

2. If question 1 is answered in the negative it is asked whether, again prior to the said Directive 84/587/EEC, such a degree of harmonization of the requirements on packaging and labelling of feedingstuffs containing additives had been achieved that Article 36 could not be relied on in connection with a national requirement that there must be a statement on the packaging that the additive in question had been approved by a national authority under the registration number assigned.
3. Must Article 30 of the EEC Treaty be construed as meaning that it forbids a national measure whereby a Member State requires that the importation from other Member States of feedingstuffs containing additives mentioned in Directive 70/524/EEC shall only take place on the basis of a document, known as an 'authorization', issued to the undertaking on a 'once and for all' basis, where a wholly analogous authorization is required of domestic producers, where the authorities are not informed in any other way in which undertakings the control must be carried out pursuant to the said Directive, where the legislation does not lay down specific conditions for issuing or revoking authorizations and it must be assumed that according to principles of national law a request for authorization may be refused and an authorization may be revoked only where the activity is pursued in such a way that considerations of human or animal health make this imperative, where according to administrative practice the authorization is issued within a few weeks on the basis of a request which need only contain the importer's name and address and where in administrative practice an authorization has hitherto never been refused to or withdrawn from an importer?
4. Did Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs, as amended before Council Directive 84/587/EEC of 29 November 1984, lay down such a degree of harmonization that the Member States were wholly precluded from relying on Article 36 of the EEC Treaty in connection with a national measure such as that described in question 3?
5. Was it compatible with Community law, in particular Articles 9 and 95 of the EEC Treaty in conjunction with Directive 70/524/EEC, for a Member State to collect an annual levy from undertakings which obtained the authorization mentioned in question 3, where the levy was collected in the same amount from domestic producers and importers and where the total amount of the levy corresponded to the expenditure occasioned by the checks by random sampling carried out in accordance with Directive 70/524/EEC?

Reference for a preliminary ruling made by order of the Court of Appeal, Chancery Division, Patents Court, London, dated 27 November 1986 in the case of Thetford Corporation and other and Fiamma SPA and others

(Case 35/87)

(87/C 57/10)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by order of the Court of Appeal, Chancery Division, Patents Court, London, dated 27 November 1986 in the proceedings between Thetford Corporation and other and Fiamma SPA and others which was lodged at the Court Registry on 5 February 1987, on the following questions:

1. Whether a subsisting patent which has been granted in the United Kingdom under the provisions of the Patents Act 1949 in respect of an invention which but for the provisions of Section 50 of that Act would have been anticipated (lacked novelty) by a specification as is described in paragraphs (a) or (b) of Section 50 (1) of that Act constitutes industrial or commercial property entitled to protection under Article 36 of the Treaty of Rome?
2. If such a patent is entitled to such protection as aforesaid whether as contended by the Defendants Fiamma in this case the only relief justified under Article 36 of the Treaty would be an order for the payment of a reasonable royalty (or other monetary award) but not an injunction?

Action brought on 5 February 1987 by Eckhard Sperber against the Court of Justice of the European Communities

(Case 37/87)

(87/C 57/11)

An action against the Court of Justice of the European Communities was brought before the Court of Justice of the European Communities on 5 February 1987 by Eckhard Sperber, residing in Luxembourg-Howald, represented by Georges Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of J. Biver, 8 rue Zithe.

The applicant claims that the Court should

1. Declare the application admissible and well founded;
2. In consequence, annul the decision of the Court, adopted on 5 March, classifying the applicant on his appointment as a probationary official in grade LA 6, step 3, with effect from 1 December 1985 and, in so far as is necessary, annul the decision of the Complaints Committee of the Court of 4 November 1986 rejecting the applicant's complaint;