: REGULATION (EEC) No 2309/93
REASONED OPINION SENT: 98/02/11: SG(98)D/01201

COMPETITION

ITALY

INFRINGEMENT: 93/2181
LEGAL BASIS (CELEX CODE): 157E003;157E005;157E085;
TITLE: CUSTOMS AGENTS
REASONED OPINION SENT: 95/06/21: SG(95)D/7832
FIRST REFERRAL TO COURT PRESENTED: 96/02/09
NUMBER OF CASE IN COURT OF JUSTICE: C-96/035
DATE OF COURT JUDGMENT: 98/06/18
JUDGMENT FOR: COMMISSION

BELGIUM

INFRINGEMENT: 95/2313
LEGAL BASIS (CELEX CODE): 157E086;157E090;157E169;
TITLE: SYSTEM OF LANDING CHARGES AT BRUSSELS NATIONAL AIRPORT
FIRST REFERRAL TO COURT PRESENTED: 97/04/23
NUMBER OF CASE IN COURT OF JUSTICE: C-97/155
DATE OF DECISION TO WITHDRAW: 98/05/18

SPAIN

INFRINGEMENT: 91/0755
LEGAL BASIS (CELEX CODE): 157E030;157E034;157E037;157E048;
TITLE: EXCLUSIVE RIGHTS — ELECTRICITY
98/06/24: TERMINATION

FRANCE

INFRINGEMENT: 91/0751
LEGAL BASIS (CELEX CODE): 157E030;157E034;157E037;
TITLE: EXCLUSIVE RIGHTS — GAS AND ELECTRICITY
98/06/24: TERMINATION

ITALY

INFRINGEMENT: 91/0757
LEGAL BASIS (CELEX CODE): 157E030;157E034;157E037;
TITLE: EXCLUSIVE RIGHTS — ELECTRICITY
98/06/24: TERMINATION

NETHERLANDS

INFRINGEMENT: 91/0759
LEGAL BASIS (CELEX CODE): 157E030;157E037;
TITLE: EXCLUSIVE RIGHTS — ELECTRICITY
98/06/24: TERMINATION

BELGIUM

INFRINGEMENT: 89/0030
LEGAL BASIS (CELEX CODE): 157E171;384D0508;
TITLE: AID FOR IDEALSPUN/BEAULIEU
REASONED OPINION SENT: 89/08/30: SG(89)D/11165
FIRST REFERRAL TO COURT PRESENTED: 89/12/18
NUMBER OF CASE IN COURT OF JUSTICE: C-89/375
DATE OF JUDGMENT: 91/02/19
JUDGMENT FOR: COMMISSION

SOCIAL AFFAIRS AND EMPLOYMENT

GERMANY

INFRINGEMENT: 97/4182
LEGAL BASIS (CELEX CODE): 157E051;157E052;157E059;371R1408;
TITLE: CONTRIBUTION TO KÜNSTLERSOZIALVERSICHERUNG
REASONED OPINION SENT: 98/08/07: SG(98)D/06929
REFERRAL TO COURT DECIDED ON IN 1998

GERMANY

INFRINGEMENT: 94/4125
LEGAL BASIS (CELEX CODE): 157E006;368R1612;600J1696;675J0048;689J0357;694J0245;
TITLE: FAMILY ALLOWANCES AND RESIDENCE CARDS
REASONED OPINION SENT: 97/05/23: SG(97)D/03956

GERMANY

INFRINGEMENT: 95/4670
LEGAL BASIS (CELEX CODE): 368R1612;
TITLE: REFUSAL TO MAKE WELFARE PAYMENTS
REASONED OPINION SENT: 98/06/23: SG(98)D/05016

BELGIUM

INFRINGEMENT: 98/2057
LEGAL BASIS (CELEX CODE): 157E052;368R1612;
TITLE: FRONTIER WORKERS — REDUCED FARES FOR LARGE FAMILIES
REASONED OPINION SENT: 98/12/04: SG(98)D/11289

BELGIUM

INFRINGEMENT: 95/4831
LEGAL BASIS (CELEX CODE): 157E051;157E235;371R1408;683J0275;
TITLE: WELFARE CONTRIBUTIONS LEVIED ON BELGIAN PENSIONS
REASONED OPINION SENT: 97/11/06: SG(97)D/09192
FIRST REFERRAL TO COURT PRESENTED: 98/09/22
NUMBER OF CASE IN COURT OF JUSTICE: C-98/347

BELGIUM

INFRINGEMENT: 96/4042
LEGAL BASIS (CELEX CODE): 371R1408;
TITLE: CUMULATION OF PENSIONS, WHERE ONE IS CONTRIBUTORY
98/12/02: TERMINATION

BELGIUM

INFRINGEMENT: 96/4041
LEGAL BASIS (CELEX CODE): 371R1408;
TITLE: MEDICAL AUTHORISATION FOR RESIDENCE IN ANOTHER MEMBER STATE
REASONED OPINION SENT: 97/08/07: SG(97)D/06840

BELGIUM

INFRINGEMENT: 89/0457
LEGAL BASIS (CELEX CODE): 157E007;157E128;157E171;
TITLE: FINANCING OF STUDENTS — NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 91/03/21: SG(91)D/5883
FIRST REFERRAL TO COURT PRESENTED: 93/02/17
NUMBER OF CASE IN COURT OF JUSTICE: C-93/047
DATE OF COURT JUDGMENT: 94/05/03
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 95/10/03: SG(95)D/12292
ARTICLE 171 REASONED OPINION SENT: 98/04/22: SG(98)D/03223

BELGIUM

INFRINGEMENT: 88/0072
LEGAL BASIS (CELEX CODE): 157E238;
TITLE: TAXES CHARGED IN BRUSSELS DISTRICTS FOR APPLICATIONS FOR RESIDENCE AND WORK PERMITS BY TURKISH NATIONALS
REASONED OPINION SENT: 98/03/04: SG(98)D/01895
98/12/02: TERMINATION

DENMARK

INFRINGEMENT: 96/4516
LEGAL BASIS (CELEX CODE): 157E048;686J0127;693J0415;
TITLE: RESTRICTION ON USE OF CAR, *INTER ALIA* FOR OCCUPATIONAL PURPOSES, BY FRONTIER WORKERS
REASONED OPINION SENT: 98/05/18: SG(98)D/03884

SPAIN

INFRINGEMENT: 98/2059
LEGAL BASIS (CELEX CODE): 157E052;368R1612;
TITLE: FRONTIER WORKERS — REDUCED FARES FOR LARGE FAMILIES
REASONED OPINION SENT: 98/10/28: SG(98)D/09040

SPAIN

INFRINGEMENT: 96/4628
LEGAL BASIS (CELEX CODE): 157E048;
TITLE: ACCESS TO PUBLIC EMPLOYMENT — NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 98/11/17: SG(98)D/09628

FRANCE

INFRINGEMENT: 96/4305
LEGAL BASIS (CELEX CODE): 157E051;371R1408;
TITLE: RESIDENCE PERMITS AND SOCIAL SECURITY CONTRIBUTIONS
REASONED OPINION SENT: 97/07/16: SG(97)D/05734
98/12/02: TERMINATION: MIN(98)1411

FRANCE

INFRINGEMENT: 97/4332
LEGAL BASIS (CELEX CODE): 157E051;371R1408;
TITLE: REFUSAL TO GRANT INVALIDITY BENEFITS
REASONED OPINION SENT: 98/09/09: SG(98)D/07572

FRANCE

INFRINGEMENT: 96/4558
LEGAL BASIS (CELEX CODE): 157E051;371R1408;
TITLE: SOCIAL SECURITY CONTRIBUTION TO REIMBURSE THE SOCIAL DEBT AND FRONTIER WORKERS
REASONED OPINION SENT: 97/07/23: SG(97)D/06031
FIRST REFERRAL TO COURT PRESENTED: 98/02/12
NUMBER OF CASE IN COURT OF JUSTICE: C-98/034

FRANCE

INFRINGEMENT: 94/5152
LEGAL BASIS (CELEX CODE): 157E0051;
TITLE: CALCULATION OF UNEMPLOYMENT BENEFITS
REASONED OPINION SENT: 97/07/16: SG(97)D/05732

FRANCE

INFRINGEMENT: 93/4433
LEGAL BASIS (CELEX CODE): 157E052;368R1612;
TITLE: SNCF — REDUCTIONS FOR LARGE FAMILIES
REASONED OPINION SENT: 98/05/15: SG(98)D/03849

FRANCE

INFRINGEMENT: 93/4403
LEGAL BASIS (CELEX CODE): 368R1612;696J0057;697J0035;
TITLE: CALCULATION OF SUPPLEMENTARY RETIREMENT BENEFITS FOR FRONTIER WORKERS
REASONED OPINION SENT: 95/07/28: SG(95)D/10329
FIRST REFERRAL TO COURT PRESENTED: 97/01/24
NUMBER OF CASE IN COURT OF JUSTICE: C-97/035
DATE OF COURT JUDGMENT: 98/09/24
JUDGMENT FOR: COMMISSION

FRANCE

INFRINGEMENT: 93/4947
LEGAL BASIS (CELEX CODE): 157E048;157E051;371R1408;
TITLE: APPLICATION OF GENERAL SOCIAL CONTRIBUTION TO FRONTIER WORKERS
REASONED OPINION SENT: 97/12/16: SG(97)D/10625
FIRST REFERRAL TO COURT PRESENTED: 98/05/07
NUMBER OF CASE IN COURT OF JUSTICE: C-98/169

FRANCE

INFRINGEMENT: 95/4801
LEGAL BASIS (CELEX CODE): 371R1408;690J0018;693J0058;694J0103;
TITLE: SOCIAL SECURITY — FAILURE TO RESPECT EQUAL TREATMENT IN INTERNATIONAL AGREEMENTS
REASONED OPINION SENT: 97/10/17: SG(97)D/08558

GREECE

INFRINGEMENT: 91/4957
LEGAL BASIS (CELEX CODE): 157E048;692J0419;
TITLE: PERIODS WORKED IN OTHER MEMBER STATES — CALCULATION OF SENIORITY
REASONED OPINION SENT: 95/05/18: SG(95)D/6530
FIRST REFERRAL TO COURT PRESENTED: 96/06/04
NUMBER OF CASE IN COURT OF JUSTICE: C-96/187
DATE OF COURT JUDGMENT: 98/03/12
JUDGMENT FOR: COMMISSION
98/06/24: TERMINATION

GREECE

INFRINGEMENT: 90/4816
LEGAL BASIS (CELEX CODE): 157E048;157E171;368R1612;
TITLE: NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 93/08/03: SG(93)D/13307
FIRST REFERRAL TO COURT PRESENTED: 94/04/27
NUMBER OF CASE IN COURT OF JUSTICE: C-94/123
DATE OF COURT JUDGMENT: 95/06/01
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 97/01/24: SG(97)D/00570
98/06/24: TERMINATION

GREECE

INFRINGEMENT: 92/4760
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;368R1612;675J0032;
TITLE: NATIONALITY DISCRIMINATION — LARGE-FAMILY STATUS
REASONED OPINION SENT: 95/05/18: SG(95)D/6528
FIRST REFERRAL TO COURT PRESENTED: 96/06/03
NUMBER OF CASE IN COURT OF JUSTICE: C-96/185
DATE OF COURT JUDGMENT: 98/10/29
JUDGMENT FOR: COMMISSION

GREECE

INFRINGEMENT: 91/0583
LEGAL BASIS (CELEX CODE): 157E048;368R1612;694J290;
TITLE: ACCESS TO PUBLIC EMPLOYMENT — NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 92/07/13: SG(92)D/9438
FIRST REFERRAL TO COURT PRESENTED: 94/10/26
NUMBER OF CASE IN COURT OF JUSTICE: C-94/290
DATE OF COURT JUDGMENT: 96/07/02
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 98/07/02: SG(98)D/05296
ARTICLE 171 REASONED OPINION SENT: 98/12/30: SG(98)D/12490

ITALY

INFRINGEMENT: 96/2208
LEGAL BASIS (CELEX CODE): 157E005;157E048;368R1612;NONE;
TITLE: DISCRIMINATION AGAINST FOREIGN-LANGUAGE ASSISTANTS
REASONED OPINION SENT: 97/05/16: SG(97)D/03767

ITALY

INFRINGEMENT: 96/4630
LEGAL BASIS (CELEX CODE): 157E048;
TITLE: ACCESS TO EMPLOYMENT — DOCTORS (BOLZANO) — NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 98/05/18: SG(98)D/03879
98/12/02: TERMINATION: MIN(98)1411

LUXEMBOURG

INFRINGEMENT: 98/2058
LEGAL BASIS (CELEX CODE): 157E052;368R1612;
TITLE: FRONTIER WORKERS — REDUCED FARES FOR LARGE FAMILIES
REASONED OPINION SENT: 98/10/28: SG(98)D/09042
DATE COMMISSION DECISION: 98/12/02: AM — P.M.: MIN(98)1411

LUXEMBOURG

INFRINGEMENT: 91/0222
LEGAL BASIS (CELEX CODE): 157E048;368R1612;693J047;
TITLE: ACCESS TO PUBLIC EMPLOYMENT
REASONED OPINION SENT: 92/07/14: SG(92)D/9481
FIRST REFERRAL TO COURT PRESENTED: 93/12/17
NUMBER OF CASE IN COURT OF JUSTICE: C-93/473
DATE OF COURT JUDGMENT: 96/07/02
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 97/12/17: SG(97)D/38454
ARTICLE 171 REASONED OPINION: 98/07/13: SG(98)D/05711
ARTICLE 171 REFERRAL DECIDED ON IN 1998

NETHERLANDS

INFRINGEMENT: 95/4045
LEGAL BASIS (CELEX CODE): 357E048;368R1612;
TITLE: PARTICIPATION IN PENSION FUND
REASONED OPINION SENT: 98/09/16: SG(98)D/07667

UNITED KINGDOM

INFRINGEMENT: 93/4738
LEGAL BASIS (CELEX CODE): 157E048;
TITLE: POSSIBILITY OF EXPELLING NON-COMMUNITY SPOUSE OF A COMMUNITY NATIONAL
REASONED OPINION SENT: 98/06/09: SG(98)D/4503

UNITED KINGDOM

INFRINGEMENT: 92/2247
LEGAL BASIS (CELEX CODE): 157E048;368R1612;
TITLE: NATIONALITY DISCRIMINATION — UNIVERSITY EDUCATION
REASONED OPINION SENT: 95/11/14: SG(95)D/14062
98/12/02: TERMINATION

AGRICULTURE

SPAIN

INFRINGEMENT: 97/2227
LEGAL BASIS (CELEX CODE): 392R3950;393R536;
TITLE: INCORRECT APPLICATION OF MILK QUOTAS SCHEME
REASONED OPINION SENT: 98/05/07: SG(98)D/03614

SPAIN

INFRINGEMENT: 97/2117
LEGAL BASIS (CELEX CODE): 157E005;392D0562;394D0381;394D0382;396D0449;
TITLE: ESB RULES
REASONED OPINION SENT: 98/02/03: SG(98)D/00967

FRANCE

INFRINGEMENT: 95/4430
LEGAL BASIS (CELEX CODE): 389R1576;
TITLE: SALE OF SPIRITUOUS BEVERAGES CONTAINING THE WORD 'WHISKY'
REASONED OPINION SENT: 97/05/02: SG(97)D/3504
REFERRAL DECIDED ON IN 1998

FRANCE

INFRINGEMENT: 94/4466
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: BARRIERS TO IMPORTS OF SPANISH STRAWBERRIES
REASONED OPINION SENT: 95/05/05: SG(95)D/5798
FIRST REFERRAL TO COURT PRESENTED: 95/08/04
NUMBER OF CASE IN COURT OF JUSTICE: C-95/265
DATE OF COURT JUDGMENT: 97/12/09
JUDGMENT FOR: COMMISSION

GREECE

INFRINGEMENT: 95/4951
LEGAL BASIS (CELEX CODE): 392R3479;395R1067;
TITLE: PROCEDURES AND CHECKS — RAW TOBACCO
REASONED OPINION SENT: 98/06/11: SG(98)D/04593
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 97/2228
LEGAL BASIS (CELEX CODE): NONE;
TITLE: INCORRECT APPLICATION OF MILK QUOTAS SCHEME
REASONED OPINION SENT: 98/05/04: SG(98)D/03510

TRANSPORT

GERMANY

INFRINGEMENT: 96/2073
LEGAL BASIS (CELEX CODE): 157E005;157E052;389R2299;392R2407;392R2408;392R2409;
TITLE: CONCLUSION OF OPEN SKIES AGREEMENTS WITH THE UNITED STATES OF AMERICA
REASONED OPINION SENT: 98/03/16: SG(98)D/02185
FIRST REFERRAL TO COURT PRESENTED: 98/12/18
NUMBER OF CASE IN COURT OF JUSTICE: C-98/476

UNITED KINGDOM

INFRINGEMENT: 95/2125
LEGAL BASIS (CELEX CODE): 157E052;392R2407;
TITLE: CONCLUSION OF OPEN SKIES AGREEMENT WITH THE UNITED STATES OF AMERICA
REASONED OPINION SENT: 98/03/16: SG(98)D/02191
FIRST REFERRAL TO COURT PRESENTED: 98/12/18
NUMBER OF CASE IN COURT OF JUSTICE: C-98/466

SPAIN

INFRINGEMENT: 96/2163
LEGAL BASIS (CELEX CODE): 392R2408;
TITLE: DISCRIMINATORY AIR DEPARTURE TAXES
REASONED OPINION SENT: 98/12/14: SG(98)D/11702

GREECE

INFRINGEMENT: 93/4037
LEGAL BASIS (CELEX CODE): 157E007;157E059;392R2408;
TITLE: AIRPORT TAXES
REASONED OPINION SENT: 98/06/11: SG(98)D/04595

IRELAND

INFRINGEMENT: 96/2161
LEGAL BASIS (CELEX CODE): 392R2408;
TITLE: DISCRIMINATORY AIR DEPARTURE TAXES
REASONED OPINION SENT: 98/07/02: SG(98)D/05255
REFERRAL TO COURT DECIDED ON IN 1998

ITALY

INFRINGEMENT: 96/2162
LEGAL BASIS (CELEX CODE): 392R2408;
TITLE: DISCRIMINATORY AIR DEPARTURE TAXES
REASONED OPINION SENT: 98/12/14: SG(98)D/11700

NETHERLANDS

INFRINGEMENT: 96/2165
LEGAL BASIS (CELEX CODE): 392R2408;
TITLE: DISCRIMINATORY AIR DEPARTURE TAXES
REASONED OPINION SENT: 98/12/14: SG(98)D/11690

PORTUGAL

INFRINGEMENT: 96/2164
LEGAL BASIS (CELEX CODE): 392R2408;
TITLE: DISCRIMINATORY AIR DEPARTURE TAXES
REASONED OPINION SENT: 98/06/30: SG(98)D/05145
REFERRAL TO COURT DECIDED ON IN 1998

UNITED KINGDOM

INFRINGEMENT: 94/4653
LEGAL BASIS (CELEX CODE): 157E0006;157E0059;392R2408;
TITLE: INTRODUCTION OF A NEW TAX ON PASSENGERS
REASONED OPINION SENT: 98/06/23: SG(98)D/05024

BELGIUM

INFRINGEMENT: 93/2101
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: SEA TRANSPORT — CARGO CONFERENCES
REASONED OPINION SENT: 95/12/21: SG(95)D/16798
FIRST REFERRAL TO COURT PRESENTED: 97/05/05
NUMBER OF CASE IN COURT OF JUSTICE: C-97/176
DATE OF COURT JUDGMENT: 98/06/11
JUDGMENT FOR: COMMISSION
98/12/02: TERMINATION

BELGIUM

INFRINGEMENT: 95/2161
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: AGREEMENTS WITH MCWCS COUNTRIES
REASONED OPINION SENT: 97/06/16: SG(97)D/04503
FIRST REFERRAL TO COURT PRESENTED: 98/05/25
NUMBER OF CASE IN COURT OF JUSTICE: C-98/201

BELGIUM

INFRINGEMENT: 91/0600
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: CARGO-SHARING ARRANGEMENT IN BLEU-TOGO AGREEMENT
REASONED OPINION SENT: 93/10/11: SG(93)D/1634
FIRST REFERRAL TO COURT PRESENTED: 98/05/08
NUMBER OF CASE IN COURT OF JUSTICE: C-98/171

BELGIUM

INFRINGEMENT: 91/0601
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: CARGO-SHARING ARRANGEMENT IN BELGIUM-ZAIRE AGREEMENT
REASONED OPINION SENT: 93/10/11: SG(93)D/16346
FIRST REFERRAL TO COURT PRESENTED: 98/05/08
NUMBER OF CASE IN COURT OF JUSTICE: C-98/170

BELGIUM

INFRINGEMENT: 90/0354
LEGAL BASIS (CELEX CODE): 157E007;157E048;157E052;157E058;
TITLE: COMMERCIAL VESSELS — FLAG RIGHTS
REASONED OPINION SENT: 93/06/04: SG(93)D/9153
REFERRAL DECIDED ON IN 1998

SPAIN

INFRINGEMENT: 93/2100
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: SEA TRANSPORT — CARGO CONFERENCES
REASONED OPINION SENT: 95/12/06: SG(95)D/15599
FIRST REFERRAL TO COURT PRESENTED: 97/06/27
NUMBER OF CASE IN COURT OF JUSTICE: C-97/238
98/06/24: TERMINATION

SPAIN

INFRINGEMENT: 91/0469
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: FREEDOM TO PROVIDE SERVICES — SEA TRANSPORT BETWEEN SPAIN AND GABON
REASONED OPINION SENT: 94/01/19: SG(94)D/7
98/06/24: TERMINATION

FRANCE

INFRINGEMENT: 96/2168
LEGAL BASIS (CELEX CODE): 157E052;
TITLE: GRANT OF FLAG RIGHTS
REASONED OPINION SENT: 98/12/14: SG(98)D/11714

FRANCE

INFRINGEMENT: 95/2198
LEGAL BASIS (CELEX CODE): 392R3577;
TITLE: CABOTAGE
REASONED OPINION SENT: 97/04/25: SG(97)D/3208
REFERRAL DECIDED ON IN 1998

GREECE

INFRINGEMENT: 96/2014
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: SEA TRANSPORT — MAINTENANCE OF NATIONAL LEGISLATION CONTRARY TO REGULATION (EEC) No 4055/86
REASONED OPINION SENT: 98/04/06: SG(98)D/02867
98/06/24: TERMINATION

GREECE

INFRINGEMENT: 90/0356
LEGAL BASIS (CELEX CODE): 157E005;157E007;157E048;157E052;157E221;
TITLE: FLAG RIGHTS
REASONED OPINION SENT: 93/07/27: SG(93)D/12698
FIRST REFERRAL TO COURT PRESENTED: 96/03/07
NUMBER OF CASE IN COURT OF JUSTICE: C-96/062
DATE OF COURT JUDGMENT: 97/11/27
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 98/09/24: SG(98)D/07968

IRELAND

INFRINGEMENT: 90/0357
LEGAL BASIS (CELEX CODE): 157E005;157E007;157E048;157E052;157E058;157E171;
TITLE: FLAG RIGHTS
REASONED OPINION SENT: 93/06/18: SG(93)D/10001
FIRST REFERRAL TO COURT PRESENTED: 96/05/06
NUMBER OF CASE IN COURT OF JUSTICE: C-96/151
DATE OF COURT JUDGMENT: 97/06/12
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 98/09/23: SG(98)D/07925

ITALY

INFRINGEMENT: 97/4482
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: TAX ON EMBARKATION AND DISEMBARKATION OF PASSENGERS — FREEDOM TO PROVIDE SERVICES
REASONED OPINION SENT: 98/12/14: SG(98)D/11696

ITALY

INFRINGEMENT: 95/2197
LEGAL BASIS (CELEX CODE): 392R3577;
TITLE: MARITIME CABOTAGE
REASONED OPINION SENT: 97/03/11: SG(97)D/1926
98/06/24: TERMINATION

ITALY

INFRINGEMENT: 93/2105
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: SEA TRANSPORT — CARGO CONFERENCES
REASONED OPINION SENT: 95/12/21: SG(95)D/16796
98/06/24: TERMINATION

ITALY

INFRINGEMENT: 95/2165
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: AGREEMENTS WITH MCWCS COUNTRIES
REASONED OPINION SENT: 97/10/31: SG(97)D/08968
98/10/07: TERMINATION

ITALY

INFRINGEMENT: 91/2148
LEGAL BASIS (CELEX CODE): 157E007;157E048;157E052;157E058;157E221;
TITLE: FLAG RIGHTS
REASONED OPINION SENT: 93/06/30: SG(93)D/10928
98/06/24: TERMINATION

LUXEMBOURG

INFRINGEMENT: 95/2162
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: AGREEMENTS WITH MCWCS COUNTRIES
REASONED OPINION SENT: 97/07/29: SG(97)D/06336
FIRST REFERRAL TO COURT PRESENTED: 98/05/24
NUMBER OF CASE IN COURT OF JUSTICE: C-98/202

LUXEMBOURG

INFRINGEMENT: 93/2102
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: SEA TRANSPORT — CARGO CONFERENCES
REASONED OPINION SENT: 95/12/21: SG(95)D/16800
FIRST REFERRAL TO COURT PRESENTED: 97/05/05
NUMBER OF CASE IN COURT OF JUSTICE: C-97/177
DATE OF COURT JUDGMENT: 98/06/11
JUDGMENT FOR: COMMISSION
98/12/02: TERMINATION

NETHERLANDS

INFRINGEMENT: 90/0358
LEGAL BASIS (CELEX CODE): 157E005;157E007;157E048;157E052;157E058;157E221;
TITLE: FLAG RIGHTS
REASONED OPINION SENT: 93/06/30: SG(93)D/10930

PORTUGAL

INFRINGEMENT: 95/2163
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: AGREEMENTS WITH MCWCS COUNTRIES
REASONED OPINION SENT: 97/06/06: SG(97)D/04244
FIRST REFERRAL TO COURT PRESENTED: 98/02/27
NUMBER OF CASE IN COURT OF JUSTICE: C-98/062

PORTUGAL

INFRINGEMENT: 95/2164
LEGAL BASIS (CELEX CODE): 386R4055;
TITLE: SEA TRANSPORT — CARGO CONFERENCES
REASONED OPINION SENT: 97/06/06: SG(97)D/04240
FIRST REFERRAL TO COURT PRESENTED: 98/03/27
NUMBER OF CASE IN COURT OF JUSTICE: C-98/084

BELGIUM

INFRINGEMENT: 96/2040
LEGAL BASIS (CELEX CODE): 394R2978;
TITLE: SEA TRANSPORT — FAILURE TO NOTIFY NATIONAL MEASURES IMPLEMENTING REGULATION (EC) No 2978/94
REASONED OPINION SENT: 97/02/07: SG(97)D/00945
98/06/24: TERMINATION

COMMUNITY STAFF

SPAIN

INFRINGEMENT: 93/2297
LEGAL BASIS (CELEX CODE): 165FPRI;165FPRO;
TITLE: RESIDENCE PERMITS
REASONED OPINION SENT: 96/09/13: SG(96)D/08014

SPAIN

INFRINGEMENT: 91/2315
LEGAL BASIS (CELEX CODE): 368R0259;
TITLE: TRANSFER OF PENSION RIGHTS
REASONED OPINION SENT: 93/12/13: SG(93)D/20161
FIRST REFERRAL TO COURT PRESENTED: 96/01/21
NUMBER OF CASE IN COURT OF JUSTICE: C-96/052
DATE OF COURT JUDGMENT: 97/07/17
JUDGMENT FOR: COMMISSION

GREECE

INFRINGEMENT: 93/2139
LEGAL BASIS (CELEX CODE): 368R0259;
TITLE: TRANSFERS TO COMMUNITY PENSION SCHEME
REASONED OPINION SENT: 95/08/14: SG(95)A/10881
98/10/07: TERMINATION

ENVIRONMENT

BELGIUM

INFRINGEMENT: 97/2165
LEGAL BASIS (CELEX CODE): 392R0880;
TITLE: INCORRECT APPLICATION OF REGULATION (EEC) No 880/92
REASONED OPINION SENT: 98/08/06: SG(98)D/06865
REFERRAL DECIDED ON IN 1998

GREECE

INFRINGEMENT: 96/2151
LEGAL BASIS (CELEX CODE): 393R1836;
TITLE: FAILURE TO NOTIFY MEASURES TRANSPOSING REGULATION (EEC) No 1836/93.
REASONED OPINION SENT: 98/08/06: SG(98)D/06873
REFERRAL DECIDED ON IN 1998
DATE OF COMMISSION DECISION: 98/12/02: REFERRAL: MIN(98)1411

GREECE

INFRINGEMENT: 93/4663
LEGAL BASIS (CELEX CODE): 382R3626;397R0338;
TITLE: CITIES — ATHENS
REASONED OPINION SENT: 98/05/06: SG(98)D/03579
REFERRAL DECIDED ON IN 1998

PORTUGAL

INFRINGEMENT: 96/2153
LEGAL BASIS (CELEX CODE): 393R1836;
TITLE: INCORRECT APPLICATION OF REGULATION (EEC) No 1836/93
REASONED OPINION SENT: 98/06/23: SG(98)D/:05026
REFERRAL DECIDED ON IN 1998

FISHERIES

BELGIUM

INFRINGEMENT: 90/0248
LEGAL BASIS (CELEX CODE): 157E007;157E034;157E048;157E052;157E058;381R3796;383R0170;
TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS
REASONED OPINION SENT: 93/03/23: SG(93)D/4629
REFERRAL DECIDED ON IN 1998

DENMARK

INFRINGEMENT: 93/2219
LEGAL BASIS (CELEX CODE): 383R0170;387R2241;389R4047;
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT (1990)
REASONED OPINION SENT: 98/07/24: SG(98)D/06263

SPAIN

INFRINGEMENT: 88/0356
LEGAL BASIS (CELEX CODE): 382R2057;387R2241;
TITLE: OBLIGATION TO COOPERATE — FISHERIES INSPECTIONS
REASONED OPINION SENT: 89/11/20: SG(89)D/14536
98/12/02: TERMINATION

SPAIN

INFRINGEMENT: 92/2256
LEGAL BASIS (CELEX CODE): 383R0170;387R2241;389R4047;
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT
REASONED OPINION SENT: 97/07/08: SG(97)D/05307

FRANCE

INFRINGEMENT: 90/0418
LEGAL BASIS (CELEX CODE): 383R0170;387R2241;387R3977;
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT — OVERFISHING 1988
REASONED OPINION SENT: 92/09/29: SG(92)D/12966
DATE OF COMMISSION DECISION: 98/12/02: REFERRAL — IMMEDIATE EXECUTION: MIN(98)1411

FRANCE

INFRINGEMENT: 84/0445
LEGAL BASIS (CELEX CODE): 157E171;382R2057;383R0171;
TITLE: INCORRECT INSPECTION FOR COMPLIANCE WITH TECHNICAL CONSERVATION MEASURES
REASONED OPINION SENT: 86/11/18: SG(86)D/13614
FIRST REFERRAL TO COURT PRESENTED: 88/02/29
NUMBER OF CASE IN COURT OF JUSTICE: C-88/064
DATE OF COURT JUDGMENT: 91/06/11
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 93/10/11: SG(93)D/16336
ARTICLE 171 REASONED OPINION SENT: 96/04/17: SG(96)D/03959

FRANCE

INFRINGEMENT: 92/2258
LEGAL BASIS (CELEX CODE): 383R0170;387R2241;389R4047;
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT
REASONED OPINION SENT: 97/06/04: SG(97)D/04238
REFERRAL DECIDED ON IN 1998

GREECE

INFRINGEMENT: 90/0328
LEGAL BASIS (CELEX CODE): 157E007;157E048;157E052;157E058;157E171;157E221;383R0170;
TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS
REASONED OPINION SENT: 93/07/27: SG(93)D/12698
FIRST REFERRAL TO COURT PRESENTED: 96/03/07
NUMBER OF CASE IN COURT OF JUSTICE: C-96/062
DATE OF COURT JUDGMENT: 97/11/27
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 98/09/24: SG(98)D/07968

ITALY

INFRINGEMENT: 90/0332
LEGAL BASIS (CELEX CODE): 157E007;157E048;157E052;157E058;157E221;383R0170;
TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS
REASONED OPINION SENT: 93/03/11: SG(93)D/3851
98/06/24: TERMINATION

PORTUGAL

INFRINGEMENT: 89/2109
LEGAL BASIS (CELEX CODE): 157E007;157E030;157E034;157E052;
TITLE: LICENSING TERMS AND/OR FLAG RIGHTS FOR FISHING VESSELS
REASONED OPINION SENT: 98/10/30: SG(98)D/09144

UNITED KINGDOM

INFRINGEMENT: 92/4211
LEGAL BASIS (CELEX CODE): 157E007;157E052;383R0173;
TITLE: GRANT OF FISHING QUOTAS IN 1992
REASONED OPINION SENT: 98/01/14: SG(98)D/00277

UNITED KINGDOM

INFRINGEMENT: 91/0637
LEGAL BASIS (CELEX CODE): 383R0170;387R2241;387R3977;388R4194;
TITLE: FAILURE TO DISCHARGE OBLIGATION TO INSPECT — OVERFISHING 1988
REASONED OPINION SENT: 96/04/17: SG(96)D/3961
REFERRAL TO COURT DECIDED ON IN 1997

UNITED KINGDOM

INFRINGEMENT: 87/0398
LEGAL BASIS (CELEX CODE): 382R2057;383R0170;385R3721;385R3732;
TITLE: OVERFISHING 1985 to 1986
REASONED OPINION SENT: 89/02/09: SG(89)D/1749
REFERRAL DECIDED ON IN 1998

INTERNAL MARKET AND FINANCIAL SERVICES

FINLAND

INFRINGEMENT: 96/2033
LEGAL BASIS (CELEX CODE): 157E006;157E008;
TITLE: ACCESS TO CERTAIN AREAS OF FINNISH TERRITORY — AUTHORISATION REQUIRED FOR FOREIGNERS
REASONED OPINION SENT: 98/12/30: SG(98)D/12494

ITALY

INFRINGEMENT: 94/4523
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: MESSINA STRAITS BRIDGE — CONTRACT AWARDED TO AN ITALIAN PUBLIC-SECTOR COMPANY
REASONED OPINION SENT: 97/10/24: SG(97)D/08732
98/12/02: TERMINATION

GERMANY

INFRINGEMENT: 96/4170
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: BARRIERS TO IMPORTS OF VITAMIN SUPPLEMENTS
REASONED OPINION SENT: 98/12/30: SG(98)D/12510

GERMANY

INFRINGEMENT: 94/4521
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: PUBLIC PROCUREMENT — DISCRIMINATION AGAINST PRODUCTS MANUFACTURED IN ANOTHER MEMBER STATE
REASONED OPINION SENT: 98/04/07: SG(98)D/02900
98/12/02: TERMINATION

GERMANY

INFRINGEMENT: 91/4782
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: 'ADVOCAAT' LIQUEUR — OBLIGATION TO SPECIFY USE OF BETA-CAROTENE ON LABELS
REASONED OPINION SENT: 96/07/10: SG(96)D/06268
98/06/24: TERMINATION

AUSTRIA

INFRINGEMENT: 96/4270
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: IMPORTS OF SAUSAGE (SALAMI)
REASONED OPINION SENT: 98/05/29: SG(98)D/04259

AUSTRIA

INFRINGEMENT: 95/2153
LEGAL BASIS (CELEX CODE): 157E30;157E37;
TITLE: MANUFACTURED TOBACCO MONOPOLY
REASONED OPINION SENT: 97/05/21

BELGIUM

INFRINGEMENT: 96/4808
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: PARALLEL IMPORTS OF PHARMACEUTICAL PRODUCTS
REASONED OPINION SENT: 98/12/18: SG(98)D/12026

BELGIUM

INFRINGEMENT: 95/2037
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: LABELLING OF FOODSTUFFS
REASONED OPINION SENT: 98/02/04: SG(98)D/00965
REFERRAL DECIDED ON IN 1998

BELGIUM

INFRINGEMENT: 91/2245
LEGAL BASIS (CELEX CODE): 157E030;157E031;157E032;157E033;157E034;157E035;157E036;
TITLE: USE OF MICROLIGHT AIRCRAFT
REASONED OPINION SENT: 98/03/23: SG(98)D/02363

BELGIUM

INFRINGEMENT: 82/0316
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: REFUSAL TO ISSUE IMPORT LICENCES FOR CODEINE
REASONED OPINION SENT: 83/09/19: SG(83)D/11374
98/06/24: TERMINATION

SPAIN

INFRINGEMENT: 95/4849
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: SALE OF LOOSE TEA
REASONED OPINION SENT: 97/07/07: SG(97)D/05199

SPAIN

INFRINGEMENT: 93/2226
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: REGULATION ON CHOCOLATE
REASONED OPINION SENT: 98/07/29: SG(98)D/06507

SPAIN

INFRINGEMENT: 95/4198
LEGAL BASIS (CELEX CODE): 157E030;157E036;157E171;
TITLE: REGISTRATION OF A CAR — TECHNICAL INSPECTION
REASONED OPINION SENT: 97/12/03: SG(97)D/10049

FRANCE

INFRINGEMENT: 97/4419
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: BARRIERS TO MARKETING OF SWIMMING-POOL TREATMENT PRODUCTS
REASONED OPINION SENT: 98/11/23: SG598)D/10966

FRANCE

INFRINGEMENT: 97/4239
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: SEIZURE OF SPARE PARTS IN TRANSIT — PROTECTION OF DESIGNS AND MODELS (COUNTERFEITS)
REASONED OPINION SENT: 98/07/24: SG(98)D/06273
FIRST REFERRAL TO COURT PRESENTED: 99/02/02
NUMBER OF CASE IN THE COURT OF JUSTICE: C-99/023

FRANCE

INFRINGEMENT: 96/4209
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: REFUSAL TO ISSUE INDIVIDUAL AIRWORTHINESS CERTIFICATE FOR A HELICOPTER
REASONED OPINION SENT: 98/06/18: SG(98)D/04934

FRANCE

INFRINGEMENT: 95/2175
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: MATERIALS AND OBJECTS IN RUBBER IN CONTACT WITH FOODSTUFFS
REASONED OPINION SENT: 97/12/03: SG(97)D/10079

FRANCE

INFRINGEMENT: 95/2176
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: TECHNOLOGICAL AUXILIARIES USED IN PREPARING FOODSTUFFS
REASONED OPINION SENT: 98/03/27: SG(98)D/02456

FRANCE

INFRINGEMENT: 92/4438
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: ALCOHOLIC BEVERAGES WITH AN ALCOHOL CONTENT IN EXCESS OF 250 BY VOLUME; SOCIAL SECURITY CONTRIBUTION; LABELLING
REASONED OPINION SENT: 97/07/07: SG(97)D/05215
FIRST REFERRAL TO COURT PRESENTED: 98/09/01
NUMBER OF CASE IN COURT OF JUSTICE: C-98/326

FRANCE

INFRINGEMENT: 93/2067
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: ADDITIVES IN FOODSTUFFS
REASONED OPINION SENT: 98/10/26: SG(98)D/08993

FRANCE

INFRINGEMENT: 94/2150
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: ENZYMATIC PREPARATIONS IN CERTAIN FOODSTUFFS AND BEVERAGES FOR HUMAN CONSUMPTION
REASONED OPINION SENT: 98/05/15: SG(98)D/03853

FRANCE

INFRINGEMENT: 94/2201
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: PUBLIC HEALTH — OBLIGATION TO REGISTER REAGENTS
REASONED OPINION SENT: 98/08/10: SG(98)D/06961
REFERRAL TO COURT DECIDED ON IN 1998

FRANCE

INFRINGEMENT: 93/2222
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: PREPARATIONS BASED ON FOIE GRAS
REASONED OPINION SENT: 94/10/14: SG(94)D/14519
FIRST REFERRAL TO COURT PRESENTED: 96/05/31
NUMBER OF CASE IN COURT OF JUSTICE: C-96/184
DATE OF COURT JUDGMENT: 98/10/22
JUDGMENT FOR: COMMISSION

FRANCE

INFRINGEMENT: 94/4226
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: PROHIBITION ON MARKETING THE RECTELLA BARBECUE
REASONED OPINION SENT: 98/05/19: SG(98)D/03925
REFERRAL DECIDED ON IN 1998

FRANCE

INFRINGEMENT: 85/0269
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: REFUSAL TO ISSUE IMPORT LICENCES FOR CODEINE
REASONED OPINION SENT: 87/11/12: SG(87)D/13711
98/06/24: TERMINATION

FRANCE

INFRINGEMENT: 91/0555
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: OBLIGATION TO HALLMARK IMPORTED PRODUCTS IN PRECIOUS METAL
REASONED OPINION SENT: 96/07/10: SG(96)D/06266

FRANCE

INFRINGEMENT: 91/0562
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: RULES ON EDIBLE PASTA
REASONED OPINION SENT: 98/07/29: SG(98)D/06501
REFERRAL DECIDED ON IN 1998

GREECE

INFRINGEMENT: 95/4580
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: PRICES OF MEDICINES
REASONED OPINION SENT: 97/09/23: SG(97)D/07834
REFERRAL DECIDED ON IN 1998

GREECE

INFRINGEMENT: 96/4609
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: BARRIERS TO THE MARKETING OF DIETARY SUPPLEMENTS
REASONED OPINION SENT: 98/08/31: SG(98)D/07391

GREECE

INFRINGEMENT: 92/2222
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: STORAGE AND MARKETING OF PETROLEUM PRODUCTS
REASONED OPINION SENT: 97/06/17: SG(97)D/04572
FIRST REFERRAL TO COURT PRESENTED: 98/11/06
NUMBER OF CASE IN COURT OF JUSTICE: C-98/398

IRELAND

INFRINGEMENT: 92/2085
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: IMPORTS OF OBJECTS OF PRECIOUS METALS
REASONED OPINION SENT: 96/11/11: SG(96)D/09650
FIRST REFERRAL TO COURT PRESENTED: 99/02/05
NUMBER OF CASE IN COURT OF JUSTICE: C-99/030

IRELAND

INFRINGEMENT: 89/0335
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: TOBACCO PRICING RULES
REASONED OPINION SENT: 90/07/12: SG(90)D/24400

ITALY

INFRINGEMENT: 97/4579
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: BARRIERS TO IMPORTS OF SPECIAL FOODSTUFFS FOR SPORTSMEN
REASONED OPINION SENT: 98/12/18: SG(98)D/12016

ITALY

INFRINGEMENT: 95/2314
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: CHOCOLATE AND CHOCOLATE PRODUCTS
REASONED OPINION SENT: 98/07/29: SG(98)D/06503

ITALY

INFRINGEMENT: 96/2243
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: WEIGHTS AND MEASURES ACT
REASONED OPINION SENT: 98/03/23: SG(98)D/02377

ITALY

INFRINGEMENT: 93/4698
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: BARRIERS TO MARKETING OF SPECIAL FOODSTUFFS FOR SPORTSMEN
REASONED OPINION SENT: 96/09/04: SG(96)D/07694
98/06/24: TERMINATION

ITALY

INFRINGEMENT: 92/2116
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: IMPORTS OF OBJECTS OF PRECIOUS METALS
REASONED OPINION SENT: 96/03/08: SG(96)D/02953
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 93/4146
LEGAL BASIS (CELEX CODE): 157E030;157E171;
TITLE: APPROVAL AND REGISTRATION OF A VEHICLE (TOWING DEVICE)
REASONED OPINION SENT: 98/04/07: SG(98)D/02937

ITALY

INFRINGEMENT: 91/4303
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: SUPPLY OF EQUIPMENT
REASONED OPINION SENT: 93/06/18: SG(93)D/10007
98/06/24: TERMINATION

ITALY

INFRINGEMENT: 94/4883
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: BARRIERS TO IMPORTS OF NON-ALCOHOLIC BEVERAGES
REASONED OPINION SENT: 97/09/23: SG(97)D/07828

ITALY

INFRINGEMENT: 94/4248
LEGAL BASIS (CELEX CODE): 157E030;157E036;157E171;
TITLE: PRICES OF MEDICINES
REASONED OPINION SENT: 98/09/09: SG(98)D/07570

ITALY

INFRINGEMENT: 90/0397
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: MARKETING OF WHOLEMEAL BREAD
REASONED OPINION SENT: 91/03/18: SG(91)D/5566
98/06/24: TERMINATION

NETHERLANDS

INFRINGEMENT: 97/2060
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: RULES OF 24.5.96 ON THE ADDITION OF MICRO-FOODS TO FOODSTUFFS
REASONED OPINION SENT: 98/08/31: SG(98)D/07383

NETHERLANDS

INFRINGEMENT: 94/5125
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: BARRIERS TO IMPORTS OF VITAMIN-ENRICHED FOODSTUFFS
REASONED OPINION SENT: 97/09/23: SG(97)D/07832
REFERRAL DECIDED ON IN 1998

NETHERLANDS

INFRINGEMENT: 94/4810
LEGAL BASIS (CELEX CODE): 157E030;157E036;157E171;
TITLE: BARRIERS TO IMPORTS OF VITAMIN-ENRICHED MARGARINE
REASONED OPINION SENT: 98/08/31: SG(98)D/07377

NETHERLANDS

INFRINGEMENT: 94/4075
LEGAL BASIS (CELEX CODE): 157E030;157E036;
TITLE: IMPORTS OF VITAMIN- AND IRON-ENRICHED FOODSTUFFS
REASONED OPINION SENT: 97/09/23: SG(97)D/07824
REFERRAL DECIDED ON IN 1998

PORTUGAL

INFRINGEMENT: 92/2082
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: IMPORTS OF OBJECTS OF PRECIOUS METALS
REASONED OPINION SENT: 97/02/24: SG(97)D/01372
98/06/24: TERMINATION

UNITED KINGDOM

INFRINGEMENT: 82/0320
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: REFUSAL TO ISSUE IMPORT LICENCES FOR CODEINE
REASONED OPINION SENT: 83/09/06: SG(83)D/10910
98/06/24: TERMINATION

UNITED KINGDOM

INFRINGEMENT: 89/0034
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: PATENT LICENCES
REASONED OPINION SENT: 89/08/28: SG(89)D/11009
FIRST REFERRAL TO COURT PRESENTED: 90/01/31
NUMBER OF CASE IN COURT OF JUSTICE: C-90/030
DATE OF COURT JUDGMENT: 92/02/18
JUDGMENT FOR: COMMISSION

BELGIUM

INFRINGEMENT: 95/4631
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: PARALLEL IMPORTS OF PESTICIDES
REASONED OPINION SENT: 97/09/22: SG(97)D/07778
98/12/02: TERMINATION

SWEDEN

INFRINGEMENT: 95/4466
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: IMPORTS OF OIL TANKER-TRUCKS
REASONED OPINION SENT: 98/08/31: SG(98)D/07385

SWEDEN

INFRINGEMENT: 95/4665
LEGAL BASIS (CELEX CODE): 157E030;
TITLE: BARRIERS TO IMPORTS OF PRESSURE CONTAINERS
REASONED OPINION SENT: 98/06/11: SG(98)D/04601

GERMANY

INFRINGEMENT: 96/4509
LEGAL BASIS (CELEX CODE): 157E052;157E059;
TITLE: TEMPORARY POSTING OF WORKERS IN THE CONTEXT OF A WORKING GROUP
REASONED OPINION SENT: 98/12/22: SG(98)D/12233

GERMANY

INFRINGEMENT: 95/4563
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: RESTRICTIONS ON THE MOVEMENTS OF THIRD-COUNTRY NATIONALS IN RELATION TO FREEDOM TO PROVIDE SERVICES
REASONED OPINION SENT: 98/08/07: SG(98)D/06915

GERMANY

INFRINGEMENT: 95/4441
LEGAL BASIS (CELEX CODE): 157E006;157E059;
TITLE: ACTION BEFORE NATIONAL COURTS — SUM REQUIRED OF NON-ESTABLISHED COMPANIES
REASONED OPINION SENT: 98/07/08: SG(98)D/05439

GERMANY

INFRINGEMENT: 92/4643
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: OBLIGATION TO ESTABLISH A BRANCH IN GERMANY
REASONED OPINION SENT: 97/11/12: SG(97)D/09388

AUSTRIA

INFRINGEMENT: 96/4150
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: DISCRIMINATION IN PAYMENT OF WAGES AND SALARIES OF WORKERS ON TEMPORARY POSTING
REASONED OPINION SENT: 98/05/25: SG(98)D/04040
REFERRAL DECIDED ON IN 1998

BELGIUM

INFRINGEMENT: 96/2248
LEGAL BASIS (CELEX CODE): 157E006;157E048;157E052;157E059;
TITLE: DISCRIMINATORY TAX LEVIED BY BELGIAN ELECTRICITY COMPANY
REASONED OPINION SENT: 98/11/23: SG(98)D/10968

BELGIUM

INFRINGEMENT: 95/2105
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;
TITLE: RESTRICTIONS ON PRIVATE SECURITY FIRMS
REASONED OPINION SENT: 97/06/10: SG(97)D/04325
FIRST REFERRAL TO COURT PRESENTED: 98/09/29
NUMBER OF CASE IN COURT OF JUSTICE: C-98/355

BELGIUM

INFRINGEMENT: 95/4687
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: OBLIGATION TO REGISTER AS FIRM FOR RECRUITMENT OF NON-COMMUNITY WORKERS
REASONED OPINION SENT: 98/09/09: SG(98)D/07562

BELGIUM

INFRINGEMENT: 94/7018
LEGAL BASIS (CELEX CODE): 157E228;
TITLE: REFUSAL TO REGISTER A FIRM
REASONED OPINION SENT: 97/06/12: SG(97)D/04413
98/12/02: TERMINATION

BELGIUM

INFRINGEMENT: 94/4878
LEGAL BASIS (CELEX CODE): 157E057;
TITLE: NON-PROFIT ASSOCIATIONS ACT — OBLIGATION TO HAVE AT LEAST ONE BELGIAN MEMBER
REASONED OPINION SENT: 97/06/19: SG(97)D/04618
FIRST REFERRAL TO COURT PRESENTED: 98/05/08
NUMBER OF CASE IN COURT OF JUSTICE: C-98/172
REFERRAL DECIDED ON IN 1998

BELGIUM

INFRINGEMENT: 93/4136
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: AERIAL PHOTOGRAPHY — FREEDOM TO PROVIDE SERVICES
REASONED OPINION SENT: 97/06/19: SG(97)D/04620
FIRST REFERRAL TO COURT PRESENTED: 98/05/28
NUMBER OF CASE IN COURT OF JUSTICE: C-98/203

BELGIUM

INFRINGEMENT: 93/4042
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: IMPOSITION OF INDEMNITIES AND CONTRIBUTIONS FOR FREEDOM TO PROVIDE CONSTRUCTION SERVICES
REASONED OPINION SENT: 98/03/23: SG(98)D/02371
REFERRAL DECIDED ON IN 1998

BELGIUM

INFRINGEMENT: 89/5019
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: FREEDOM TO PROVIDE SERVICES AND FREE MOVEMENT OF GOODS
REASONED OPINION SENT: 98/03/23: SG(98)D/02369

BELGIUM

INFRINGEMENT: 90/2171
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: PAYMENT OF BAD-WEATHER AND LOYALTY STAMPS
REASONED OPINION SENT: 98/03/23: SG(98)D/02365
REFERRAL DECIDED ON IN 1998

SPAIN

INFRINGEMENT: 95/2181
LEGAL BASIS (CELEX CODE): 157E06;157E220;
TITLE: *CAUTIO JUDICATUM SOLVI* AND NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 98/07/08: SG(98)D/05483
REFERRAL DECIDED ON IN 1998

SPAIN

INFRINGEMENT: 92/5178
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;157E073;
TITLE: FOREIGN INVESTMENT IN SPAIN — OBLIGATION TO USE A SPANISH NOTARY
REASONED OPINION SENT: 98/01/27: SG(98)D/00745
REFERRAL DECIDED ON IN 1998

SPAIN

INFRINGEMENT: 94/4103
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;
TITLE: EXERCISE OF SECURITY ACTIVITIES
REASONED OPINION SENT: 96/06/11: SG(96)D/05299
FIRST REFERRAL TO COURT PRESENTED: 97/03/19
NUMBER OF CASE IN COURT OF JUSTICE: C-97/114
DATE OF COURT JUDGMENT: 98/10/29
JUDGMENT FOR: COMMISSION

FRANCE

INFRINGEMENT: 97/4423
LEGAL BASIS (CELEX CODE): 157E52;157E59;
TITLE: BARRIERS TO FREEDOM OF ESTABLISHMENT — CIRCUSES
REASONED OPINION SENT: 98/10/14: SG(98)D/08561

FRANCE

INFRINGEMENT: 94/4879
LEGAL BASIS (CELEX CODE): 157E052;
TITLE: RIGHT OF ESTABLISHMENT AS ARMS DEALER
REASONED OPINION SENT: 98/08/10: SG(98)D/06959

FRANCE

INFRINGEMENT: 94/5128
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: PROVISION OF SERVICES — MODELLING AGENCIES
REASONED OPINION SENT: 98/03/05: SG(98)D/01925
REFERRAL DECIDED ON IN 1998

FRANCE

INFRINGEMENT: 96/4272
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: BOTTLED CHLORINE
REASONED OPINION SENT: 98/09/30: SG(98)D/08170

GREECE

INFRINGEMENT: 94/2262
LEGAL BASIS (CELEX CODE): 157E052;157E059;
TITLE: PROHIBITION OF TEMPORARY WORK AGENCIES
REASONED OPINION SENT: 98/08/06: SG(98)D/06869
98/12/02: TERMINATION

IRELAND

INFRINGEMENT: 94/4719
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: GAMING AND LOTTERIES ACT 1956
REASONED OPINION SENT: 98/02/03: SG(98)D/00896

ITALY

INFRINGEMENT: 95/2068
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;
TITLE: DISCRIMINATORY RESTRICTIONS — PRIVATE SECURITY SERVICES
REASONED OPINION SENT: 98/07/08: SG(98)D/05443
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 97/4114
LEGAL BASIS (CELEX CODE): 157E06;157E52;157E59;
TITLE: DISCRIMINATORY PENALTIES ON A GERMAN CITIZEN
REASONED OPINION SENT: 98/10/02: SG(98)D/08219

ITALY

INFRINGEMENT: 96/2246
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: LEGISLATIVE BARRIERS TO BUSINESS AS CUSTOMS AGENTS
REASONED OPINION SENT: 98/05/18: SG(98)D/03872
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 94/5095
LEGAL BASIS (CELEX CODE): 157E052;157E059;157E171;
TITLE: ITALIAN RULES GOVERNING FAIRS AND EXHIBITIONS
REASONED OPINION SENT: 98/05/18: SG(98)D/03868
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 91/2236
LEGAL BASIS (CELEX CODE): 157E059;157E73;
TITLE: RESTRICTIONS ON TRANSFERS — REMUNERATION OF SERVICES OF INTERMEDIARIES
REASONED OPINION SENT: 97/05/05: SG(97)D/3561
98/10/28: TERMINATION

ITALY

INFRINGEMENT: 93/2300
LEGAL BASIS (CELEX CODE): 157E006;157E052;157E059;
TITLE: RESTRICTIONS ON EXERCISE OF BUSINESS OF ROAD TRAFFIC CONSULTANTS
REASONED OPINION SENT: 97/07/14: SG(97)D/05637
REFERRAL DECIDED ON IN 1998

ITALY

INFRINGEMENT: 94/2146
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: LEGISLATIVE BARRIERS TO BUSINESS IN CLEANING SERVICES
REASONED OPINION SENT: 96/03/12: SG(96)D/2996
FIRST REFERRAL TO COURT PRESENTED: 98/10/05
NUMBER OF CASE IN COURT OF JUSTICE: C-98/358

LUXEMBOURG

INFRINGEMENT: 92/4468
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: MONOPOLY ON PLACEMENT OF WORKERS
REASONED OPINION SENT: 98/04/15: SG(98)D/03073

NETHERLANDS

INFRINGEMENT: 94/4906
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: OBLIGATION TO HAVE AN ADDRESS FOR SERVICE IN NL WHEN APPLYING TO REGISTER A PATENT
REASONED OPINION SENT: 98/08/31: SG(98)D/07379

PORTUGAL

INFRINGEMENT: 96/2245
LEGAL BASIS (CELEX CODE): 157E006;157E059;
TITLE: AERIAL PHOTOGRAPHY — NATIONALITY DISCRIMINATION
REASONED OPINION SENT: 98/05/18: SG(98)D/03880
REFERRAL DECIDED ON IN 1998

PORTUGAL

INFRINGEMENT: 93/5030
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;
TITLE: EXERCISE OF SECURITY ACTIVITIES
REASONED OPINION SENT: 97/06/19: SG(97)D/04622
98/10/07: TERMINATION

GERMANY

INFRINGEMENT: 92/4835
LEGAL BASIS (CELEX CODE): 157E005;157E059;
TITLE: TAX LEGISLATION APPLYING TO BUSINESS OF TAX ADVISERS
REASONED OPINION SENT: 97/09/22: SG(97)D/07776

BELGIUM

INFRINGEMENT: 95/4302
LEGAL BASIS (CELEX CODE): 157E052;157E057;
TITLE: REFUSAL TO ENTER IN THE ORDER OF ARCHITECTS AT LIEGE
REASONED OPINION SENT: 98/08/06: SG(98)D/06867
REFERRAL DECIDED ON IN 1998

SPAIN

INFRINGEMENT: 90/0388
LEGAL BASIS (CELEX CODE): 157E005;157E048;157E052;157E059;157E171;
TITLE: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES
REASONED OPINION SENT: 91/10/14: SG(91)D/18934
FIRST REFERRAL TO COURT PRESENTED: 92/10/01
NUMBER OF CASE IN COURT OF JUSTICE: C-92/375
DATE OF COURT JUDGMENT: 94/03/22
JUDGMENT FOR: COMMISSION

FRANCE

INFRINGEMENT: 94/2278
LEGAL BASIS (CELEX CODE): 157E171;380D1186;386D0283;391D0482;
TITLE: ESTABLISHMENT AND PROVISION OF SERVICES IN OVERSEAS TERRITORIES
REASONED OPINION SENT: 98/06/16: SG(98)D/04599

FRANCE

INFRINGEMENT: 94/4441
LEGAL BASIS (CELEX CODE): 157E059;157E171;
TITLE: UNCOMPETITIVE PRACTICES — UNDERWATER WORKS
REASONED OPINION SENT: 98/12/02: SG(98)D/11233

FRANCE

INFRINGEMENT: 94/2082
LEGAL BASIS (CELEX CODE): 157E052;
TITLE: ORGANISATION OF PROFESSION OF LAWYER
REASONED OPINION SENT: 98/05/15: SG(98)D/03845

FRANCE

INFRINGEMENT: 93/4448
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: AUCTION SALES — MONOPOLY OF AUCTIONEERS
REASONED OPINION SENT: 98/08/10: SG(98)D/06963

FRANCE

INFRINGEMENT: 89/0645
LEGAL BASIS (CELEX CODE): 157E005;157E048;157E052;157E059;
TITLE: RECOGNITION OF QUALIFICATIONS — PSYCHIATRIC NURSE
REASONED OPINION SENT: 96/09/24: SG(96)D/08327
FIRST REFERRAL TO COURT PRESENTED: 98/07/13
NUMBER OF CASE IN COURT OF JUSTICE: C-98/252

FRANCE

INFRINGEMENT: 85/0499
LEGAL BASIS (CELEX CODE): 157E171;380D1186;386D0283;391D0482;
TITLE: REFUSAL OF RIGHT OF ESTABLISHMENT AND PROVISION OF SERVICES IN OVERSEAS TERRITORIES
REASONED OPINION SENT: 87/05/27: SG(87)D/6705
FIRST REFERRAL TO COURT PRESENTED: 88/09/23
NUMBER OF CASE IN COURT OF JUSTICE: C-88/263
DATE OF COURT JUDGMENT: 90/12/12
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 92/06/05: SG(92)D/7477
ARTICLE 171 REASONED OPINION SENT: 95/11/16: SG(95)D/14163

FRANCE

INFRINGEMENT: 86/0432
LEGAL BASIS (CELEX CODE): 157E059;157E171;
TITLE: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES
REASONED OPINION SENT: 88/05/02: SG(88)D/5345
FIRST REFERRAL TO COURT PRESENTED: 89/04/28
NUMBER OF CASE IN COURT OF JUSTICE: C-89/154
DATE OF COURT JUDGMENT: 91/02/26
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 92/05/18: SG(92)D/6574
ARTICLE 171 REASONED OPINION SENT: 95/11/28: SG(95)D/14850

GREECE

INFRINGEMENT: 94/5108
LEGAL BASIS (CELEX CODE): 157E052;157E059;
TITLE: FOREIGN TITLES IN NAMES OF PRIVATE SCHOOLS
REASONED OPINION SENT: 97/06/17: SG(97)D/04533
REFERRAL DECIDED ON IN 1998

GREECE

INFRINGEMENT: 89/0165
LEGAL BASIS (CELEX CODE): 157E052;157E059;157E171;
TITLE: NATIONALITY REQUIREMENT FOR OPENING PRIVATE SCHOOLS
REASONED OPINION SENT: 90/01/22: SG(90)D/0906
FIRST REFERRAL TO COURT PRESENTED: 90/10/24
NUMBER OF CASE IN COURT OF JUSTICE: C-90/328
DATE OF COURT JUDGMENT: 92/01/30
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 96/04/08: SG(96)D/03658
ARTICLE 171 REASONED OPINION SENT: 97/09/17: SG(97)D/07679
98/06/24: TERMINATION

ITALY

INFRINGEMENT: 95/2003
LEGAL BASIS (CELEX CODE): 157E059;157E060;157E171;
TITLE: LAWYERS FROM OTHER MEMBER STATES PROHIBITED FROM OPENING AN OFFICE
REASONED OPINION SENT: 98/10/08: SG(98)D/08362

ITALY

INFRINGEMENT: 87/0071
LEGAL BASIS (CELEX CODE): 157E059;157E171;
TITLE: RESTRICTIONS ON FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES
REASONED OPINION SENT: 88/04/20: SG(88)D/4748
FIRST REFERRAL TO COURT PRESENTED: 89/05/25
NUMBER OF CASE IN COURT OF JUSTICE: C-89/180
DATE OF COURT JUDGMENT: 91/02/26
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 95/07/05: SG(95)D/08643

PORTUGAL

INFRINGEMENT: 91/0237
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;
TITLE: FREEDOM TO PROVIDE SERVICES — TOURIST GUIDES
REASONED OPINION SENT: 97/08/07: SG(97)D/06836
REFERRAL DECIDED ON IN 1998

BELGIUM

INFRINGEMENT: 96/2249
LEGAL BASIS (CELEX CODE): NONE;
TITLE: NON-RATIFICATION OF LATEST VERSIONS OF BERNE AND ROME CONVENTIONS
REASONED OPINION SENT: 98/12/02: SG(98)D/11231

IRELAND

INFRINGEMENT: 97/2047
LEGAL BASIS (CELEX CODE): NONE;
TITLE: NON-RATIFICATION OF PARIS ACT (1971) (BERNE CONVENTION)
REASONED OPINION SENT: 98/12/17: SG(98)D/11884

PORTUGAL

INFRINGEMENT: 97/2048
LEGAL BASIS (CELEX CODE): NONE;
TITLE: NON-RATIFICATION OF ROME CONVENTION
REASONED OPINION SENT: 98/12/17: SG(98)D/11894

GERMANY

INFRINGEMENT: 94/4337
LEGAL BASIS (CELEX CODE): 157E30;157E36;157E59;
TITLE: PROHIBITION OF ADVERTISING CAMPAIGN FOR CDs
REASONED OPINION SENT: 98/10/15: SG(98)D/8623

SPAIN

INFRINGEMENT: 92/4788
LEGAL BASIS (CELEX CODE): 157E048;157E052;157E059;
TITLE: AERIAL ADVERTISING
REASONED OPINION SENT: 96/01/31: SG(96)D/1848
98/06/24: TERMINATION

FRANCE

INFRINGEMENT: 94/4855
LEGAL BASIS (CELEX CODE): 157E059;
TITLE: INCORRECT APPLICATION OF EVIN ACT
REASONED OPINION SENT: 96/11/21: SG(96)D/09951

BUDGETS

GERMANY

INFRINGEMENT: 95/2126
LEGAL BASIS (CELEX CODE): 390R2252;
TITLE: DUTCH BUTTER
REASONED OPINION SENT: 96/10/30: SG(96)D/09346
FIRST REFERRAL TO COURT PRESENTED: 97/10/07
NUMBER OF CASE IN COURT OF JUSTICE: C-97/348

ITALY

INFRINGEMENT: 96/2029
LEGAL BASIS (CELEX CODE): 157E002;389R1552;
TITLE: REGULARISATION OF DUTIES — SAN MARINO
REASONED OPINION SENT: 98/03/20: SG(98)D/02347
REFERRAL DECIDED ON IN 1998

BELGIUM

INFRINGEMENT: 95/2250
LEGAL BASIS (CELEX CODE): 389R1552;
TITLE: STAGGERED PAYMENT OF TRADITIONAL OWN RESOURCES
REASONED OPINION SENT: 98/06/23: SG(98)D/05022

CUSTOMS UNION AND INDIRECT TAXATION

GERMANY

INFRINGEMENT: 91/0559
LEGAL BASIS (CELEX CODE): 385R1999;386R3677;
TITLE: INWARD PROCESSING
REASONED OPINION SENT: 93/02/03: SG(93)D/1740
FIRST REFERRAL TO COURT PRESENTED: 94/02/14
NUMBER OF CASE IN COURT OF JUSTICE: C-94/061
DATE OF COURT JUDGMENT: 96/09/10
JUDGMENT FOR: COMMISSION
98/06/24: TERMINATION

BELGIUM

INFRINGEMENT: 84/0342
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 85/07/25: SG(85)D/9543

DENMARK

INFRINGEMENT: 84/0343
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 85/07/25: SG(85)D/9545

SPAIN

INFRINGEMENT: 90/0078
LEGAL BASIS (CELEX CODE): 157E028;387R2658;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 92/12/31: SG(92)D/19475

FRANCE

INFRINGEMENT: 95/2238
LEGAL BASIS (CELEX CODE): 392R2913;
TITLE: CUSTOMS AGENTS
REASONED OPINION SENT: 97/12/03: SG(97)D/10073

GREECE

INFRINGEMENT: 86/0126
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 90/05/02: SG(90)D/21649

ITALY

INFRINGEMENT: 84/0345
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 85/07/25: SG(85)D/9549

LUXEMBOURG

INFRINGEMENT: 84/0346
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 85/07/25: SG(85)D/9551

NETHERLANDS

INFRINGEMENT: 84/0347
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 85/07/25: SG(85)D/9553

PORTUGAL

INFRINGEMENT: 90/0079
LEGAL BASIS (CELEX CODE): 157E028;387R2658;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 93/01/20: SG(93)D/00940

UNITED KINGDOM

INFRINGEMENT: 84/0126
LEGAL BASIS (CELEX CODE): 377R1535;
TITLE: CIVIL AIRCRAFT IMPORTED DUTY-FREE AND SUBSEQUENTLY USED AS MILITARY AIRCRAFT
REASONED OPINION SENT: 85/06/06: SG(85)D/6932

UNITED KINGDOM

INFRINGEMENT: 84/0344
LEGAL BASIS (CELEX CODE): 157E009;157E028;368R0950;
TITLE: DUTY-FREE IMPORT OF NON-MILITARY EQUIPMENT
REASONED OPINION SENT: 85/07/25: SG(85)D/9547

ITALY

INFRINGEMENT: 95/2166
LEGAL BASIS (CELEX CODE): 682J0199;694J0125;
TITLE: TEE — REPAYMENT OF TAXES WRONGLY CHARGED — RESTRICTIVE RULES LAID DOWN BY NATIONAL LAW
REASONED OPINION SENT: 97/09/17: SG(97)D/07696

FRANCE

INFRINGEMENT: 97/4487
LEGAL BASIS (CELEX CODE): 157E095;
TITLE: TAXES ON IMPORTED HIGH-POWER MOTOR CARS
REASONED OPINION SENT: 98/05/15: SG(98)D/03851
REFERRAL DECIDED ON IN 1998

FRANCE

INFRINGEMENT: 92/5125
LEGAL BASIS (CELEX CODE): 157E095;
TITLE: DISCRIMINATORY TAXATION ON CARS
REASONED OPINION SENT: 97/12/22: SG(97)D/10946
REFERRAL TO COURT DECIDED ON IN 1998

GREECE

INFRINGEMENT: 91/0779
LEGAL BASIS (CELEX CODE): 157E095;
TITLE: TAXATION OF SECOND-HAND CARS
REASONED OPINION SENT: 93/09/07: SG(93)D/14615
FIRST REFERRAL TO COURT PRESENTED: 95/12/01
NUMBER OF CASE IN COURT OF JUSTICE: C-95/375
DATE OF COURT JUDGMENT: 97/10/23
JUDGMENT FOR: COMMISSION
ARTICLE 171 LETTER SENT: 98/08/31: SG(98)D/07401

GERMANY

INFRINGEMENT: 90/5361
LEGAL BASIS (CELEX CODE): 157E067;
TITLE: TAX DISCRIMINATION — BRITISH INVESTMENT TRUSTS
REASONED OPINION SENT: 96/08/06: SG(96)D/07318
REFERRAL DECIDED ON IN 1998

FRANCE

INFRINGEMENT: 93/2098
LEGAL BASIS (CELEX CODE): 157E052;157E058;
TITLE: DISCRIMINATORY TAXATION OF STABLE ESTABLISHMENTS IN FRANCE
REASONED OPINION SENT: 97/06/19: SG(97)D/04624
98/06/24: TERMINATION

ANNEX IV

PROGRESS IN IMPLEMENTING DIRECTIVES

NB: This Annex includes all Directives where no measures have been notified or which have not been properly implemented or applied during 1998, and gives the state of infringement proceedings started by the Commission against Member States at 31 December 1998.

'Failure to notify measures' includes both a complete absence of any notification of national implementing measures and cases of incomplete notification of such measures.

Contents

PART 1: NOTIFICATION AND FAILURE TO NOTIFY NATIONAL MEASURES IMPLEMENTING DIRECTIVES

NB: The date given is the date of implementation of the decision (date sent) or the date of the decision if it was not implemented in 1998.

Abbreviations used in this part: LET: Article 169 letter; RO: Reasoned opinion; SLET: Supplementary Article 169 letter; SRO: Supplementary reasoned opinion; REF: Referral to Court; LET 171 and RO 171: Letter or reasoned opinion for failure to give effect to a judgment of the Court.

INDUSTRY

Chemicals, plastic, rubber

93/0015

Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	94/0449, REF — sent: 4.9.1998

94/0060

European Parliament and Council Directive 94/60/EC of 20 December 1994 amending for the 14th 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

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Italy	96/0134, REF — sent: 11.3.1998

96/0028

Commission Directive 96/28/EC of 10 May 1996 adapting to technical progress Council Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilisers

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, NL, A, P, FIN, S, UK

France	97/0345, REF: 2.12.1998
Luxembourg	97/0389, REF: 2.12.1998

96/0065

Commission Directive 96/65/EC of 11 October 1996 adapting to technical progress for the fourth time Council Directive 88/379/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations and modifying Directive 91/442/EEC on dangerous preparations the packaging of which must be fitted with child-resistant fastenings

Member States which have notified implementing measures: B, DK, E, IRL, I, NL, A, P, FIN, S, UK

Germany	98/0314, RO: 2.12.1998
Greece	98/0329, RO — sent: 30.12.1998
France	98/0406, RO: 2.12.1998

97/0010

Commission Directive 97/10/EC of 26 February 1997 adapting to technical progress for the 3rd time Annex I to Council 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 (CMRs)

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, NL, P, FIN, S, UK

Germany	98/0014, RO: 2.12.1998
Italy	98/0053, RO — sent: 30.12.1998
Luxembourg	98/0060, RO: 2.12.1998
Austria	98/0070, RO: 2.12.1998

97/0016

Directive 97/16/EC of the European Parliament and of the Council of 10 April 1997 amending for the 15th time Directive 76/769/EEC on restrictions on the marketing and use of certain dangerous substances and preparations

Member States which have notified implementing measures: DK, EL, E, L, F, IRL, L, NL, P, S, UK

Belgium	98/0005, RO: 2.12.1998
Germany	98/0016, RO: 2.12.1998
Italy	98/0055, RO — sent: 30.12.1998
Austria	98/0072, RO: 2.12.1998

97/0056

Directive 97/56/EC of the European Parliament and of the Council of 20 October 1997 amending for the 16th 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

Member States which have notified implementing measures: D, F, FIN

97/0063

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 fertilisers

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, L, A, NL, FIN, S, UK

France	98/0498, LET — sent: 8.10.1998
Italy	98/0514, LET — sent: 8.10.1998
Luxembourg	98/0495, LET — sent: 8.10.1998
Portugal	98/0518, LET — sent: 8.10.1998

97/0064

Commission Directive 97/64/EC of 10 November 1997 adapting to technical progress for the fourth time Annex I to Council 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 (lamp oils)

Member States which have notified implementing measures: DK, D, E, F, IRL, L, NL, FIN, S

98/0003

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

Member States which have notified implementing measures: B, DK, D, E, IRL, L, A, UK

Mechanical and electrical engineering

93/0068

Council Directive 93/68/EEC of 22 July 1993 amending Directives 87/404/EEC (simple pressure vessels), 88/378/EEC (safety of toys), 89/106/EEC (construction products), 89/336/EEC (electromagnetic compatibility), 89/392/EEC (machinery), 89/686/EEC (personal protective equipment), 90/384/EEC (non-automatic weighing instruments), 90/385/EEC (active implantable medicinal devices), 90/396/EEC (appliances burning gaseous fuels), 91/263/EEC (telecommunications terminal equipment), 92/42/EEC (new hot-water boilers fired with liquid or gaseous fuels) and 73/23/EEC (electrical equipment designed for use within certain voltage limits)

Member States which have notified implementing measures: B, DK, D, EL, E, F, I, NL, P, FIN, S, UK

Ireland	94/0861, RO: 28.6.1995
Luxembourg	94/0905, RO: 13.12.1995
Austria	97/0684, RO: 16.12.1998

94/0009

Directive 94/9/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres

Member States which have notified implementing measures: DK, D, EL, E, F, I, L, NL, A, P, FIN, S, UK

Belgium	95/0672, REF: 2.12.1998
Ireland	95/0696, REF — sent: 22.9.1998

95/0016

European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, NL, A, P, FIN, S, UK

France	97/0076, REF: 2.12.1998
Italy	97/0098, REF: 2.12.1998
Luxembourg	97/0108, REF: 2.12.1998

97/0053

Commission Directive 97/53/EC of 11 September 1997 adapting to technical progress Council Directive 79/196/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, NL, A, FIN, S, UK

Greece	98/0334, RO — sent: 17.12.1998
Portugal	98/0452, RO: 2.12.1998

Pressure vessels, medical instruments and metrology

93/0042

Council Directive 93/42/EEC of 14 June 1993 concerning medical devices

Member States which have notified implementing measures: DK, D, E, EL, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	94/0784, 171 Let: 24.6.1998

Food

93/0043

Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece	96/0049, REF — sent: 4.11.1998

95/0003

Commission Directive 95/3/EC of 14 February 1995 amending Directive 90/128/EEC relating to plastics materials and articles intended to come into contact with foodstuffs

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, FIN, S, UK

Portugal	96/0341, RO — sent: 22.1.1998

96/0004

Commission Directive 96/4/EC, Euratom of 16 February 1996 amending Directive 91/321/EEC on infant formulae and follow-on formulae

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, L, NL, A, FIN, S, UK

Italy	97/0229, RO — sent: 22.12.1998
Portugal	97/0248, REF: 2.12.1998

96/0005

Commission Directive 96/5/EC, Euratom of 16 February 1996 on processed cereal-based foods and baby foods for infants and young children

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, L, NL, A, FIN, S, UK

Germany	97/0571, RO — sent: 14.10.1998
Italy	97/0647, RO — sent: 30.12.1998
Portugal	97/0701, RO — sent: 28.10.1998

96/0008

Commission Directive 96/8/EC of 26 February 1996 on foods intended for use in energy-restricted diets for weight reduction

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, L, NL, A, FIN, S, UK

Germany	97/0572, RO — sent: 21.10.1998
Ireland	97/0631, RO — sent: 28.10.1998
Italy	97/0648, RO: 2.12.1998
Portugal	97/0702, RO — sent: 21.10.1998

96/0011

Commission Directive 96/11/EC of 5 March 1996 amending Directive 90/128/EEC relating to plastic materials and articles intended to come into contact with foodstuffs

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, FIN, S, UK

Portugal	97/0249, RO: 10.12.1997

96/0070

Directive 96/70/EC of the European Parliament and of the Council of 28 October 1996 amending Council Directive 80/777/EEC on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters

Member States which have notified implementing measures: DK, D, EL, E, IRL, L, NL, P, FIN, S, UK

Belgium	97/0544, RO — sent: 22.9.1998
France	97/0623, RO — sent: 16.9.1998
Ireland	97/0637, RO — sent: 22.9.1998
Italy	97/0654, RO: 2.12.1998
Austria	97/0691, RO — sent: 21.9.1998

96/0077

Commission Directive 96/77/EC of 2 December 1996 laying down specific purity criteria on food additives other than colours and sweeteners

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Ireland	97/0364, RO — sent: 6.10.1998
Austria	97/0419, RO — sent: 14.10.1998
Portugal	97/0435, RO — sent: 28.10.1998

96/0083

Directive 96/83/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 94/35/EC on sweeteners for use in foodstuffs

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Portugal	98/0076, LET — sent: 31.3.1998

96/0084

Directive 96/84/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses

Member States which have notified implementing measures: B, DK, D, IRL, F, L, NL, A, FIN, S, UK

Greece	97/0593, RO — sent: 28.10.1998
Spain	97/0608, RO — sent: 28.10.1998
Italy	97/0655, RO: 2.12.1998
Portugal	97/0707, RO — sent: 25.11.1998

96/0085

Directive 96/85/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 95/2/EC on food additives other than colours and sweeteners

Member States which have notified implementing measures: B, DK, D, EL, E, F, I, NL, A, P, FIN, S, UK

Ireland	97/0365, RO — sent: 22.9.1998
Luxembourg	97/0394, RO — sent: 21.9.1998
Austria	97/0421, LET — sent: 9.9.1997

97/0004

Directive 97/4/EC of the European Parliament and of the Council of 27 January 1997 amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuff

Member States which have notified implementing measures: DK, EL, F, L, NL, P, FIN, S, UK

97/0048

Commission Directive 97/48/EC of 29 July 1997 amending for the second time Council Directive 82/711/EEC laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, I, NL, A, FIN, S, UK

Belgium	98/0493, LET — sent: 8.10.1998
Germany	98/0501, LET — sent: 8.10.1998
Greece	98/0526, LET — sent: 8.10.1998
Portugal	98/0517, LET — sent: 8.10.1998

97/0060

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

Member States which have notified implementing measures: B, DK, EL, F, I, L, NL, FIN, S, UK

Denmark	98/0577, LET — sent: 18.12.1998
Germany	98/0555, LET — sent: 18.12.1998
Greece	98/0580, LET — sent: 18.12.1998
Spain	98/0588, LET — sent: 18.12.1998
Ireland	98/0573, LET — sent: 18.12.1998
Italy	98/0562, LET — sent: 18.12.1998
Luxembourg	98/0542, LET — sent: 18.12.1998
Austria	98/0604, LET — sent: 18.12.1998
Portugal	98/0595, LET — sent: 18.12.1998

98/0028

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 sugar

Member States which have notified implementing measures: B, DK, D, E, NL, S

Germany	98/0502, LET — sent: 8.10.1998
Greece	98/0527, LET — sent: 8.10.1998
France	98/0499, LET — sent: 8.10.1998
Ireland	98/0508, LET — sent: 8.10.1998
Italy	98/0515, LET — sent: 8.10.1998
Luxembourg	98/0496, LET — sent: 8.10.1998
Austria	98/0505, LET — sent: 8.10.1998
Portugal	98/0519, LET — sent: 8.10.1998
Finland	98/0522, LET — sent: 8.10.1998
United Kingdom	98/0510, LET — sent: 8.10.1998

98/0036

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

Member States which have notified implementing measures: DK, NL, FIN

Pharmaceuticals

92/0073

Council Directive 92/73/EEC of 22 September 1992 widening the scope of Directive 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down additional provisions on homeopathic medicinal products

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	94/0014, REF: 26.6.1997

92/0074

Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products

Member States which have notified implementing measures: DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	94/0015, LET 171 — sent: 26.11.1998
France	94/0177, LET 171 — sent: 25.11.1998

93/0040

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

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	95/0293, REF — sent: 1.8.1997

Cosmetics

93/0035

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

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

F: partial transposition

France	95/0500, REF: 24.6.1998

95/0017

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

Member States which have notified implementing measures: DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	96/0013, REF: 24.6.1998
France	96/0100, REF: 24.6.1998

97/0001

20th Commission Directive 97/1/EC of 10 January 1997 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

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, NL, A, FIN, S

97/0018

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

Member States which have notified implementing measures: B, DK, EL, E, IRL, I, NL, FIN, UK

Germany	98/0017, RO — sent: 4.9.1998
France	98/0040, RO — sent: 4.9.1998
Luxembourg	98/0063, RO — sent: 4.9.1998
Austria	98/0073, RO — sent: 4.9.1998
Portugal	98/0080, RO — sent: 4.9.1998
Sweden	98/0092, RO — sent: 4.9.1998

97/0045

21st Commission Directive 97/45/EC of 14 July 1997 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

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, A, FIN, S, UK

Greece	98/0332, RO: 2.12.1998
Italy	98/0560, LET — sent: 4.1.1999
Luxembourg	98/0411, RO: 2.12.1998
Austria	98/0429, RO: 2.12.1998
Portugal	98/0450, RO: 2.12.1998

98/0016

Twenty-second Commission Directive 98/16/EC of 5 March 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

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, A, FIN, S, UK

Italy	98/0225, RO: 2.12.1998
Luxembourg	98/0234, RO: 2.12.1998
Portugal	98/0258, RO: 2.12.1998

Textiles, leather and clothing

94/0011

Directive 94/11/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, A, P, FIN, S, UK

Luxembourg	96/0317, RO — sent: 4.6.1998

97/0037

Commission Directive 97/37/EC of 19 June 1997 adapting to technical progress Annexes I and II to Directive 96/74/EC of the European Parliament and of the Council on textile names

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, NL, A, P, FIN, S, UK

Belgium	98/0291, RO: 26.10.1998
Italy	98/0393, RO: 2.12.1998
Luxembourg	98/0410, RO: 2.12.1998

Motor vehicles

97/0024

Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles

Member States which have notified implementing measures: B, DK, E, F, IRL, I, L, A, FIN

97/0027

Directive 97/27/EC of the European Parliament and of the Council of 22 July 1997 relating to the masses and dimensions of certain categories of motor vehicles and their trailers and amending Directive 70/156/EEC

Member States which have notified implementing measures: B, EL, E, F, IRL, I, NL, A, P, FIN, S, UK

97/0054

Directive 97/54/EC of the European Parliament and of the Council of 23 September 1997 amending, as regards the maximum design speed of wheeled agricultural or forestry tractors, Council Directives 74/150/EEC, 74/151/EEC, 74/152/EEC, 74/346/EEC, 74/347/EEC, 75/321/EEC, 75/322/EEC, 76/432/EEC, 76/763/EEC, 77/311/EEC, 77/537/EEC, 78/764/EEC, 78/933/EEC, 79/532/EEC, 79/533/EEC, 80/720/EEC, 86/297/EEC, 86/415/EEC and 89/173/EEC

Member States which have notified implementing measures: B, DK, D, E, IRL, I, L, FIN, UK

Greece	98/0581, LET — sent: 18.12.1998
France	98/0531, LET — sent: 18.12.1998
Luxembourg	98/0540, LET — sent: 18.12.1998
Austria	98/0602, LET — sent: 18.12.1998
Portugal	98/0593, LET — sent: 18.12.1998
United Kingdom	98/0567, LET — sent: 18.12.1998

98/0014

Commission Directive 98/14/EC of 6 February 1998 adapting to technical progress Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

Member States which have notified implementing measures: B, EL, E, F, IRL, I, L, FIN, UK

Denmark	98/0578, LET — sent: 18.12.1998
Germany	98/0556, LET — sent: 18.12.1998
Greece	98/0582, LET — sent: 18.12.1998
Ireland	98/0574, LET — sent: 18.12.1998
Luxembourg	98/0543, LET — sent: 18.12.1998
Netherlands	98/0550, LET — sent: 18.12.1998
Austria	98/0605, LET — sent: 18.12.1998
Portugal	98/0596, LET — sent: 18.12.1998
Sweden	98/0609, LET — sent: 18.12.1998

98/0077

Commission Directive 98/77/EC of 2 October 1998 adapting to technical progress Council Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles

Member States which have notified implementing measures: none

COMPETITION

Telecommunications

96/0019

Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services

Member States which have notified implementing measures: all except P

Portugal	97/2219, RO: 2.12.1998

94/0046

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

Member States which have notified implementing measures: B, DK, EL, F, IRL, NL, A, P, FIN, S, UK

Luxembourg	95/0576, REF — sent: 27.3.1998

EMPLOYMENT AND SOCIAL AFFAIRS

86/0378

Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, NL, A, P, FIN, S, UK

91/0322

Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, A, P, FIN, S, UK

92/0029

Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels

Member States which have notified implementing measures: all except L

Luxembourg	95/0142, REF — Judgment: 29.10.1998

93/0103

Council Directive 93/103/EC, of 23 November 1993, concerning the minimum regulations of safety and of health at work on board the fishing vessels (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Member States which have notified implementing measures: B, DK, D, EL, E, F, L, NL, A, P, FIN, S, UK

Ireland	96/0108, REF — Judgment: 27.10.1998
Italy	96/0127, REF — sent: 9.10.1998

93/0104

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time

Member States which have notified implementing measures: B, DK, D, E, IRL, NL, A, P, FIN, S, UK

Greece	97/0046, REF: 2.12.1998
France	97/0074, REF: 2.12.1998
Italy	97/0095, REF — sent: 26.10.1998
Luxembourg	97/0106, REF: 2.12.1998

94/0033

Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, NL, A, P, FIN, S, UK

France	96/0952, REF: 2.12.1998
Italy	96/0994, REF — sent: 26.10.1998
Luxembourg	96/1011, REF: 2.12.1998

94/0045

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

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, A, FIN, S

Luxembourg	96/1012, REF — sent: 30.11.1998
Portugal	96/1039, REF: 24.6.1998

95/0030

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)

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, NL, P, FIN, S, UK

Germany	97/0036, RO — sent: 2.7.1998
Italy	97/0100, REF — sent: 3.12.1998
Luxembourg	97/0110, REF: 2.12.1998
Austria	97/0139, RO — sent: 2.7.1998

95/0063

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)

Member States which have notified implementing measures: DK, D, E, F, L, NL, A, FIN, S, UK

96/0034

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, A, FIN, S

Italy	98/0386, RO — sent: 11.12.1998
Luxembourg	98/0403, RO: 2.12.1998
Portugal	98/0441, RO — sent: 21.12.1998

96/0094

Commission Directive 96/94/EC of 18 December 1996 establishing a second list of indicative limit values in implementation of Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work

Member States which have notified implementing measures: B, DK, E, F, NL, P, FIN, S, UK

Germany	98/0315, LET — sent: 25.8.1998
Ireland	98/0378, RO — sent: 11.12.1998
Italy	98/0390, RO — sent: 11.12.1998
Luxembourg	98/0407, RO — sent: 11.12.1998
Austria	98/0427, LET — sent: 25.8.1998

96/0097

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

Member States which have notified implementing measures: B, DK, D, E, IRL, I, NL, A, P, FIN, S, UK

Greece	97/0320, REF — sent: 15.12.1998
France	97/0354, REF — sent: 25.9.1998
Luxembourg	97/0396, REF — sent: 3.12.1998

97/0059

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)

Member States which have notified implementing measures: DK, E, F, IRL, NL, FIN, S, UK

Belgium	98/0166, LET — sent: 16.7.1998
Germany	98/0181, LET — sent: 16.7.1998
Greece	98/0192, LET — sent: 16.7.1998
Italy	98/0221, RO — sent: 11.12.1998
Luxembourg	98/0230, LET — sent: 16.7.1998
Austria	98/0244, LET — sent: 16.7.1998
Portugal	98/0254, RO — sent: 11.12.1998

97/0065

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

Member States which have notified implementing measures: DK, E, F, IRL, NL, P, FIN, S, UK

Belgium	98/0295, LET — sent: 25.8.1998
Germany	98/0319, LET — sent: 25.8.1998
Greece	98/0336, LET — sent: 25.8.1998
Italy	98/0397, RO — sent: 11.12.1998
Luxembourg	98/0414, LET — sent: 25.8.1998
Austria	98/0433, LET — sent: 25.8.1998

AGRICULTURE

Veterinary matters

90/0428

Council Directive 90/428/EEC of 26 June 1990 on trade in equidae intended for competitions and laying down the conditions for participation therein

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, P, FIN, S, UK

Austria	96/0415, REF: 24.6.1998

92/0117

Council Directive 92/117/EEC of 17 December 1992, concerning the protective measures against certain zoonoses and certain zoonotic agents among animals and in the products of animal origin, with a view to preventing the hearths of infection and of intoxication due to food

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, L, NL, A, P, FIN, S, UK

Italy	94/0248, REF — Judgment: 23.1.1997

93/0118

Council Directive 93/118/EC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat

Member States which have notified implementing measures: B, DK, D, F, IRL, L, NL, A, P, FIN, S, UK

Greece	95/0069, REF — Judgment:15.10.1998
Spain	95/0085, REF — sent: 16.3.1998
Italy	95/0135, REF — sent: 9.12.1997

93/0119

Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, P, FIN, S, UK

Austria	96/0463, REF: 24.6.1998

94/0028

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

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	95/0505, REF — sent: 14.10.1997

94/0042

Council Directive 94/42/EC of 27 July 1994 amending Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, L, NL, A, P, FIN, S, UK

Italy	95/0327, REF — sent: 9.12.1997

95/0029

Council Directive 95/29/EC of 29 June 1995 amending Directive 90/628/EEC concerning the protection of animals during transport

Member States which have notified implementing measures: B, DK, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

Germany	97/0035, REF: 24.6.1998
France	97/0077, REF: 24.6.1998
Italy	97/0099, REF — sent: 28.7.1998

95/0068

Council Directive 95/68/EC of 22 December 1995 amending Directive 77/99/EEC on health problems affecting the production and marketing of meat products and certain other products of animal origin

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S

Portugal	97/0152, REF: 24.6.1998
United Kingdom	97/0187, REF: 24.6.1998

95/0070

Council Directive 95/70/EC of 22 December 1995 introducing minimum Community measures for the control of certain diseases affecting bivalve molluscs

Member States which have notified implementing measures: B, DK, D, EL, E, F, I, L, A, P, FIN, S, UK

Ireland	97/0359, REF: 2.12.1998
Italy	97/0372, REF: 2.12.1998
Netherlands	97/0402, RO — sent: 18.8.1998

95/0071

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

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	97/0479, REF: 2.12.1998
Portugal	97/0524, REF: 2.12.1998

96/0022

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 ß-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC

Member States which have notified implementing measures: B, DK, D, EL, E, L, NL, A, FIN, S, UK

France	97/0342, REF: 2.12.1998
Ireland	97/0360, REF: 2.12.1998
Italy	97/0373, REF: 2.12.1998
Portugal	97/0430, REF: 2.12.1998

96/0023

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 Decisions 89/187/EEC and 91/664/EEC

Member States which have notified implementing measures: B, DK, D, EL, E, L, NL, A, FIN, S, UK

France	97/0343, REF: 2.12.1998
Ireland	97/0361, REF: 2.12.1998
Italy	97/0374, REF: 2.12.1998
Portugal	97/0431, REF: 2.12.1998

96/0043

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

Member States which have notified implementing measures: DK, L, NL, FIN, S, UK

Belgium	97/0481, REF: 2.12.1998
Germany	97/0491, REF: 2.12.1998
Greece	97/0495, REF: 2.12.1998
Spain	97/0498, REF: 2.12.1998
France	97/0503, REF: 2.12.1998
Ireland	97/0509, REF: 2.12.1998
Italy	97/0512, REF: 2.12.1998
Austria	97/0521, RO — sent: 18.8.1998
Portugal	97/0526, REF: 2.12.1998
Sweden	97/0534, RO — sent: 6.8.1998

96/0090

Council Directive 96/90/EC of 17 December 1996 amending Directive 92/118/EEC laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, A, P, FIN, S

Italy	97/0379, REF: 2.12.1998
Luxembourg	97/0395, REF: 2.12.1998
Portugal	97/0437, REF: 2.12.1998
United Kingdom	97/0475, REF: 2.12.1998

96/0093

Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products

Member States which have notified implementing measures: B, DK, D, EL, E, NL, P, FIN, UK

Greece	98/0120, RO: 2.12.1998
France	98/0132, RO — sent: 11.12.1998
Ireland	98/0141, RO — sent: 11.12.1998
Italy	98/0143, RO — sent: 11.12.1998
Luxembourg	98/0146, RO: 2.12.1998
Austria	98/0153, RO — sent: 14.12.1998
Sweden	98/0156, RO — sent: 30.12.1998

97/0002

Council Directive 97/2/EC of 20 January 1997 amending Directive 91/629/EEC laying down minimum standards for the protection of calves

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, P, FIN, S, UK

Austria	98/0069, RO — sent: 14.12.1998

97/0022

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

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, L, A, P, FIN, S, UK

France	97/0626, RO — sent: 5.8.1998
Italy	97/0660, RO — sent: 18.8.1998
Netherlands	97/0681, RO — sent: 18.8.1998

97/0061

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

Member States which have notified implementing measures: DK, L, A, P, FIN, S

Belgium	98/0294, RO — sent: 11.12.1998
Germany	98/0318, RO: 2.12.1998
Greece	98/0335, RO: 2.12.1998
Spain	98/0347, RO — sent: 22.12.1998,
France	98/0360, RO — sent: 11.12.1998
Ireland	98/0379, RO — sent: 14.12.1998
Italy	98/0396, RO: 2.12.1998
Netherlands	98/0421, RO — sent: 14.12.1998
Austria	98/0432, RO: 2.12.1998
Sweden	98/0479, RO — sent: 30.12.1998
United Kingdom	98/0491, RO: 2.12.1998

97/0076

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

Member States which have notified implementing measures: B, E, L, A, P

98/0099

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

Member States which have notified implementing measures: None

Plant health

96/0032

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

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, P, FIN, S, UK

Luxembourg	97/0390, RO — sent: 6.8.1998
Austria	97/0415, REF: 2.12.1998

96/0033

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

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, NL, P, FIN, S, UK

Luxembourg	97/0391, RO — sent: 6.8.1998
Austria	97/0416, REF: 2.12.1998

96/0068

Commission Directive 96/68/EC of 21 October 1996 amending Council Directive 91/414/EEC concerning the placing of plant protection products on the market

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Greece	98/0020, RO: 2.12.1998

97/0041

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

Member States which have notified implementing measures: F

97/0057

Council Directive 97/57/EC of 22 September 1997 establishing Annex VI to Directive 91/414/EEC concerning the placing of plant protection products on the market

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, L, NL, A, P, FIN, S, UK

Belgium	97/0554, REF: 2.12.1998
Italy	97/0664, REF: 2.12.1998
Portugal	97/0716, REF: 2.12.1998

98/0001

Commission Directive 98/1/EC of 8 January 1998 amending certain Annexes to Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, FIN, S, UK

Portugal	98/0256, RO: 2.12.1998

98/0002

Commission Directive 98/2/EC of 8 January 1998 amending Annex IV to Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, FIN, S, UK

Portugal	98/0257, RO: 2.12.1998

98/0022

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

Member States which have notified implementing measures: B, DK, D, E, IRL, I, NL, L, FIN, S

Greece	98/0583, LET — sent: 18.12.1998
Spain	98/0590, LET — sent: 18.12.1998
France	98/0534, LET — sent: 18.12.1998
Italy	98/0564, LET — sent: 18.12.1998
Luxembourg	98/0544, LET — sent: 18.12.1998
Netherlands	98/0551, LET — sent: 18.12.1998
Austria	98/0607, LET — sent: 18.12.1998
Portugal	98/0598, LET — sent: 18.12.1998
United Kingdom	98/0570, LET — sent: 18.12.1998

Seeds and plants

TOKEN ENTRY

Feedingstuffs

93/0074

Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	95/0501, REF — sent: 14.10.1997

94/0039

Commission Directive 94/39/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	95/0510, REF — sent: 14.10.1997

95/0009

Commission Directive 95/9/EC of 7 April 1995 amending Directive 94/39/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	95/0517, REF — sent: 14.10.1997

95/0010

Commission Directive 95/10/EC of 7 April 1995 fixing the method of calculating the energy value of dog and cat food intended for particular nutritional purposes

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, L, NL, A, P, FIN, S, UK

France	95/0518, REF — sent: 14.10.1997

95/0033

Commission Directive 95/33/EC of 10 July 1995 amending Council Directive 82/471/EEC concerning certain products used in animal nutrition

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Luxembourg	96/1017, REF — sent: 18.9.1998

95/0053

Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organisation of official inspections in the field of animal nutrition

Member States which have notified implementing measures: DK, D, E, NL, S

Belgium	98/0162, RO: 2.12.1998
Greece	98/0187, RO: 2.12.1998
France	98/0201, RO — sent: 11.12.1998
Ireland	98/0208, RO — sent: 11.12.1998
Italy	98/0216, RO — sent: 11.12.1998
Luxembourg	98/0226, RO: 2.12.1998
Austria	98/0239, RO — sent: 14.12.1998
Portugal	98/0249, RO: 2.12.1998
Finland	98/0259, RO — sent: 30.12.1998
United Kingdom	98/0273, RO: 2.12.1998

95/0069

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

Member States which have notified implementing measures: DK, D, E, NL, S, UK

Belgium	98/0163, RO: 2.12.1998
Greece	98/0188, RO: 2.12.1998
France	98/0202, RO — sent: 11.12.1998
Ireland	98/0209, RO — sent: 11.12.1998
Italy	98/0217, RO — sent: 11.12.1998
Luxembourg	98/0227, RO: 2.12.1998
Austria	98/0240, RO — sent: 14.12.1998
Portugal	98/0250, RO: 2.12.1998
Finland	98/0260, RO — sent: 30.12.1998

96/0024

Council Directive 96/24/EC of 29 April 1996 amending Directive 79/373/EEC on the marketing of compound feedingstuffs

Member States which have notified implementing measures: DK, D, E, NL

Belgium	98/0282, LET — sent: 25.8.1998
Greece	98/0323, LET — sent: 25.8.1998
France	98/0350, LET — sent: 25.8.1998
Ireland	98/0365, LET — sent: 25.8.1998
Italy	98/0384, LET — sent: 25.8.1998
Luxembourg	98/0401, LET — sent: 25.8.1998
Austria	98/0424, LET — sent: 25.8.1998
Portugal	98/0439, LET — sent: 25.8.1998
Finland	98/0458, LET — sent: 25.8.1998
Sweden	98/0469, LET — sent: 25.8.1998
United Kingdom	98/0484, LET — sent: 25.8.1998

96/0025

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

Member States which have notified implementing measures: DK, D, E, NL

Belgium	98/0283, LET — sent: 25.8.1998
Greece	98/0324, LET — sent: 25.8.1998
France	98/0351, LET — sent: 25.8.1998
Ireland	98/0366, LET — sent: 25.8.1998
Italy	98/0385, LET — sent: 25.8.1998
Luxembourg	98/0402, LET — sent: 25.8.1998
Austria	98/0425, LET — sent: 25.8.1998
Portugal	98/0440, LET — sent: 25.8.1998
Finland	98/0459, LET — sent: 25.8.1998
Sweden	98/0470, LET — sent: 25.8.1998
United Kingdom	98/0485, LET — sent: 25.8.1998

96/0051

Council Directive 96/51/EC of 23 July 1996 amending Directive 70/524/EEC concerning additives in feedingstuffs

Member States which have notified implementing measures: DK, E, NL, S, UK

Belgium	98/0164, RO — sent: 30.12.1998
Germany	98/0178, RO: 2.12.1998
Greece	98/0189, RO: 2.12.1998
Spain	98/0198, RO — sent: 30.12.1998
France	98/0203, RO — sent: 11.12.1998
Ireland	98/0210, RO — sent: 11.12.1998
Italy	98/0218, RO: 2.12.1998
Luxembourg	98/0228, RO: 2.12.1998
Austria	98/0241, RO — sent: 14.12.1998
Portugal	98/0251, RO: 2.12.1998
Finland	98/0261, RO — sent: 30.12.1998

97/0008

Commission Directive 97/8/EC of 7 February 1997 amending Council Directive 74/63/EEC on undesirable substances and products in animal nutrition

Member States which have notified implementing measures: DK, D, EL, E, IRL, NL, A, S

Belgium	98/0290, RO — sent: 11.12.1998
France	98/0356, RO — sent: 14.12.1998
Italy	98/0392, RO — sent: 11.12.1998
Luxembourg	98/0409, RO: 2.12.1998
Portugal	98/0448, RO: 2.12.1998
Finland	98/0463, RO: 2.12.1998
United Kingdom	98/0489, RO: 2.12.1998

97/0047

Commission Directive 97/47/EC of 28 July 1997 amending the Annexes to Council Directives 77/101/EEC, 79/373/EEC and 91/357/EEC

Member States which have notified implementing measures: B, DK, D, EL, E, IRL, I, NL, A, P, FIN, S, UK

France	98/0041, RO — sent: 11.12.1998
Luxembourg	98/0064, RO: 2.12.1998
Portugal	98/0081, RO: 2.12.1998

97/0072

Commission Directive 97/72/EC of 15 December 1997 amending Council Directive 70/524/EEC concerning additives in feedingstuffs

Member States which have notified implementing measures: B, DK, D, E, IRL, I, NL, A, P, S

Greece	98/0193, RO: 2.12.1998
France	98/0205, RO — sent: 11.12.1998
Luxembourg	98/0231, RO: 2.12.1998
Portugal	98/0255, RO: 2.12.1998
Finland	98/0262, RO — sent: 30.12.1998
United Kingdom	98/0278, RO: 2.12.1998

98/0019

Commission Directive 98/19/EC of 18 March 1998 amending Council Directive 70/524/EEC concerning additives in feedingstuffs

Member States which have notified implementing measures: B, DK, D, E, IRL, I, NL, A, P, S, UK

Greece	98/0339, RO: 2.12.1998
France	98/0364, RO — sent: 14.12.1998
Luxembourg	98/0417, RO: 2.12.1998
Portugal	98/0457, RO: 2.12.1998
Finland	98/0468, LET — sent: 25.8.1998

98/0051

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

Member States which have notified implementing measures: DK, S

98/0060

Commission Directive 98/60/EC of 24 July 1998 amending Council Directive 74/63/EEC on the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, NL, A, P, S, UK

France	98/0500, LET — sent: 8.10.1998
Italy	98/0516, LET — sent: 8.10.1998
Luxembourg	98/0497, LET — sent: 8.10.1998
Portugal	98/0520, LET — sent: 8.10.1998
Finland	98/0523, LET — sent: 8.10.1998
United Kingdom	98/0511, LET — sent: 8.10.1998

98/0064

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 olaquindox in feedingstuffs and amending Directive 71/393/EEC.

Member States which have notified implementing measures: DK

98/0067

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

Member States which have notified implementing measures: None

TRANSPORT

Land, road and inland waterway transport

96/0050

Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community

Member States which have notified implementing measures: B, D, L, A, UK (not applicable in DK, EL, E, IRL)

Italy	98/0559, LET — sent: 18.12.1998
Netherlands	98/0236, LET — sent: 3.8.1998

Rail transport and summer time

91/0440

Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways

Member States which have notified implementing measures: all except L (partial transposition)

Luxembourg	95/2244, RO — sent: 24.11.1997

95/0018

Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings

Member States which have notified implementing measures: DK, D, EL, E, NL, A, P, FIN, S, UK

Belgium	97/0261, RO — sent: 22.1.1998
France	97/0339, REF — sent: 25.9.1998
Ireland	97/0357, REF: 2.12.1998
Italy	97/0370, REF — sent: 24.9.1998
Luxembourg	97/0383, RO — sent: 4.2.1998

95/0019

Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees

Member States which have notified implementing measures: DK, D, EL, E, NL, A, P, FIN, S

Belgium	97/0262, RO — sent: 22.1.1998
France	97/0340, REF — sent: 25.9.1998
Ireland	97/0358, REF: 2.12.1998
Italy	97/0371, REF — sent: 24.9.1998
Luxembourg	97/0384, RO — sent: 5.2.1998
United Kingdom	97/0463, REF: 2.12.1998

Inland transport, safety and technology

91/0328

Council Directive 91/328/EEC of 21 June 1991 amending Directive 77/143/EEC on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers

Member States which have notified implementing measures: all except IRL

Ireland	93/0764, REF — sent: 25.6.1998

94/0055

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

Member States which have notified implementing measures: all except EL and IRL

Greece	98/0018, RO — sent: 16.10.1998
Ireland	98/0042, RO — sent: 16.10.1998

95/0050

Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road

Member States which have notified implementing measures: all except IRL

Ireland	97/0506, RO — sent: 24.9.1998

96/0047

Council Directive 96/47/EC of 23 July 1996 amending Directive 91/439/EEC on driving licences

Member States which have notified implementing measures: all except EL

Greece	98/0119, LET — sent: 3.6.1998

96/0049

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

Member States which have notified implementing measures: DK, D, E, F, L, NL, A, FIN, S, UK

96/0053

Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic

Member States which have notified implementing measures: B, DK, EL, E, F, I, L, A, P, FIN, S, UK

Germany	97/0574, RO — sent: 27.10.1998
Ireland	97/0633, RO — sent: 14.12.1998
Netherlands	97/0673, RO — sent: 14.12.1998

96/0086

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

Member States which have notified implementing measures: B, DK, D, E, F, I, L, NL, A, P, FIN, S

Greece	98/0022, RO — sent: 16.10.1998
Ireland	98/0045, RO — sent: 16.10.1998
United Kingdom	98/0094, RO — sent: 16.10.1998

96/0087

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

Member States which have notified implementing measures: DK, D, E, F, L, NL, A, FIN, S

96/0096

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

Member States which have notified implementing measures: DK, D, E, F, L, NL, A, FIN, S, UK

Belgium	98/0165, RO — sent: 14.12.1998
Greece	98/0191, RO — sent: 14.12.1998
Ireland	98/0212, RO — sent: 14.12.1998
Italy	98/0220, RO: 2.12.1998
Portugal	98/0253, RO: 2.12.1998

97/0026

Council Directive 97/26/EC of 2 June 1997 amending Directive 91/439/EEC on driving licences

Member States which have notified implementing measures: B, DK, D, E, F, L, NL, A, FIN, S, UK

France	98/0133, RO — sent: 14.12.1998
Ireland	98/0142, RO — sent: 14.12.1998
Greece	98/0121, LET — sent: 3.6.1998

Air transport, safety and social aspects

94/0056

Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

Member States which have notified implementing measures: DK, D, E, IRL, FIN, S, UK

Belgium	97/0020, REF — sent: 30.11.1998
Greece	97/0047, RO — sent: 24.9.1998
France	97/0075, RO — sent: 16.9.1998
Italy	97/0096, SRO: 2.12.1998
Luxembourg	97/0107, REF: 2.12.1998
Netherlands	97/0119, RO — sent: 14.12.1998
Austria	97/0136, REF — sent: 16.12.1998
Portugal	97/0146, RO — sent: 24.9.1998

97/0015

Commission Directive 97/15/EC of 25 March 1997 adopting Eurocontrol standards and amending Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems

Member States which have notified implementing measures: B, DK, E, F, IRL, I, NL, P, FIN, S, UK

Germany	98/0015, RO: 24.6.1998
Greece	98/0025, RO — sent: 24.9.1998
Luxembourg	98/0061, LET — sent: 31.3.1998
Austria	98/0071, LET — sent: 31.3.1998

Air transport, airports, environment

80/0051

Council Directive 80/51/EEC of 20 December 1979 on the limitation of noise emissions from subsonic aircraft

Member States which have notified implementing measures: all except UK

United Kingdom	95/2031, REF: 2.12.1998

96/0067

Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports

Member States which have notified implementing measures: DK, D, F, NL, A, FIN, UK

Belgium	97/0543, RO — sent: 3.9.1998
Greece	97/0591, RO — sent: 3.9.1998
Spain	97/0606, RO: 24.6.1998
Ireland	97/0636, RO — sent: 16.10.1998
Italy	97/0653, RO — sent: 3.9.1998
Luxembourg	97/0667, RO — sent: 28.10.1998
Portugal	97/0705, RO — sent: 23.9.1998
Sweden	97/0740, RO — sent: 3.9.1998

Sea transport, safety and technical aspects

95/0021

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)

Member States which have notified implementing measures: all except I

Italy	96/0997, REF — sent: 14.8.1998

96/0039

Commission Directive 96/39/EC of 19 June 1996 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods

Member States which have notified implementing measures: DK, D, EL, E, F, I, IRL, NL, A, P, FIN, S

Belgium	97/0480, RO — sent: 19.8.1998
Luxembourg	97/2199, RO — sent: 14.12.1998
Portugal	97/0525, RO — sent: 10.8.1998
United Kingdom	97/0537, LET — sent: 5.11.1997

96/0098

Council Directive 96/98/EC, of 20 December 1996 on marine equipment

Member States which have notified implementing measures: D, EL, F

Belgium	97/0289, LET — sent: 25.8.98
Denmark	98/0300, LET — sent: 25.8.98
Spain	98/0343, LET — sent: 25.8.98
Ireland	98/0374, LET — sent: 25.8.98
Italy	98/0391, RO — sent: 14.12.1998
Luxembourg	98/0408, LET — sent: 25.8.98
Netherlands	98/0420, LET — sent: 25.8.98
Austria	98/0428, LET — sent: 25.8.98
Portugal	98/0447, LET — sent: 25.8.98
Finland	98/0462, LET — sent: 25.8.98
Sweden	98/0475, LET — sent: 25.8.98
United Kingdom	98/0488, LET — sent: 25.8.98

97/0034

Commission Directive 97/34/EC of 6 June 1997 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, NL, A, P, FIN, S

Belgium	97/0551, RO — sent: 19.8.1998
Italy	97/0661, RO — sent: 10.8.1998
Luxembourg	97/2199, RO — sent: 14.12.1998
Portugal	97/0713, REF: 2.12.1998
United Kingdom	97/0761, LET — sent: 29.12.1997

97/0058

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 organisations and for the relevant activities of maritime administrations

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, I, NL, FIN, S

Germany	98/0554, LET — sent: 18.12.1998
Spain	98/0589, LET — sent: 18.12.1998
France	98/0532, LET — sent: 18.12.1998
Luxembourg	98/0541, LET — sent: 18.12.1998
Netherlands	98/0549, LET — sent: 18.12.1998
Austria	98/0603, LET — sent: 18.12.1998
Portugal	98/0594, LET — sent: 18.12.1998
United Kingdom	98/0568, LET — sent: 18.12.1998

97/0070

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

Member States which have notified implementing measures: B, DK

98/0018

Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships

Member States which have notified implementing measures: B

98/0025

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)

Member States which have notified implementing measures: B, DK, D, FIN, S, UK

98/0042

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)

Member States which have notified implementing measures: B, DK, FIN, S, UK

98/0055

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

Member States which have notified implementing measures: B

TELEVISION WITHOUT FRONTIERS

97/0036

Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Directive 89/552/EC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

Member States which have notified implementing measures: DK, P, FIN,

ENVIRONMENT

Air

93/0012

Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels

Member States which have notified implementing measures: All except E

Spain	94/0552, RO — sent: 21.10.1996

96/0062

Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management

Member States which have notified implementing measures: B, DK, F, L, NL, A, FIN, S

Germany	98/0313, LET — sent: 25.8.1998
Greece	98/0328, RO — sent: 17.12.1998
Spain	98/0342, RO — sent: 11.12.1998
Ireland	98/0371, RO: 2.12.1998
Italy	98/0388, RO — sent: 17.12.1998
Portugal	98/0445, RO: 2.12.1998
United Kingdom	98/0487, RO — sent: 21.12.1998

97/0068

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

Member States which have notified implementing measures: DK, D, E, NL, FIN

Belgium	98/0296, RO — sent: 17.12.1998
Germany	98/0320, RO — sent: 25.8.1998
Greece	98/0337, RO — sent: 17.12.1998
France	98/0362, RO — sent: 17.12.1998
Ireland	98/0381, RO — sent: 17.12.1998
Italy	98/0398, RO — sent: 17.12.1998
Luxembourg	98/0415, RO — sent: 17.12.1998
Austria	98/0434, RO — sent: 30.12.1998
Portugal	98/0455, RO: 2.12.1998
Sweden	98/0481, LET — sent: 25.8.1998
United Kingdom	98/0492, RO — sent: 17.12.1998

Water

76/0160

Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water

Member States which have notified implementing measures: B, DK, EL, E, F, IRL, I, L, NL, P, FIN, S, UK

Germany	97/2039, RO — sent: 19.5.1998
Austria	97/2187, REF: 2.12.1998

91/0271

Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment

Member States which have notified implementing measures: All except I

Italy	93/0786, 2nd REF: 2.12.1998

98/0015

Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereto

Member States which have notified implementing measures: B, E, L, NL, FIN

Denmark	98/0579, LET — sent: 18.12.1998
Germany	98/0557, LET — sent: 18.12.1998
Greece	98/0584, LET — sent: 18.12.1998
France	98/0533, LET — sent: 18.12.1998
Ireland	98/0575, LET — sent: 18.12.1998
Italy	98/0563, LET — sent: 18.12.1998
Austria	98/0606, LET — sent: 18.12.1998
Portugal	98/0597, LET — sent: 18.12.1998
Sweden	98/0610, LET — sent: 18.12.1998
United Kingdom	98/0569, LET — sent: 18.12.1998

Nature

92/0043

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

Member States which have notified implementing measures: B, DK, D, E, IRL, I, L, NL, A, P, FIN, S, UK

Greece	94/0703, RO 171 — sent: 25.9.1998
France	94/0673, REF — sent: 15.7.1998

Noise

95/0027

European Parliament and Council Directive 95/27/EC of 29 June 1995 amending Council Directive 86/662/EEC on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders

Member States which have notified implementing measures: None

Belgium	96/0016, REF — sent: 17.9.1997

Chemicals and Biotechnologies

94/0015

Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	94/0634, RO 171 — sent: 29.9.1998

94/0051

Commission Directive 94/51/EC of 7 November 1994 adapting to technical progress Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms

Member States which have notified implementing measures: All except L

Belgium	95/0239, LET 171: 2.12.1998
Luxembourg	95/0344, LET 171 — sent: 18.12.1998

94/0069

Commission Directive 94/69/EC of 19 December 1994 adapting to technical progress for the twenty-first 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

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, FIN, S, UK

Belgium	96/0859, REF — sent: 24.3.1998
Portugal	96/1040, REF: 24.6.1998

96/0054

Commission Directive 96/54/EC of 30 July 1996 adapting to technical progress for the twenty-second time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances

Member States which have notified implementing measures: DK, D, E, F, IRL, I, L, NL, A, FIN, S

Belgium	98/0284, RO — sent: 22.12.1998
Greece	98/0326, RO — sent: 17.12.1998
Portugal	98/0442, RO — sent: 2.12.1998
United Kingdom	98/0486, LET — sent: 25.8.1998

96/0056

Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances

Member States which have notified implementing measures: DK, E, F, IRL, I, L, NL, A, FIN, S, UK

Belgium	98/0286, RO — sent: 18.12.1998
Germany	98/0312, RO — sent: 21.12.1998
Greece	98/0327, RO — sent: 17.12.1998
Portugal	98/0444, RO — sent: 2.12.1998

97/0035

Commission Directive 97/35/EC of 18 June 1997 adapting to technical progress for the second time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms

Member States which have notified implementing measures: DK, D, E, F, IRL, I, L, NL, A, P, FIN, S

Belgium	97/0483, RO — sent: 6.8.1998
Greece	97/0496, REF: 2.12.1998
United Kingdom	97/0538, LET — sent: 5.11.1997

Waste

94/0062

European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste

Member States which have notified implementing measures: DK, D, E, IRL, I, L, NL, A, FIN, S

Belgium	96/2223, REF: 2.12.1998
Greece	96/0911, REF: 24.6.1998
France	96/2225, LET — sent: 24.2.1998
Luxembourg	96/1013, REF: 24.6.1998
Portugal	96/2207, RO — sent: 6.7.1998
United Kingdom	96/2224, RO — sent: 23.6.1998

94/0067

Council Directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste

Member States which have notified implementing measures: DK, D, E, F, IRL, L, NL, P, FIN, S

Belgium	97/0021, RO — sent: 23.11.1998
Greece	97/0048, REF — sent: 29.10.1998
Italy	97/0097, RO — sent: 28.10.1998
Austria	97/0137, REF: 2.12.1998
United Kingdom	97/0182, RO — sent: 3.11.1998

96/0059

Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)

Member States which have notified implementing measures: F, IRL, L, NL, A, FIN, S

Denmark	98/0172, RO — sent: 13.12.1998
Germany	98/0179, RO — sent: 30.12.1998
Greece	98/0190, RO — sent: 17.12.1998
Spain	98/0199, RO — sent: 30.12.1998
Italy	98/0219, RO — sent: 18.12.1998
Portugal	98/0252, RO: 2.12.1998
United Kingdom	98/0276, RO: 2.12.1998
Belgium	98/2211, LET — sent: 21.10.1998

Radiation protection

89/0618

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

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, UK

Sweden	96/0488, LET — sent: 15.10.1996

TELECOMMUNICATIONS

92/0044

Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines

Member States which have notified implementing measures: B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	95/2308, LET: 13.12.1995

95/0047

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

Member States which have notified implementing measures: DK, D, E, IRL, L, P, FIN, UK

Belgium	96/0870, RO — sent: 21.10.1998
Greece	96/0923, RO — sent: 14.10.1998
France	96/0966, RO — sent: 14.10.1998
Italy	96/1004, RO — sent: 14.10.1998
Netherlands	96/1034, RO — sent: 14.10.1998
Austria	96/1089, RO — sent: 14.10.1998
Portugal	96/1054, RO — sent: 6.10.1998
Sweden	96/1127, RO — sent: 6.10.1998

95/0062

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

Member States which have notified implementing measures: DK, D, E, F, IRL, I, L, NL, A, P, FIN, S, UK

Belgium	97/2226, RO: 16.12.1998
Greece	97/0053, RO — suspension lifted: 2.12.1998

97/0013

Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, A, P, FIN, S, UK

Greece	98/2081, RO: 16.12.1998
Netherlands	98/2085, LET — sent: 4.6.1998

97/0033

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)

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, L, A, FIN, UK

Greece	98/2082, RO: 16.12.1998
Netherlands	98/2086, LET — sent: 4.6.1998
Portugal	98/2087, RO: 2.12.1998
Sweden	98/2088, RO: 2.12.1998

97/0051

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

Member States which have notified implementing measures: B, DK, D, E, IRL, L, A, FIN, UK

Greece	98/0333, RO: 2.12.1998
France	98/0359, RO: 2.12.1998
Italy	98/0394, RO: 16.12.1998
Portugal	98/0451, RO: 2.12.1998
Sweden	98/0478, RO: 2.12.1998

97/0066

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

Member States which have notified implementing measures: D, E, I, A, P

Belgium	98/2332, LET: 2.12.1998
Denmark	98/2333, LET: 2.12.1998
Greece	98/2335, LET: 16.12.1998
France	98/2336, LET: 2.12.1998
Ireland	98/2337, LET: 2.12.1998
Luxembourg	98/2338, LET: 2.12.1998
Netherlands	98/2339, LET: 2.12.1998
Austria	98/2340, LET: 2.12.1998
Portugal	98/2341, LET: 2.12.1998
Finland	98/2342, LET: 2.12.1998
Sweden	98/2343, LET: 2.12.1998
United Kingdom	98/2344, LET: 2.12.1998

98/0010

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

Member States which have notified implementing measures: B, DK, D, E, F, L, A, FIN, UK

Greece	98/0338, RO: 16.12.1998
France	98/0363, RO: 2.12.1998
Ireland	98/0382, RO: 2.12.1998
Italy	98/0399, RO: 16.12.1998
Netherlands	98/0423, LET — sent: 25.8.1998
Portugal	98/0456, LET — sent: 25.8.1998
Sweden	98/0482, RO: 2.12.1998

98/0061

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

Member States which have notified implementing measures: D, E, L

INTERNAL MARKET AND FINANCIAL SERVICES

Free movement of persons and citizens' rights

94/0080

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

Member States which have notified implementing measures: All except B

Belgium	96/0012, REF — Judgment: 9.7.1998

Public procurement

90/0531

Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Member States which have notified implementing measures: All except E

Spain	98/0128, covered by 97/0213: 2.12.1998

92/0013

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

Member States which have notified implementing measures: All except EL, P

Greece	98/0185, RO — sent: 17.12.1998
Portugal	98/0437, RO: 9.12.1998

92/0050

Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts

Member States which have notified implementing measures: All

Greece	93/0711, 2nd REF — Stay of execution: 2.12.1998

93/0036

Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts

Member States which have notified implementing measures: All

Italy	94/0722, LET 171 — sent: 24.7.1998

93/0038

Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Member States which have notified implementing measures: ALL EXCEPT EL, E, P

Greece	98/0186, RO — sent: 17.12.1998
Spain	97/0213, RO — Stay of execution: 2.12.1998
Portugal	98/0438, RO: 9.12.1998

97/0052

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

Member States which have notified implementing measures: DK, IRL, I, NL, FIN, S

Belgium	98/0547, LET — sent: 18.12.1998
Germany	98/0553, LET — sent: 18.12.1998
Greece	98/0585, LET — sent: 18.12.1998
Spain	98/0587, LET — sent: 18.12.1998
France	98/0530, LET — sent: 18.12.1998
Ireland	98/0572, LET — sent: 18.12.1998
Italy	98/0561, LET — sent: 18.12.1998
Luxembourg	98/0539, LET — sent: 18.12.1998
Austria	98/0601, LET — sent: 18.12.1998
Portugal	98/0592, LET — sent: 18.12.1998
United Kingdom	98/0566, LET — sent: 18.12.1998

Banks

95/0026

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

Member States which have notified implementing measures: B, DK, D, EL, E, NL, A, P, FIN, S, UK

Belgium	96/0862, RO — sent: 29.7.1998
Germany	96/0890, RO: 26.6.1997
Spain	96/0941, REF: 2.12.1998
France	96/0958, REF: 2.12.1998
Ireland	96/0980, RO — sent: 17.12.1998
Italy	96/0999, RO — sent: 17.12.1998
Luxembourg	96/1015, REF: 2.12.1998

Insurance

91/0371

Council Directive 91/371/EEC of 20 June 1991 on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance

Member States which have notified implementing measures: All

Spain	93/0917, REF — Judgment: 18.12.1997

92/0049

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)

Member States which have notified implementing measures: All except E

Spain	94/0140, REF — Judgment: 18.12.1997

92/0096

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)

Member States which have notified implementing measures: All

Spain	94/0145, REF — Stay of execution: 26.6.1997

95/0026 (see Banks)

Stock exchanges and securities

93/0022

Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field

Member States which have notified implementing measures: All except L

Spain	95/0475, REF — sent: 23.1.1998
Luxembourg	95/0566, REF — sent: 9.12.1997

95/0026 (see Banks)

97/0009

Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes

Member States which have notified implementing measures: DK, D, EL, E, IRL, I, NL, FIN, UK

Belgium	98/0546, LET — sent: 18.12.1998
France	98/0529, LET — sent: 18.12.1998
Luxembourg	98/0536, LET — sent: 18.12.1998
Austria	98/0600, LET — sent: 18.12.1998
Portugal	98/0591, LET — sent: 18.12.1998
Sweden	98/0608, LET — sent: 18.12.1998

Financial information and company law

90/0605

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

Member States which have notified implementing measures: All except D

Germany	93/0108, REF — sent: 28.7.1997

92/0101

Council Directive 92/101/EEC of 23 November 1992 amending Directive 77/91/EEC on the formation of public limited-liability companies and the maintenance and alteration of their capital

Member States which have notified implementing measures: all except EL

Greece	94/0427, REF: 26.6.1997

Articles 30 to 36 of the EC Treaty and safeguard clauses

96/0100

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

Member States which have notified implementing measures: All except F, A

France	97/0624, RO: 24.6.1998
Austria	97/0693, RO: 24.6.1998

Regulated professions (qualifications)

78/0686

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

Member States which have notified implementing measures: All except A

78/0687

Council Directive 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of the activities of dental practitioners

Member States which have notified implementing measures: All except A

89/0048

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

Member States which have notified implementing measures: All except EL

Greece	91/0668, 2nd REF — sent: 20.5.1998

97/0038

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

Member States which have notified implementing measures: All except EL, P

Greece	97/0600, RO — sent: 31.8.1998
Portugal	97/0714, RO — sent: 30.12.1998

98/0021

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

Member States which have notified implementing measures: F, L

Free access to information. Data protection

95/0046

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

Member States which have notified implementing measures: EL, P, S

Belgium	98/0545, LET — sent: 18.12.1998
Denmark	98/0576, LET — sent: 18.12.1998
Germany	98/0552, LET — sent: 18.12.1998
Spain	98/0586, LET — sent: 18.12.1998
France	98/0528, LET — sent: 18.12.1998
Ireland	98/0571, LET — sent: 18.12.1998
Italy	98/0558, LET — sent: 18.12.1998
Luxembourg	98/0535, LET — sent: 18.12.1998
Netherlands	98/0548, LET — sent: 18.12.1998
Austria	98/0599, LET — sent: 18.12.1998
Finland	98/0611, LET — sent: 18.12.1998
United Kingdom	98/0565, LET — sent: 18.12.1998

Copyright and related rights

92/0100

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

Member States which have notified implementing measures: All except IRL

Ireland	94/0855, REF — sent: 9.6.1998

93/0083

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

Member States which have notified implementing measures: All except IRL

Ireland	95/0114, REF — sent: 9.6.1998

96/0009

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases

Member States which have notified implementing measures: B, DK, D, E, F, A, FIN, S, UK

Belgium	98/0001, RO — stay of execution: 2.12.98
Greece	98/0019, RO — sent: 23.11.1998
Ireland	98/0043, RO — sent: 2.10.1998
Italy	98/0051, RO — sent: 22.10.1998
Luxembourg	98/0058, RO — sent: 30.9.1998
Netherlands	98/0065, RO — sent: 14.10.1998
Portugal	98/0074, RO — sent: 2.10.1998

INDIRECT TAXATION

Vat

96/0042

Council Directive 96/42/EC of 25 June 1996 amending Directive 77/388/EEC on the common system of value added tax

Member States which have notified implementing measures: All except EL

Greece	96/0933, RO — sent: 3.12.1997, REF: 24.6.1998

ENERGY

Electricity

96/0092

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

Member States which have notified implementing measures: E, A

98/0075

Commission Directive 98/75/EC of 1 October 1998 updating the list of entities covered by Directive 90/547/EEC on the transit of electricity through transmission grids

Member States which have notified implementing measures: none

Gas

98/0030

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

Member States which have notified implementing measures: none

Renewable energy and energy efficiency

96/0057

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

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, L, NL, A, P, FIN, S, UK

Belgium	97/0542, RO — sent: 23.11.1998
Italy	97/0651, RO — sent: 23.11.1998

96/0060

Commission Directive 96/60/EC of 19 September 1996 implementing Council Directive 92/75/EEC with regard to energy labelling of household combined washer-driers

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK

96/0089

Commission Directive 96/89/EC of 17 December 1996 amending Directive 95/12/EC implementing Council Directive 92/75/EEC with regard to energy labelling of household washing machines

Member States which have notified implementing measures: DK, D, EL, E, F, IRL, I, L, NL, A, FIN, S, UK

97/0017

Commission Directive 97/17/EC of 16 April 1997 implementing Council Directive 92/75/EEC with regard to energy labelling of household dishwashers

Member States which have notified implementing measures: EL, E, F, IRL, L, NL

98/0011

Commission Directive 98/11/EC of 27 January 1998 implementing Council Directive 92/75/EEC with regard to energy labelling of household lamps

Member States which have notified implementing measures: none

CONSUMER PROTECTION AND PUBLIC HEALTH

94/0047

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

Member States which have notified implementing measures: DK, D, F, IRL, NL, A, P, FIN, S, UK

Belgium	97/0260, REF — sent: 18.8.1998
Greece	97/0305, REF — sent: 10.11.1998
Spain	97/0323, REF — sent: 11.8.1998
Italy	97/0369, REF — sent: 14.9.1998
Luxembourg	97/0382, REF — sent: 18.8.1998

95/0058

Directive 95/58/EC of the European Parliament and of the Council of 29 November 1995 amending Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs and Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products

Member States which have notified implementing measures: none

STATISTICS

97/0077

Council Directive 97/77/EC of 16 December 1997 amending Directives 93/23/EEC, 93/24/EEC and 93/25/EEC on the statistical surveys to be carried out on pig, bovine animal and sheep and goat production

Member States which have notified implementing measures: B, DK, D, E, F, IRL, I, NL, A, P, FIN, UK

SUMMARY TABLE ON THE STATE OF THE COMMUNICATIONS OF THE NATIONAL MEASURES OF IMPLEMENTATION OF THE DIRECTIVES

Progress in notification of national measures implementing directives (situation on 31 December 1998)

Chapter	Sector	Sub-sector	Directives applicable on 31.12.1998	Directives applicable on 31 December 1998 (by MS)															Directives for which implementing measures notified													Percentage									
				B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L
Internal market	Free movement of persons and Union citizenship	Entry and residence	9	9	8	9	8	8	9	9	9	9	9	9	8	9	9	9	9	8	9	8	8	9	9	9	9	9	8	9	9	9	100	100	100	100	100	100	100	100	100
		Right to vote and stand for election	3	2	2	2	2	2	2	2	2	2	2	3	2	3	3	2	1	2	2	2	2	2	2	2	2	2	3	2	3	3	2	50	100	100	100	100	100	100	100	100
		Regulated professions	65	65	65	65	65	65	65	65	65	65	65	65	65	65	65	65	64	64	64	62	65	65	64	64	65	64	62	63	64	64	64	98,5	98,5	98,5	95,4	100	100	98,5	98,5
		Commercial agents	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	1	1	100	100	100	100	100	100	100	100
	Free movement of goods	Food	89	89	89	89	89	89	89	89	89	89	89	89	89	89	89	89	84	86	89	83	85	85	88	86	84	81	85	89	79	87	88	94,4	96,6	100	93,3	95,5	95,5	98,9	96,6
		Pharmaceuticals	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	30	32	32	32	32	30	32	32	32	32	32	32	32	32	32	93,8	100	100	100	100	93,8	100	100
		Chemicals	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	52	53	50	50	53	50	52	46	48	53	47	50	54	51	52	88,1	89,8	84,7	84,7	89,8	84,7	88,1	78
		Motor vehicles	206	206	206	206	206	206	206	206	206	206	206	206	206	206	206	206	203	205	202	202	204	203	204	204	204	201	202	201	204	202	202	98,5	99,5	98,1	98,1	99	98,5	99	99
		Construction products	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	1	1	100	100	100	100	100	100	100	100
		Capital goods	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	88	90	90	89	90	89	88	89	88	90	89	89	90	90	90	97,8	100	100	98,9	100	98,9	97,8	98,9
		Cosmetics	37	37	37	37	37	37	37	37	37	37	37	37	37	37	37	37	36	37	36	37	37	31	37	35	33	37	33	33	37	36	36	97,3	100	97,3	100	100	83,8	100	94,6
		Textiles and shoes	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	4	5	5	5	5	5	5	4	3	5	5	5	5	5	5	80	100	100	100	100	100	100	80
		Product liability	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	1	1	100	100	100	100	100	100	100	100
		Special arrangements — freedom of movement	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	2	3	3	3	3	2	3	3	3	3	100	100	100	100	100	66,7	100	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	4	4	100	100	100	100	100	100	100	100
	Free movement of services	Financial services	54	50	51	49	50	51	49	49	49	50	50	51	50	51	50	49	50	51	49	50	51	47	48	48	47	50	50	49	51	49	49	100	100	100	100	100	95,9	98	98
	Business environment	Company law	14	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	12	12	13	13	13	13	13	13	13	13	13	13	13	100	100	92,3	92,3	100	100	100	100
		Intellectual and industrial property	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	6	7	7	4	6	6	6	7	6	7	7	7	100	100	100	85,7	100	100	57,1	85,7
		Data protection	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	0	0	1	0	0	0	0	0	0	0	1	0	1	0	0	0	0	100	0	0	0	0
		Public procurement	10	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	8	9	8	6	6	8	8	9	8	9	8	6	9	9	8	88,9	100	88,9	66,7	66,7	88,9	88,9	100
		Direct taxation	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	4	4	100	100	100	100	100	100	100	100
		VAT	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	25	26	26	26	26	26	26	26	26	26	26	26	100	100	100	96,2	100	100	100	100
		Other indirect taxes	24	23	23	24	23	23	23	23	23	23	23	24	23	23	23	23	23	23	24	23	23	23	23	23	23	23	24	23	23	23	23	100	100	100	100	100	100	100	100
Competition			8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	7	8	8	6	8	8	8	100	100	100	100	100	100	100	100	87,5
Social affairs			55	55	55	55	55	55	55	55	55	55	55	55	55	55	55	53	51	55	51	48	55	52	52	46	44	54	51	52	55	55	53	92,7	100	92,7	87,3	100	94,5	94,5	83,6
Energy			24	23	23	24	23	23	23	23	23	22	23	23	23	21	23	23	16	20	20	21	21	20	21	18	20	20	21	20	18	20	20	69,6	87	83,3	91,3	91,3	87	91,3	78,3

Chapter	Sector	Sub-sector	Percentage																																						
			B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L
Internal market	Free movement of persons and Union citizenship	Entry and residence	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Right to vote and stand for election	50	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Regulated professions	98,5	98,5	98,5	95,4	100	100	98,5	98,5	100	98,5	95,4	96,9	98,5	98,5	98,5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Commercial agents	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Free movement of goods	Food	94,4	96,6	100	93,3	95,5	95,5	98,9	96,6	94,4	91	95,5	100	88,8	97,8	98,9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Pharmaceuticals	93,8	100	100	100	100	93,8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Chemicals	88,1	89,8	84,7	84,7	89,8	84,7	88,1	78	81,4	89,8	79,7	84,7	91,5	86,4	88,1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Motor vehicles	98,5	99,5	98,1	98,1	99	98,5	99	99	99	97,6	98,1	97,6	99	98,1	98,1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Construction products	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Capital goods	97,8	100	100	98,9	100	98,9	97,8	98,9	97,8	100	98,9	98,9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Cosmetics	97,3	100	97,3	100	100	83,8	100	94,6	89,2	100	89,2	89,2	100	97,3	97,3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Textiles and shoes	80	100	100	100	100	100	100	80	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Product liability	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Special arrangements — freedom of movement	100	100	100	100	100	66,7	100	100	100	100	66,7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Customs union	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Free movement of services	Financial services	100	100	100	100	100	95,9	98	98	94	100	98	98	100	98	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Business environment	Company law	100	100	92,3	92,3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Intellectual and industrial property	100	100	100	85,7	100	100	57,1	85,7	85,7	85,7	100	85,7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Data protection	0	0	0	100	0	0	0	0	0	0	0	100	0	100	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Public procurement	88,9	100	88,9	66,7	66,7	88,9	88,9	100	88,9	100	88,9	66,7	100	100	88,9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Direct taxation	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		VAT	100	100	100	96,2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
		Other indirect taxes	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Competition			100	100	100	100	100	100	100	100	87,5	100	100	75	100	100	100	100	100	100	100	100	100	100	100	87,5	100	100	75	100	100	100	100	100	100	100	100	100	100	100	100
Social affairs			92,7	100	92,7	87,3	100	94,5	94,5	83,6	80	98,2	92,7	94,5	100	100	100	92,7	100	92,7	87,3	100	94,5	94,5	83,6	80	98,2	92,7	94,5	100	100	100	92,7	100	92,7	87,3	100	94,5	94,5	83,6	80
Energy			69,6	87	83,3	91,3	91,3	87	91,3	78,3	90,9	87	91,3	87	85,7	87	87	69,6	87	83,3	91,3	91,3	87	91,3	78,3	90,9	87	91,3	87	85,7	87	87	69,6	87	83,3	91,3	91,3	87	91,3	78,3	90,9

Chapter	Sector	Sub-sector	Directives applicable on 31.12.1998	Directives applicable on 31 December 1998 by MS															Directives for which implementing measures notified														Percentage													
				B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
Transport			54	53	47	52	47	47	53	47	52	52	53	53	52	48	48	52	43	44	45	32	40	44	30	35	38	44	43	39	44	43	42	81,1	93,6	86,5	68,1	85,1	83	63,8	67,3	73,1	83	81,1	75	91,7	89,6	80,8
Telecommunications			15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	12	13	15	7	15	11	12	11	14	10	13	11	13	9	13	80	86,7	100	46,7	100	73,3	80	73,3	93,3	66,7	86,7	73,3	86,7	60	86,7
TV without Frontiers			2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	1	2	1	1	1	1	1	1	1	1	1	2	2	1	1	50	100	50	50	50	50	50	50	50	50	50	100	100	50	50
Environment	Freedom of access to information		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	1	1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Environemental impact assessment		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	1	1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Air		15	15	15	15	16	17	15	15	15	15	15	15	17	15	15	15	14	15	14	14	15	14	13	13	14	15	14	15	15	14	13	93,3	100	93,3	87,5	88,2	93,3	86,7	86,7	93,3	100	93,3	88,2	100	93,3	86,7
	Water		22	22	22	22	24	22	22	22	22	22	22	22	22	22	22	22	22	21	20	23	22	21	21	20	22	22	20	21	22	21	21	100	95,5	90,9	95,8	100	95,5	95,5	90,9	100	100	90,9	95,5	100	95,5	95,5
	Nature		12	12	12	12	13	13	12	12	12	12	12	12	13	12	12	12	12	12	12	12	13	11	12	12	12	12	12	13	12	12	12	100	100	100	92,3	100	91,7	100	100	100	100	100	100	100	100	100
	Noise		24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	23	24	24	24	24	24	24	24	24	24	24	24	24	24	24	95,8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Chemicals and biotechnology		42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	36	42	41	40	42	42	42	42	41	42	42	39	42	42	41	85,7	100	97,6	95,2	100	100	100	100	97,6	100	100	92,9	100	100	97,6
	Waste		16	16	16	16	16	17	16	16	16	16	16	16	17	16	16	16	13	15	15	13	16	15	16	14	16	16	15	15	16	16	13	81,3	93,8	93,8	81,3	94,1	93,8	100	87,5	100	100	93,8	88,2	100	100	81,3
	Environment and industry		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	6	6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Radiation protection		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	5	6	100	100	100	100	100	100	100	100	100	100	100	100	100	83,3	100
Agriculture	Veterinary matters		140	140	140	140	140	140	140	140	140	140	140	140	140	140	140	140	136	138	135	135	136	130	132	128	137	135	134	136	138	137	135	97,1	98,6	96,4	96,4	97,1	92,9	94,3	91,4	97,9	96,4	95,7	97,1	98,6	97,9	96,4
	Plant health		82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	80	81	81	79	81	81	81	80	78	81	78	78	81	81	80	97,6	98,8	98,8	96,3	98,8	98,8	98,8	97,6	95,1	98,8	95,1	95,1	98,8	98,8	97,6
	Seeds and plants		77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
	Feedingstuffs		94	94	94	94	94	94	94	94	94	94	94	94	94	94	94	94	85	93	91	84	91	78	86	84	81	91	86	85	82	90	86	90,4	98,9	96,8	89,4	96,8	83	91,5	89,4	86,2	96,8	91,5	90,4	87,2	95,7	91,5
	Forestry		5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Consumers			12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	11	12	12	11	11	12	12	11	11	12	12	12	12	12	12	91,7	100	100	91,7	91,7	100	100	91,7	91,7	100	100	100	100	100	100
Statistics			12	11	11	11	11	12	11	11	11	11	11	10	12	10	10	11	11	11	11	11	12	11	11	11	11	12	10	12	11	10	12	100	100	100	100	100	100	100	100	100	109	100	100	110	100	109
		Total	1 470	1 459	1 453	1 459	1 456	1 458	1 458	1 452	1 457	1 457	1 459	1 461	1 462	1 453	1 454	1 455	1 382	1 427	1 411	1 366	1 420	1 377	1 387	1 364	1 372	1 410	1 388	1 386	1 411	1 411	1 402	94,7	98,2	96,7	93,8	97,4	94,4	95,5	93,6	94,2	96,6	95	94,8	97,1	97	96,4

PART 2: NON-CONFORMITY OF NATIONAL MEASURES IMPLEMENTING DIRECTIVES

NB 1: In this part, dates are given in year/month/day format. Abbreviations are the same as for Part 1.

NB 2: The items of information for each sector and subsector in this part of the annex are set out in descending columns read from left to right; a single infringement case is sometimes spread over two columns.

INDUSTRY

Pressure vessels, medical instruments and metrology

3 7 6 L 0 8 9 1

AUSTRIA
INFR. No: 97/2210
LET-SENT: 1998.12.30

PORTUGAL
INFR. No: 98/2166
LET-SENT: 1998.12.16

3 8 9 L 0 3 9 2

GERMANY
INFR. No: 95/4025
RO-SENT: 1998.11.13

3 8 9 L 0 6 8 6

GERMANY
INFR. No: 97/4213
RO-SENT: 1998.10.21

FRANCE
INFR. No: 97/2168
LET-SENT: 1998.9.29

3 9 0 L 0 3 8 5

SPAIN
INFR. No: 93/2291
LET-SENT: 1996.3.25

3 9 2 L 0 0 4 2

GERMANY
INFR. No: 95/4082
LET-SENT: 1997.6.19

3 9 3 L 0 0 4 2

ITALY
INFR. No: 97/4813
LET-SENT: 1998.9.24

Pharmacy

3 6 5 L 0 0 6 5

GERMANY
INFR. No: 97/2076
RO: 1998.10.7

3 8 9 L 0 1 0 5

AUSTRIA
INFR. No: 98/4052
LET: 1998.3.25

PORTUGAL
INFR. No: 96/4419
LET-SENT: 1997.8.27

COMPETITION

Telecommunications and postal services

3 9 4 L 0 0 4 6

GREECE
INFR. No: 98/2130
LET-SENT: 1998.5.15

3 9 6 L 0 0 0 2

GREECE
INFR. No: 97/2221 (2)
RO-SENT: 1998.12.22

3 9 6 L 0 0 1 9

BELGIUM
INFR. No: 97/2217
LET-SENT: 1997.12.2

ITALY
INFR. No: 98/2241
LET-SENT: 1998.8.24

LUXEMBOURG
INFR. No: 98/2076
LET-SENT: 1998.5.27

SPAIN
INFR. No: 97/2108
LET-SENT: 1997.7.3

PORTUGAL
INFR. No: 98/2072
LET-SENT: 1998.5.27

3 9 6 L 0 0 1 9

BELGIUM
INFR. No: 98/2071
LET-SENT: 1998.8.24

SPAIN
INFR. No: 98/2153
LET-SENT: 1998.5.18

FRANCE
INFR. No: 98/2077
LET-SENT: 1998.7.24

SPAIN
INFR. No: 98/2240
LET-SENT: 1998.12.11

GREECE
INFR. No: 97/2221 (1)
RO-SENT: 1998.12.21

EMPLOYMENT AND SOCIAL AFFAIRS

376L0207

FRANCE
INFR. No: 90/2109
RO2-SENT: 1998.7.29

ITALY
INFR. No: 90/2226
LET2-SENT: 1998.7.24

377L0187

ITALY
INFR. No: 90/2144
LET-SENT: 1997.7.16

UNITED KINGDOM
INFR. No: 89/0537
LET2-SENT: 1996.12.4

380L0987

GREECE
INFR. No: 86/0116
RO2-SENT: 1998.5.29

389L0391

BELGIUM
INFR. No: 98/2015
LET-SENT: 1998.4.22

DENMARK
INFR. No: 95/2134
LET-SENT: 1997.6.19

GERMANY
INFR. No: 97/2193
RO-SENT: 1998.10.19

FRANCE
INFR. No: 95/2135
LET-SENT: 1997.3.4

IRELAND
INFR. No: 95/2136
LET-SENT: 1997.9.29

ITALY
INFR. No: 95/2137
RO-SENT: 1998.10.19

LUXEMBOURG
INFR. No: 95/2138
LET-SENT: 1997.2.13

NETHERLANDS
INFR. No: 95/2139
RO-SENT: 1998.12.30

AUSTRIA
INFR. No: 97/2149
LET-SENT: 1998.1.12

PORTUGAL
INFR. No: 95/2140
LET-SENT: 1997.6.18

FINLAND
INFR. No: 97/2173
LET-SENT: 1998.4.15

SWEDEN
INFR. No: 98/2182
LET-SENT: 1998.8.6

UNITED KINGDOM
INFR. No: 95/2141
SLET-SENT: 1998.1.26

390L0269

SWEDEN
INFR. No: 98/2252
LET-SENT: 1998.12.30

390L270

ITALY
INFR. No: 98/2224
LET-SENT: 1998.8.10

392L0085

SPAIN
INFR. No: 98/2352
LET-SENT: 1998.12.11

FINLAND
INFR. No: 98/2353
LET-SENT: 1998.12.18

FRANCE
INFR. No: 98/2354
LET-SENT: 1998.12.11

IRELAND
INFR. No: 98/2356
LET-SENT: 1998.12.18

SWEDEN
INFR. No: 98/2359
LET-SENT: 1998.12.30

398L0059

UNITED KINGDOM
INFR. No: 89/0536
LET2-SENT: 1996.12.4

IRELAND
INFR. No: 98/2018
LET-SENT: 1998.5.18

GREECE
INFR. No: 98/2327
LET-SENT: 1998.12.16

TRANSPORT

Inland transport, goods

392L106

FINLAND
INFR. No: 97/2145
LET-SENT: 1998.10.16

393L0089

BELGIUM
INFR. No: 97/2049
LET-SENT: 1998.2.12

396L0026

FINLAND
INFR. No: 98/2269
LET-SENT: 1998.10.29

Inland transport, passengers

391L0440

SPAIN
INFR. No: 95/2243
RO-SENT: 1997.5.21

FRANCE
INFR. No: 95/2247
RO-SENT: 1998.1.22

LUXEMBOURG
INFR. No: 95/2244
RO-SENT: 1997.11.24

UNITED KINGDOM
INFR. No: 95/2248
RO-SENT: 1998.1.22

395L0019

PORTUGAL
INFR. No: 98/2168
LET-SENT: 1998.10.16

Inland transport, safety and technology

391L439

GERMANY
INFR. No: 97/2027
LET-SENT: 1997.6.10

GREECE
INFR. No: 96/2214
SLET-SENT: 1998.8.21

FRANCE
INFR. No: 96/2216
RO-SENT: 1998.4.22

ITALY
INFR. No: 96/2219
RO-SENT: 1998.12.18

LUXEMBOURG
INFR. No: 96/2213
LET-SENT: 1997.6.23

NETHERLANDS
INFR. No: 96/2220
RO-SENT: 1998.12.7

AUSTRIA
INFR. No: 97/2028
SLET-SENT: 1998.12.30

SWEDEN
INFR. No: 96/2222
RO-SENT: 1998.1.22

394L0055

GERMANY
INFR. No: 98/2079
LET-SENT: 1998.11.6

Air transport, safety and social aspects

3 9 1 L 6 7 0

FRANCE
INFR. No: 97/2143
LET-SENT: 1998.3.5

Sea transport, safety and technical aspects

3 9 3 L 0 0 7 5

BELGIUM
INFR. No: 95/2219
RO-SENT: 1998.3.4

GERMANY
INFR. No: 95/2218
RO-SENT: 1997.10.7

FRANCE
INFR. No: 95/2216

SLET-SENT: 1998.5.18

UNITED KINGDOM
INFR. No: 96/2170
RO-SENT: 1997.9.29

3 9 4 L 0 0 5 7

GERMANY
INFR. No: 97/2023
RO-SENT: 1998.2.24

SPAIN
INFR. No: 96/2211
RO-SENT: 1998.3.4

Sea transport, ports and social aspects

3 9 4 L 0 0 5 8

BELGIUM
INFR. No: 96/2049
RO-SENT: 1998.4.6

TELEVISION WITHOUT FRONTIERS

3 8 9 L 0 5 5 2

BELGIUM
INFR. No: 92/2159
RO-171: 1998.12.16

FRANCE
INFR. No: 92/2164
REF: 1998.6.24

LUXEMBOURG
INFR. No: 92/2162
LET-SENT: 1992.11.3

ITALY
INFR. No: 94/4750
REF STAY OF PROCEEDINGS: 1998.6.24

FINLAND
INFR. No: 96/2209
SLET-SENT 1999.10.28

GREECE
INFR. No: 95/4452
RO STAY OF EXECUTION: 1998.12.2

ENVIRONMENT

Freedom of access to information

3 9 0 L 0 3 1 3

BELGIUM
INFR. No: 93/4372
RO-SENT: 1998.10.30

GERMANY
INFR. No: 94/2196
REF: 1997.6.9

SPAIN
INFR. No: 95/4678
RO-SENT: 1997.9.1

SPAIN
INFR. No: 93/2197
RO-SENT: 1997.9.3

FRANCE
INFR. No: 93/2058

RO SUSPENSION LIFTED: 1998.12.2

PORTUGAL
INFR. No: 94/4682
RO-SENT: 1998.7.6

Environmental impact assessment

3 8 5 L 0 3 3 7

GERMANY
INFR. No: 93/2003
RO-SENT: 1998.7.6

GERMANY
INFR. No: 90/4710
JUDGMENT REF: 1998.10.22

SPAIN
INFR. No: 90/0129
SRO-SENT: 1998.12.18

IRELAND
INFR. No: 89/0425
REF: 1996.12.5

ITALY
INFR. No: 91/0794
SRO-SENT: 1998.9.29

PORTUGAL
INFR. No: 91/2168
REF: 1997.4.17

UNITED KINGDOM
INFR. No: 92/5033
RO-SENT: 1998.8.10

Water

3 7 5 L 0 4 4 0

ITALY
INFR. No: 89/0206
SRO-SENT: 1998.12.2

3 7 6 L 0 1 6 0

DENMARK
INFR. No: 98/2195
RO-SENT: 1998.12.11

FINLAND
INFR. No: 98/2197
RO-SENT: 1998.12.11

3 7 6 L 0 4 6 4

IRELAND
INFR. No: 90/5220
RO-SENT: 1997.6.12

3 7 8 L 0 6 5 9

ITALY
INFR. No: 90/0211
LET2-SENT: 1997.7.3

UNITED KINGDOM
INFR. No: 92/2362
RO-SENT: 1997.7.1

3 7 9 L 0 8 6 9

PORTUGAL
INFR. No: 93/2035
REF: 1997.6.24

UNITED KINGDOM
INFR. No: 89/4571
RO-SENT: 1996.3.8

3 8 0 L 0 0 6 8

IRELAND
INFR. No: 89/0163
REF: 1998.9.7

PORTUGAL
INFR. No: 93/2112
REF: 1997.5.12

PORTUGAL
INFR. No: 93/2191
RO-SENT: 1998.7.6

UNITED KINGDOM
INFR. No: 91/0772
REF: 1996.10.15

3 8 6 L 0 2 8 0

PORTUGAL
INFR. No: 92/2358
LET2-SENT: 1998.12.11

3 9 1 L 0 2 7 1

GREECE
INFR. No: 97/2036
RO-SENT: 1998.12.17

3 9 1 L 0 6 7 6

BELGIUM
INFR. No: 94/2239
RO-SENT: 1998.11.23

GERMANY
INFR. No: 94/2237
RO-SENT: 1998.9.29

GREECE
INFR. No: 96/2201
RO-SENT: 1998.12.17

FRANCE
INFR. No: 96/2231
RO-SENT: 1998.4.28

ITALY
INFR. No: 96/2232
RO-SENT: 1998.2.19

ITALY
INFR. No: 94/2245
REF: 1997.5.20

PORTUGAL
INFR. No: 97/2247
RO-SENT: 1998.11.12

UNITED KINGDOM
INFR. No: 96/2106
RO-SENT: 1998.6.9

Nature

3 7 9 L 0 4 0 9

BELGIUM
INFR. No: 93/2123
RO-SENT: 1996.12.27

FRANCE
INFR. No: 84/0121
REF2: 98/10/16
INFR. No: 94/4084
RO-SENT: 1998.8.5

INFR. No: 94/4794
RO-SENT: 1998.8.5

ITALY
INFR. No: 92/4279
SRO-SENT: 1998.6.18

Chemicals and Biotechnology

3 8 6 L 0 6 0 9

BELGIUM
INFR. No: 93/2218
REF: 1997.7.22

FRANCE
INFR. No: 98/2031
RO-SENT: 1998.12.18

IRELAND
INFR. No: 91/2216
SRO-SENT: 1998.12.17

LUXEMBOURG
INFR. No: 93/2190
SRO-SENT: 1998.6.9

3 9 0 L 0 2 1 9

BELGIUM
INFR. No: 93/2120
REF: 1997.10.1

PORTUGAL
INFR. No: 97/2128
RO-SENT: 1998.7.15

PORTUGAL
INFR. No: 93/2179
RO-SENT: 1997.9.23

Waste

3 7 5 L 0 4 4 2

GERMANY
INFR. No: 90/0038
LET2-SENT: 1998.3.19

3 8 7 L 0 1 0 1

PORTUGAL
INFR. No: 93/2115
REF: 1998.12.2

3 9 4 L 0 0 6 2

DENMARK
INFR. No: 96/4515
RO-SENT: 1998.11.6

Environment and Industry

3 7 6 L 0 4 6 4

BELGIUM
INFR. No: 97/4357
RO-SENT: 1998.12.18

3 8 4 L 0 3 6 0

PORTUGAL
INFR. No: 92/2183
RO-SENT: 1998.6.30

3 8 7 L 0 2 1 7

BELGIUM
INFR. No: 97/2166
RO-SENT: 1998.10.15

3 8 9 L 0 3 6 9

BELGIUM
INFR. No: 93/2121
RO-SENT: 1998.4.24

3 8 9 L 0 4 2 9

BELGIUM
INFR. No: 93/2122
RO-SENT: 1998.4.24

Radiation protection

3 8 4 L 0 4 6 6

SPAIN
INFR. No: 91/0723
REF: 1996.1.24

3 8 4 L 0 4 6 7

LUXEMBOURG
INFR. No: 88/0487
REF: 1997.12.10

NETHERLANDS
INFR. No: 88/0488
REF: 1993.12.14

3 8 9 L 0 6 1 8

GERMANY
INFR. No: 93/2276
REF: 1997.12.10

SPAIN
INFR. No: 95/2041
RO: 1998.12.9

3 9 0 L 0 6 4 1

FRANCE
INFR. No: 94/2097
REF: 1997.12.10

TELECOMMUNICATIONS

3 9 2 L 0 0 4 4

PORTUGAL
INFR. No: 95/2307
LET: 1998.12.16

3 9 5 L 0 0 6 2

GERMANY
INFR. No: 97/2218
LET-SENT: 1997.11.21

PORTUGAL
INFR. No: 97/2220
RO: 1998.12.2

3 9 7 L 0 0 1 3

BELGIUM
INFR. No: 98/2119
RO: 1998.12.16

SPAIN
INFR. No: 98/2379
LET: 1998.12.16

FRANCE
INFR. No: 98/2121
RO: 1998.12.16

ITALY
INFR. No: 98/2075
RO: 1998.12.16

LUXEMBOURG
INFR. No: 98/2124
RO: 1998.12.16

AUSTRIA
INFR. No: 98/2126
RO: 1998.12.2

3 9 7 L 0 0 3 3

BELGIUM
INFR. No: 98/2131
RO: 1998.12.16

FRANCE
INFR. No: 98/2122
RO: 1998.12.16

LUXEMBOURG
INFR. No: 98/2125
RO: 1998.12.2

INTERNAL MARKET AND FINANCIAL SERVICES

Free movement of persons and citizens' rights

3 6 8 L 0 3 6 0 AND 3 7 3 L 0 1 4 8

ITALY
INFR. No: 97/2100
RO-SENT: 1998.5.18

3 9 3 L 0 0 9 6

FRANCE
INFR. No: 97/2084
RO: 1998.12.2

Public procurement

3 8 9 L 0 6 6 5

SPAIN
INFR. No: 95/2054
RO: 1997.3.19

PORTUGAL
INFR. No: 94/2236
REF: 1997.12.10

3 9 0 L 0 5 3 1 AND 3 9 3 L 0 0 3 7

ITALY
INFR. No: 94/4576
RO: 1996.6.26

3 9 2 L 0 0 1 3

FRANCE
INFR. No: 95/2082
REF-SENT: 1997.6.17

ITALY
INFR. No: 95/2071
RO: 1996.6.26

UNITED KINGDOM
INFR. No: 95/2084
RO-SENT: 1998.7.8

3 9 2 L 0 0 5 0, 3 9 3 L 0 0 3 6 AND 3 9 3 L 0 0 3 7

BELGIUM
INFR. No: 94/2289
REF: 1998.12.2

ITALY
INFR. No: 97/4522
RO-SENT: 1998.8.10

3 9 3 L 0 0 3 7

PORTUGAL
INFR. No: 95/2149
REF: 1997.12.10

Insurance

3 9 2 L 0 0 4 9

FRANCE
INFR. No: 96/2079
REF-SENT: 1998.7.29

3 9 2 L 0 0 4 9 AND 3 9 2 L 0 0 9 6

FRANCE
INFR. No: 95/2046
REF-SENT: 1998.7.7

Financial information and company law

3 7 8 L 0 6 6 0

UNITED KINGDOM
INFR. No: 97/2235
RO: 1998.12.9

3 8 3 L 0 3 4 9

UNITED KINGDOM
INFR. No: 97/2238
RO: 1998.12.9

3 9 0 L 0 6 0 4

UNITED KINGDOM
INFR. No: 97/2242
RO: 1998.12.9

3 9 0 L 0 6 0 5

UNITED KINGDOM
INFR. No: 97/2243
RO: 1998.12.9

Civil law and access to justice. Freedom of establishment and freedom to provide services

3 8 6 L 0 6 5 3

ITALY
INFR. No: 95/2178
REF: 1998.12.2

Regulated professions regarding the qualifications

3 7 5 L 0 3 6 2

SPAIN
INFR. No: 90/0981
SRO-SENT: 1998.8.10

3 7 7 L 0 4 5 3

BELGIUM
INFR. No: 96/2078
RO: 1998.10.7

3 7 8 L 0 6 8 6

ITALY
INFR. No: 95/2179
REF: 1998.12.2

3 8 6 L 0 0 1 7

SPAIN
INFR. No: 90/0349
REF-SENT: 1998.11.23

3 8 9 L 0 0 4 8

FRANCE
INFR. No: 96/2254
RO-SENT: 1998.10.15

3 8 9 L 0 5 9 4

FRANCE
INFR. No: 92/2292
REF-SENT: 1998.7.10

3 9 2 L 0 0 5 1

SPAIN
INFR. No: 95/4918
RO-SENT: 1998.11.23

TAXATION

Mutual assistance

3 7 7 L 0 7 9 9

GERMANY
INFR. No: 90/6019
SLET-SENT: 1997.4.7

UNITED KINGDOM
INFR. No: 96/2196
LET-SENT: 1997.4.7

CONSUMER PROTECTION AND PUBLIC HEALTH

3 9 0 L 0 3 1 4

GREECE
INFR. No: 98/2275
LET-SENT: 1998.10.16

ITALY
INFR. No: 96/2155
RO-SENT: 1998.12.18

3 9 3 L 0 0 1 3

BELGIUM
INFR. No: 94/2171
RO-SENT: 1997.12.19

GREECE
INFR. No: 98/2028
LET-SENT: 1998.4.6

FRANCE
INFR. No: 98/2025
LET-SENT: 1998.4.6

ITALY
INFR. No: 98/2026
RO-SENT: 1998.12.18

NETHERLANDS
INFR. No: 94/2170
RO-SENT: 1998.4.6

PORTUGAL
INFR. No: 98/2027
LET-SENT: 1998.4.6

SWEDEN
INFR. No: 98/2032
RO-SENT: 1998.12.21

3 9 4 L 0 4 7

SWEDEN
INFR. No: 98/2008
LET-SENT: 1998.11.23

PART 3: INCORRECT APPLICATION OF DIRECTIVES

NB 1: In this part, dates are given in year/month/day format. Abbreviations are the same as for Part 1.

NB 2: The items of information for each sector and subsector in this part of the annex are set out in descending columns read from left to right; a single infringement case is sometimes spread over two columns.

INDUSTRY

Technical standards and regulations

398L034

GERMANY
INFR. No: 98/2312
LET-SENT: 1998.9.11

INFR. No: 96/1134
LET-SENT: 1996.12.20

INFR. No: 96/0227
LET-SENT: 1996.4.1

INFR. No: 92/0956
RO-SENT: 1995.9.7

BELGIUM
INFR. No: 96/0556
LET-SENT: 1996.11.5

INFR. No: 96/0555
LET-SENT: 1996.11.5

INFR. No: 95/0649
LET-SENT: 1995.11.6

INFR. No: 98/0102
LET-SENT: 1998.3.26

FRANCE
INFR. No: 96/0554
LET-SENT: 1996.11.5

INFR. No: 97/0009
LET-SENT: 1997.1.28

INFR. No: 97/0194
LET-SENT: 1997.7.4

INFR. No: 97/0193
LET-SENT: 1997.7.4

INFR. No: 98/0765
LET-SENT: 1998.2.23

INFR. No: 97/0199
RO-SENT: 1998.12.17

GREECE
INFR. No: 94/0621
LET-SENT: 1994.7.28

IRELAND
INFR. No: 97/0007
LET-SENT: 1997.2.4

ITALY
INFR. No: 96/0552
LET-SENT: 1996.11.5

NETHERLANDS
INFR. No: 95/0007
LET-SENT: 1995.2.22

PORTUGAL
INFR. No: 98/0101
LET-SENT: 1998.3.26

INFR. No: 98/0100
LET-SENT: 1998.3.26

UNITED KINGDOM
INFR. No: 98/2313
LET-SENT: 1998.9.22

Chemicals, plastic, rubber

393L0015

GERMANY
INFR. No: 97/4054
LET-SENT: 1998.5.27

SPAIN
INFR. No: 94/0663
LET-SENT: 1998.8.9

Pressure vessels, medical instruments and metrology

373L0023

ITALY
INFR. No: 95/4272
RO-SENT: 1997.1.30

388L378

FRANCE
INFR. No: 97/2102
LET-SENT: 1998.9.29

389L0392

PORTUGAL
INFR. No: 94/2279
RO-SENT: 1998.4.23

389L0686

PORTUGAL
INFR. No: 95/2322
RO-SENT: 1997.10.15

GERMANY
INFR. No: 97/4480
LET-SENT: 1998.9.24

390L0396

GERMANY
INFR. No: 96/4294
LET: 1996.10.16

SPAIN
INFR. No: 96/4523
LET-SENT: 1997.9.18

ITALY
INFR. No: 93/2294
REF: 1997.3.18

Construction

389L0106

GREECE
INFR. No: 94/4276
RO-SENT: 1998.12.4

Food

379L112

GREECE
INFR. No: 98/4129
LET-SENT: 1998.9.4

380L777

GERMANY
INFR. No: 96/2189
LET-SENT: 1998.11.25

383L0417

NETHERLANDS
INFR. No: 95/2309
RO-SENT: 1998.1.22

Pharmaceuticals

365L0065

UNITED KINGDOM
INFR. No: 95/4113
LET-SENT: 1996.8.28

INFR. No: 94/4658
RO-SENT: 1998.2.6

NETHERLANDS
INFR. No: 97/4396
LET-SENT: 1997.12.8

389L0105

FINLAND
INFR. No: 97/4349
RO-SENT: 1998.12.17

COMPETITION

380L723, 385L413 AND 393L0084

GREECE
INFR. No: 96/2253
RO-SENT: 1997.11.21

396L0019 AND 396L0002

GREECE
INFR. No: 96/2237
RO-SENT: 1998.12.17

INFR. No: 98/2100
RO-SENT: 1998.12.17

PORTUGAL
INFR. No: 98/2148
RO-SENT: 1998.12.17

INFR. No: 98/2072
LET-SENT: 1998.5.27

EMPLOYMENT AND SOCIAL AFFAIRS

368L0360

BELGIUM
INFR. No: 92/2290
REF: 1995.10.30

NETHERLANDS
INFR. No: 95/4787
SLET-SENT: 1998.12.4

INFR. No: 95/4823
RO-SENT: 1997.11.6

375L0117 AND 379L0007

GREECE
INFR. No: 91/4668
REF: 1998.5.18

AGRICULTURE

Veterinary matters

364L0433 AND 391L0498

FRANCE
INFR. No: 96/2022
RO-SENT: 1998.2.9

364L0433

GERMANY
INFR. No: 93/2097
JUDGMENT: 12.11.1998

364L0433, 372L0461, 389L0662 AND 391L0495

UNITED KINGDOM
INFR. No: 97/2152
RO-SENT: 1998.5.26

364L0433, 371L0118, 377L0099, 391L0495, 392L0045 AND 394L0065

FRANCE
INFR. No: 95/4080
RO-SENT: 1998.8.24: SG (98) D/07276

372L0462, 385L0073, 390L0675 AND 393L0118

BELGIUM
INFR. No: 95/2006
RO-SENT: 1998.9.9

GREECE
INFR. No: 95/2011
REF: 1998.12.18

385L0073 AND 393L0118

GREECE
INFR. No: 94/2181
REF: 1998.6.10

389L0108 AND 391L0493

ITALY
INFR. No: 96/2198
RO-SENT: 1998.8.18

390L0667

PORTUGAL
INFR. No: 97/2216
RO-SENT: 1998.5.26

Seeds and plants

366L0401 AND 370L0457

FRANCE
INFR. No: 97/2002
RO-SENT: 1998.6.24

Technical standards

383L0189, 388L0182 AND 398L0034

NETHERLANDS
INFR. No: 93/2267
REF: 1997.9.30

TRANSPORT

Inland transport, goods

374L0561, 389L0048 AND 389L0438

FRANCE
INFR. No: 94/4116
SLET-SENT: 1998.9.16

392L0106

ITALY
INFR. No: 95/4557
RO-SENT: 1998.7.24

393L0089

AUSTRIA
INFR. No: 96/2059
REF: 1998.5.29

Inland transport, technology safety

385L0003 AND 396L0053

AUSTRIA
INFR. No: 97/4571
LET-SENT: 1998.9.3

Air transport, air policy

392L2407, 392L2408 AND 392L2409

AUSTRIA
INFR. No: 95/2090
REF: 1998.12.18

BELGIUM
INFR. No: 95/2085
REF: 1998.12.18

DENMARK
INFR. No: 95/2087
REF: 1998.12.18

FINLAND
INFR. No: 95/2088
REF: 1998.12.18

LUXEMBOURG
INFR. No: 95/2086
REF: 1998.12.18

SWEDEN
INFR. No: 95/2089
REF: 1998.12.18

GERMANY
INFR. No: 96/2073
REF: 1998.12.18

UNITED KINGDOM
INFR. No: 95/2125
REF: 1998.12.18

NETHERLANDS
INFR. No: 98/2094
LET: 1998.11.4

FRANCE
INFR. No: 98/2325
LET: 1998.11.4

Air transport, safety and social aspects

391L670

BELGIUM
INFR. No: 95/4152
RO-SENT: 1998.8.19

Maritime transport, safety and technical aspects

394L0057

GERMANY
INFR. No: 97/4447
LET-SENT: 1998.9.24

TELEVISION WITHOUT FRONTIERS

3 8 9 L 0 5 5 2

GREECE
INFR. No: 95/4452
LET-SENT: 1996.1.24

ITALY
INFR. No: 94/4750
RO-SENT: 1997.8.7

ENVIRONMENT

Freedom of access to information

3 9 0 L 0 3 1 3

GERMANY
INFR. No: 96/4055
RO-SENT: 1998.10.28

PORTUGAL
INFR. No: 97/2093
RO-SENT: 1998.6.30

UNITED KINGDOM
INFR. No: 93/4022
RO: 1998.3.25

Environmental impact assessment

3 8 5 L 0 3 3 7

IRELAND
INFR. No: 96/4646
RO-SENT: 1998.12.21

Water

3 7 5 L 0 4 4 0

FRANCE
INFR. No: 92/4200
RO-SENT: 1997.10.28

PORTUGAL
INFR. No: 92/2300
REF: 1997.6.4

BELGIUM
INFR. No: 98/2060
RO-SENT: 1998.12.22

LUXEMBOURG
INFR. No: 98/2063
RO: 1998.10.7

PORTUGAL
INFR. No: 98/2067
RO: 1998.12.2

ITALY
INFR. No: 98/2065
RO-SENT: 1998.12.22

3 7 6 L 0 1 6 0

UNITED KINGDOM
INFR. No: 86/0214
LET2-SENT: 1998.10.30

BELGIUM
INFR. No: 89/0416
REF: 1998.8.5

SPAIN
INFR. No: 89/0418
REF: 1996.3.22

GERMANY
INFR. No: 89/0317
REF: 1997.5.23

FRANCE
INFR. No: 96/2107
RO-SENT: 1998.8.5

ITALY
INFR. No: 87/0356
SRO-SENT: 1993.3.15

NETHERLANDS
INFR. No: 96/2109
RO-SENT: 1998.10.15

PORTUGAL
INFR. No: 96/2108
RO-SENT: 1998.12.11

3 7 6 L 0 4 6 4

GERMANY
INFR. No: 89/2343
REF: 1997.5.9

GREECE
INFR. No: 89/0303
LET2-SENT: 1998.12.18

GREECE
INFR. No: 90/0979
REF: 1997.11.11

GREECE
INFR. No: 91/0620
REF: 1995.7.6

BELGIUM
INFR. No: 91/0205
REF: 1997.5.30

SPAIN
INFR. No: 90/0960
REF: 1996.6.25

SPAIN
INFR. No: 94/4548
SRO-SENT: 1997.7.11

FRANCE
INFR. No: 91/0206
RO-SENT: 1993.5.18

ITALY
INFR. No: 91/0642
REF: 1996.8.22

LUXEMBOURG
INFR. No: 91/0207
REF: 1996.6.18

NETHERLANDS
INFR. No: 90/4113
REF: 1998.4.17

PORTUGAL
INFR. No: 91/0556
REF: 1998.7.17

UNITED KINGDOM
INFR. No: 91/0785
RO-SENT: 1997.3.25

SPAIN
INFR. No: 90/2190
SRO-SENT: 1995.1.19

3 7 9 L 0 9 2 3

ITALY
INFR. No: 91/0743
REF: 1996.7.1

3 8 0 L 0 7 7 8

AUSTRIA
INFR. No: 97/2155
RO-SENT: 1998.10.21

3 8 4 L 0 1 5 6

PORTUGAL
INFR. No: 92/2303
LET2-SENT: 1998.12.11

3 9 1 L 0 2 7 1

BELGIUM
INFR. No: 98/2012
RO-SENT: 1998.12.17

SPAIN
INFR. No: 97/2069
RO-SENT: 1998.12.11

3 9 1 L 0 6 7 6

SPAIN
INFR. No: 96/2205
REF: 1998.7.17

SPAIN
INFR. No: 94/2240
REF: 1997.2.19

LUXEMBOURG
INFR. No: 97/2192
RO-SENT: 1998.10.21

Nature

379L0409

BELGIUM
INFR. No: 95/4435
RO-SENT: 1998.9.29

GERMANY
INFR. No: 92/4575
RO-SENT: 1998.12.11

SPAIN
INFR. No: 88/0295
LET2-SENT: 1996.3.8

SPAIN
INFR. No: 91/4380
RO-SENT: 1996.8.6

SPAIN
INFR. No: 97/4466
RO: 1998.7.29

FRANCE
INFR. No: 89/4910
REF: 1998.4.3

FRANCE
INFR. No: 91/0640
RO-SENT: 1994.9.13

FRANCE
INFR. No: 91/4599
RO-SENT: 1995.7.3
REF: 1997.4.30

FRANCE
INFR. No: 92/4052
RO-SENT: 1997.12.19

FRANCE
INFR. No: 92/4527
RO-SENT: 1997.12.19

FRANCE
INFR. No: 94/4733
REF: 1998.10.16

FINLAND
INFR. No: 98/2208
RO-SENT: 1998.12.17

ITALY
INFR. No: 93/2165
RO-SENT: 1998.8.18

IRELAND
INFR. No: 95/4840
RO-SENT: 1998.4.8

LUXEMBOURG
INFR. No: 88/0172
SRO-SENT: 1997.7.14

NETHERLANDS
INFR. No: 87/0176
REF: 1996.1.5

NETHERLANDS
INFR. No: 93/4479
REF: 1998.3.2

PORTUGAL
INFR. No: 96/2206
RO-SENT: 1998.12.17

392L0043

GERMANY
INFR. No: 95/2225
RO-SENT: 1997.12.19

AUSTRIA
INFR. No: 96/2089
RO-SENT: 1998.4.28

DENMARK
INFR. No: 96/2090
RO-SENT: 1998.1.19

SPAIN
INFR. No: 95/2231
RO-SENT: 1997.11.27

FINLAND
INFR. No: 95/2224
RO-SENT: 1998.1.9

FRANCE
INFR. No: 95/2230
RO-SENT: 1997.11.6

IRELAND
INFR. No: 95/2229
RO-SENT: 1997.12.19

ITALY
INFR. No: 96/2091
RO: 1997.10.15

LUXEMBOURG
INFR. No: 95/2226
RO-SENT: 1997.11.12

NETHERLANDS
INFR. No: 95/2228
RO-SENT: 1997.12.16

UNITED KINGDOM
INFR. No: 96/2092
RO-SENT: 1997.12.19

Waste

375L0439 AND
387L0101

GERMANY
INFR. No: 90/5097
REF: 1997.3.10

375L0442 AND
391L0156

GREECE
INFR. No: 89/0138
REF 2: 1997.11.17

PORTUGAL
INFR. No: 93/2159
SLET-SENT: 1998.2.24

GREECE
INFR. No: 97/2190
RO-SENT: 1998.9.29

ITALY
INFR. No: 90/0262
REF: 1997.10.23

PORTUGAL
INFR. No: 93/4085
RO-SENT: 1998.7.6

GERMANY
INFR. No: 97/2177
RO-SENT: 1998.12.21

SPAIN
INFR. No: 97/2180
RO-SENT: 1998.10.21

FRANCE
INFR. No: 97/2178
RO-SENT: 1998.8.5

ITALY
INFR. No: 97/2182
RO-SENT: 1998.10.21

LUXEMBOURG
INFR. No: 97/2179
RO-SENT: 1998.8.6

UNITED KINGDOM
INFR. No: 97/2185
RO: 1998.10.97

IRELAND
INFR. No: 97/2181
RO-SENT: 1998.7.27

391L0157

BELGIUM
INFR. No: 94/2271
REF: 1997.10.6

SPAIN
INFR. No: 94/2277
LET2-SENT: 1998.12.17

FRANCE
INFR. No: 94/2270
REF: 1998.5.14

GREECE
INFR. No: 94/2273
REF: 1998.6.10

PORTUGAL
INFR. No: 97/2073
RO-SENT: 1998.7.6

391L0689

BELGIUM
INFR. No: 98/2171
RO: 1998.12.2

GREECE
INFR. No: 98/2174
RO-SENT: 1998.12.17

ITALY
INFR. No: 98/2176
RO-SENT: 1998.12.17

PORTUGAL
INFR. No: 98/2178
RO: 1998.12.2

394L0062

BELGIUM
INFR. No: 97/2175
RO-SENT: 1998.10.15

NETHERLANDS
INFR. No: 97/2189
RO-SENT: 1998.11.26

SWEDEN
INFR. No: 97/2184
RO-SENT: 1998.11.23

Environment and Industry

382L0501

SPAIN
INFR. No: 94/4865
RO-SENT: 1997.7.11

ITALY
INFR. No: 91/2065
REF: 1997.9.29

389L0369

SPAIN
INFR. No: 93/4621
RO-SENT: 1998.7.24

TELECOMMUNICATIONS

390L0388, 396L0019 AND 397L0033

PORTUGAL
INFR. No: 98/2132
LET-SENT: 1998.9.29

INTERNAL MARKET AND FINANCIAL SERVICES

Free movement of persons and citizens' rights

364L0221

FRANCE
INFR. No: 96/4026
RO-SENT: 1998.7.13

ITALY
INFR. No: 97/4899
RO-SENT: 1998.12.22

373L0148

FRANCE
INFR. No: 95/4725
REF: 1998.6.24

FRANCE
INFR. No: 95/4317
REF: 1998.6.24

390L0364, 390L0365 AND 390L0366

ITALY
INFR. No: 94/2218
REF-SENT: 1998.11.25

393L0096

FRANCE
INFR. No: 94/2215
REF-SENT: 1998.6.16

Public procurement

371L0305 AND 397L0037

BELGIUM
INFR. No: 95/2110
RO-SENT: 1998.3.23

388L0295

IRELAND
INFR. No: 94/0608
JUDGMENT: 1998.12.17

389L0440 AND 389L0665

ITALY
INFR. No: 95/4646
RO-SENT: 1998.3.23

389L0665 AND 393L0037

AUSTRIA
INFR. No: 95/4325
REF-SENT: 1996.10.7

389L0665, 392L0050 AND 393L0036

AUSTRIA
INFR. No: 96/4698
REF: 1998.12.2

390L0531, 392L0050, 393L0036, 393L0037 AND 393L0038

AUSTRIA
INFR. No: 96/4081
RO-SENT: 1998.8.7

392L0050

BELGIUM
INFR. No: 95/4379
RO: 1996.7.24

GERMANY
INFR. No: 97/4076
RO-SENT: 1998.12.30

FRANCE
INFR. No: 96/4543
RO-SENT: 1998.5.15

IRELAND
INFR. No: 96/4032
RO-SENT: 1997.11.4

ITALY
INFR. No: 97/4230
SRO-SENT: 1998.12.22

ITALY
INFR. No: 95/5004
RO-SENT: 1998.8.10

UNITED KINGDOM
INFR. No: 96/4463
RO-SENT: 1998.7.29

UNITED KINGDOM
INFR. No: 95/4052
RO-SENT: 1996.9.24

392L0050 AND 393L0036

ITALY
INFR. No: 95/4415
REF: 1998.11.11

393L0036

GREECE
INFR. No: 95/4837
RO: 1998.6.24

ITALY
INFR. No: 95/4716
RO-SENT: 1998.8.10

ITALY
INFR. No: 96/4623
RO-SENT: 1998.12.17

393L0036 AND 393L0037

NETHERLANDS
INFR. No: 94/4800
RO: 1998.12.2

393L0037

BELGIUM
INFR. No: 94/4646
REF-SENT: 1996.10.2

FRANCE
INFR. No: 95/2107
REF-SENT: 1998.6.22

FRANCE
INFR. No: 95/2098
REF: 1998.12.2

ITALY
INFR. No: 97/4218
RO-SENT: 1998.9.9

393L0038

FRANCE
INFR. No: 95/2252
REF: 1998.1.22

Banks

391L0308

AUSTRIA
INFR. No: 95/2121
REF-SENT: 1998.7.28

Insurance

377L0092

SPAIN
INFR. No: 95/4242
RO-SENT: 1998.7.29

384L0005

SPAIN
INFR. No: 95/2048
REF-SENT: 1998.1.23

392L0049

GERMANY
INFR. No: 95/2108
RO-SENT: 1998.1.22

BELGIUM
INFR. No: 95/2112
REF-SENT: 1998.6.2

Financial information and company law

368L0151 AND 378L0660

GERMANY
INFR. No: 90/0322
JUDGMENT: 1998.9.29

384L0253

ITALY
INFR. No: 97/2016
RO: 1997.12.10

Regulated professions – qualifications

368L0368

GREECE
INFR. No: 94/4176
REF: 1997.12.10

377L0452 AND 377L0453

BELGIUM
INFR. No: 96/2068
RO-SENT: 1998.10.22

SPAIN
INFR. No: 91/4352
RO-SENT: 1998.11.23

378L0686

GERMANY
INFR. No: 87/0434
REF-SENT: 1998.7.15

378L0686 AND 378L0687

SPAIN
INFR. No: 90/0411
RO-SENT: 1992.8.6

ITALY
INFR. No: 90/0412
JUDGMENT: 1995.6.1

ITALY
INFR. No: 96/2179
REF: 1998.12.2

385L0384

ITALY
INFR. No: 94/4270
REF: 1998.12.16

385L0432

ITALY
INFR. No: 91/0820
LET 171-SENT: 1997.3.25

389L0048

GERMANY
INFR. No: 94/4568
RO-SENT: 1998.3.13

GERMANY
INFR. No: 95/4533
RO: 1998.12.9

FRANCE
INFR. No: 90/4379
REF: 1998.6.24

SPAIN
INFR. No: 94/4348
RO-SENT: 1997.6.10

BELGIUM
INFR. No: 95/4173
REF: 1998.12.2

392L0051

GERMANY
INFR. No: 95/4816
RO-SENT: 1998.8.7

ITALY
INFR. No: 94/4639
REF: 1998.8.7

TAXATION

Vat

377L0388

GERMANY
INFR. No: 96/2124
LET-SENT: 1997.7.14

GERMANY
INFR. No: 93/2229
REF: 1998.11.26

GERMANY
INFR. No: 93/2142
REF: 1997.12.22

GERMANY
INFR. No: 98/2232
LET-SENT: 1998.11.6

GERMANY
INFR. No: 98/2133
LET-SENT: 1998.11.18

GERMANY
INFR. No: 97/2078
LET-SENT: 1997.9.17

AUSTRIA
INFR. No: 96/2081
RO-SENT: 1998.8.7

AUSTRIA
INFR. No: 96/2133
LET-SENT: 1997.10.29

AUSTRIA
INFR. No: 97/2231
LET-SENT: 1998.3.5

AUSTRIA
INFR. No: 98/2134
LET-SENT: 1998.11.18

AUSTRIA
INFR. No: 96/4733
LET-SENT: 1998.1.22

BELGIUM
INFR. No: 96/2187
SLET-SENT: 1998.6.11

BELGIUM
INFR. No: 93/2174
RO-SENT: 1998.7.8

SPAIN
INFR. No: 92/2073
REF: 1996.4.17

SPAIN
INFR. No: 90/0033
REF: 1997.12.5

SPAIN
INFR. No: 98/2242
LET-SENT: 1998.10.2

SPAIN
INFR. No: 98/2136
LET-SENT: 1998.11.18

SPAIN
INFR. No: 97/2172
LET-SENT: 1997.12.22

FINLAND
INFR. No: 98/2137
LET-SENT: 1998.11.18

FINLAND
INFR. No: 97/2156
RO-SENT: 1998.11.4

FRANCE
INFR. No: 95/4515
RO-SENT: 1998.3.5

FRANCE
INFR. No: 95/4741
RO-SENT: 1998.6.11

FRANCE
INFR. No: 93/4391
RO-SENT: 1996.6.11

FRANCE
INFR. No: 88/0213
REF: 1997.7.30

FRANCE
INFR. No: 89/5085
REF: 1998.12.30

FRANCE
INFR. No: 98/4246
RO-SENT: 1998.12.18

FRANCE
INFR. No: 98/4401
LET-SENT: 1998.7.24

FRANCE
INFR. No: 98/2103
LET-SENT: 1998.6.18

FRANCE
INFR. No: 97/2215
RO-SENT: 1998.11.17

FRANCE
INFR. No: 97/2104
RO-SENT: 1998.7.24

GREECE
INFR. No: 88/0199
REF: 1998.7.16

IRELAND
INFR. No: 88/0200
REF: 1997.10.21

ITALY
INFR. No: 98/2138
LET-SENT: 1998.11.4

ITALY
INFR. No: 97/4365
SLET-SENT: 1998.8.10

NETHERLANDS
INFR. No: 94/2290
LET-SENT: 1996.9.5

NETHERLANDS
INFR. No: 94/2100
REF: 1998.9.14

NETHERLANDS
INFR. No: 88/0201
REF: 1997.12.4

PORTUGAL
INFR. No: 93/2141
RO-SENT: 1996.4.10

PORTUGAL
INFR. No: 98/2234
LET-SENT: 1998.10.2

PORTUGAL
INFR. No: 98/2139
LET-SENT: 1998.11.18

UNITED KINGDOM
INFR. No: 94/2099
RO-SENT: 1998.10.14

UNITED KINGDOM
INFR. No: 88/0202
REF: 1997.10.22

UNITED KINGDOM
INFR. No: 98/2140
LET-SENT: 1998.11.18

SWEDEN
INFR. No: 98/2141
LET-SENT: 1998.11.18

SWEDEN
INFR. No: 97/2188
LET-SENT: 1998.7.24

377L0388 AND 389L0465

ITALY
INFR. No: 92/2242
RO-SENT: 1996.5.13

NETHERLANDS
INFR. No: 92/2241
REF: 1996.9.24

377L0388 AND 379L1072

FRANCE
INFR. No: 92/4607
REF: 1997.12.18

377L0388 AND 392L0012

GREECE
INFR. No: 97/2148
SLET-SENT: 1998.10.22

392L0077

PORTUGAL
INFR. No: 94/2178
REF: 1998.7.20

394L0005

UNITED KINGDOM
INFR. No: 95/4689
SLET-SENT: 1998.8.10

Excise duties / car taxation

392L0012

AUSTRIA
INFR. No: 97/4358
LET-SENT: 1998.11.6

BELGIUM
INFR. No: 94/4860
RO-SENT: 1997.12.15

GREECE
INFR. No: 95/4625
LET-SENT: 1998.2.4

392L0081

GERMANY
INFR. No: 97/2068
LET-SENT: 1997.12.3

392L0082

FINLAND
INFR. No: 97/2071
RO-SENT: 1998.8.6

ITALY
INFR. No: 97/4868
RO-SENT: 1998.12.18

392L0083

GREECE
INFR. No: 97/4099
LET-SENT: 1998.12.16

UNITED KINGDOM
INFR. No: 95/2114
LET-SENT: 1995.10.25

392L0012 AND 392L0082

ITALY
INFR. No: 97/2251
LET-SENT: 1998.11.4

392L0012 AND 392L0083

FRANCE
INFR. No: 95/4404
RO-SENT: 1997.12.22

FRANCE
INFR. No: 97/4373
RO-SENT: 1998.8.5

392L0012, 392L0083 AND 392L0084

FRANCE
INFR. No: 95/2151
REF: 1997.12.22

383L0189 AND 388L0182

ITALY
INFR. No: 97/0018
LET-SENT: 1997.4.15

392L0079 AND 395L0059

FRANCE
INFR. No: 98/4061
LET-SENT: 1998.7.29

395L0059

GREECE
INFR. No: 94/4034
REF: 1998.6.11

Capital duties

3 6 9 L 0 3 3 5

GREECE
INFR. No: 91/2193
REF: 1998.11.26

Direct taxes

3 9 0 L 0 4 3 5

BELGIUM
INFR. No: 95/4973
LET-SENT: 1997.8.7

CONSUMER PROTECTION AND PUBLIC HEALTH

3 9 0 L 0 0 8 8

UNITED KINGDOM
INFR. No: 94/2069
LET-SENT: 1997.6.20

ANNEX V

JUDGMENTS OF THE COURT OF JUSTICE UP TO 31 DECEMBER 1998 NOT YET IMPLEMENTED

BELGIUM

Judgment given on 27.9.1988, Case C-42/87

Judgment given on 3.5.1994, Case C-47/93

Discrimination in public financing; non-university further education

The Belgian authorities have sent a copy of the Decree of 1 October 1998 amending the Universities (Finance and Control) Act. The text is being scrutinised by the Commission.

Judgment given on 19.2.1991, Case C-375/89

Aid for Idealspun/Beaulieu

Proceedings in the Ghent Court of Appeal are still in motion.

Judgment given on 24.3.1994, Case C-80/92

Free movement of wireless telephones

Progress is being made.

Judgment given on 10.9.1996, Case C-11/95

Incomplete transposal of Television without frontiers Directive

Article 171 proceedings are in motion.

Judgment given on 20.2.1997, Case C-344/95

Conditions and arrangements for issuing residence permits

Progress is being made.

Judgment given on 20.3.1997, Case C-294/96

Failure to notify measures transposing Council Directive 90/385/EEC on active implantable medical devices

The Belgian authorities have notified a draft Royal Decree. The Commission is awaiting its publication.

Judgment given on 29.5.1997, Case C-357/96

Failure to notify measures transposing Directive 94/15/EC amending Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms

Article 171 proceedings are in motion.

Judgment given on 12.3.1998, Case C-163/97

Failure to notify national measures transposing Council Directive 92/74/EEC widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products

Article 171 proceedings have been commenced.

Judgment given on 9.7.1998, Case C-323/97

Failure to notify national measures transposing Council Directive 94/80/EC 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

Progress is being made. The Bill to transpose the Directive is about to be passed.

Judgment given on 9.7.1998, Case C-343/97

Non-conformity of national measures transposing Directive 94/51/EC adapting to technical progress Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms and Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms

Article 171 proceedings have been commenced.

Judgment given on 17.9.1998, Case C-323/96

Public construction contracts awarded by the Vlaamse Raad (finishing and sanitary work)

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 6.10.1998, Case C-79/97

Failure to notify measures transposing Commission Directive 94/69/EEC adapting to technical progress for the twenty-first time Council Directive 67/548/EEC on the classification, packaging and labelling of dangerous substances

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 15.10.1998, Case C-268/97

Non-conformity of Belgian legislation with Directive 86/609/EEC on the protection of animals used for experimental and other scientific purposes

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 15.10.1998, Case C-283/97

Failure to notify national measures transposing Council Directive 92/73/EEC widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products

Recent judgment.

Judgment given on 15.10.1998, Case C-326/97

Failure to notify national measures transposing Council Directive 95/27/EC amending Council Directive 86/662/EEC on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders

The Commission has contacted the Belgian authorities to ascertain what measures are planned to comply with the Court's judgment.

GERMANY

Judgment given on 20.9.1990, Case C-5/89

Bug-Alutechnik — repayment of a grant

Proceedings brought by Hoogovens Aluminium Profiltechnik GmbH in the Bundesverwaltungsgericht are still in motion

Judgment given on 10.5.1995, Case C-422/92

Waste disposal

A reply from the German authorities is being studied by the Commission.

Judgment given on 29.9.1998, Case C-191/95

Deposit of annual accounts with the Companies Register

The German authorities have sent the Commission a note informing it that they are considering with the *Länder ways and means of giving effect to the Court's judgment*.

Judgment given on 22.10.1998, Case C-301/95

Incorrect transposal of Council Directive 85/337/EEC on the assessment of the impact of certain public or private projects on the environment

The Commission has contacted the German authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 12.11.1998, Case C-102/96

Barriers to imports of boars from Denmark

Recent judgment.

GREECE

Judgment given on 8.11.1990, Case C-53/88

Protection of workers — insolvency of employers

Article 171 proceedings are in motion.

Judgment given on 7.4.1992, Case C-45/91

Village waste in Crete

Referred to the Court under Article 171(2) of the EC Treaty. It is accompanied by a request for a penalty payment.

Judgment given on 23.3.1995, Case C-365/93

Mutual recognition of qualifications — higher education

Referred to the Court under Article 171(2) of the EC Treaty. It is accompanied by a request for a penalty payment.

Judgment given on 2.5.1996, Case C-311/95

Failure to notify measures transposing the Council Directive on the coordination of procurement procedures for public service contracts

The referral to the Court pursuant to Article 171(2) of the Treaty has been stayed pending official notification of Presidential Decree No 346/98 transposing Directive 92/50/EEC.

Judgment given on 2.7.1996, Case C-290/94

Access to employment: nationality discrimination

Article 171 proceedings have been commenced and are in motion.

Judgment given on 26.6.1997, Case C-329/96

Failure to notify measures transposing Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora

Article 171 proceedings are in motion.

Judgment given on 22.10.1997, Case C-375/95

Taxes on second-hand cars

Progress is being made. A Bill is in the course of passage through Parliament.

Judgment given on 27.11.1997, Case C-62/96

Licensing and flag rights for fishing vessels and merchant ships

Article 171 proceedings have been commenced.

Judgment given on 11.6.1998, Case C-232/95

Pollution of Lake Vegoritis

Article 171 proceedings have been commenced.

Judgment given on 11.6.1998, Case C-233/95

Dangerous substances in the aquatic environment

Article 171 proceedings have been commenced.

Judgment given on 15.10.1998, Case C-385/97

Failure to notify measures transposing Council Directive 93/118/EC on the financing of health inspections and controls of fresh meat and poultrymeat

Recent judgment.

Judgment given on 29.10.1998, Case C-185/96

Nationality discrimination: recognition of large-family status

Recent judgment.

SPAIN

Judgment given on 2.8.1993, Case C-355/90

Conservation of wild birds at Santoña

Progress is being made; a solution is in sight.

Judgment given on 22.3.1994, Case C-375/92

Restrictions on freedom to provide services as tourist guides

Progress is being made in the various regions.

Judgment given on 17.7.1997, Case C-52/96

Transfer of pension rights

Progress is being made.

Judgment given on 9.10.1997, Case C-21/96

Radiological protection of patients subject to medical examination or treatment

Progress is being made.

Judgment given on 18.12.1997, Case C-360/95

Failure to notify measures transposing Council Directive 91/371/EEC on the application of the agreement between the EEC and the Swiss Confederation on direct insurance other than life assurance

A reply from the Spanish authorities is being studied by the Commission.

Judgment given on 18.12.1997, Case C-361/95

Failure to notify measures transposing Council Directive 92/49/EEC on direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC

Progress is being made. The Commission is awaiting official notification of national measures transposing the Directive.

Judgment given on 12.2.1998, Case C-92/96

Incorrect application of Council Directive 76/160/EEC concerning the quality of bathing water as regards inland waters

The Spanish authorities have transmitted a cleaning-up plan for inland waters not complying with the Directive; it is being scrutinised by the Commission.

Judgment given on 7.5.1998, Case C-124/96

VAT exemption for services linked to the sporting activities of sports clubs and federations

Progress is being made.

Judgment given on 28.5.1998, Case C-298/97

Failure to notify programmes required by Article 6 of Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances

Article 171 proceedings have been commenced.

Judgment given on 1.10.1998, Case C-71/97

Incorrect application of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

The Commission has contacted the Spanish authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 29.10.1998, Case C-114/97

Provision of private security services

Recent judgment.

Judgment given on 25.11.1998, Case C-214/96

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)

Recent judgment.

FRANCE

Judgment given on 27.4.1988, Case C-252/85

Wild birds

Referred to the Court under Article 171(2) of the EC Treaty. It is accompanied by a request for a penalty payment.

Judgment given on 12.12.1990, Case C-263/88

Refusal to grant right of establishment and freedom to provide services in the overseas territories

Article 171 proceedings are in motion.

Judgment given on 26.2.1991, Case C-154/89

Restrictions on freedom to provide services as tourist guides

Progress is being made. The French authorities will notify the decree terminating the infringement as soon as it is adopted.

Judgment given on 11.6.1991, Case C-64/88

Fisheries: failure to monitor compliance with technical conservation measures

The Commission is continuing to monitor the full implementation of the Court's judgment.

Judgment given on 13.3.1997, Case C-197/96

Night work for women

Article 171 proceedings are in motion.

Judgment given on 9.12.1997, Case C-265/95

Barriers to imports of Spanish strawberries

The Commission has approached the French authorities to remind them of their obligations under the EC Treaty. It is monitoring the practical implementation of the Court's judgment.

Judgment given on 12.2.1998, Case C-144/97

Failure to notify national measures transposing Council Directive 92/74/EEC widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products

Article 171 proceedings have been commenced.

Judgment given on 24.9.1998, Case C-35/97

Calculation of additional pension entitlements for frontier workers

The Commission has contacted the French authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 15.10.1998, Case C-284/97

Failure to notify national measures transposing Council Directive 93/40/EEC amending Directives 81/851/EEC and 81/852/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products

Recent judgment.

Judgment given on 22.10.1998, Case C-184/96

Preparations based on foie gras

Recent judgment.

IRELAND

Judgment given on 12.6.1997, Case C-151/96

Merchant vessels — flag rights

Article 171 proceedings have been commenced. The Irish authorities have notified legislation which is now being scrutinised by the Commission.

Judgment given on 27.10.1998, Case C-364/97

Failure to notify national measures transposing Council Directive 93/103/EC concerning the minimum safety and health requirements for work on board fishing vessels

Recent judgment.

Judgment given on 17.12.1998, Case C-353/96

Public supply contracts: fertiliser deliveries — Irish Forestry Board Ltd

Recent judgment.

ITALY

Judgment given on 12.7.1988, Case C-322/86

Judgment given on 9.3.1994, Case C-291/93

Quality of fishing waters

Progress is being made.

Judgment given on 26.2.1991, Case C-180/89

Restrictions on freedom to provide services as tourist guides

Article 171 proceedings are in motion.

Judgment given on 1.6.1995, Case C-40/93

Admission to the profession of dentist

Progress is being made.

Judgment given on 29.2.1996, Case C-307/94

Failure to notify measures transposing the Council Directive coordinating legislation relating to certain activities of pharmacists

Progress is being made.

Judgment given on 12.12.1996, Case C-302/95

Failure to notify measures transposing Council Directive 91/271/EEC on treatment of urban waste water

Referred to the Court under Article 171(2) of the Treaty. It is accompanied by a request for a penalty payment.

Judgment given on 23.1.1997, Case C-314/95

Failure to notify measures transposing Council Directive 74/63/EEC fixing maximum levels for undesirable substances and products in feedingstuffs, Council Directive 92/116/EEC amending and updating Directive 71/118/EEC on health problems affecting trade in fresh poultrymeat, and Council Directive 92/117/EEC on protection measures against specified zoonoses

Progress is being made; two of the three Directives have been transposed. The Commission is awaiting publication of the measures transposing Directive 92/117/EEC before terminating this case.

Judgment given on 17.7.1997, Case C-43/97

Failure to notify measures transposing Council Directive 93/36/EEC coordinating procedures for the award of public supply contracts

Progress is being made.

Judgment given on 4.12.1997, Case C-207/96

Night work for women

Article 171 proceedings have been commenced.

Judgment given on 4.12.1997, Case C-225/96

Incorrect application of Directive 79/923/EEC on shellfish waters

Progress is being made.

Judgment given on 18.6.1998, Case C-35/96

Compulsory charges to be applied by customs agents for customs clearance services

The Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment.

Judgment given on 1.10.1998, Case C-285/96

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 Commission has contacted the Italian authorities to ascertain what measures are planned to comply with the Court's judgment.

LUXEMBOURG

Judgment given on 2.7.1996, Case C-473/93

Nationality discrimination: access to employment for nurses in public hospitals, for teachers in public education, for public servants in the field of civilian research, surface transport, posts and telecommunications, and the distribution of water, gas and electricity

Referred to the Court under Article 171(2) of the Treaty. It is accompanied by a request for a penalty payment.

Judgment given on 11.6.1998, 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 notified the Commission of measures to give effect to the judgment; they are being scrutinised by the relevant technical departments.

Judgment given on 16.7.1998, Case C-339/97

Confined use of genetically-modified micro-organisms (Directive 94/51/EC)

Article 171 proceedings have been commenced.

Judgment given on 29.10.1998, Case C-410/97

Failure to notify measures transposing Council Directive 92/29/EEC on the minimum safety and health requirements for improved medical treatment on board vessels

Recent judgment.

THE NETHERLANDS

Judgment given on 19.5.1998, Case C-3/96

Failure to comply with obligation to designate special protection zones as required by Directive 79/409/EEC on the conservation of wild birds

Article 171 proceedings have been commenced.

PORTUGAL

Judgment given on 28.5.1998, Case C-213/97

Incomplete or incorrect transposal of Article 3 and Annexes I and II of Council 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, as amended by Directive 88/347/EEC

Article 171 proceedings have been commenced.

Judgment given on 17.6.1998, Case C-214/97

Absence of cleaning-up plans provided for by Article 4 of Council Directive 75/440/EEC concerning the quality required of surface water intended for the abstraction of drinking water in the Member States

Progress is being made. The Portuguese authorities have transmitted an action plan to clean up surface water, which is being scrutinised by the technical departments.

Judgment given on 18.6.1998, Case C-183/97

Non-conformity of national measures transposing Council Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances

Progress is being made. The Portuguese authorities have transmitted draft legislation, which the Commission is now studying.

Judgment given on 18.6.1998, Case C-208/97

Absence of programmes provided for by Article 4 of Council Directive 84/156/EEC on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry

Article 171 proceedings have been commenced.

Judgment given on 15.10.1998, Case C-229/97

Non-conformity of national measures transposing Council Directive 79/869/EEC 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

Recent judgment.

UNITED KINGDOM

Judgment given on 18.2.1992, Case C-30/90

Patent licences

Progress is being made. Enactment of the 'Patents and Trade Marks Regulations 1998' will enable it to be terminated.

Judgment given on 14.7.1993, Case C-56/90

Quality of bathing water at Blackpool and Southport

Article 171 proceedings have been commenced.

Judgment given on 8.6.1994, Case C-382/92

Transfers of undertakings

Progress is being made.

Judgment given on 8.6.1994, Case C-383/92

Collective redundancies

Progress is being made.

ANNEX VI

APPLICATION OF COMMUNITY LAW BY NATIONAL COURTS: A SURVEY

1. Application of Article 177 of the EC Treaty

In 1998 the Court of Justice of the European Communities received 264 requests for preliminary rulings in cases where difficulties arose in the interpretation of Community law or where there were doubts as to the validity of Community instruments.

When 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 nine years [1].

[1] The last two reports were published in OJ C 332, 3.11.1997, p. 198, and C 250 10.8.1998, p. 195.

Number of references per Member State

Member State [1]	Year								
	1990	1991	1992	1993	1994	1995	1996	1997	1998
Italy	25	18	22	24	46	58	70	50	39
Ireland	4	1	—	1	2	3	—	1	3
Netherlands	9	17	18	43	13	19	10	24	21
Luxembourg	4	2	1	1	1	2	2	3	2
United Kingdom	12	13	15	12	24	20	21	18	24
Austria						2	6	35	16
Germany	34	50	62	57	44	51	66	46	49
Finland						—	3	6	2
Portugal	2	3	1	3	1	5	6	2	7
France	21	24	15	22	36	43	24	10	16
Sweden						6	4	7	6
Belgium	17	17	16	22	19	14	30	19	12
Spain	6	4	5	7	13	10	6	9	55
Denmark	5	2	3	7	4	8	4	7	7
Greece	2	2	1	5	—	10	4	2	5
Total	142	186	162	204	203	251	256	239	264

[1] The countries are listed in the order shown in the third indent of Article 1(1) of Council Decision 95/2/EC, EURATOM, ECSC (OJ L 1, 1.1.1995, p. 220).

The sizeable growth in the number of preliminary rulings requested by Spain is due to 37 (joined) cases on the interpretation of VAT rules. Six other cases relate to consumer protection, particularly as regards credit sales.

The massive growth in the number of preliminary rulings requested by Austrian courts in 1997 was particularly striking, but the number fell by more than a half in 1998.

As in 1997, cases were referred by courts in all Member States.

In 1998, preliminary rulings accounted for about 54 % of the total of the 485 cases brought before the Court (90 cases being removed from the Register).

The two tables below show the number of references from courts of final instance in each Member State and the number of cases referred by each of these courts.

Number of references by courts of final instance in 1998, per Member State

Italy	10
Ireland	2
Netherlands	10
Luxembourg	(—)
United Kingdom	6
Austria	12
Germany	16
Finland	(—)
Portugal	5
France	(—)
Sweden	1
Belgium	(—)
Spain	1
Denmark	1
Greece	2

Origin of references by Supreme Courts

Italy	Corte Suprema di Cassazione	1
	Consiglio di Stato	9
Ireland	Supreme Court	2
Netherlands	Raad van State	2
	Hoge Raad	6
	College van Beroep voor het Bedrijfsleven	1
	Tariefcommissie	1
Luxembourg	Cour Supérieure de Justice	1
United Kingdom	House of Lords	2
	Court of Appeal	4
Austria	Oberster Gerichtshof	6
	Bundesvergabeamt	3
	Verwaltungsgerichtshof	3
Germany	Bundesgerichtshof	4
	Bundesfinanzhof	9
	Bundessozialgericht	3
Portugal	Supremo Tribunal Administrativo	5
France	Court of Cassation	2
	Conseil d'État	3
Sweden	Regeringsrätten	1
Belgium	Court of Cassation/Hof van Cassatie	4
	Cour d'Arbitrage/Arbitragehof	1
	Conseil d'État/Raad van State	1
Spain	Tribunal Superior de Justicia	1
Denmark	Højesteret	1
Greece	Areios Pagos	1
	Symvoulio Epikrateias	1

2. **Significant judgments of national courts of final instance**

2.1. *Introduction*

Analysis of the judgments outlined below shows that national supreme courts are paying more and more attention to Community law.

The Commission has again had access to data gathered by the Research and Documentation Department of the Court of Justice. It was thus able to identify decisions which applied Community law, though it should be pointed out that it is not possible, by consulting databases, to identify cases where national courts ought to have applied Community law but where the judgment contains no reference to it. Moreover, the Commission cannot undertake a systematic analysis of the mass of judgments delivered each year by the national supreme courts. Each year, some 1 200 judgments relating to Community law come to the attention of the Research and Documentation Department.

2.2. *The research*

Research was carried out on the following questions in relation to decisions given or reported for the first time in 1998:

1. 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?

   Were there any other decisions regarding preliminary rulings that merit attention?

2. Were there cases where courts, contrary to the rule in Case 314/85 *Foto-Frost* [1], declared an act of a Community institution to be invalid?

3. Were there any decisions that were noteworthy as setting good or bad examples?

4. Were there any decisions that applied the rulings given in *Francovich* [2] or in *Brasserie de Pêcheur* and *Factortame III* [3]?

Question 1

In *Germany*, the Bundesfinanzhof gave a judgment on 11 June 1997 [4] holding that it was not required to request a preliminary ruling from the Court of Justice under the third paragraph of Article 177 of the EC Treaty before dismissing an action relating to the preferential income-tax treatment of schooling costs. The claimant, resident in Germany, applied for an order that school fees for his son, who had both German and British nationality and attended a private school in the United Kingdom, were deductible from his taxable income. The Bundesfinanzhof held that section 10(1)(9) of the Income Tax Act (*Einkommensteuergesetz*), whereby school fees for children attending private schools were tax-deductible, applied only in relation to certain private schools within the national education system. It relied on a decision of the Court of Justice [5] in support of a finding that this preference was not contrary to Articles 59 and 60 of the EC Treaty, as such schools were not engaged in the provision of services within the meaning of the Treaty, i.e. services normally provided against remuneration. It follows from a decision of the Court of Justice that school fees within the national education system cannot be regarded as remuneration in the sense of an economic consideration for the provision of a service. The Bundesfinanzhof states that it is of little importance whether the school is public or private, as what matters for the purposes of the Income Tax Act is merely whether a private school is part of the national education system. It was not in the instant case.

Still in Germany, the Federal Constitutional Court (Bundesverfassungsgericht) made an Order on 5 August 1998 [6] dismissing the application by Deutsche Bundespost Telekom for constitutional review [(*Verfassungsbeschwerde*)] of a judgment given by the Federal Labour Court (Bundesarbeitsgericht) holding that the exclusion of part-time workers from its occupational pension scheme was unlawful as being contrary to the general principle of equality stated in the Basic Law [7] Deutsche Bundespost Telekom, being ordered to pay retroactive pension contributions, commenced an action in the Federal Constitutional Court on the basis of violation of the Basic Law's principle of the 'lawful judge' [8], on the ground that the Bundesarbeitsgericht, before giving judgment, should have referred to the Court of Justice the question whether the Community rule of non-retroactive application established in *Barber* in 1990 [9] and enshrined in Protocol 2 to the Treaty on European Union (the Barber Protocol) precluded the application of the non-discrimination principle required by the Bundesarbeitsgericht for the period preceding the date of the *Barber* judgment.

The Bundesverfassungsgericht dismissed the application. It followed from a long line of cases before it that the fact that the Bundesarbeitsgericht had not referred the question to the Court of Justice violated the principle of the lawful judge only if the court of final instance had gone fundamentally against a decision of the Court of Justice on a question that was material to the settlement of the dispute or if, in the absence of a decision of the Court of Justice, it had manifestly gone beyond its discretionary power to decide whether it must refer the question to the Court of Justice.

The Bundesverfassungsgericht held that the Bundesarbeitsgericht had provided adequate grounds for declining to refer the question to the Court of Justice, which had repeatedly held [10] that confining the effects of the *Barber* judgment to the period after 16 May 1990 did not apply to the exclusion of part-time workers from occupational pension schemes. It held that the Bundesarbeitsgericht's position that, since the Barber Protocol aimed solely to specify and demarcate the scope of the effects of the judgment without laying down any broader legal rule, there was no need to refer a question to the Court of Justice for a preliminary ruling was defensible. It held that the Community principle of non-retroactivity did not preclude the application of national non-discrimination rules and accordingly concluded that the view taken by the Bundesarbeitsgericht was not an excess of its discretionary powers.

It is noteworthy that the *Austrian* Verwaltungsgerichtshof withdrew a reference for a preliminary ruling when the Court of Justice gave a ruling on a similar question [11].

The Austrian court had before it an application by a university lecturer who had been declared ineligible for the monthly increment provided for by the Civil Service Salaries Act *(Gehaltsgesetz)*. The Act required 15 years' seniority as university lecturer, but the claimant made his application after only ten years' exercise of the function in Austria, having lectured for eleven years in another Member State. He argued that disregarding seniority acquired in another country and accordingly refusing to allow him the increments that he considered to be an integral part of his remuneration was a form of indirect discrimination and that the relevant government department was violating Community law in the form of Articles 48 and 7 of the EC Treaty.

(1) [1987] ECR 4199.
(2) Joined Cases C-6/90 and C-9/90 [1996] ECR I-5357.
(3) Joined Cases C-46/93 and C-48/93 [1996] ECR I-1029.
(4) Bundesfinanzhof, judgment given on 11 June 1997, X R 74/95, Sammlung der Entscheidungen des Bundesfinanzhofs Bd. 183, p. 436.
(5) Case 263/86 *Belgium v Humbel* [1988] ECR 5365 (judgment given on 27 September 1988).
(6) Bundesverfassungsgericht, Beschluß of 5 August 1998, 1 BvR 264/98, Europäische Zeitschrift für Wirtschaftsrecht 1998, p. 728.
(7) Article 3(1) of the Basic Law.
(8) Article 101(1) (second sentence) of the Basic Law, which provides that 'no-one may be removed from the jurisdiction of his lawful judge'.
(9) Case C-262/88 *Barber* [1990] ECR I-1889.
(10) Case C-57/93 *Vroege* [1994] ECR I-4541 (judgment given on 28 September 1994) and Case C-246/96 *Magorrian & Cunningham* [1997] ECR I-7153 (judgment given on 11 December 1997).
(11) Case 99/12/0167 (judgment given on 24 June 1998).

The Verwaltungsgerichtshof began by asking the Court of Justice for a preliminary ruling. When the Court's Registrar notified it of the ruling in *Schöning* [1] the Verwaltungsgerichtshof asked the two sides in the case for their views and then, on 24 June 1998, made an Order withdrawing its request for a preliminary ruling, holding that the only decisive question — the question whether the increment was a component of remuneration or a special bonus to reward loyal service by civil servants — was a question to be settled by national law alone. It dismissed the application and, departing from the opinion expressed in the request for a preliminary ruling that the increment was neither a component of remuneration nor a loyalty bonus, held that the increment was a loyalty bonus designed to attract persons enjoying considerable experience to Austrian universities, which therefore, in accordance with the law as stated by the Court of Justice, warranted the form of discrimination practised in the situation.

In *Spain*, the Tribunal Supremo, against whose judgments no appeal lies, received an application for annulment of national provisions on the abolition of public docking and undocking services which the claimants argued were contrary to Community competition law. The Tribunal Supremo felt no need to seek a preliminary ruling from the Court of Justice for, as it stated in its judgment given on 27 April 1998, it was not for the Court of Justice to rule on the compatibility of national legislation with Community law [2]. It added that Articles 85, 86, 90 and 94 of the EC Treaty, pleaded in the application, were sufficiently clear, thus obviating the need for a reference to the Court of Justice. It held the material national provisions to be compatible with Community law and dismissed the application.

In a transfer of undertakings case the Court of Appeal (Turun hovioikeus) at Turku, in *Finland* gave a judgment on 26 May 1998 [3] interpreting the third paragraph of Article 177 of the EC Treaty. It held that as a court against whose decisions there is no judicial remedy under national law, it was under a duty to seek a preliminary ruling from the Court of Justice. The argumentation followed by the Finnish court proceeds from the fact that an appeal lies to the Supreme Court only with the Supreme Court's leave. Under Chapter 30, section 3, of the Finnish Code of Procedure (*Oikeudenkäymiskaari*), leave to appeal is given only if review of the case is necessary for the application of the material statute in similar cases or for the preservation of uniformity in case-law. Leave may also be given if the decision is vitiated by a serious procedural defect.

The Court of Appeal considered that, the purpose of Article 177 being to ensure that Community law was interpreted and applied uniformly, the specific purpose of the third paragraph was to prevent case-law from emerging in a Member State in conflict with Community law; it concluded that it was under a duty to refer. The effect of any other interpretation would have been that cases brought before it might be decided without any court being obliged to refer to the Court of Justice where the Supreme Court did not give leave to appeal. That would not be compatible with the purpose of the third paragraph of Article 177 of the EC Treaty.

In the instant case the Court of Appeal decided not to seek a preliminary ruling from the Court of Justice as a decision could be reached on the basis of existing decisions on transfers of undertakings.

In a judgment given on 20 May 1998 [4] on the competition rules as applied to the award of public contracts, the French Conseil d'État upheld the submissions of the Government Advocate (commissaire du Government) without seeking a preliminary ruling from the Court of Justice. The Government Advocate acknowledged that the true scope of Article 6 of Council Directive 92/50/EEC [5] was a somewhat delicate issue and that, faced with an unclear provision, the courts might be tempted to use the Article 177 procedure and refer a question to the Community courts, but he recommended that the courts decide the issue themselves as the preliminary ruling procedure was time-consuming and therefore incompatible with the need for speed in precontractual interlocutory proceedings in public procurement cases in the Conseil d'État.

In a case in which the validity of a Community instrument was in issue, the *Italian* Consiglio di Stato [6] declared that as an administrative court of final instance it was under a duty to refer a question to the Court of Justice for a preliminary ruling only where the material instrument seemed *prima facie* unlawful or where there were reasonable doubts as to its validity. The fact that one of the parties to the action contested the validity of the instrument or asked for a reference to be made for a preliminary ruling did not suffice to place the national court of final instance under a duty to make the reference. The Consiglio di Stato held that the national court, even when giving a judgment against which no further appeal lies, must examine whether the question raised by one of the parties is a serious one and dismiss the motion where it is manifestly unfounded.

In the *Netherlands*, the Hoge Raad, without seeking a preliminary ruling, gave a judgment on 4 February 1998 [7] holding that a private-sector postal service was not eligible for exemption from VAT. The Dutch VAT Act (*Wet op de omzetbelasting*) provides for exemption for services provided by public postal services, as required by the Sixth VAT Directive [8]. The Directive also provides for exemption for supplies of stamps [9], without specifying that only supplies by public postal services are covered. This latter exemption is not provided for by the Dutch Act. The Hoge Raad held that the business of the private postal service, including sales of stamps, was subject to VAT.

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(1) Case C-15/96 *Kalliope Schöning-Kougebetopoulou v Freie und Hansestadt Hamburg* [1998] ECR I-47 (judgment given on 15 January 1998).

(2) Tribunal Supremo, Sala Tercera, de lo Contencioso-Administrativo, 27.4.1998, *Asociación de Empresas Frigoríficas de la Ría de Vigo v Administración General del Estado*, Repertorio Aranzadi de Jurisprudencia, 1998, No 3328.

(3) Turun Hovioikeus, 26.5.1998, No 1275/98.

(4) Conseil d'État, Section, 20.5.1998, *Communauté de communes du Piémont de Barr et autres*, Revue française de droit administratif 1998, p. 609, conc. Henri Savoie; Actualité Juridique Droit Administratif 1998, 632; Europe 1998 Act. No 238.

(5) Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ L 209, 24.7.1992, p. 1).

(6) Consiglio di Stato, sez. V, 23.4.1998, No 478, Foro amministrativo, 1998, 1090.

(7) Hoge Raad, *X v Inspecteur der omzetbelasting*, Beslissingen in belastingzaken, 1998, 83.

(8) 77/388/EEC: Sixth Council Directive 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). See Article 13 A(1)(a).

(9) See Article 13 B(e).

Still in the Netherlands, in a case concerning the Dutch authorities' adoption of measures to prevent the spread of BSE [1], the Hoge Raad declared that it could entertain reasonable doubts as to the interpretation of Article 9(1) of Directive 89/662/EEC [2] as regards the preventive measures to be taken by the Member States in the event of diseases that can constitute a serious health hazard for animals or humans. The Dutch measures had been taken pending the adoption of Community measures based on the Directive. In interlocutory proceedings, where there was no obligation to refer to the Court of Justice doubts as to Community law, the Hoge Raad held that there was no need to seek a preliminary ruling since it was likely that the Court of Justice would give its ruling only after the entry into force of comparable Community measures.

Question 2

Research revealed no decisions of this type.

Question 3

In *Germany*, the Bundesverfassungsgericht had a further occasion to consider the scope of the Barber Protocol [3]. In an Order made on 27 November 1997 [4] on an application for constitutional review by the Regional Labour Court (Landesarbeitsgericht) Hamburg, it declared that the statute governing the occupational social security scheme for employees of the city of Hamburg was unconstitutional since it excluded persons serving a working week below half the normal number of hours. The statute entailed no sex discrimination — on the facts of the case, none of the categories of persons excluded from the scheme was composed predominantly of women — but it was contrary to the general principle of equality. Unlike persons working full-time or half-time, those working less than half the normal working week have no pension entitlement. As there were no valid grounds for this discrimination, the statute was declared unconstitutional.

The Bundesverfassungsgericht held that the Barber Protocol did not preclude the adoption of a retroactive national non-discrimination rule, since it did not relate to the application of national constitutional rules over a given period of time. It also recalled that the Protocol applied only to situations in which Article 119 of the EC Treaty applied, i.e. sex-discrimination situations. It concluded that the consequences of unconstitutionality were not limited in time.

By Order made on 31 March 1998 [5] the Bundesverfassungsgericht dismissed as manifestly unfounded and accordingly inadmissible a series of applications for constitutional review (*Verfassungsbeschwerden)* seeking to preclude the introduction of the euro in Germany. The claimants submitted that the third stage of Monetary Union was to commence on 1 January 1999 without the convergence criteria being met. They grounded their application on violation of their right to engage in public debate for the formulation of a European policy [6] and on violation of their fundamental right to respect for property [7] and freedom of action [8] by monetary measures which they argued had negative effects on their assets and the value of the currency.

The Bundesverfassungsgericht held that Germany's decision to participate in the third stage of Monetary Union was properly legitimised in terms of the principle of democracy and did not violate the claimants' constitutional rights. As it had already held in its Order of 12 October 1993 [9] on the conformity with the Basic Law of the Union Treaty Ratification Act, the Bundesverfassungsgericht held that Germany's participation in the Monetary Union provided for by the Maastricht Treaty was in conformity with the Basic Law, since the transfer of powers by the German authorities to European authorities pursuant to the Treaty was based on Article 88 of the Basic Law and on parliamentary approval of the Treaty pursuant to Article 23. Moreover, both the Maastricht Treaty and the Basic Law conferred on Parliament and the Federal Government the power to come to discretionary conclusions and make forecasts — which could only be based on probabilities — regarding compliance with the convergence criteria. Under the Basic Law, responsibility for deciding to transfer monetary sovereignty to the European Community lay with the legislature; responsibility for implementation lay with the Government.

The Bundesverfassungsgericht accordingly concluded that it was not for the claimants, as owners of the currency, to seek constitutional review of the decision on Germany's move to the third stage of Monetary Union.

By Order made on 22 June 1998 [10] the Bundesverfassungsgericht, on the basis of its Order of 31 March 1998, dismissed an application for constitutional review on the same subject.

Still in Germany, the Bundesgerichtshof [11] gave a judgment on 5 February 1998 revising earlier case-law on comparative advertising to reflect Directive 97/55/EC [12] that basically legitimises comparative advertising. Cases decided before the Directive came into force interpreted section 1 of the Unfair Competition Act as prohibiting comparative advertising on principle, except where a comparison was necessary for good reasons and was based on true facts.

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(1) Hoge Raad, 19.6.1998, *Productschap voor vee en vlees v Dutch State*, Rechtspraak van de Week, 1998, 131.

(2) 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 (OJ L 395, 30.12.1989, p. 13).

(3) Another decision relating to the Barber Protocol is considered *supra*.

(4) Bundesverfassungsgericht, Beschluß of 27 November 1997, 1 BvL 12/91, Entscheidungen des Bundesverfassungsgerichts Bd. 97, p. 35.

(5) Bundesverfassungsgericht, Beschluß of 31 March 1998, 2 BvR 1877/97 and 2 BvR 50/98, Entscheidungen des Bundesverfassungsgerichts Bd 97, p. 350.

(6) The claimants relied on Article 38(1) of the Basic Law, which provides for the fundamental right to participate in the operation of the democratic state by electing members of Parliament.

(7) Article 14(1) of the Basic Law.

(8) Article 2(1) of the Basic Law.

(9) Bundesverfassungsgericht, Urteil of 12 October 1993, 2 BvR 2134/92 and 2 BvR 2159/92 ('Maastricht'), Entscheidungen des Bundesverfassungsgerichts Bd 89, p. 155.

(10) Bundesverfassungsgericht, Beschluß of 22 June 1998, 2 BvR 532/98, Juristenzeitung 1998, p. 306.

(11) Bundesgerichtshof, Urteil of 5 February 1998, I ZR 211/95, Entscheidungen des Bundesgerichtshofes in Zivilsachen Bd. 138, p. 55.

(12) Directive 97/55/EC of the European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising (OJ L 290, 10.7.1998, p. 18).

Proceeding from a decision of the Court of Justice [1], the Bundesgerichtshof held that even before the end of the period allowed for transposal of Directive 97/55/EC it must interpret national law in the light of the Directive where possible. Since section 1 of the Unfair Competition Act contained a general provision susceptible to broad interpretation, it expressly departed from its earlier decisions and held that comparative advertising was basically lawful, provided the Directive's requirements were met [2].

A judgment (G2/97) by the *Austrian* Verfassungsgerichtshof given on 24 June 1998 considers the relationship between the principle of the primacy of Community law and the functions of the Verfassungsgerichtshof regarding constitutional review of national legislation in the national legal order. The case concerned the Burgenländisches Tourismus-förderungsgesetz (Promotion of Tourism (Burgenland) Act) 1992, and in particular section 27(2) providing for a tax to promote tourism in Burgenland on the basis of the net yield 'within the meaning of the VAT Act (Umsatzsteuergesetz) '. In similar cases (Promotion of Tourism Acts in Styria, Tyrol and Carinthia), the Verwaltungsgerichtshof had sought preliminary rulings from the Court of Justice on the question whether Article 33(1) of the Sixth VAT Directive (77/388/EEC) precluded such taxes (i.e. whether this was a form of VAT or not). The Verfassungsgerichtshof did not refer the question to the Court of Justice but reviewed the statute for constitutionality in relation to the domestic legal order. Its justification for proceeding in this fashion was that there was no possible conflict between its decision whether or not to annul the statute and the fact that the effect of the primacy of Community law was that legislation conflicting with Community law was automatically disapplied. The Verfassungsgerichtshof declared that where it did not annul a statute for incompatibility with the Austrian Constitution, it was for the highest Austrian court exercising public-law jurisdiction to clarify the question of compatibility with Community law (seeking a preliminary ruling in appropriate cases). In the instant case, it held that it must annul the phrase 'within the meaning of the Umsatzsteuergesetz', since applying the phrase would render net yields not only in Burgenland but throughout the country subject to the tax to promote tourism.

In *Belgium*, the Court of Cassation gave a judgment on 12 June 1998 [3] confirming a judgment given by the Brussels Court of Appeal [4] recognising the right of the holder of copyright in user manuals to oppose marketing by a parallel importer of authentic products lawfully marketed in the Community, together with photocopies of the original user manuals. The parallel importer had attached photocopies of the user manuals prepared by the copyright holder in the language required by the Belgian Trade Practices Act, which provide that manuals must be supplied in the language or languages of the region where products are sold. The Court of Appeal had taken the decisions of the Court of Justice in *Hoffmann-La Roche* and *Bristol-Meyers Squibb* [5] relating to trade marks and applied them by analogy to copyright. In its appeal in cassation, the parallel importer contested the application of these decisions to copyright, arguing that the conditions laid down by the Court of Justice therefor allowing the holder of a trade mark to oppose the marketing of the protected products by a parallel importer were based on the specific nature of the relevant products, which were pharmaceutical products. The reasoning followed by the Court of Appeal in dismissing this argument was upheld by the Court of Cassation.

In *Denmark* the Supreme Court gave a judgment on 6 April 1998 [6] confirming the judgment given by the Østre Landsret [7] dismissing an action brought against the Prime Minister by 11 Danish citizens supported by 777 intervenors, relating to the Maastricht Treaty. The claimants disputed the compatibility of the transfer of powers from the Danish authorities to the Community institutions with the Constitution. Article 20(1) of the Constitution provides that 'the powers conferred on the authorities of the Kingdom by this Constitution may, by statute and within specified limits, be transferred to international authorities established by reciprocal agreements with other States to promote international cooperation and the international legal order'. The claimants argued that the transfer of powers flowing from the EC Treaty as amended by the Maastricht Treaty was open-ended and could therefore not be effected by a statute pursuant to Article 20. They submitted that the Constitution would first have to be amended by the procedure prescribed by Article 88.

The Supreme Court rejected this argument, holding among other things that 'the Danish courts must disapply a Community instrument in Denmark in the unlikely situation where it is found with all due certainty that a Community instrument the validity of which has been confirmed by the European Court of Justice has been enacted in pursuance of the Treaty in a manner exceeding the limits of the powers transferred by the Accession Act. The same applies by analogy to the rules and principles of Community law based on decisions of the European Court of Justice'.

In a case concerning the interpretation of Articles 48 and 67 of Council Regulation (EEC) No 1408/71, the Tribunal Supremo in *Spain* gave a judgment on 17 December 1997 [8] recognising the primacy of decisions of the Court of Justice. Spanish social security legislation entitles unemployed persons aged over 52 to a grant providing they have completed the insurance periods required for retirement pension. In earlier decisions the Tribunal Supremo dismissed applications for the grant by persons who had completed their insurance periods in other Member States since they had paid no contributions in Spain and were therefore ineligible. The Tribunal Supremo rectified its case-law, which was in conflict with that of the Court of Justice, expressly recognising that Court of Justice decisions must prevail.

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(1) Case C-129/96 *Inter-Environnement Wallonie v Région wallonne* [1997] ECR I-7411 (judgment given on 18 December 1997).

(2) Specifically Article 3a(1)(a) to (h).

(3) Court of Cassation, 12.6.1998, No C.97.0254 *Bigg's SA v Kenwood Corporation et Kenwood SA*.

(4) Court of Appeal, Brussels, 28.1.1997, No 1996/AR/144, *Bigg's SA v Kenwood Corporation et Kenwood SA*, Pasicrisie belge II, 1999, pp. 7 to 13.

(5) Case 102/77 *Hoffmann-La Roche* [1979] ECR 1139 (judgment given on 23.5.1978) and Joined Cases C-427/93, C-429/93 and C-436/93 *Bristol-Meyers Squibb* [1986] ECR I-3457 (judgment given on 11 July 1996).

(6) Ugeskrift for Retsvæsen 1998.800H.

(7) Østre Landsret, judgment given on 27 June 1997, 3.asd.No.B-2131-96 (See 15th Report — 1997).

(8) Tribunal Supremo, Sala Cuarta, de lo Civil, 17.12.1997, *Natividad S.L. v Instituto Nacional de la Seguridad Social (INSS)*, La Ley 1998, No 4508, pp. 15 to 16.

In a judgment given on 20 January 1998 [1], the Tribunal Supremo dismissed an action by a national of another Member State who had failed to obtain reimbursement of amounts seized in the course of criminal proceedings based on national provisions held to be incompatible with Community law following a preliminary ruling of the Court of Justice [2]. The Tribunal Supremo declined to order reimbursement on the ground that, where the Court of Justice had declared national provisions to be incompatible with Community law, the decision had no retroactive effect in national law and that the seizure already effected, although based on provisions declared incompatible with Community law, generated no right to reimbursement.

In two other decisions, the Tribunal Supremo refused to acknowledge the direct horizontal effect of Council Directive 93/13/EC on unfair terms in consumer contracts [3]. Although a series of decisions given in 1997 and 1998 had recognised this direct effect [4], the Tribunal Supremo expressly denied the Directive's direct horizontal effect in a judgment given on 31 January 1998 [5], merely recognising that the Directive was an important aid to interpretation of national law in the light of Community law. In a subsequent judgment given on 13 November 1998 [6], the Tribunal Supremo declared that in earlier decisions it had recognised the Directive's direct horizontal effect but now expressed doubts whether it was possible to do so. In this case, however, it gave judgment on the basis of the Spanish General Contract Terms Act of 13 April 1998 [7], which, like the Directive, prohibits unfair terms.

In *France*, the Conseil d'État gave a judgment of the Combined Court (arrêt d'Assemblée) [8] disapplying national rules applicable to the award of public works concession contracts on grounds of incompatibility with the objectives of Directive 89/440/EEC [9]. The claimant had applied to the Conseil d'État for annulment of a judgment of the Administrative Court for Lyons dismissing his application for annulment of the decision of the Council of the Lyons Urban Community dated 18 July 1991 on the concession for the construction and operation of a road project. The claimant argued that, since the national rules applicable to the award of public works concession contracts did not provide for publicity measures, they were incompatible with the objectives of Directive 71/305/EEC [10] as amended by Directive 89/440/EEC, even though the latter Directive had not been transposed in France at the time of the disputed decision [11].

The Conseil d'État held that, by providing for no publicity measures, the national rules in question were incompatible with the objectives of Directive 89/440/EEC and accordingly supplied no valid legal basis for the disputed decision, which was accordingly *ultra vires*.

This confirms the tendency of the Conseil d'État to give the fullest possible effect to Community Directives [12] even if they are not transposed within the prescribed period [13].

By Decision 88-400 DC [14] the *French* Constitutional Council declared that the Institutional Act determining the conditions for application of Article 88-3 of the Constitution on the exercise of the right to vote and stand as candidates in municipal elections by European Union citizens not having French nationality residing in France, and transposing Directive 94/80/EC [15] was constitutional.

Although it has always held, since its decision on the Abortion Act in 1975 [16], that despite the principle of the supremacy of international treaties and agreements over statutes (Article 55 of the Constitution) treaties are not among the parameters for the constitutional review of statutes exercised by the Constitutional Council, the Council in this case reviewed the Institutional Act in terms of Community law, both primary and secondary. But given the constitutional source of its review [17], the position taken by the Constitutional Council is not likely to change the principle established by the abortion decision but only to constitute an exception from the traditional case-law.

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(1) Tribunal Supremo, Sala Segunda, de lo Penal, 20.1.1998 *Friedrich J. P. v Ministerio Fiscal*, Repertorio Aranzadi de Jurisprudencia 1998, No 27.

(2) Joined Cases C-163/94, C-165/94 and C-250/94 *Sanz de Lera and others* [1995] ECR I-4821 (judgment given on 14 December 1995).

(3) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

(4) See Tribunal Supremo, Sala Primera, de lo Civil, 20.2.1998 *Ediciones Océano Exito, SA v José Ramón B.F.*, Repertorio Aranzadi de Jurisprudencia 1998, No 604; 30.5.1998 *Vicente Alfonso V. N. v A. S.A.*, La Ley 1998, No 4598, pp. 4-5; 20.7.1998 *Home English*, Repertorio Aranzadi de Jurisprudencia 1998, No 6192.

(5) Tribunal Supremo, Sala Primera, de lo Civil, 31.1.1998 *Carlos Luis A. F. y Unión de Consumidores de España (UCE) v Banco Central Hispanoamericano S.A.*, Repertorio Aranzadi de Jurisprudencia 1998, No 121.

(6) Tribunal Supremo, Sala Primera, de lo Civil, 13.11.1998 *S.E., SA v Luis L.C.*, La Ley 1998, No 4690, pp. 6-7.

(7) Ley 7/1998 of 13 April 1998 sobre condiciones generales de la contratación (B.O.E. No 89, 14.4.1998).

(8) Conseil d'État, assemblée, 6.2.1998 *M. Tête, Association de sauvegarde de l'Ouest lyonnais*; Actualité Juridique Droit Administratif 1998, 458; Revue française de droit administratif 1998 p. 407, conc. Henri Savoie; Revue trimestrielle de droit commercial et de droit économique 1998 p. 584; La semaine juridique — édition générale, 1998 II 10109; Gazette du Palais 1998 No 217-218 II som. pp. 38-39.

(9) Council Directive 89/440/EEC of 18 July 1989 concerning coordination of procedures for the award of public works contracts (OJ L 210, 21.7.1989, p. 1).

(10) Council Directive 71/305/EEC, amended many times, was consolidated by Council Directive 93/37/EEC of 14 June 1993 concerning coordination of procedures for the award of public works contracts (OJ L 199, 9.8.1993, p. 54).

(11) The Member States were required to take the necessary measures to comply with it by 20 July 1990, but it was only with Act No 91-3 of 3 January 1991 on transparency and proper conduct in tendering procedures (JORF 5.1.1991, p. 236) that France began meeting its transposal obligation. Transposal was completed only on 31 March 1992, when a Decree and an Order laying down publicity measures applicable to concession contracts were adopted pursuant to the Act.

(12) For an example of a subsequent judgment, see Conseil d'État, assemblée, 20.2.1998 *Ville de Vaucresson*, Jurisclasseur droit administratif 1998 No 80.

(13) In relation to public service contracts, see Conseil d'État, section, 20.5.1998, *Communauté de communes du Piémont de Barr*, Revue française de droit administratif 1998, p. 609.

(14) Decision of the Constitutional Council 88-400 DC of 20 May 1998, Revue française de droit administratif 1998 p. 671; Actualité Juridique Droit Administratif 1998, 531; Europe 1998 Chronique No 5, p. 4.

(15) Council Directive 94/80/CE 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 (OJ L 368, 31.12.1994, p. 38).

(16) Decision of the Constitutional Council 74-54 DC of 15 January 1975, Rec., p. 19; Grandes decisions du Constitutional Council, 9th ed., p. 305.

(17) By Article 88-3 of the Constitution, the constitutionality of the Institutional Act is expressly subject to compliance with Community law.

On 7 April 1998 (in *Laubeuf*) the French Court of Cassation reversed a judgment given by a Tribunal de Grande Instance on 6 July 1995. The case concerned Laubeuf's complaint against a tax decision, made out of time in terms of national legislation, i.e. after 31 December in the second year following payment of the disputed amount of tax. But the Tribunal de Grande Instance had declared the action admissible by virtue of *Emmott* [1]. Even so the Court of Cassation annulled the judgment on the ground that it should have followed the subsequent decision in *Fantask* [2].

Still in France, a judgment given by the Conseil d'État on 20 February 1998 concerning the town of Vaucresson raises the interesting question whether an instrument transposing a directive may lay down transitional provisions that have the effect of postponing the date on which the directive enters into force beyond the prescribed date for transposal.

The Court of Justice has held that Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment excludes the possibility of procedures commenced after the final date for transposal escaping its provisions [3]. It has not ruled on the applicability of the Directive to situations already existing at the final date for transposal. Contrary to the Commission's position, the Advocate-General submitted that the Member States could dispense with environmental impact assessment for projects where the approval procedure had begun before the final date transposal.

The Conseil d'État followed his line in connection with a directive concerning the procedures for the award of public works contracts. The decree transposing it provides that it does not apply to contracts where the contractor was selected before 22 July 1990 and had launched studies and preliminary work accordingly. The Government Advocate's argument in the Conseil d'État was that 'it would be contrary to the principle of certainty in the law and to respect for legitimate expectations, given the cumbersome, slow and complex nature of the procedures for awarding motorway concessions, to require immediate imposition of the directive's new publicity obligations, which would clearly presuppose the possibility of reversing the selection'. The Conseil d'État took the view that the disputed provisions were not contrary to the relevant directives' objectives since the exception provided for relates only to contracts for which, prior to the date on which the directive was to take effect, the authority awarding the concession had already embarked on the selection of a contractor and had caused him to carry out certain studies and work.

In *Italy*, the Constitutional Court assessed the impact of Community law on national provisions relating to university education. It had before it a case requiring constitutional review of a legislative provision empowering the Minister for Universities and Scientific and Technological Research to regulate access to specialised schools and university departments and to impose a *numerus clausus* for admission to them [4]. The question fell for review in the light of the provisions of the Constitution reserving the organisation of studies and access to education for the legislature. It was argued that conferring on the Minister the discretionary power to introduce a *numerus clausus*, in the absence of prior determination by the legislator of general principles governing access to universities, was an unwarranted limitation on the powers of the legislature to the benefit of the regulatory powers of the executive.

The Constitutional Court recalled that under the Constitution the criteria for access to universities, and therefore the introduction of a *numerus clausus*, were within the powers of the legislature, though statutes could empower the executive to amplify the general rules it laid down. If the powers conferred on the Minister were to comply with the distribution of powers between the legislative and executive branches, there must first be a statutory provision determining the criteria for identifying the schools and universities to which access could be limited. The Constitutional Court observed that the national legislature had not determined criteria demarcating the discretionary powers of the administration in this respect. But it stated that the legal framework within which these criteria fell to be determined included provisions of Community law on the organisation of university studies, and in particular the directives on the mutual recognition of qualifications and facilitating the effective exercise of freedom of establishment and freedom to provide services in the professions of doctor, veterinary surgeon, dentist and architect [5]. These placed the state under an obligation to achieve a specific result, namely that its minimum standards of theoretical and practical training be met. This being so, the possibility provided for by the Italian legislature of introducing a *numerus clausus* for schools and curricula providing the training to which the directives applied would be merely one of the possible means of attaining the requisite result for the purposes of Article 189 of the EC Treaty. The power conferred on the Minister to limit access to university departments was accordingly a provision of superior legislative status which, by offering criteria for the selection of the studies to which access was to be limited, was of such a nature as to obviate the risk of arbitrary exercise of that power. The question raised concerning the constitutionality of the disputed legislative provision was accordingly held to be unfounded.

Still in Italy, the Court of Cassation [6] was required to rule on the compatibility of Directives 78/686/EEC and 78/687/EEC [7], as interpreted by the Court of Justice in Case C-40/93 [8], with the constitutional principles of equal treatment and the right to work.

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(1) Case C-208/90 *T. Emmott v Minister for Social Welfare & Attorney General* [1991] ECR I-4292 (judgment given on 25 July 1991).

(2) Case C-188/95 *Fantask A/S and others v Industriministeriet* [1997] ECR I-6820 (judgment given on 2 December 1997).

(3) Case C-396/92 *Bund Naturschutz in Bayern eV, R. Stansdorf and others v Freistaat Bayern* [1994] I-3717 (judgment given on 9 August 1994).

(4) Constitutional Court, 27 November 1998, No 383, Da G.U. No 48 of 2 December 1998, prima serie speciale, Constitutional Court.

(5) The Constitutional Court referred specifically to Council Directives 78/686/EEC of 25 July 1978 (OJ L 233, 24.8.1978, p. 1); 78/687/EEC of 25 July 1978 (OJ L 233, 24.8.1978, p. 10); 78/1026/EEC of 18 December 1978 (OJ L 362, 23.12.1978, p. 1); 78/1027/EEC of 18 December 1978 (OJ L 362, 23.12.1978, p. 7); 85/384/EEC of 10 June 1985 (OJ L 223, 21.8.1985, p. 15); 89/594/EEC of 30 October 1989 (OJ L 341, 23.11.1989, p. 19); and 93/16/EEC of 5 April 1993 (OJ L 165, 7.7.1993, p. 1).

(6) Court of Cassation, sez. un., 13.2.1998, n. 1512, Giust. civ., 1998, I, 1935 and Court of Cassation, sez. un., 11.11.1997 n. 11129, Giust. civ., 1998, I, 1026 (given on identical grounds).

(7) Council Directives 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 (OJ L 233, 24.8.1978, p. 1), and 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of dental practitioners (OJ L 233, 24.8.1978, p. 10).

(8) Case C-40/93 *Commission v Italy* [1995] ECR I-1319 (judgment given on 1 June 1995).

The claimants, holding medical degrees, relied on a national statute allowing them to practice as dentists even though they had embarked on their university medical training after the final date set by Article 19 of Directive 78/686/EEC. The national rules had been held to be incompatible with the directives by that decision of the Court of Justice finding that Italy had failed to discharge its obligations under them.

Summing up guidelines given by the Italian Constitutional Court on the relationship between internal and Community legal orders, the Court of Cassation recalled that these were separate legal orders, coordinated as to the distribution of powers by the Community Treaties, and that a conflict between national provisions and Community law did not render the former invalid but meant that they should be disapplied by the national courts; the constitutional review exercised by the Constitutional Court may not extend to Community provisions, which were not part of the internal legal order, but only to statutes implementing treaties where their application might provoke a violation of fundamental principles of the national constitutional order or of inalienable human rights. The Court of Cassation held that, in the event of an alleged conflict between a Community instrument and the fundamental principles of the Constitution, the national courts must, for the purposes of a reference to the Constitutional Court, check whether the conflict was so serious that the very Treaty was in conflict with the Constitution, warranting the radical remedy of Italian withdrawal from the European Union.

However, the Court of Cassation held that in practice this would not happen as there was no conflict between the abovementioned directives and Court of Justice decisions, on the one hand, and the fundamental principles of the Constitution argued by the claimants, on the other.

On 30 December 1997 the Italian Constitutional Court gave a judgment (n. 443, Giustizia Civile, 1998 p. 609) that while reverse discrimination is not penalised by Community law, differential treatment between Italian firms and firms from other Member States is contrary to Article 3 of the Constitution, which provides for the principle of equality.

The question of constitutional legitimacy related to certain sections of the Pasta (Industrial Manufacture) Act (No 580 of 4 July 1967), which prescribe that no other ingredients may be used than those specified or authorised by Ministerial Decree to be issued pursuant to section 30. The Pretore at Pordenone considered that this was a violation of the principle of equal treatment enshrined in Article 3 of the Constitution, since national pasta producers are obliged to produce pasta using only the ingredients authorised by Italian legislation whereas importers may sell pasta from other Member States produced in accordance with the rules applying in the country of origin.

The Constitutional Court noted that the effect of the EC Treaty principle of the free movement of goods was that Italy was obliged to accept pasta lawfully marketed in another Member State. And in *Zoni* [1] the Court of Justice had held that Act No 580/67 did not meet mandatory requirements such as consumer protection, fair trading or the protection of public health that might warrant a ban on pasta imports from other Member States. The question of constitutional legitimacy, however, concerns the hypothesis of reverse discrimination. The Constitutional Court acknowledged that Community law did not require the legislature to repeal the Act as regards pasta producers established in Italy but it also acknowledged that in terms of Italian law certain sections of the Act were contrary to Article 3 of the Constitution. It therefore declared them unconstitutional since they did not allow pasta producers in Italy to use ingredients lawfully used on the basis of Community law in the EC.

In the *Netherlands*, a judgment given by the Hoge Raad on 28 January 1998 [2] authorised a person taxable to VAT whose business included the sale of narcotics to deduct input VAT. Yet the Court of Justice had held [3] that illicit sales of narcotics were not within the VAT rules. In the instant case, la Court of Appeal (*Gerechtshof*) had held that the taxable person was not entitled to deduct input taxes where the supply of narcotics was concerned [4]. The Hoge Raad, by contrast, considered that the supplies and services for which VAT had been charged upstream were used for the purposes of the taxable person's business activities. He was accordingly entitled to deduct.

In the *United Kingdom*, the House of Lords was called on to consider Directive 77/187/EEC on the safeguarding of employees rights in the event of transfers of undertakings, businesses or parts of businesses [5] in *Wilson and others v St Helens Borough Council* [6]. The claimants, members of the staff of a state school, had been made redundant when the school was transferred from one local authority to another. The new authority had then hired them under a new contract of employment at a lower salary. Their action based on the *Transfer of undertakings (protection of employment) Regulations* 1981 and Directive 77/187/EEC reached the House of Lords, which held that under the national Regulations, although the transfer of an undertaking does not automatically terminate an employment contract, this does not mean that an express dismissal notified before, during or after the transfer is necessarily null and void. An employed person cannot therefore oblige the transferee to maintain his employment contract on the same terms as before.

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[1] Case 90/86 [1988] ECR 4285 (judgment given on 14 July 1988).
[2] Hoge Raad, *X* v *Inspecteur der omzetbelasting*, Beslissingen in belastingzaken, 1998, 116.
[3] Case 269/86 *Mol* [1988] 3627 (judgment given on 5 July 1988).
[4] Gerechtshof Amsterdam, 9 January 1997, Beslissingen in belastingzaken, 1998, 116.
[5] 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, 10.3.1977, p. 26).
[6] [1998] AER 609-634 (speeches given on 29 October 1998).

The House of Lords specified that the Directive did not regard the job itself as having to be maintained when an undertaking was transferred if that protection did not already exist in national law. Under national law the only right that the employee could exercise, and which was secured by the Community Directive, was the right to damages for unfair dismissal [1].

In *Jesuthasan v London Borough of Hammersmith and Fulham* [2], the Court of Appeal was hearing the action brought by a part-time teacher employed by a local authority who had been dismissed at the end of his temporary contract and considered that his dismissal was unfair. In the United Kingdom, national unfair dismissal rules [3] do not apply to part-time employees. The claimant, however, pleaded the decision of the House of Lords in *R* v *Secretary of State for Employment,* ex parte *Equal Opportunities Commission,* [4] holding that, since women accounted for the greater proportion of part-time workers, the failure of national unfair dismissal rules to part-time employees was discriminatory and consequently incompatible with Article 119 of the EC Treaty and Directives 75/117/EEC and 76/207/EEC [5]

The Court of Appeal held on 26 February 1998 that the inapplicability of the relevant national rules, which had already been declared incompatible with Community law because they were discriminatory and had accordingly been disapplied in an action brought by a woman, must also be disapplied in an action brought by a man.

Question 4

The liability of the *Belgian* State was pleaded on two occasions following the adoption of the Act of 10 December 1997 prohibiting tobacco advertising [6]. One of the effects of the Act, scheduled to enter into force on 1 January 1999, would have been to jeopardise the organisation of the annual Formula 1 Grand Prix at Spa Francorchamps. A large number of local firms and authorities took the Belgian state to court, applying for suspension of the Act and for authorisation to organise the Grand Prix without being subject to its restrictions and for an order that the state should compensate them for the loss sustained by reason of the enactment of the statute, allegedly in violation of Community law. The actions were dismissed on both counts.

The Liège Court of Appeal, in an interlocutory Order made on 12 February 1998 [7], began by restating the principle formulated by the Court of Justice [8] that a Member State may be held liable, irrespective of the body and of the action or omission constituting the infringement, even where it is the national legislature that is accused of the infringement. It went on to consider the criteria established by the Court of Justice, in particular the extent of the discretionary power enjoyed by the legislature in the relevant field [9]; having regard to the proposed European directive, which also provides for a general ban on advertising and sponsoring involving tobacco products, the Court of Appeal concluded that it would be hard put to argue in the circumstances that the Belgian State was guilty of a 'serious violation' of directly applicable Community law.

In its decision on the substance, the Tribunal de première instance at Verviers [10] followed the same reasoning and dismissed the claimants' arguments based on the broader rules governing the liability of the state in Belgian law.

Still in Belgium, the Tribunal de première instance at Brussels gave a judgment on 13 February 1998 [11] holding the state liable for a violation of Community law since it had not transposed Council Directive 86/653/EEC on self-employed commercial agents within the prescribed period [12]. Article 17 of the Directive requires the Member States to take the necessary measures to ensure that commercial agents receive an indemnity or compensation in certain circumstances. No indemnity was payable under the earlier Belgian legislation, which was in force at the time of the facts in dispute. The claimant, whose contract as self-employed commercial agent was terminated after the date scheduled for transposal of the Directive but before the national transposal legislation came into force [13], brought an action to have the state declared liable. The Court held that the claimant was in a situation in which the Directive entitled him to an indemnity and ordered the state to pay it to him, applying the calculation criteria provided for by the Directive.

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(1) For an interpretation of Directive 77/187/EEC, see Case C-399/96 *SA Europièces* v *Sanders*(judgment given on 12 November 1998, not yet reported). The Court held that it was for the referring court to determine whether the employment contract proposed by the transferee entailed a substantial change in terms of employment to the detriment of the worker. If so, Article 4(2) required the Member States to provide that termination was attributed to the employer (See paragraph 44, disp. 2).

(2) Court of Appeal (Civil Division), *Jesuthasan* v *London Borough of Hammersmith and Fulham*, [1998] IRLR 372-376.

(3) Employment Protection (consolidation) Act 1978.

(4) [1994] IRLR 176.

(5) Council Directives 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (OJ L 45, 19.2.1975, p. 14), and 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).

(6) Tobacco Advertising (Prohibition) Act of 10 December 1997, M.B. 11 February 1998, p. 3737.

(7) Court of Appeal, Liège, 12 February 1998, Revue de jurisprudence de Liège, Mons et Bruxelles, 1998, 502-513.

(8) Joined Cases C-46/93 and C-48/93 *Brasserie du Pêcheur and Factortame III* [1996] ECR I-1029 (judgment given on 5 March 1996).

(9) Case C-392/93 *British Telecommunications* [1996] ECR I-1631 (judgment given on 26 March 1996).

(10) Tribunal de première instance, Verviers, 26 June 1998, Journal des Tribunaux / Droit européen, 1998, No 53, 210-211.

(11) Tribunal de première instance, Brussels, 13 February 1998, Revue de jurisprudence de Liège, Mons et Bruxelles, 1998, 1261-1264.

(12) OJ L 382, 31.12.1986, p. 17.

(13) Belgian legislation transposed the Directive only in 1995, Commercial Agency Contracts Act of 13 April 1995, M.B. 2 June 1995, p. 15621, whereas Article 22(1) of the Directive required Member States to comply before 1 January 1990.

In *Italy*, the Court of Cassation also considered the question of state liability for loss sustained by reason of the late transposal of Directive 80/987/EEC [1] on the protection of workers in the event of the employer's insolvency. On the question of the legal status of the indemnity payable under Decree-Act No 80/1992 transposing the Directive to workers ineligible for the protection afforded by the Directive since it was not transposed in the time allowed, there has been some progress in the case-law of the Social Division of the Court of Cassation. A decision given early in the year [2] confirms [3] its tendency to hold that although loss sustained by reason of failure to transpose a Community directive generates a right to compensation, it does not flow from an unlawful act by the state; but for the first time it declares, in a decision of 11 June 1998 [4], that the relevant compensation flows 'directly and immediately from the civil liability of the state within the meaning of section 2043 of the Civil Code' (unlawful acts as a source of obligations). But the two decisions do not differ as regards the criteria for calculating interest and assessing the amounts due to the workers by way of indemnity. In both decisions, interest and the assessment are to be calculated from the date of the declaration of the employer's insolvency, which is regarded as the date on which the loss arose.

In the *United Kingdom*, in *R* v *Secretary of State for Transport*, ex parte *Factortame and others* [5], the Court of Appeal upheld a decision of the High Court [6] holding the Government of the United Kingdom liable for a violation of Community law. The claimants, who were the Spanish owners and operators of fishing vessels, had had the principle that the Community-law ban on nationality discrimination was violated by the Merchant Shipping Act 1988, which imposed requirements as to the nationality, residence and domicile of the owners, charterers and operators of fishing vessels in the United Kingdom, recognised both by the English courts [7] and by the Court of Justice [8]. The claimants subsequently commenced an action for damages in the High Court against the UK Government in respect of the loss they had sustained by reason of the Act.

The High Court held that the violation of Community law was serious enough to render the Secretary of State for Transport liable. On appeal by the Secretary of State, the Court of Appeal upheld the High Court's decision. It stated the principle that, to prove the liability of the legislature, it must be shown that the legislature had manifestly and seriously exceeded its powers. It held that violation of the fundamental principle of non-discrimination based on nationality would as a general rule found the State's liability for the resultant loss.

The Court of Appeal approved the reasoning of the High Court, which, in the circumstances, had held that the purpose of the residence and domicile requirements was indeed a form of nationality discrimination, that the Secretary of State was aware that these requirements necessarily caused the claimants to sustain a loss since they prevented them from fishing in the context of the United Kingdom quota, and that the Government of the United Kingdom had used statutory means of achieving its purpose to avert the risk that it would be frustrated by court actions, as the claimants could not obtain interim relief without going to the Court of Justice. And the Court of Appeal had particular regard to the position taken by the European Commission, which had expressly opposed the Bill [9].

The Court of Appeal also stressed the fundamental importance of the principle of Community law that had been violated and dismissed the arguments presented for the Secretary of State that Community provisions were unclear and had been 'reasonably' interpreted by the Government of the United Kingdom.

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(1) Council Directive 80/987/EEC of 20.10.1980 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, 20.10.1980, p. 23).

(2) Court of Cassation, sez. lav., 10.2.1998, n. 1366, Giust. civ., 1998, I, 1942.

(3) Court of Cassation, sez. lav., 9.1.1997, n. 133, Foro it., Mass., 1997, 14, mentioned in the 15th annual report — 1997.

(4) Court of Cassation, sez. lav., 11.6.1998, n. 5846, Giust. civ., 1998, I, 2468.

(5) [1998] CMLR, vol. 3, 192-218 (judgment given on 8 April 1998).

(6) [1998] CMLR, vol. 3, 1353-1429 (judgment given on 31 July 1997).

(7) House of Lords, *R* v *Secretary of State for Transport*, ex parte *Factortame and others* [1991] AC 603 (speeches given on 9 July 1990).

(8) Case C-246/89 *Commission* v *United Kingdom* [1991] ECR I-4585 (judgment given on 4 October 1991), and Case C-221/89 *Queen* v *Secretary of State for Transport*, ex parte *Factortame and others* [1991] ECR I-3905 (judgment given on 25 July 1991).

(9) Case C-246/89 *Commission* v *United Kingdom* [1991] ECR I-4585 (judgment given on 4 October 1991).