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(Acts whose publication is obligatory)

COURT OF JUSTICE

AMENDMENTS TO THE RULES OF PROCEDURE OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

of 7 June 1989

Having regard to Article 55 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community,

Having regard to the third paragraph of Article 188 of the Treaty establishing the European Economic Community,

Having regard to the third paragraph of Article 160 of the Treaty establishing the European Atomic Energy Community,

Whereas the establishment of a Court of First Instance of the European Communities by Council Decision 88/591/ECSC, EEC, Euratom renders it necessary to amend the Rules of Procedure;

With the unanimous approval of the Council given on 29 May 1989,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The following provisions shall be inserted after Article 109 and before the 'Miscellaneous Provisions' of the Rules of Procedure of the Court of Justice of the European Communities adopted on 4 December 1974 (*Official Journal of the European Communities* No L 350, 28. 12. 1974, p. 1), and amended on 12 September 1979 (*Official Journal of the European Communities* No L 238, 21. 9. 1979, p. 1), 27 May 1981 (*Official Journal of the European Communities* No L 199, 20. 7. 1981, p. 1) and 8 May 1987 (*Official Journal of the European Communities* No L 165, 24. 6. 1987, p. 1):

'TITLE IV

APPEALS AGAINST DECISIONS OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

Article 110

Without prejudice to the arrangements laid down in Article 29 (2) (b) and (c) and the fourth subparagraph of Article 29 (3) of these Rules, in appeals against decisions of the Court of First Instance as referred to in Articles 49 and 50 of the Statute of the Court of Justice of the ECSC, Articles 49 and 50 of the Statute of the Court of Justice of the EEC, and Articles 50 and 51 of the Statute of the Court of Justice of the EAEC, the language of the case shall be the language of the decision of the Court of First Instance against which the appeal is brought.

Article 111

1. An appeal shall be brought by lodging an application at the Registry of the Court of Justice or of the Court of First Instance.

2. The Registry of the Court of First Instance shall immediately transmit to the Registry of the Court of Justice the papers in the case at first instance and, where necessary, the appeal.

Article 112

1. An appeal shall contain:

(a) the name and permanent address of the party bringing the appeal, who shall be called the appellant;

(b) the names of the other parties to the proceedings before the Court of First Instance;

(c) the grounds on which the appeal is based and the arguments of law relied on;

(d) the form of order sought by the appellant.

Articles 37 and 38 (2) and (3) of these Rules shall apply to appeals.

2. The decision of the Court of First Instance appealed against shall be attached to the appeal. The appeal shall state the date on which the decision appealed against was notified to the appellant.

3. If an appeal does not comply with Article 38 (2) and (3) or with paragraph 2 of this Article, Article 38 (7) of these Rules shall apply.

Article 113

1. An appeal shall seek:

— to quash, in whole or in part, the decision of the Court of First Instance,

— the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Court of First Instance may not be changed in the appeal.

Article 114

Notice of the appeal shall be served on all the parties to the proceedings before the Court of First Instance. Article 39 of these Rules shall apply.

Article 115

1. Any party to the proceedings before the Court of First Instance may lodge a response within two months after service on him of notice of the appeal. The time limit for lodging a response shall not be extended.

2. A response shall contain:

(a) the name and permanent address of the party lodging it;

(b) the date on which notice of the appeal was served on him;

(c) the grounds relied on and arguments of law raised;

(d) the form of order sought.

Article 38 (2) and (3) of these Rules shall apply.

Article 116

1. A response shall seek:

— to dismiss, in whole or in part, the appeal or to quash, in whole or in part, the decision of the Court of First Instance,

— the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Court of First Instance may not be changed in the response.

Article 117

1. The appeal and the response may be supplemented by a reply and a rejoinder or any other pleading, where the President expressly, on application made within seven days of service of the response or of the reply, considers such further pleading necessary and expressly allows it in order to enable the party concerned to put forward its point of view or in order to provide a basis for the decision on the appeal.

2. Where in the response it is submitted that the decision of the Court of First Instance should be quashed in whole or in part on an issue which was not raised in the appeal, the appellant or any other party may submit a reply on that issue alone, within two months of the service of the response in question. Paragraph 1 shall apply to any further pleading following such a reply.

3. Where the President allows the lodging of a reply and a rejoinder, or any other pleading, he shall prescribe the period within which they are to be submitted.

Article 118

Subject to the following provisions, Articles 42 (2), 43, 44, 55 to 90, 93, 95 to 100 and 102 of these Rules shall apply to the procedure before the Court of Justice on appeal from a decision of the Court of First Instance.

Article 119

Where the appeal is, in whole or in part, clearly inadmissible or clearly unfounded, the Court may at any time, upon report of the Judge-Rapporteur and after hearing the Advocate-General, by reasoned order dismiss the appeal in whole or in part.

Article 120

1. After the submission of pleadings as provided for in Article 115 (1) and, if any, Article 117 (1) and (2) of these Rules, the Court may, upon report of the Judge-Rapporteur and after hearing the Advocate-General and the parties, decide to dispense with the oral procedure unless one of the parties objects on the ground that the written procedure did not enable him fully to defend his point of view.

2. Where, in an appeal before the Court, there is no oral procedure, the Advocate-General shall none-the-less deliver his opinion orally at a public sitting on a date to be fixed by the President.

Article 121

The report referred to in Article 44 (1) shall be presented to the Court after the pleadings provided for in Article 115 (1) and Article 117 (1) and (2) of these Rules have been lodged. The report shall contain, in addition to the recommendations provided for in Article 44 (1), a recommendation as to whether Article 120 (1) of these Rules should be applied. Where no such pleadings are lodged, the same procedure shall apply after the expiry of the period prescribed for lodging them.

Article 122

Where the appeal is unfounded or where the appeal is well founded and the Court itself gives final judgment in the case, the Court shall make a decision as to costs.

In the proceedings referred to in Article 95 (3) of these Rules:

— Article 70 of these Rules shall apply only to appeals brought by Community institutions,

— by way of derogation from Article 69 (2) of these Rules, the Court may, in appeals brought by officials or other servants of an institution, order the parties to bear all or part of their own costs where so required by equity.

If the appeal is withdrawn Article 69 (4) shall apply.

When an appeal brought by a Member State or a Community institution which did not intervene in the proceedings before the Court of First Instance is well founded, the Court of Justice may order that the parties bear their own costs or that the successful appellant pay the costs which the appeal has caused an unsuccessful party to incur.

Article 123

An application to intervene made to the Court in appeal proceedings shall be lodged before the expiry of a period of three months running from the date on which the appeal was lodged. The Court shall, after hearing the Advocate-General, give its decision in the form of an order on whether or not the intervention is allowed.'

Article 2

The former Articles 110 to 113 of the 'Miscellaneous Provisions' of these Rules shall become Articles 124 to 127 respectively.

Article 3

These amendments to the Rules of Procedure, which are authentic in the languages mentioned in Article 29 (1) of the Rules of Procedure, shall be published in the *Official Journal of the European Communities* and shall enter into force on the day after the date of their publication.