established in the State in which the service is provided, where the person providing the service would escape from the ambit of those rules by being established in another Member State.

Likewise, a Member State cannot be denied the right to take measures to prevent the exercise by a person providing services whose activity is entirely or principally directed towards its territory of the freedom guaranteed by Article 59 for the purpose of avoiding the professional rules of conduct which would be applicable to him if he were established within that State.

Accordingly the requirement that persons whose functions are to assist the administration of justice must be permanently established for professional purposes within the jurisdiction of certain courts or tribunals cannot be considered incompatible with the provisions of Articles 59 and 60, where such requirement is objectively justified by the need to ensure observance of professional rules of conduct connected, in particular, with the administration of justice and with respect for professional ethics.

In Case 33/74

Reference to the Court under Article 177 of the EEC Treaty by the Centrale Raad van Beroep (Netherlands court of last instance in social security matters) for a preliminary ruling in the action pending before that court between

JOHANNES HENRICUS MARIA VAN BINSBERGEN, fitter, residing at Beesel (Netherlands),

and

BESTUUR VAN DE BEDRIJFSVERENIGING VOOR DE METAALNIJVERHEID, (Board of the Trade Association of the Engineering Industry), registered at The Hague,

on the interpretation of Articles 59 and 60 of the EEC Treaty relating to freedom to provide services within the Community,

THE COURT

composed of: R. Lecourt, President, C. Ó Dálaigh and Lord Mackenzie Stuart (Presidents of Chambers), A. M. Donner, R. Monaco, J. Mertens de Wilmars, P. Pescatore (Rapporteur), H. Kutscher and M. Sørensen, Judges,

Advocate-General: H. Mayras,
Registrar: A. Van Houtte,

gives the following

JUDGMENT

Facts

The facts of the case, the course of the procedure and the observations submitted under Article 20 of the Protocol on the Statute of the Court of Justice of the EEC may be summarized as follows:

I — Facts and procedure

By judgment of 24 April 1972, the Raad van Beroep (court of first instance in social security matters) of Roermond dismissed an action brought by J. H. M. van Binsbergen against the Board of the Bedrijfsvereniging voor de Metaalnijverheid (Trade Association of the Engineering Industry) concerning the application of the Law on Unemployment (Werkloosheidswet).

By power of attorney dated 5 July 1972, van Binsbergen authorized M. G. J. M. Kortmann, a Netherlands national established in the Netherlands, to bring, on his behalf, an appeal against this decision before the Centrale Raad van Beroep (court of last instance in social security matters) and to represent him in the proceedings before that court.

On 30 November 1973, the Assistant Registrar of the Centrale Raad van Beroep informed Mr Kortmann that he was no longer entitled to act as Mr van Binsbergen's representative *ad litem* or adviser. Article 48 (1) of the Beroepswet (Law of 2 February 1955 on the organization and rules of procedure of Netherlands social service courts) provides that only persons established in the Netherlands can act as legal representatives or advisers; during the course of the proceedings Mr Kortmann had transferred his habitual residence from Zeist, in the Netherlands, to Neeroeteren, in Belgium.

Before the Centrale Raad van Beroep, Mr Kortmann invoked Article 59 of the EEC Treaty providing for the progressive abolition, during the transitional period, of restrictions on freedom to provide services within the Community and claimed that this provision prevents the application of Article 48 of the Beroepswet.

By order of 18 April 1974 the Centrale Raad van Beroep decided, in accordance with Article 177 of the EEC Treaty, to stay the proceedings until the Court of Justice had given a preliminary ruling on the following questions:

1. Are Articles 59 and 60 of the EEC Treaty directly applicable and do they create individual rights which the national courts must protect?
2. If the answer to the first question is affirmative, what is the meaning of these Articles, particularly the final sentence of Article 60?

The order of the Centrale Raad van Beroep was lodged at the Registry of the Court on 15 May 1974.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, written observations were submitted on 15 July 1974 by the Commission of the European Communities, on 31 July by the Government of Ireland and on 6 August by the Government of the United Kingdom of Great Britain and Northern Ireland.

The Court, having heard the report of the Judge-Rapporteur and the views of the Advocate-General, decided to open

the oral procedure without any preliminary inquiry.

The appellant in the main action, the Government of the Federal Republic of Germany and the Commission presented their oral observations and replied to questions put by the Court at the hearing on 9 October 1974.

The Advocate-General delivered his opinion on 30 October 1974.

In the procedure before the Court, the appellant in the main action was represented by M. G. J. M. Kortmann, the Government of Ireland by Liam J. Lysaght, Chief State Solicitor, the Government of the United Kingdom by W. H. Godwin, the Government of the Federal Republic by Erich Bülow, Ministerialdirigent at the Federal Ministry of Justice and the Commission by its Legal Adviser, Jacques H. J. Bourgeois.

II — Observations submitted to the Court

A — *The first question*

The appellant in the main action considers that the principles deduced from Article 52 of the EEC Treaty by the Court of Justice (Judgment of 21 June 1974 in Case 2/74, *Reyners)* also apply to Article 59. This article imposes, in the field of freedom to provide services, a well — defined obligation, the fulfilment of which was to facilitated by, but not conditional upon, the implementation of a programme of progressive measures. Articles 64 and 65 have lost their real significance since the end of the transitional period; Article 65, however, prohibits restrictions on freedom to provide services involving discrimination based on residence. Provisions which, like Articles 59 and 60 of the EEC Treaty, impose on Member States an obligation which they must discharge within a specific period of time become directly applicable when, on expiry of this time limit, the obligation has not been fulfilled.

The Government of Ireland submits that Articles 59 and 60 of the EEC Treaty should not be regarded as having direct effect, even though the transitional period has expired, save to the extent to which express provision is made for such a direct effect in the subsequent provisions of the chapter relating to freedom to provide services. This is the conclusion to be drawn in particular from Articles 64 and 65 of the Treaty which contain provisions which are not to be found in the chapter concerning the right of establishment.

(a) In Article 64, the Member States declared their readiness to undertake the liberalization of services beyond the extent required by directives issued pursuant to Article 63 (2), if their general economic situation and the situation of the economic sector concerned so permit. They therefore regarded the liberalization of services as requiring a detailed and careful process of analysis and consideration from the viewpoint of economic policy in each Member State and felt that, subject to Article 65, this object of the Community is to be achieved only within the limits of the directives of the Council under Article 63, and such action as may be taken by Member States under Article 64.

(b) Article 65 of the Treaty provides that as long as restrictions on freedom to provide services have not been abolished, each Member State shall apply such restrictions without distinction on grounds of nationality or residence. This article might be construed as requiring that, as long as restrictions on freedom to provide services have not been abolished, the restrictions imposed by each Member State on the free provision of services within its territory must not distinguish between the nationals of the various other Member States, but without imposing on each Member State an obligation to accord to the nationals of other Member States the same treat-

ment as that which it gives to its own nationals. However this may be, Article 65 sets the limit to the extent to which Articles 59 and 60 may be held to be directly applicable. The principles contained in the Judgment of the Court of 21 June 1974 in Case 2/74 *(Reyners v The Belgian State)*, concerning freedom of establishment should not be applied to the chapter concerning the free provision of services.

(c) In any case, Articles 59 and 60 should only be held to be directly applicable in so far as they prohibit restrictions which discriminate between persons on grounds of nationality, and also possibly of residence. The removal of other restrictions on freedom to provide services necessitates the resolution of problems which arise *(inter alia)* from the different laws and regulations which are applicable, from the different conditions in which services are rendered in the various Member States and from the fact that Member States require different educational and professional qualifications, in particular the body of knowledge required for the practice of the legal profession and the systems within which such practice is in fact conducted. These and other difficulties can only be resolved by means of directives of the Council under Article 63 (2) of the Treaty.

The Government of the United Kingdom emphasizes that there are many points of similarity between the chapters of the EEC Treaty dealing respectively with the right of establishment and the freedom to provide services. Following its reasoning in the *Reyners* Judgment, the Court may therefore hold that, since the end of the transitional period, Articles 59 and 60 have been directly applicable notwithstanding that the directives provided for in Articles 63 (2) and 57 (1) may not have been issued in respect of a given field. These directives were intended to fulfil two functions: the first being to eliminate obstacles in the way of attaining freedom (to provide services) during the transitional period, the second being to introduce into the law of Member States a set of provisions intended to facilitate the effective exercise of this freedom for the purpose of assisting economic and social interpenetration within the Community in the sphere of activities as self-employed persons.

The continuing importance of the second function is at least as great in connexion with the provision of services as in the field of establishment. In view of the transitory nature of the provision of services, in contrast with the permanence implied in the concept of establishment, the problems of control and discipline are even more serious in the field of the provision of services, and the freedom to provide a service requires a corresponding protection for those utilizing the service. The only satisfactory solution to these difficulties is by means of Community directives.

The Government of the Federal Republic of Germany considers that taking into account the interpretation which must be given to Article 59 there is no difficulty in recognizing that this article has direct effect on the expiry of the transitional period. The rule of equality of treatment with nationals may, by definition, be invoked directly by nationals of all Member States and this applies in particular in the field of freedom to provide services.

It is necessary, however, to have regard to disguised restrictions on this freedom, which are prohibited, and to distinguish them from the permitted restrictions, which must be progressively abolished by harmonization or by coordination. The question arises whether a condition relating to residence constitutes a disguised restriction, especially if it is formulated in such a general manner that it can, in fact, be satisfied only by nationals. That is a problem which must be judged in the light of each individual case; the question remains whether, even after the expiry of the transitional period, it is not necessary to issue directives based on Article 59 so as to put an end to disguised restrictions.

In conformity with the case-law of the Court, Article 59 must be considered as a whole. Moreover, the execution of Article 59 is not conditional upon the implementation of a programme of progressive measures; it prescribes, in categorical terms, the abolition of restrictions on freedom to provide services. Article 64 has, since the end of the transitional period, become superfluous and does not preclude the direct applicability of Article 59.

In reply to the first question, it must be stated that Articles 59 and 60 are directly applicable.

The Commission is of the opinion that the question of the direct applicability of Articles 59 and 60 of the EEC Treaty presupposes a preliminary examination of their wording and scope. Without prejudice to the observations submitted in relation to the second question, the following statements can be made in the light of the criteria defined in the case-law of the Court in relation to direct effect:

(a) Article 59 and the third paragraph of Article 60 establish a specific rule in a clear and precise manner: by Article 59 each Member State is obliged not to subject services provided by Community nationals established in other Member States to conditions which are more restrictive than those which would govern those services if they had been provided by nationals established within its own territory. The meaning of the concept 'restriction' is clear, as appears in particular from its use in Article 62, which is a provision universally recognized to be directly applicable. The national court does not have to enter into more complex considerations when dealing with cases relating to the provision of services than with cases involving other Articles of the Treaty which the Court has recognized to be directly applicable.

(b) Taking into account its similarity with Article 52, the obligation under Article 59 must be recognized as unconditional: apart from the section relating to the progressive nature of the obligation, Article 59 contains no particular condition precedent to its execution. The exceptions to freedom to provide services, provided for in Articles 55 and 56, are sufficiently precise and, since they constitute a derogation from the general rules of the Treaty, they must be strictly interpreted. Nor is the rule contained in the third paragraph of Article 60 subject to any condition.

(c) In relation to the criterion according to which the implementation of the obligation must not be dependent on the adoption of further measures by the Member States or by the Community institutions, Article 59, considered in conjunction with the third paragraph of Article 60, does not present a more complex situation than Article 52, which the Court has recognized to be directly applicable: the phrase 'within the framework of the provisions set out below' refers to the implementing measures to be adopted by the Community pursuant to Article 63. The general programme for the abolition of restrictions on freedom to provide services was adopted by the Council on 18 December 1961 (OJ 1962, p. 32) and, furthermore, it follows from the case-law of the Court, in particular the *Reyners* judgment, that, failure, during the transitional period, to issue the directives prescribed by Article 63 (2) does not prevent Article 59 from being recognized as having direct effect. Article 59 imposes a well-defined obligation, the fulfilment of which was to be facilitated by, but not conditional upon, the implementation of a programme of progressive measures. The directives relating to this matter, which were to be issued by the Council, do not confer upon it, among other things, a discretionary power to ensure the application of the principle of equality of treatment with nationals.

(d) The first question put by the Centrale Raad van Beroep should therefore be answered as follows:

Article 59 and the third paragraph of Article 60 of the EEC Treaty have been, since the end of the transitional period, directly applicable, notwithstanding the possibile absence, in a particular field, of the directives prescribed by Articles 63 and 57.

B — The second question

The appellant in the main action is of the opinion that the third paragraph of Article 60, in that it emphasizes the temporary nature of the employment of the person providing the service in the country where that service is provided, prohibits rules requiring habitual residence. Moreover, it must be stated that the reference to the temporary nature of the provision of services does not relate in any way to its frequency.

The Government of the United Kingdom considers that where a condition imposed by a Member State on its own nationals requires a residential qualification, and the condition does not discriminate between nationals of the host State and nationals of other Member States, the condition would not be inconsistent with the provisions of the Treaty relating to freedom to provide services if there were circumstances under which the condition could properly by justified. For example, persons carrying on activities involving special risk to others dealing with such persons may validly be subjected to conditions based on residence for the due protection of such other persons.

The Government of the Federal Republic of Germany stresses the importance of the problems involved in the interpretation of Articles 59 and 60 and the significance which the Court's replies may have for, among others, the legal profession and in particular the profession of advocate.

The fundamental rules on the right of establishment and the provision of services are broadly similar. Articles 59 and 60, like Article 52 on freedom of establishment, enshrine, in the field of freedom to provide services, the principle of the prohibition of any discrimination on grounds of nationality established in Article 7 of the Treaty. This interpretation is endorsed *a contrario* by Article 67. It is also dictated by the general scheme of the Treaty:

Article 66 declares that the provisions of Articles 55 to 58, therefore including Article 57, apply to the chapter on the provision of services. Directives are to be issued for the mutual recognition of diplomas and for the coordination of national provisions concerning the taking up and pursuit of activities as self-employed persons. These measures of coordination, based on Articles 66 and 57, are to be distinguished from the measures to be taken for the abolition of restrictions on freedom to provide services; these were the subject, during the transitional period, of the provisions of Article 63. As a general rule it is not enough that restrictions based on nationality have been abolished in compliance with Articles 59 and 63; the effective realization of freedom to provide services also requires, in particular as regards the professions, measures of harmonization and coordination. In other words, national rules which make the provision of services across a frontier more difficult or impossible do not fall within the provisions of Article 59, requiring the full realization of the principle of equality of treatment with nationals, unless they treat nationals of other Member States less favourably. It is appropriate, in this respect, to recall that there exist rules which, while not formally establishing any distinction between nationals and foreigners, do, in fact, work to the disadvantage, above all, if not exclusively, of foreign nationals.

It follows from the very idea of freedom to provide services, and in particular from the third paragraph of Article 60, that all restrictions precluding the performance of a service beyond a national frontier are in principle incompatible with the Treaty. Consequently, provisions which demand that

the person providing the service must reside or be established within the country where the service is provided must in principle be abolished. However, an exception should be made for provisions which fix residential conditions applicable to the exercise, within a country, of a profession by nationals of the country; such provisions are legitimate in the case of lawyers. In such a case, the restrictions at issue must be examined to ascertain whether they are essential and necessary for the exercise of the activity in question.

Articles 59 and 60 prescribe the application of the principle of equality of treatment with nationals in the field of freedom to provide services, but not the mutual recognition of diplomas, certificates and other evidence of formal qualifications. They prohibit all express discrimination against nationals of other Member States and, in fact, all arbitrary treatment of a less favourable nature; conditions of residence or of establishment are, in principle, prohibited by the third paragraph of Article 60, save for a number of exceptions justified, as regards certain activities or professions, by the protection of interests of particular importance to the community.

The Commission observes that the aim of the Treaty, in the field of freedom to provide services, is to prevent the provision of services from being made more difficult in any way, either directly or indirectly, from the point of view of the person receiving the service or of the service itself, by reason of the fact that it is performed beyond the frontier of a Member State, irrespective of the nationality of the parties concerned. In this respect, freedom to provide services is similar to the free movement of goods based on Articles 12 and 13 of the EEC Treaty.

Furthermore, there can be no discrimination on the basis of nationality. In the field of freedom to provide services, this principle is typically contravened by provisions which lay down a condition of residence or habitual residence in the country where the activity is to be exercised: this is the case with Article 48 (1) of the Beroepswet. The latter in fact constitutes an absolute restriction on freedom to provide services; the requirement of residence or habitual residence in the country where the service is to be provided is incompatible with the very concept of the provision of services. On the other hand, the obligation to have an address for service in the Netherlands, prescribed by Article 90 of the Beroepswet, does not come within the prohibition of Article 59, since it does not require a qualifying period of residence in the host country and does not apply to an economic activity falling within the ambit of the Treaty. Nor can it be likened to restrictions which conflict with the principle of equality of treatment for foreigners and nationals.

As to those types of service the provision of which entails a move by the person providing the service to the country of the person for whom the service is intended, the prohibition of restrictions differentiating between those who are established in one State and who wish to provide services in another and those who are established in the State where the service is provided, finds expression in the third paragraph of Article 60 of the EEC Treaty. The result of this provision is that a Member State cannot subject the exercise of an activity or profession by nationals established in other Member States to conditions which are stricter than those imposed on persons established within its own territory. These restrictions are not necessarily evidenced by differences in treatment based on nationality.

Differences between the respective legal provisions of Member States which lead to restrictions, in particular as regards requirements relating to professional knowledge or rules regulating the exercise of a profession, are not to be considered as 'restrictions' within the meaning of Article 59. In such cases, the obstacle does not arise from the fact that

a Member State treats the person providing services differently from persons established within the territory of the host country. This type of obstacle falls within the provisions of Article 57 of the EEC Treaty, which is applicable, through Article 66, to services. As regards those measures which apply indiscriminately to nationals and foreigners, it is essential to ascertain whether they exceed the specific effects which they are intended to have.

In respect of the present case, it must be borne in mind that Articles 59 and 60 of the EEC Treaty have as their purpose, within the framework of the provisions relating to services, to eliminate any obstacle created by a Member State by reason solely of the fact that the activity concerned entails the crossing of frontiers. Such restrictions arise from legal provisions or restrictive practices which:

— oblige the person providing the service to maintain his habitual residence or simply to reside in the country where he intends to provide the service;

— discriminate between, on the one hand, Community nationals who are established within the Member State where the service is provided and, on the other hand, those who are established outside that State;

— distinguish between persons, in the field of the provision of services, on the basis of nationality.

The following reply might therefore be given to the second question:

Within the framework of the provisions relating to freedom to provide services, Articles 59 and 60 of the EEC Treaty have as their aim the abolition of any restriction on freedom to provide services imposed by a Member State which is based on the fact that the said provision of services is an act which, even though performed by a national of another Member State, nevertheless entails the crossing of frontiers.

Law

1 By order of 18 April 1974, lodged at the Registry of the Court on 15 May, the *Centrale Raad van Beroep* put to the Court, under Article 177 of the EEC Treaty, questions relating to the interpretation of Articles 59 and 60 of the Treaty establishing the European Economic Community concerning freedom to provide services within the Community.

2 These questions arose incidentally, during the course of an action before the said court, and are concerned with the admission before that court of the person whom the appellant in the main action chose to act as his legal representative.

3 It appears from the file that the appellant had entrusted the defence of his interests to a legal representative of Netherlands nationality entitled to act for parties before courts and tribunals where representation by an *advocaat* is not obligatory.

4 Since this legal representative had, during the course of the proceedings, transferred his residence from the Netherlands to Belgium, his capacity to represent the party in question before the *Centrale Raad van Beroep* was contested on the basis of a provision of Netherlands law under which only persons established in the Netherlands may act as legal representatives before that court.

5 In support of his claim the person concerned invoked the provisions of the Treaty relating to freedom to provide services within the Community, and the *Centrale Raad van Beroep* referred to the Court two questions relating to the interpretation of Articles 59 and 60 of the Treaty.

The actual scope of Articles 59 and 60

6 The Court is requested to interpret Articles 59 and 60 in relation to a provision of national law whereby only persons established in the territory of the State concerned are entitled to act as legal representatives before certain courts or tribunals.

7 Article 59, the first paragraph of which is the only provision in question in this connexion, provides that: 'Within the framework of the provisions set out below, restrictions on freedom to provide services within the Community shall be progressively abolished during the transitional period in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended'.

8 Having defined the concept 'services' within the meaning of the Treaty in its first and second paragraphs, Article 60 lays down in the third paragraph that, without prejudice to the provisions of the chapter relating to the right of establishment, the person providing a service may, in order to provide that service, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

9 The question put by the national court therefore seeks to determine whether the requirement that legal representatives be permanently established within

the territory of the State where the service is to be provided can be reconciled with the prohibition, under Articles 59 and 60, on all restrictions on freedom to provide services within the Community.

10 The restrictions to be abolished pursuant to Articles 59 and 60 include all requirements imposed on the person providing the service by reason in particular of his nationality or of the fact that he does not habitually reside in the State where the service is provided, which do not apply to persons established within the national territory or which may prevent or otherwise obstruct the activities of the person providing the service.

11 In particular, a requirement that the person providing the service must be habitually resident within the territory of the State where the service is to be provided may, according to the circumstances, have the result of depriving Article 59 of all useful effect, in view of the fact that the precise object of that Article is to abolish restrictions on freedom to provide services imposed on persons who are not established in the State where the service is to be provided.

12 However, taking into account the particular nature of the services to be provided, specific requirements imposed on the person providing the service cannot be considered incompatible with the Treaty where they have as their purpose the application of professional rules justified by the general good — in particular rules relating to organization, qualifications, professional ethics, supervision and liability — which are binding upon any person established in the State in which the service is provided, where the person providing the service would escape from the ambit of those rules being established in another Member State.

13 Likewise, a Member State cannot be denied the right to take measures to prevent the exercise by a person providing services whose activity is entirely or principally directed towards its territory of the freedom guaranteed by Article 59 for the purpose of avoiding the professional rules of conduct which would be applicable to him if he were established within that State; such a situation may be subject to judicial control under the provisions of the chapter relating to the right of establishment and not of that on the provision of services.

14 In accordance with these principles, the requirement that persons whose functions are to assist the administration of justice must be permanently established for professional purposes within the jurisdiction of certain courts or tribunals cannot be considered incompatible with the provisions of Articles 59 and 60, where such requirement is objectively justified by the need to ensure observance of professional rules of conduct connected, in particular, with the administration of justice and with respect for professional ethics.

15 That cannot, however, be the case when the provision of certain services in a Member State is not subject to any sort of qualification or professional regulation and when the requirement of habitual residence is fixed by reference to the territory of the State in question.

16 In relation to a professional acitivity the exercise of which is similarly unrestricted within the territory of a particular Member State, the requirement of residence within that State constitutes a restriction which is incompatible with Articles 59 and 60 of the Treaty if the administration of justice can satisfactorily be ensured by measures which are less restrictive, such as the choosing of an address for service.

17 It must therefore be stated in reply to the question put to the Court that the first paragraph of Article 59 and the third paragraph of Article 60 of the EEC Treaty must be interpreted as meaning that the national law of a Member State cannot, by imposing a requirement as to habitual residence within that State, deny persons established in another Member State the right to provide services, where the provision of services is not subject to any special condition under the national law applicable.

The question of the direct applicability of Articles 59 and 60

18 The Court is also asked whether the first paragraph of Article 59 and the third paragraph of Article 60 of the EEC Treaty are directly applicable and create individual rights which national courts must protect.

19 This question must be resolved with reference to the whole of the chapter relating to services, taking account, moreover, of the provisions relating to the right of establishment to which reference is made in Article 66.

20 With a view to the progressive abolition during the transitional period of the restrictions referred to in Article 59, Article 63 has provided for the drawing up of a 'general programme' — laid down by Council Decision of 18 December 1961 (1962, p. 32) — to be implemented by a series of directives.

21 Within the scheme of the chapter relating to the provision of services, these directives are intended to accomplish different functions, the first being to abolish, during the transitional period, restrictions on freedom to provide services, the second being to introduce into the law of Member States a set of provisions intended to facilitate the effective exercise of this freedom, in particular by the mutual recognition of professional qualifications and the coordination of laws with regard to the pursuit of actitivities as self-employed persons.

22 These directives also have the task of resolving the specific problems resulting from the fact that where the person providing the service is not established, on a habitual basis, in the State where the service is performed he may not be fully subject to the professional rules of conduct in force in that State.

23 As regards the phased implementation of the chapter relating to services, Article 59, interpreted in the light of the general provisions of Article 8 (7) of the Treaty, expresses the intention to abolish restrictions on freedom to provide services by the end of the transitional period, the latest date for the entry into force of all the rules laid down by the Treaty.

24 The provisions of Article 59, the application of which was to be prepared by directives issued during the transitional period, therefore became unconditional on the expiry of that period.

25 The provisions of that article abolish all discrimination against the person providing the service by reason of his nationality or the fact that he is established in a Member State other than that in which the service is to be provided.

26 Therefore, as regards at least the specific requirement of nationality or of residence, Articles 59 and 60 impose a well-defined obligation, the fulfilment

of which by the Member States cannot be delayed or jeopardized by the absence of provisions which were to be adopted in pursuance of powers conferred under Articles 63 and 66.

27 Accordingly, the reply should be that the first paragraph of Article 59 and the third paragraph of Article 60 have direct effect and may therefore be relied on before national courts, at least in so far as they seek to abolish any discrimination against a person providing a service by reason of his nationality or of the fact that he resides in a Member State other than that in which the service is to be provided.

Costs

28/29 The costs incurred by the Government of Ireland, the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the Federal Republic of Germany and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable and as these proceedings are, in so far as the parties to the main action are concerned, a step in the action pending before the *Centrale Raad van Beroep*, costs are a matter for that court.

On those grounds,

THE COURT

in answer to the questions referred to it by the *Centrale Raad van Beroep* by order of 18 April 1974, hereby rules:

1. **The first paragraph of Article 59 and the third paragraph of Article 60 of the EEC Treaty must be interpreted as meaning that the national law of a Member State cannot, by imposing a requirement as to habitual residence within that State, deny persons established in another Member State the right to provide services, where the provision of services is not subject to any special condition under the national law applicable;**

2. **The first paragraph of Article 59 and the third paragraph of Article 60 have direct effect and may therefore be relied on before national courts, at least in so far as they seek to abolish any discrimination against a person providing a service by reason of his nationality or of the fact that he resides in a Member State other than that in which the service is to be provided.**

Lecourt Ó Dálaigh Mackenzie Stuart Donner Monaco
Mertens de Wilmars Pescatore Kutscher Sørensen

Delivered in open court in Luxembourg on 3 December 1974.

A. Van Houtte
Registrar

R. Lecourt
President

OPINION OF MR ADVOCATE-GENERAL MAYRAS DELIVERED ON 13 NOVEMBER 1974 [1]

Mr President,
Members of the Court,

On 21 June 1974 you gave a preliminary ruling requested of you by the Conseil d'État of Belgium. The questions put to you concerned the interpretation of Articles 52 and 55 of the Treaty establishing the European Economic Community. One of the questions you were asked was whether the provisions of Article 52 of the Treaty were, since the end of the transitional period, directly applicable to the profession of *avocat* despite the absence of directives as prescribed by Articles 54 (2) and 57 (1).

The right of establishment, as it is defined in Chapter 2 of Title III of the Treaty of Rome, was therefore the matter in issue in that previous case.

The preliminary questions referred to you by the Centrale Raad van Beroep, the Netherlands court of last instance in social security matters, raise, in the field of the provision of services dealt with in Chapter 3 (Articles 59 to 66) of the Treaty, problems similar to those which you decided in the *Reyners* Judgment which I have just recalled.

I will therefore have occasion to refer to the general purport of that decision, in so far at least as Chapter 3 of the Treaty is inspired by principles similar to those governing freedom of establishment under Chapter 2.

However, I must first of all set out the facts giving rise to the main action.

1 — Translated from the French.