COURT OF FIRST INSTANCE

Codified version of the Rules of Procedure

(2001/C 34/02)

RULES OF PROCEDURE OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES OF 2 MAY 1991

(OJ L 136 of 30 May 1991; corrigendum published in OJ L 317 of 19.11.1991, p. 34)

as amended:

(1) on 15.9.1994 (OJ L 249 of 24.9.1994, p. 17)

(2) on 17.2.1995 (OJ L 44 of 28.2.1995, p. 64)

(3) on 6.7.1995 (OJ L 172 of 22.7.1995, p. 3)

(4) on 12.3.1997 (OJ L 103 of 19.4.1997; corrigendum published in OJ L 351 of 23.12.1997, p. 72)

(5) on 17.5.1999 (OJ L 135 of 29.5.1999, p. 92)

(6) on 6.12.2000 (OJ L 322 of 19.12.2000, p. 4)

INTERPRETATION

Article 1 (2)

In these Rules:

— 'EC Treaty' means the Treaty establishing the European Community;

— 'EC Statute' means the Protocol on the Statute of the Court of Justice of the European Community;

— 'ECSC Treaty' means the Treaty establishing the European Coal and Steel Community;

— 'ECSC Statute' means the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community;

— 'EAEC Treaty' means the Treaty establishing the European Atomic Energy Community (Euratom);

— 'EAEC Statute' means the Protocol on the Statute of the Court of Justice of the European Atomic Energy Community;

— 'EEA Agreement' means the Agreement on the European Economic Area.

For the purposes of these Rules:

— 'institutions' means the institutions of the Communities and bodies which are established by the Treaties, or by an act adopted in implementation thereof, and which may be parties before the Court of First Instance;

— 'EFTA Surveillance Authority' means the surveillance authority referred to in the EEA Agreement.

TITLE 1

ORGANISATION OF THE COURT OF FIRST INSTANCE

Chapter 1

PRESIDENT AND MEMBERS OF THE COURT OF FIRST INSTANCE

Article 2

1. Every Member of the Court of First Instance shall, as a rule, perform the function of Judge. Members of the Court of First Instance are hereinafter referred to as 'Judges'.

2. Every Judge, with the exception of the President, may, in the circumstances specified in Articles 17 to 19, perform the function of Advocate General in a particular case.

References to the Advocate General in these Rules shall apply only where a Judge has been designated as Advocate General.

Article 3

The term of office of a Judge shall begin on the date laid down in his instrument of appointment. In the absence of any provision regarding the date, the term shall begin on the date of the instrument.

Article 4

1. Before taking up his duties, a Judge shall take the following oath before the Court of Justice of the European Communities:

'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.'

2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

Article 5 (6)

When the Court of Justice is called upon to decide, after consulting the Court of First Instance, whether a Judge of the Court of First Instance no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President of the Court of First Instance shall invite the Judge concerned to make representations to the Court of First Instance, in closed session and in the absence of the Registrar.

The Court of First Instance shall state the reasons for its opinion.

An opinion to the effect that a Judge of the Court of First Instance no longer fulfils the requisite conditions or no longer meets the obligations arising from his office must receive the votes of a majority of the Judges of the Court of First Instance. In that event, particulars of the voting shall be communicated to the Court of Justice.

Voting shall be by secret ballot; the Judge concerned shall not take part in the deliberations.

Article 6

With the exception of the President of the Court of First Instance and of the Presidents of the Chambers, the Judges shall rank equally in precedence according to their seniority in office.

Where there is equal seniority in office, precedence shall be determined by age.

Retiring Judges who are reappointed shall retain their former precedence.

Article 7 (2) (6)

1. The Judges shall, immediately after the partial replacement provided for in Article 225 of the EC Treaty, Article 32d of the ECSC Treaty and Article 140a of the EAEC Treaty, elect one of their number as President of the Court of First Instance for a term of three years.

2. If the office of President of the Court of First Instance falls vacant before the normal date of expiry thereof, the Court of First Instance shall elect a successor for the remainder of the term.

3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes the oldest of them shall be deemed elected.

Article 8

The President of the Court of First Instance shall direct the judicial business and the administration of the Court of First Instance. He shall preside at plenary sittings and deliberations.

Article 9

When the President of the Court of First Instance is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised by a President of a Chamber according to the order of precedence laid down in Article 6.

If the President of the Court of First Instance and the Presidents of the Chambers are all prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the other Judges according to the order of precedence laid down in Article 6.

Chapter 2

CONSTITUTION OF THE CHAMBERS AND DESIGNATION OF JUDGE-RAPPORTEURS AND ADVOCATES GENERAL

Article 10

1. The Court of First Instance shall set up Chambers composed of three or five Judges and shall decide which Judges shall be attached to them.

2. The composition of the Chambers shall be published in the *Official Journal of the European Communities*.

Article 11 (5)

1. Cases before the Court of First Instance shall be heard by Chambers composed in accordance with Article 10.

Cases may be heard by the Court of First Instance sitting in plenary session under the conditions laid down in Articles 14, 51, 106, 118, 124, 127 and 129.

Cases may be heard by a single Judge where they are delegated to him under the conditions specified in Articles 14 and 51 or assigned to him pursuant to Articles 124, 127(1) or 129(2).

2. In cases coming before a Chamber, the term 'Court of First Instance' in these Rules shall designate that Chamber. In cases delegated or assigned to a single Judge the term 'Court of First Instance' in these Rules shall designate that Judge.

Article 12 (1)

1. The Court of First Instance shall lay down criteria by which cases are to be allocated among the Chambers.

The decision shall be published in the *Official Journal of the European Communities*.

Article 13

1. As soon as the application initiating proceedings has been lodged, the President of the Court of First Instance shall assign the case to one of the Chambers.

2. The President of the Chamber shall propose to the President of the Court of First Instance, in respect of each case assigned to the Chamber, the designation of a Judge to act as Rapporteur; the President of the Court of First Instance shall decide on the proposal.

Article 14 (5)

1. Whenever the legal difficulty or the importance of the case or special circumstances so justify, a case may be referred to the Court of First Instance sitting in plenary session or to a Chamber composed of a different number of Judges.

2. (1) The following cases assigned to a Chamber composed of three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of those cases and to the absence of other special circumstances, they are suitable for being so heard and determined and have been delegated under the conditions laid down in Article 51:

(a) cases brought pursuant to Article 236 of the EC Treaty and to Article 152 of the EAEC Treaty;

(b) cases brought pursuant to the fourth paragraph of Article 230, the third paragraph of Article 232 and Article 235 of the EC Treaty, to the second paragraph of Article 33, Article 35 and the first and second paragraphs of Article 40 of the ECSC Treaty and to the fourth paragraph of Article 146, the third paragraph of Article 148 and Article 151 of the EAEC Treaty that raise only questions already clarified by established case-law or that form part of a series of cases in which the same relief is sought and of which one has already been finally decided;

(c) cases brought pursuant to Article 238 of the EC Treaty, Article 42 of the ECSC Treaty and Article 153 of the EAEC Treaty.

(2) Delegation to a single Judge shall not be possible:

(a) in cases which raise issues as to the legality of an act of general application;

(b) in cases concerning the implementation of the rules:

— on competition and on control of concentrations,

— relating to aid granted by States,

— relating to measures to protect trade,

— relating to the common organisation of the agricultural markets, with the exception of cases that form part of a series of cases in which the same relief is sought and of which one has already been finally decided;

(c) in the cases referred to in Article 130 (1).

(3) The single Judge shall refer the case back to the Chamber if he finds that the conditions justifying its delegation are no longer satisfied.

3. The decisions to refer or to delegate a case which are provided for in paragraphs 1 and 2 shall be taken under the conditions laid down in Article 51.

Article 15

The Court of First Instance shall appoint for a period of one year the Presidents of the Chambers.

The provisions of Article 7 (2) and (3) shall apply.

The appointments made in pursuance of this Article shall be published in the *Official Journal of the European Communities*.

Article 16 (5)

In cases coming before a Chamber the powers of the President shall be exercised by the President of the Chamber.

In cases delegated or assigned to a single Judge, with the exception of those referred to in Articles 105 and 106, the powers of the President shall be exercised by that Judge.

Article 17

When the Court of First Instance sits in plenary session, it shall be assisted by an Advocate General designated by the President of the Court of First Instance.

Article 18

A Chamber of the Court of First Instance may be assisted by an Advocate General if it is considered that the legal difficulty or the factual complexity of the case so requires.

Article 19

The decision to designate an Advocate General in a particular case shall be taken by the Court of First Instance sitting in plenary session at the request of the Chamber before which the case comes.

The President of the Court of First Instance shall designate the Judge called upon to perform the function of Advocate General in that case.

Chapter 3

REGISTRY

Section 1 — The Registrar

Article 20

1. The Court of First Instance shall appoint the Registrar.

Two weeks before the date fixed for making the appointment, the President of the Court of First Instance shall inform the Judges of the applications which have been submitted for the post.

2. An application shall be accompanied by full details of the candidate's age, nationality, university degrees, knowledge of any languages, present and past occupations and experience, if any, in judicial and international fields.

3. The appointment shall be made following the procedure laid down in Article 7 (3).

4. The Registrar shall be appointed for a term of six years. He may be reappointed.

5. Before he takes up his duties the Registrar shall take the oath before the Court of First Instance in accordance with Article 4.

6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Court of First Instance shall take its decision after giving the Registrar an opportunity to make representations.

7. If the office of Registrar falls vacant before the usual date of expiry of the term thereof, the Court of First Instance shall appoint a new Registrar for a term of six years.

Article 21

The Court of First Instance may, following the procedure laid down in respect of the Registrar, appoint one or more Assistant Registrars to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 23 allow.

Article 22

Where the Registrar is absent or prevented from attending and, if necessary, where the Assistant Registrar is absent or so prevented, or where their posts are vacant, the President of the Court of First Instance shall designate an official or servant to carry out the duties of Registrar.

Article 23

Instructions to the Registrar shall be adopted by the Court of First Instance acting on a proposal from the President of the Court of First Instance.

Article 24 (2) (6)

1. There shall be kept in the Registry, under the control of the Registrar, a register initialled by the President of the Court of First Instance, in which all pleadings and supporting documents shall be entered in the order in which they are lodged.

2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.

3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.

4. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 23.

5. Persons having an interest may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale fixed by the Court of First Instance on a proposal from the Registrar.

The parties to a case may on payment of the appropriate charge also obtain copies of pleadings and authenticated copies of orders and judgments.

6. Notice shall be given in the *Official Journal of the European Communities* of the date of registration of an application initiating proceedings, the names and addresses of the parties, the subject-matter of the proceedings, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments.

7. Where the Council or the Commission is not a party to a case, the Court of First Instance shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under Article 241 of the EC Treaty, the third paragraph of Article 36 of the ECSC Treaty or Article 156 of the EAEC Treaty.

Article 25

1. The Registrar shall be responsible, under the authority of the President, for the acceptance, transmission and custody of documents and for effecting service as provided for by these Rules.

2. The Registrar shall assist the Court of First Instance, the President and the Judges in all their official functions.

Article 26

The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the publications of the Court of First Instance.

Article 27

Subject to Articles 5 and 33, the Registrar shall attend the sittings of the Court of First Instance.

Section 2 — Other Departments

Article 28

The officials and other servants whose task is to assist directly the President, the Judges and the Registrar shall be appointed in accordance with the Staff Regulations. They shall be responsible to the Registrar, under the authority of the President of the Court of First Instance.

Article 29

The officials and other servants referred to in Article 28 shall take the oath provided for in Article 20 (2) of the Rules of Procedure of the Court of Justice before the President of the Court of First Instance in the presence of the Registrar.

Article 30

The Registrar shall be responsible, under the authority of the President of the Court of First Instance, for the administration of the Court of First Instance, its financial management and its accounts; he shall be assisted in this by the departments of the Court of Justice.

Chapter 4

THE WORKING OF THE COURT OF FIRST INSTANCE

Article 31

1. The dates and times of the sittings of the Court of First Instance shall be fixed by the President.

2. The Court of First Instance may choose to hold one or more sittings in a place other than that in which the Court of First Instance has its seat.

Article 32 (4) (5)

1. Where, by reason of a Judge being absent or prevented from attending, there is an even number of Judges, the most junior Judge within the meaning of Article 6 shall abstain from taking part in the deliberations unless he is the Judge-Rapporteur. In this case, the Judge immediately senior to him shall abstain from taking part in the deliberations.

Where, following the designation of an Advocate General pursuant to Article 17, there is an even number of Judges in the Court of First Instance sitting in plenary session, the President of the Court shall designate, before the hearing and in accordance with a rota established in advance by the Court of First Instance and published in the *Official Journal of the European Communities*, the Judge who will not take part in the judgment of the case.

2. If after the Court of First Instance has been convened in plenary session, it is found that the quorum of nine Judges has not been attained, the President of the Court of First Instance shall adjourn the sitting until there is a quorum.

3. If in any Chamber the quorum of three Judges has not been attained, the President of that Chamber shall so inform the President of the Court of First Instance who shall designate another Judge to complete the Chamber.

4. If in any Chamber of three or five Judges the number of Judges assigned to that Chamber is higher than three or five respectively, the President of the Chamber shall decide which of the Judges will be called upon to take part in the judgment of the case.

5. If the single Judge to whom the case has been delegated or assigned is absent or prevented from attending, the President of the Court of First Instance shall designate another Judge to replace that Judge.

Article 33

1. The Court of First Instance shall deliberate in closed session.

2. Only those Judges who were present at the oral proceedings may take part in the deliberations.

3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

4. Any Judge may require that any question be formulated in the language of his choice and communicated in writing to the other Judges before being put to the vote.

5. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Court of First Instance. Votes shall be cast in reverse order to the order of precedence laid down in Article 6.

6. Differences of view on the substance, wording or order of questions, or on the interpretation of a vote shall be settled by decision of the Court of First Instance.

7. Where the deliberations of the Court of First Instance concern questions of its own administration, the Registrar shall be present, unless the Court of First Instance decides to the contrary.

8. Where the Court of First Instance sits without the Registrar being present it shall, if necessary, instruct the most junior Judge within the meaning of Article 6 to draw up minutes. The minutes shall be signed by this Judge and by the President.

Article 34

1. Subject to any special decision of the Court of First Instance, its vacations shall be as follows:

— from 18 December to 10 January,

— from the Sunday before Easter to the second Sunday after Easter,

— from 15 July to 15 September.

During the vacations, the functions of President shall be exercised at the place where the Court of First Instance has its seat either by the President himself, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.

2. In a case of urgency, the President may convene the Judges during the vacations.

3. The Court of First Instance shall observe the official holidays of the place where it has its seat.

4. The Court of First Instance may, in proper circumstances, grant leave of absence to any Judge.

Chapter 5

LANGUAGES

Article 35 (2) (4)

1. The language of a case shall be Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish or Swedish.

2. The language of the case shall be chosen by the applicant, except that:

(a) at the joint request of the parties, the use of another of the languages mentioned in paragraph 1 for all or part of the proceedings may be authorised;

(b) at the request of one of the parties, and after the opposite party and the Advocate General have been heard, the use of another of the languages mentioned in paragraph 1 as the language of the case for all or part of the proceedings may be authorised by way of derogation from subparagraph (a); such a request may not be submitted by an institution.

Requests as above may be decided on by the President; the latter may and, where he proposes to accede to a request without the agreement of all the parties, must refer the request to the Court of First Instance.

3. The language of the case shall be used in the written and oral pleadings of the parties and in supporting documents, and also in the minutes and decisions of the Court of First Instance.

Any supporting documents expressed in another language must be accompanied by a translation into the language of the case.

In the case of lengthy documents, translations may be confined to extracts. However, the Court of First Instance may, of its own motion or at the request of a party, at any time call for a complete or fuller translation.

Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when intervening in a case before the Court of First Instance. This provision shall apply both to written statements and to oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, may be authorised to use one of the languages mentioned in paragraph 1, other than the language of the case, when they intervene in a case before the Court of First Instance. This provision shall apply both to written statements and oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

4. Where a witness or expert states that he is unable adequately to express himself in one of the languages referred to in paragraph 1 of this Article, the Court of First Instance may authorise him to give his evidence in another language. The Registrar shall arrange for translation into the language of the case.

5. The President in conducting oral proceedings, the Judge-Rapporteur both in his preliminary report and in his report for the hearing, Judges and the Advocate General in putting questions and the Advocate General in delivering his opinion may use one of the languages referred to in paragraph 1 of this Article other than the language of the case. The Registrar shall arrange for translation into the language of the case.

Article 36

1. The Registrar shall, at the request of any Judge, of the Advocate General or of a party, arrange for anything said or written in the course of the proceedings before the Court of First Instance to be translated into the languages he chooses from those referred to in Article 35 (1).

2. Publications of the Court of First Instance shall be issued in the languages referred to in Article 1 of Council Regulation No 1.

Article 37

The texts of documents drawn up in the language of the case or in any other language authorised by the Court of First Instance pursuant to Article 35 shall be authentic.

Chapter 6

RIGHTS AND OBLIGATIONS OF AGENTS, ADVISERS AND LAWYERS

Article 38 (2)

1. Agents, advisers and lawyers, appearing before the Court of First Instance or before any judicial authority to which it has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, advisers and lawyers shall enjoy the following further privileges and facilities:

(a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court of First Instance for inspection in the presence of the Registrar and of the person concerned;

(b) agents, advisers and lawyers shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;

(c) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.

Article 39 (2)

In order to qualify for the privileges, immunities and facilities specified in Article 38, persons entitled to them shall furnish proof of their status as follows:

(a) agents shall produce an official document issued by the party for whom they act and shall forward without delay a copy thereof to the Registrar;

(b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 40

The privileges, immunities and facilities specified in Article 38 are granted exclusively in the interests of the proper conduct of proceedings.

The Court of First Instance may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

Article 41

1. Any adviser or lawyer whose conduct towards the Court of First Instance, the President, a Judge or the Registrar is incompatible with the dignity of the Court of First Instance, or who uses his rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order of the Court of First Instance; the person concerned shall be given an opportunity to defend himself.

The order shall have immediate effect.

2. Where an adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another adviser or lawyer.

3. Decisions taken under this Article may be rescinded.

Article 42 (2)

The provisions of this Chapter shall apply to university teachers who have a right of audience before the Court of First Instance in accordance with Article 17 of the EC Statute, Article 20 of the ECSC Statute and Article 17 of the EAEC Statute.

TITLE 2

PROCEDURE

Chapter 1

WRITTEN PROCEDURE

Article 43 (6)

1. The original of every pleading must be signed by the party's agent or lawyer.

The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Court of First Instance and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time-limits laid down by the Court of First Instance, translations of all pleadings into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 of this Article shall apply.

3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings only the date of lodgment at the Registry shall be taken into account.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

6. Without prejudice to the provisions of paragraphs 1 to 5, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by telefax or other technical means of communication available to the Court of First Instance shall be deemed to be the date of lodgment for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1, is lodged at the Registry no later than ten days thereafter.

Article 44 (1) (2) (6)

1. An application of the kind referred to in Article 19 of the EC Statute, Article 22 of the ECSC Statute and Article 19 of the EAEC Statute shall state:

(a) the name and address of the applicant;

(b) the designation of the party against whom the application is made;

(c) the subject-matter of the proceedings and a summary of the pleas in law on which the application is based;

(d) the form of order sought by the applicant;

(e) where appropriate, the nature of any evidence offered in support.

2. For the purposes of the proceedings, the application shall state an address for service in the place where the Court of First Instance has its seat and the name of the person who is authorised and has expressed willingness to accept service.

In addition to or instead of specifying an address for service as referred to in the first subparagraph, the application may state that the lawyer or agent agrees that service is to be effected on him by telefax or other technical means of communication.

If the application does not comply with the requirements referred to in the first and second subparagraphs, all service on the party concerned for the purposes of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from the first paragraph of Article 100, service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Court of First Instance has its seat.

3. The lawyer acting for a party must lodge at the Registry a certificate that he is authorised to practise before a Court of a Member State or of another State which is a party to the EEA Agreement.

4. The application shall be accompanied, where appropriate, by the documents specified in the second paragraph of Article 19 of the EC Statute, in the second paragraph of Article 22 of the ECSC Statute and in the second paragraph of Article 19 of the EAEC Statute.

5. An application made by a legal person governed by private law shall be accompanied by:

(a) the instrument or instruments constituting and regulating that legal person or a recent extract from the register of companies, firms or associations or any other proof of its existence in law;

(b) proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorised for the purpose.

5a. An application submitted under Article 238 of the EC Treaty, Article 42 of the ECSC Treaty or Article 153 of the EAEC Treaty pursuant to an arbitration clause contained in a contract governed by public or private law, entered into by the Community or on its behalf, shall be accompanied by a copy of the contract which contains that clause.

6. If an application does not comply with the requirements set out in paragraphs 3 to 5 of this Article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them whether by putting the application itself in order or by producing any of the above-mentioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Court of First Instance shall decide whether the non-compliance with these conditions renders the application formally inadmissible.

Article 45

The application shall be served on the defendant. In a case where Article 44(6) applies, service shall be effected as soon as the application has been put in order or the Court of First Instance has declared it admissible notwithstanding the failure to observe the formal requirements set out in that Article.

Article 46

1. Within one month after service on him of the application, the defendant shall lodge a defence, stating:

(a) the name and address of the defendant;

(b) the arguments of fact and law relied on;

(c) the form of order sought by the defendant;

(d) the nature of any evidence offered by him.

The provisions of Article 44(2) to (5) shall apply to the defence.

2. In proceedings between the Communities and their servants the defence shall be accompanied by the complaint within the meaning of Article 90(2) of the Staff Regulations of Officials and by the decision rejecting the complaint together with the dates on which the complaint was submitted and the decision notified.

3. The time-limit laid down in paragraph 1 of this Article may be extended by the President on a reasoned application by the defendant.

Article 47 (6)

1. The application initiating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant unless the Court of First Instance, after hearing the Advocate General, decides that a second exchange of pleadings is unnecessary because the documents before it are sufficiently comprehensive to enable the parties to elaborate their pleas and arguments in the course of the oral procedure. However, the Court of First Instance may authorise the parties to supplement the documents if the applicant presents a reasoned request to that effect within two weeks from the notification of that decision.

2. The President shall fix the time-limits within which these pleadings are to be lodged.

Article 48

1. In reply or rejoinder a party may offer further evidence. The party must, however, give reasons for the delay in offering it.

2. No new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.

If in the course of the procedure one of the parties puts forward a new plea in law which is so based, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur and after hearing the Advocate General, allow the other party time to answer on that plea.

Consideration of the admissibility of the plea shall be reserved for the final judgment.

Article 49

At any stage of the proceedings the Court of First Instance may, after hearing the Advocate General, prescribe any measure of organisation of procedure or any measure of inquiry referred to in Articles 64 and 65 or order that a previous inquiry be repeated or expanded.

Article 50 (4)

The President may, at any time, after hearing the parties and the Advocate General, order that two or more cases concerning the same subject-matter shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final judgment. The cases may subsequently be disjoined. The President may refer these matters to the Court of First Instance.

Article 51 (1) (5)

1. In the cases specified in Article 14(1), and at any stage in the proceedings, the Chamber hearing the case may, either on its own initiative or at the request of one of the parties, propose to the Court of First Instance sitting in plenary session that the case be referred to the Court of First Instance sitting in plenary session or to a Chamber composed of a different number of Judges. The Court of First Instance sitting in plenary session shall, after hearing the parties and the Advocate General, decide whether or not to refer a case.

The case shall be maintained before or referred to a Chamber composed of five Judges where a Member State or an institution of the European Communities which is a party to the proceedings so requests.

2. The decision to delegate a case to a single Judge in the situations specified in Article 14(2) shall be taken, after the parties have been heard, unanimously by the Chamber composed of three Judges before which the case is pending.

Where a Member State or an institution of the European Communities which is a party to the proceedings objects to the case being heard by a single Judge the case shall be maintained before or referred to the Chamber to which the Judge-Rapporteur belongs.

Article 52 (6)

1. Without prejudice to Article 49, the President shall,

(a) after the rejoinder has been lodged, or

(b) where no reply or no rejoinder has been lodged within the time-limit fixed in accordance with Article 47(2), or

(c) where the party concerned has waived his right to lodge a reply or rejoinder, or

(d) where the Court of First Instance has decided that there is no need, in accordance with Article 47(1), to supplement the application and the defence by a reply and a rejoinder, or

(e) where the Court of First Instance has decided that it is appropriate to adjudicate under an expedited procedure in accordance with Article 76a(1), fix a date on which the Judge-Rapporteur is to present his preliminary report to the Court of First Instance.

2. The preliminary report shall contain recommendations as to whether measures of organisation of procedure or measures of inquiry should be undertaken and whether the case should be referred to the Court of First Instance sitting in plenary session or to a Chamber composed of a different number of Judges.

The Court of First Instance shall decide, after hearing the Advocate General, what action to take upon the recommendations of the Judge-Rapporteur.

Article 53

Where the Court of First Instance decides to open the oral procedure without undertaking measures of organisation of procedure or ordering a preparatory inquiry, the President of the Court of First Instance shall fix the opening date.

Article 54

Without prejudice to any measures of organisation of procedure or measures of inquiry which may be arranged at the stage of the oral procedure, where, during the written procedure, measures of organisation of procedure or measures of inquiry have been instituted and completed, the President shall fix the date for the opening of the oral procedure.

Chapter 2

ORAL PROCEDURE

Article 55

1. Subject to the priority of decisions provided for in Article 106, the Court of First Instance shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications initiating them respectively.

2. The President may in special circumstances order that a case be given priority over others.

The President may in special circumstances, after hearing the parties and the Advocate General, either on his own initiative or at the request of one of the parties, defer a case to be dealt with at a later date. On a joint application by the parties the President may order that a case be deferred.

Article 56

The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

Article 57

The oral proceedings in cases heard in camera shall not be published.

Article 58

The President may in the course of the hearing put questions to the agents, advisers or lawyers of the parties.

The other Judges and the Advocate General may do likewise.

Article 59

A party may address the Court of First Instance only through his agent, adviser or lawyer.

Article 60

Where an Advocate General has not been designated in a case, the President shall declare the oral procedure closed at the end of the hearing.

Article 61

1. Where the Advocate General delivers his opinion in writing, he shall lodge it at the Registry, which shall communicate it to the parties.

2. After the delivery, orally or in writing, of the opinion of the Advocate General the President shall declare the oral procedure closed.

Article 62

The Court of First Instance may, after hearing the Advocate General, order the reopening of the oral procedure.

Article 63

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 3

MEASURES OF ORGANISATION OF PROCEDURE AND MEASURES OF INQUIRY

Section 1 — Measures of organisation of procedure

Article 64

1. The purpose of measures of organisation of procedure shall be to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions. They shall be prescribed by the Court of First Instance, after hearing the Advocate General.

2. Measures of organisation of procedure shall, in particular, have as their purpose:

(a) to ensure efficient conduct of the written and oral procedure and to facilitate the taking of evidence;

(b) to determine the points on which the parties must present further argument or which call for measures of inquiry;

(c) to clarify the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them;

(d) to facilitate the amicable settlement of proceedings.

3. Measures of organisation of procedure may, in particular, consist of:

(a) putting questions to the parties;

(b) inviting the parties to make written or oral submissions on certain aspects of the proceedings;

(c) asking the parties or third parties for information or particulars;

(d) asking for documents or any papers relating to the case to be produced;

(e) summoning the parties' agents or the parties in person to meetings.

4. Each party may, at any stage of the procedure, propose the adoption or modification of measures of organisation of procedure. In that case, the other parties shall be heard before those measures are prescribed.

Where the procedural circumstances so require, the Registrar shall inform the parties of the measures envisaged by the Court of First Instance and shall give them an opportunity to submit comments orally or in writing.

5. If the Court of First Instance sitting in plenary session decides to prescribe measures of organisation of procedure and does not undertake such measures itself, it shall entrust the task of so doing to the Chamber to which the case was originally assigned or to the Judge-Rapporteur.

If a Chamber prescribes measures of organisation of procedure and does not undertake such measures itself, it shall entrust the task to the Judge-Rapporteur.

The Advocate General shall take part in measures of organisation of procedure.

Section 2 — Measures of inquiry

Article 65 (2)

Without prejudice to Articles 21 and 22 of the EC Statute, Articles 24 and 25 of the ECSC Statute and Articles 22 and 23 of the EAEC Statute, the following measures of inquiry may be adopted:

(a) the personal appearance of the parties;

(b) a request for information and production of documents;

(c) oral testimony;

(d) the commissioning of an expert's report;

(e) an inspection of the place or thing in question.

Article 66

1. The Court of First Instance, after hearing the Advocate General, shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be proved. Before the Court of First Instance decides on the measures of inquiry referred to in Article 65(c), (d) and (e) the parties shall be heard.

The order shall be served on the parties.

2. Evidence may be submitted in rebuttal and previous evidence may be amplified.

Article 67 (6)

1. Where the Court of First Instance sitting in plenary session orders a preparatory inquiry and does not undertake such an inquiry itself, it shall entrust the task of so doing to the Chamber to which the case was originally assigned or to the Judge-Rapporteur.

Where a Chamber orders a preparatory inquiry and does not undertake such an inquiry itself, it shall entrust the task of so doing to the Judge-Rapporteur.

The Advocate General shall take part in the measures of inquiry.

2. The parties may be present at the measures of inquiry.

3. Subject to the provisions of Article 116(2) and (6), the Court of First Instance shall take into consideration only those documents which have been made available to the lawyers and agents of the parties and on which they have been given an opportunity of expressing their views.

Where it is necessary for the Court of First Instance to verify the confidentiality, in respect of one or more parties, of a document that may be relevant in order to rule in a case, that document shall not be communicated to the parties at the stage of such verification.

Where a document to which access has been denied by a Community institution has been produced before the Court of First Instance in proceedings relating to the legality of that denial, that document shall not be communicated to the other parties.

Section 3 — The summoning and examination of witnesses and experts

Article 68

1. The Court of First Instance may, either of its own motion or on application by a party, and after hearing the Advocate General and the parties, order that certain facts be proved by witnesses. The order shall set out the facts to be established.

The Court of First Instance may summon a witness of its own motion or on application by a party or at the instance of the Advocate General.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. The witness shall be summoned by an order containing the following information:

(a) the surname, forenames, description and address of the witness;

(b) an indication of the facts about which the witness is to be examined;

(c) where appropriate, particulars of the arrangements made by the Court of First Instance for reimbursement of expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

The order shall be served on the parties and the witnesses.

3. The Court of First Instance may make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Court of First Instance of a sum sufficient to cover the taxed costs thereof; the Court of First Instance shall fix the amount of the payment.

The cashier of the Court of First Instance shall advance the funds necessary in connection with the examination of any witness summoned by the Court of First Instance of its own motion.

4. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in paragraph 5 of this Article and in Article 71.

The witness shall give his evidence to the Court of First Instance, the parties having been given notice to attend. After the witness has given his main evidence the President may, at the request of a party or of his own motion, put questions to him.

The other Judges and the Advocate General may do likewise.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

5. Subject to the provisions of Article 71, the witness shall, after giving his evidence, take the following oath:

'I swear that I have spoken the truth, the whole truth and nothing but the truth.'

The Court of First Instance may, after hearing the parties, exempt a witness from taking the oath.

6. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

Article 69 (2) (6)

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Court of First Instance, the latter may impose upon him a pecuniary penalty not exceeding EUR 5 000 [1] and may order that a further summons be served on the witness at his own expense.

The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.

3. If the witness proffers a valid excuse to the Court of First Instance, the pecuniary penalty imposed on him may be cancelled. The pecuniary penalty imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

4. Penalties imposed and other measures ordered under this Article shall be enforced in accordance with Articles 244 and 256 of the EC Treaty, Articles 44 and 92 of the ECSC Treaty and Articles 159 and 164 of the EAEC Treaty.

Article 70

1. The Court of First Instance may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Court of First Instance may request the parties or one of them to lodge security for the costs of the expert's report.

3. At the request of the expert, the Court of First Instance may order the examination of witnesses. Their examination shall be carried out in accordance with Article 68.

4. The expert may give his opinion only on points which have been expressly referred to him.

[1] Council Regulation (EC) No 1103/97 on certain provisions relating to the introduction of the euro (OJ L 162 of 19.6.1997, p. 1).

5. After the expert has made his report, the Court of First Instance may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. Subject to the provisions of Article 71, the expert shall, after making his report, take the following oath before the Court of First Instance:

'I swear that I have conscientiously and impartially carried out my task.'

The Court of First Instance may, after hearing the parties, exempt the expert from taking the oath.

Article 71

1. The President shall instruct any person who is required to take an oath before the Court of First Instance, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. Witnesses and experts shall take the oath either in accordance with the first subparagraph of Article 68(5) and the first subparagraph of Article 70(6) or in the manner laid down by their national law.

3. Where the national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witnesses and experts may make such an affirmation under the conditions and in the form prescribed in their national law.

Where their national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in the first paragraph of this Article shall be followed.

Article 72

1. The Court of First Instance may, after hearing the Advocate General, decide to report to the competent authority referred to in Annex III to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State whose courts have penal jurisdiction in any case of perjury on the part of a witness or expert before the Court of First Instance, account being taken of the provisions of Article 71.

2. The Registrar shall be responsible for communicating the decision of the Court of First Instance. The decision shall set out the facts and circumstances on which the report is based.

Article 73

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the matter shall be resolved by the Court of First Instance.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Article 74

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court of First Instance may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Court of First Instance shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

Article 75

1. The Court of First Instance may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.

2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their agents, lawyers or advisers, indicate their addresses for service and briefly describe the subject-matter of the proceedings.

Notice of the order shall be served on the parties by the Registrar.

3. The Registrar shall send the order to the competent authority named in Annex I to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the Member State to which it is addressed.

The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar.

The Registrar shall be responsible for the translation of the documents into the language of the case.

4. The Court of First Instance shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.

Article 76

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes and any expert's report at the Registry and obtain copies at their own expense.

Chapter 3a (6)

EXPEDITED PROCEDURES

Article 76a

1. The Court of First Instance may, on application by the applicant or the defendant, after hearing the other parties and the Advocate General, decide, having regard to the particular urgency and the circumstances of the case, to adjudicate under an expedited procedure.

An application for a case to be decided under an expedited procedure shall be made by a separate document lodged at the same time as the application initiating the proceedings or the defence.

By way of derogation from Article 55, cases on which the Court of First Instance has decided to adjudicate under an expedited procedure shall be given priority.

2. Under the expedited procedure, the pleadings referred to in Articles 47(1) and 116(4) and (5) may be lodged only if the Court of First Instance, by way of measures of organisation of procedure adopted in accordance with Article 64, so allows.

3. Without prejudice to Article 48, the parties may supplement their arguments and offer further evidence in the course of the oral procedure. They must, however, give reasons for the delay in offering such further evidence.

Chapter 4

STAY OF PROCEEDINGS AND DECLINING OF JURISDICTION BY THE COURT OF FIRST INSTANCE

Article 77 (2)

Without prejudice to Article 123(4), Article 128 and Article 129(4), proceedings may be stayed:

(a) in the circumstances specified in the third paragraph of Article 47 of the EC Statute, the third paragraph of Article 47 of the ECSC Statute and the third paragraph of Article 48 of the EAEC Statute;

(b) where an appeal is brought before the Court of Justice against a decision of the Court of First Instance disposing of the substantive issues in part only, disposing of a procedural issue concerning a plea of lack of competence or inadmissibility or dismissing an application to intervene;

(c) at the joint request of the parties.

Article 78 (4)

The decision to stay the proceedings shall be made by order of the President after hearing the parties and the Advocate General; the President may refer the matter to the Court of First Instance. A decision ordering that the proceedings be resumed shall be adopted in accordance with the same procedure. The orders referred to in this Article shall be served on the parties.

Article 79

1. The stay of proceedings shall take effect on the date indicated in the order of stay or, in the absence of such an indication, on the date of that order.

While proceedings are stayed time shall, except for the purposes of the time-limit prescribed in Article 115(1) for an application to intervene, cease to run for the purposes of prescribed time-limits for all parties.

2. Where the order of stay does not fix the length of the stay, it shall end on the date indicated in the order of resumption or, in the absence of such indication, on the date of the order of resumption.

From the date of resumption time shall begin to run afresh for the purposes of the time-limits.

Article 80 (2)

Decisions declining jurisdiction in the circumstances specified in the third paragraph of Article 47 of the EC Statute, the third paragraph of Article 47 of the ECSC Statute and the third paragraph of Article 48 of the EAEC Statute shall be made by the Court of First Instance by way of an order which shall be served on the parties.

Chapter 5

JUDGMENTS

Article 81

The judgment shall contain:

— a statement that it is the judgment of the Court of First Instance,

— the date of its delivery,

— the names of the President and of the Judges taking part in it,

— the name of the Advocate General, if designated,

— the name of the Registrar,

— the description of the parties,

— the names of the agents, advisers and lawyers of the parties,

— a statement of the forms of order sought by the parties,

— a statement, where appropriate, that the Advocate General delivered his opinion,

— a summary of the facts,

— the grounds for the decision,

— the operative part of the judgment, including the decision as to costs.

Article 82

1. The judgment shall be delivered in open court; the parties shall be given notice to attend to hear it.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the parties shall be served with certified copies of the judgment.

3. The Registrar shall record on the original of the judgment the date on which it was delivered.

Article 83 (2)

Subject to the provisions of the second paragraph of Article 53 of the EC Statute, the second paragraph of Article 53 of the ECSC Statute and the second paragraph of Article 54 of the EAEC Statute, the judgment shall be binding from the date of its delivery.

Article 84

1. Without prejudice to the provisions relating to the interpretation of judgments, the Court of First Instance may, of its own motion or on application by a party made within two weeks after the delivery of a judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The parties, whom the Registrar shall duly notify, may lodge written observations within a period prescribed by the President.

3. The Court of First Instance shall take its decision in closed session.

4. The original of the rectification order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the rectified judgment.

Article 85

If the Court of First Instance should omit to give a decision on costs, any party may within a month after service of the judgment apply to the Court of First Instance to supplement its judgment.

The application shall be served on the opposite party and the President shall prescribe a period within which that party may lodge written observations.

After these observations have been lodged, the Court of First Instance shall decide both on the admissibility and on the substance of the application.

Article 86

The Registrar shall arrange for the publication of cases before the Court of First Instance.

Chapter 6

COSTS

Article 87 (2) (4)

1. A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

2. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

Where there are several unsuccessful parties the Court of First Instance shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court of First Instance may order that the costs be shared or that each party bear its own costs.

The Court of First Instance may order a party, even if successful, to pay costs which it considers that party to have unreasonably or vexatiously caused the opposite party to incur.

4. The Member States and institutions which intervened in the proceedings shall bear their own costs.

The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, shall bear their own costs if they intervene in the proceedings.

The Court of First Instance may order an intervener other than those mentioned in the preceding subparagraph to bear his own costs.

5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the observations of the other party on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.

Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

If costs are not applied for, the parties shall bear their own costs.

6. Where a case does not proceed to judgment, the costs shall be in the discretion of the Court of First Instance.

Article 88

Without prejudice to the second subparagraph of Article 87(3), in proceedings between the Communities and their servants the institutions shall bear their own costs.

Article 89

Costs necessarily incurred by a party in enforcing a judgment or order of the Court of First Instance shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

Article 90

Proceedings before the Court of First Instance shall be free of charge, except that:

(a) where a party has caused the Court of First Instance to incur avoidable costs, the Court of First Instance may order that party to refund them;

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges referred to in Article 24(5).

Article 91

Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:

(a) sums payable to witnesses and experts under Article 74;

(b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.

Article 92

1. If there is a dispute concerning the costs to be recovered, the Court of First Instance hearing the case shall, on application by the party concerned and after hearing the opposite party, make an order, from which no appeal shall lie.

2. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.

Article 93

1. Sums due from the cashier of the Court of First Instance shall be paid in the currency of the country where the Court of First Instance has its seat.

At the request of the person entitled to any sum, it shall be paid in the currency of the country where the expenses to be refunded were incurred or where the steps in respect of which payment is due were taken.

2. Other debtors shall make payment in the currency of their country of origin.

3. Conversions of currency shall be made at the official rates of exchange ruling on the day of payment in the country where the Court of First Instance has its seat.

Chapter 7

LEGAL AID

Article 94 (4)

1. A party who is wholly or in part unable to meet the costs of the proceedings may at any time apply for legal aid.

The application shall be accompanied by evidence of the applicant's need of assistance, and in particular by a document from the competent authority certifying his lack of means.

2. If the application is made prior to proceedings which the applicant wishes to commence, it shall briefly state the subject of such proceedings.

The application need not be made through a lawyer.

The President shall, after considering the written observations of the opposite party, decide whether legal aid should be granted in full or in part, or whether it should be refused. He shall consider whether there is manifestly no cause of action. He may refer the matter to the Court of First Instance.

The decision shall be taken by way of an order without giving reasons, and no appeal shall lie therefrom.

Article 95 (4)

1. The Court of First Instance, by any order by which it decides that a person is entitled to receive legal aid, shall order that a lawyer be appointed to act for him.

2. If the person does not indicate his choice of lawyer, or if the Court of First Instance considers that his choice is unacceptable, the Registrar shall send a copy of the order and of the application for legal aid to the authority named in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice, being the competent authority of the State concerned.

3. The Court of First Instance, in the light of the suggestions made by that authority, shall of its own motion appoint a lawyer to act for the person concerned.

4. An order granting legal aid may specify an amount to be paid to the lawyer appointed to act for the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed.

Article 96

The Court of First Instance may at any time, either of its own motion or on application, withdraw legal aid if the circumstances which led to its being granted alter during the proceedings.

Article 97 (4)

1. Where legal aid is granted, the cashier of the Court of First Instance shall advance the funds necessary to meet the expenses.

2. The President, who may refer the matter to the Court of First Instance, shall adjudicate on the lawyer's disbursements and fees; he may, on application by the lawyer, order that he receive an advance.

3. In its decision as to costs the Court of First Instance may order the payment to the cashier of the Court of First Instance of the whole or any part of amounts advanced as legal aid.

The Registrar shall take steps to obtain the recovery of these sums from the party ordered to pay them.

Chapter 8

DISCONTINUANCE

Article 98 (2) (6)

If, before the Court of First Instance has given its decision, the parties reach a settlement of their dispute and intimate to the Court of First Instance the abandonment of their claims, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 87(5) having regard to any proposals made by the parties on the matter.

This provision shall not apply to proceedings under Articles 230 and 232 of the EC Treaty, Articles 33 and 35 of the ECSC Treaty and Articles 146 and 148 of the EAEC Treaty.

Article 99

If the applicant informs the Court of First Instance in writing that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 87(5).

Chapter 9

SERVICE

Article 100 (6)

1. Where these Rules require that a document be served on a person, the Registrar shall ensure that service is effected at that person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 43(1).

2. Where, in accordance with the second subparagraph of Article 44(2), the addressee has agreed that service is to be effected on him by telefax or other technical means of communication, any procedural document other than a judgment or order of the Court of First Instance may be served by the transmission of a copy of the document by such means.

Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in paragraph 1. The addressee shall be so advised by telefax or other technical means of communication. Service shall then be deemed to have been effected on the addressee by registered post on the tenth day following the lodging of the registered letter at the post office of the place where the Court of First Instance has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or other technical means of communication, that the document to be served has not reached him.

Chapter 10

TIME-LIMITS

Article 101 (2)

1. Any period of time prescribed by the EC, ECSC and EAEC Treaties, the Statutes of the Court of Justice or these Rules for the taking of any procedural step shall be reckoned as follows:

(a) Where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) A period expressed in weeks, months or in years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) Where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;

(d) Periods shall include official holidays, Sundays and Saturdays;

(e) Periods shall not be suspended during the judicial vacations.

2. If the period would otherwise end on a Saturday, Sunday or official holiday, it shall be extended until the end of the first following working day.

The list of official holidays drawn up by the Court of Justice and published in the Official Journal of the European Communities shall apply to the Court of First Instance.

Article 102 (4) (6)

1. Where the period of time allowed for commencing proceedings against a measure adopted by an institution runs from the publication of that measure, that period shall be calculated, for the purposes of Article 101(1)(a), from the end of the 14th day after publication thereof in the Official Journal of the European Communities.

2. The prescribed time-limits shall be extended on account of distance by a single period of ten days.

Article 103

1. Any time-limit prescribed pursuant to these Rules may be extended by whoever prescribed it.

2. The President may delegate power of signature to the Registrar for the purpose of fixing time-limits which, pursuant to these Rules, it falls to the President to prescribe, or of extending such time-limits.

TITLE 3

SPECIAL FORMS OF PROCEDURE

Chapter 1

SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

Article 104 (2) (6)

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 242 of the EC Treaty, the second paragraph of Article 39 of the ECSC Treaty and Article 157 of the EAEC Treaty, shall be admissible only if the applicant is challenging that measure in proceedings before the Court of First Instance.

An application for the adoption of any other interim measure referred to in Article 243 of the EC Treaty, the third paragraph of Article 39 of the ECSC Treaty and Article 158 of the EAEC Treaty shall be admissible only if it is made by a party to a case before the Court of First Instance and relates to that case.

2. An application of a kind referred to in paragraph 1 of this Article shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 43 and 44.

Article 105

1. The application shall be served on the opposite party, and the President of the Court of First Instance shall prescribe a short period within which that party may submit written or oral observations.

2. The President of the Court of First Instance may order a preparatory inquiry.

The President of the Court of First Instance may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.

Article 106

The President of the Court of First Instance shall either decide on the application himself or refer it to the Chamber to which the case has been assigned in the main proceedings or to the Court of First Instance sitting in plenary session if the case has been assigned to it.

If the President of the Court of First Instance is absent or prevented from attending, he shall be replaced by the President or the most senior Judge, within the meaning of Article 6, of the bench of the Court of First Instance to which the case has been assigned.

Where the application is referred to a bench of the Court of First Instance, that bench shall postpone all other cases and shall give a decision. Article 105 shall apply.

Article 107

1. The decision on the application shall take the form of a reasoned order. The order shall be served on the parties forthwith.

2. The enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision on the substance of the case by the Court of First Instance.

Article 108

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Article 109

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Article 110 (2) (6)

The provisions of this Chapter shall apply to applications to suspend the enforcement of a decision of the Court of First Instance or of any measure adopted by another institution, submitted pursuant to Articles 244 and 256 of the EC Treaty, Articles 44 and 92 of the ECSC Treaty and Articles 159 and 164 of the EAEC Treaty.

The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

Chapter 2

PRELIMINARY ISSUES

Article 111 (4)

Where it is clear that the Court of First Instance has no jurisdiction to take cognisance of an action or where the action is manifestly inadmissible or manifestly lacking any foundation in law, the Court of First Instance may, by reasoned order, after hearing the Advocate General and without taking further steps in the proceedings, give a decision on the action.

Article 112 (2)

The decision to refer an action to the Court of Justice, pursuant to the second paragraph of Article 47 of the EC Statute, the second paragraph of Article 47 of the ECSC Statute and the second paragraph of Article 48 of the EAEC Statute, shall, in the case of manifest lack of competence, be made by reasoned order and without taking any further steps in the proceedings.

Article 113 (4)

The Court of First Instance may at any time, of its own motion, consider whether there exists any absolute bar to proceeding with an action or declare, after hearing the parties, that the action has become devoid of purpose and that there is no need to adjudicate on it; it shall give its decision in accordance with Article 114(3) and (4).

Article 114

1. A party applying to the Court of First Instance for a decision on admissibility, on lack of competence or other preliminary plea not going to the substance of the case shall make the application by a separate document.

The application must contain the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing a statement of the form of order sought by that party and its pleas in law.

3. Unless the Court of First Instance otherwise decides, the remainder of the proceedings shall be oral.

4. The Court of First Instance shall, after hearing the Advocate General, decide on the application or reserve its decision for the final judgment. It shall refer the case to the Court of Justice if the case falls within the jurisdiction of that Court.

If the Court of First Instance refuses the application or reserves its decision, the President shall prescribe new time-limits for further steps in the proceedings.

Chapter 3

INTERVENTION

Article 115 (2) (6)

1. An application to intervene must be made either within six weeks of the publication of the notice referred to in Article 24(6) or, subject to Article 116(6), before the decision to open the oral procedure as provided for in Article 53.

2. The application shall contain:

(a) the description of the case;

(b) the description of the parties;

(c) the name and address of the intervener;

(d) the intervener's address for service at the place where the Court of First Instance has its seat;

(e) the form of order sought, by one or more of the parties, in support of which the intervener is applying for leave to intervene;

(f) a statement of the circumstances establishing the right to intervene, where the application is submitted pursuant to the second or third paragraph of Article 37 of the EC Statute, Article 34 of the ECSC Statute or the second paragraph of Article 38 of the EAEC Statute.

Articles 43 and 44 shall apply.

3. The intervener shall be represented in accordance with Article 17 of the EC Statute, the first and second paragraphs of Article 20 of the ECSC Statute and Article 17 of the EAEC Statute.

Article 116 (6)

1. The application shall be served on the parties.

The President shall give the parties an opportunity to submit their written or oral observations before deciding on the application.

The President shall decide on the application by order or shall refer the decision to the Court of First Instance. The order must be reasoned if the application is dismissed.

2. If an intervention for which application has been made within the period of six weeks prescribed in Article 115(1) is allowed, the intervener shall receive a copy of every document served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.

3. The intervener must accept the case as he finds it at the time of his intervention.

4. In the cases referred to in paragraph 2 above, the President shall prescribe a period within which the intervener may submit a statement in intervention.

The statement in intervention shall contain:

(a) a statement of the form of order sought by the intervener in support of or opposing, in whole or in part, the form of order sought by one of the parties;

(b) the pleas in law and arguments relied on by the intervener;

(c) where appropriate, the nature of any evidence offered.

5. After the statement in intervention has been lodged, the President shall, where necessary, prescribe a time-limit within which the parties may reply to that statement.

6. Where the application to intervene is made after the expiry of the period of six weeks prescribed in Article 115(1), the intervener may, on the basis of the Report for the Hearing communicated to him, submit his observations during the oral procedure.

Chapter 4

JUDGMENTS OF THE COURT OF FIRST INSTANCE DELIVERED AFTER ITS DECISION HAS BEEN SET ASIDE AND THE CASE REFERRED BACK TO IT

Article 117

Where the Court of Justice sets aside a judgment or an order of the Court of First Instance and refers the case back to that Court, the latter shall be seised of the case by the judgment so referring it.

Article 118 (5)

1. Where the Court of Justice sets aside a judgment or an order of a Chamber, the President of the Court of First Instance may assign the case to another Chamber composed of the same number of Judges.

2. Where the Court of Justice sets aside a judgment delivered or an order made by the Court of First Instance sitting in plenary session, the case shall be assigned to that Court as so constituted.

2a. Where the Court of Justice sets aside a judgment delivered or an order made by a single Judge, the President of the Court of First Instance shall assign the case to a Chamber composed of three Judges of which that Judge is not a member.

3. In the cases provided for in paragraphs 1, 2 and 2a of this Article, Articles 13(2), 14(1) and 51 shall apply.

Article 119

1. Where the written procedure before the Court of First Instance has been completed when the judgment referring the case back to it is delivered, the course of the procedure shall be as follows:

(a) Within two months from the service upon him of the judgment of the Court of Justice the applicant may lodge a statement of written observations;

(b) In the month following the communication to him of that statement, the defendant may lodge a statement of written observations. The time allowed to the defendant for lodging it may in no case be less than two months from the service upon him of the judgment of the Court of Justice;

(c) In the month following the simultaneous communication to the intervener of the observations of the applicant and the defendant, the intervener may lodge a statement of written observations. The time allowed to the intervener for lodging it may in no case be less than two months from the service upon him of the judgment of the Court of Justice.

2. Where the written procedure before the Court of First Instance had not been completed when the judgment referring the case back to the Court of First Instance was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the Court of First Instance.

3. The Court of First Instance may, if the circumstances so justify, allow supplementary statements of written observations to be lodged.

Article 120

The procedure shall be conducted in accordance with the provisions of Title II of these Rules.

Article 121

The Court of First Instance shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the Court of Justice.

Chapter 5

JUDGMENTS BY DEFAULT AND APPLICATIONS TO SET THEM ASIDE

Article 122 (4)

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply to the Court of First Instance for judgment by default.

The application shall be served on the defendant. The Court of First Instance may decide to open the oral procedure on the application.

2. Before giving judgment by default the Court of First Instance shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. It may order a preparatory inquiry.

3. A judgment by default shall be enforceable. The Court of First Instance may, however, grant a stay of execution until it has given its decision on any application under paragraph 4 of this Article to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default. The application to set aside the judgment must be made within one month from the date of service of the judgment and must be lodged in the form prescribed by Articles 43 and 44.

5. After the application has been served, the President shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with the provisions of Title II of these Rules.

6. The Court of First Instance shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

Chapter 6

EXCEPTIONAL REVIEW PROCEDURES

Section 1 — Third-party proceedings

Article 123

1. Articles 43 and 44 shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the judgment contested;

(b) state how that judgment is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case before the Court of First Instance.

The application must be made against all the parties to the original case.

Where the judgment has been published in the *Official Journal of the European Communities*, the application must be lodged within two months of the publication.

2. The Court of First Instance may, on application by the third party, order a stay of execution of the judgment. The provisions of Title III, Chapter 1, shall apply.

3. The contested judgment shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested judgment. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested judgment.

4. Where an appeal before the Court of Justice and an application initiating third-party proceedings before the Court of First Instance contest the same judgment of the Court of First Instance, the Court of First Instance may, after hearing the parties, stay the proceedings until the Court of Justice has delivered its judgment.

Article 124 (5)

The application initiating third-party proceedings shall be assigned to the Chamber which delivered the judgment which is the subject of the application; if the Court of First Instance sitting in plenary session delivered the judgment, the application shall be assigned to it. If the judgment has been delivered by a single Judge, the application initiating third-party proceedings shall be assigned to that Judge.

Section 2 — Revision

Article 125 (2)

Without prejudice to the period of ten years prescribed in the third paragraph of Article 41 of the EC Statute, the third paragraph of Article 38 of the ECSC Statute and the third paragraph of Article 42 of the EAEC Statute, an application for revision of a judgment shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.

Article 126

1. Articles 43 and 44 shall apply to an application for revision. In addition such an application shall:

(a) specify the judgment contested;

(b) indicate the points on which the application is based;

(c) set out the facts on which the application is based;

(d) indicate the nature of the evidence to show that there are facts justifying revision of the judgment, and that the time-limits laid down in Article 125 have been observed.

2. The application must be made against all parties to the case in which the contested judgment was given.

Article 127 (5)

1. The application for revision shall be assigned to the Chamber which delivered the judgment which is the subject of the application; if the Court of First Instance sitting in plenary session delivered the judgment, the application shall be assigned to it. If the judgment has been delivered by a single Judge, the application for revision shall be assigned to that Judge.

2. Without prejudice to its decision on the substance, the Court of First Instance shall, after hearing the Advocate General, having regard to the written observations of the parties, give its decision on the admissibility of the application.

3. If the Court of First Instance finds the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.

4. The original of the revising judgment shall be annexed to the original of the judgment revised. A note of the revising judgment shall be made in the margin of the original of the judgment revised.

Article 128

Where an appeal before the Court of Justice and an application for revision before the Court of First Instance concern the same judgment of the Court of First Instance, the Court of First Instance may, after hearing the parties, stay the proceedings until the Court of Justice has delivered its judgment.

Section 3 — Interpretation of judgments

Article 129 (5)

1. An application for interpretation of a judgment shall be made in accordance with Articles 43 and 44. In addition it shall specify:

(a) the judgment in question;

(b) the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the judgment was given.

2. The application for interpretation shall be assigned to the Chamber which delivered the judgment which is the subject of the application; if the Court of First Instance sitting in plenary session delivered the judgment, the application shall be assigned to it. If the judgment has been delivered by a single Judge, the application for interpretation shall be assigned to that Judge.

3. The Court of First Instance shall give its decision in the form of a judgment after having given the parties an opportunity to submit their observations and after hearing the Advocate General.

The original of the interpreting judgment shall be annexed to the original of the judgment interpreted. A note of the interpreting judgment shall be made in the margin of the original of the judgment interpreted.

4. Where an appeal before the Court of Justice and an application for interpretation before the Court of First Instance concern the same judgment of the Court of First Instance, the Court of First Instance may, after hearing the parties, stay the proceedings until the Court of Justice has delivered its judgment.

TITLE IV (3)

PROCEEDINGS RELATING TO INTELLECTUAL PROPERTY RIGHTS

Article 130

1. Subject to the special provisions of this Title, the provisions of these Rules of Procedure shall apply to proceedings brought against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and against the Community Plant Variety Office (both hereinafter referred to as 'the Office'), and concerning the application of the rules relating to an intellectual property regime.

2. The provisions of this Title shall not apply to actions brought directly against the Office without prior proceedings before a Board of Appeal.

Article 131

1. The application shall be drafted in one of the languages described in Article 35(1), according to the applicant's choice.

2. The language in which the application is drafted shall become the language of the case if the applicant was the only party to the proceedings before the Board of Appeal or if another party to those proceedings does not object to this within a period laid down for that purpose by the Registrar after the application has been lodged.

If, within that period, the parties to the proceedings before the Board of Appeal inform the Registrar of their agreement on the choice, as the language of the case, of one of the languages referred to in Article 35(1), that language shall become the language of the case before the Court of First Instance.

In the event of an objection to the choice of the language of the case made by the applicant within the period referred to above and in the absence of an agreement on the matter between the parties to the proceedings before the Board of Appeal, the language in which the application for registration in question was filed at the Office shall become the language of the case. If, however, on a reasoned request by any party and after hearing the other parties, the President finds that the use of that language would not enable all parties to the proceedings before the Board of Appeal to follow the proceedings and defend their interests and that only the use of another language from among those mentioned in Article 35(1) makes it possible to remedy that situation, he may designate that other language as the language of the case; the President may refer the matter to the Court of First Instance.

3. In the pleadings and other documents addressed to the Court of First Instance and during the oral procedure, the applicant may use the language chosen by him in accordance with paragraph 1 and each of the other parties may use a language chosen by that party from those mentioned in Article 35(1).

4. If, by virtue of paragraph 2, a language other than that in which the application is drafted becomes the language of the case, the Registrar shall cause the application to be translated into the language of the case.

Each party shall be required, within a reasonable period to be prescribed for that purpose by the Registrar, to produce a translation into the language of the case of the pleadings or documents other than the application that are lodged by that party in a language other than the language of the case pursuant to paragraph 3. The party producing the translation, which shall be authentic within the meaning of Article 37, shall certify its accuracy. If the translation is not produced within the period prescribed, the pleading or the procedural document in question shall be removed from the file.

The Registrar shall cause everything said during the oral procedure to be translated into the language of the case and, at the request of any party, into the language used by that party in accordance with paragraph 3.

Article 132

1. Without prejudice to Article 44, the application shall contain the names of all the parties to the proceedings before the Board of Appeal and the addresses which they had given for the purposes of the notifications to be effected in the course of those proceedings.

The contested decision of the Board of Appeal shall be appended to the application. The date on which the applicant was notified of that decision must be indicated.

2. If the application does not comply with paragraph 1, Article 44(6) shall apply.

Article 133

1. The Registrar shall inform the Office and all the parties to the proceedings before the Board of Appeal of the lodging of the application. He shall arrange for service of the application after determining the language of the case in accordance with Article 131(2).

2. The application shall be served on the Office, as defendant, and on the parties to the proceedings before the Board of Appeal other than the applicant. Service shall be effected in the language of the case.

Service of the application on a party to the proceedings before the Board of Appeal shall be effected by registered post with a form of acknowledgment of receipt at the address given by the party concerned for the purposes of the notifications to be effected in the course of the proceedings before the Board of Appeal.

3. Once the application has been served, the Office shall forward to the Court of First Instance the file relating to the proceedings before the Board of Appeal.

Article 134

1. The parties to the proceedings before the Board of Appeal other than the applicant may participate, as interveners, in the proceedings before the Court of First Instance.

2. The interveners referred to in paragraph 1 shall have the same procedural rights as the main parties.

They may support the form of order sought by a main party and they may apply for a form of order and put forward pleas in law independently of those applied for and put forward by the main parties.

3. An intervener, as referred to in paragraph 1, may, in his response lodged in accordance with Article 135(1), seek an order annulling or altering the decision of the Board of Appeal on a point not raised in the application and put forward pleas in law not raised in the application.

Such submissions seeking orders or putting forward pleas in law in the intervener's response shall cease to have effect should the applicant discontinue the proceedings.

4. In derogation from Article 122, the default procedure shall not apply where an intervener, as referred to in paragraph 1 of this Article, has responded to the application in the manner and within the period prescribed.

Article 135

1. The Office and the interveners referred to in Article 134(1) may submit responses to the application within a period of two months from the service of the application.

Article 46 shall apply to the responses.

2. The application and the responses may be supplemented by replies and rejoinders by the parties, including the interveners referred to in Article 134(1), where the President, on a reasoned application made within two weeks of service of the responses or replies, considers such further pleading necessary and allows it in order to enable the party concerned to put forward its point of view.

The President shall prescribe the period within which such pleadings are to be submitted.

3. Without prejudice to the foregoing, in the cases referred to in Article 134(3), the other parties may, within a period of two months of service upon them of the response, submit a pleading confined to responding to the form of order sought and the pleas in law submitted for the first time in the response of an intervener. That period may be extended by the President on a reasoned application from the party concerned.

4. The parties' pleadings may not change the subject-matter of the proceedings before the Board of Appeal.

Article 136

1. Where an action against a decision of a Board of Appeal is successful, the Court of First Instance may order the Office to bear only its own costs.

2. Costs necessarily incurred by the parties for the purposes of the proceedings before the Board of Appeal and costs incurred for the purposes of the production, prescribed by the second subparagraph of Article 131(4), of translations of pleadings or other documents into the language of the case shall be regarded as recoverable costs.

In the event of inaccurate translations being produced, the second subparagraph of Article 87(3) shall apply.

FINAL PROVISIONS

Article 136a (6)

The Court of First Instance may issue practice directions relating, in particular, to the preparations for and conduct of hearings before it and to the lodging of written pleadings or observations.

Article 137 (3)

These Rules, which are authentic in the languages mentioned in Article 35(1), shall be published in the *Official Journal of the European Communities*. They shall enter into force on the first day of the second month from the date of their publication.