to vocational training, to require of a national of another Member State lawfully established in the first Member State an additional enrolment fee which is not required of its own nationals in order to take part in such courses constitutes discrimination by reason of nationality, which is prohibited by Article 7 of the Treaty.

3. Although under the second paragraph of Article 13 of the Protocol on the Privileges and Immunities of the European Communities an official of the Communities, who is bound normally to reside in the place in which he is employed, is exempt from national taxes on salaries, wages and emoluments paid by the Communities, he is liable on the other hand, under the first paragraph of the same article, to a tax for the benefit of the Communities on salaries, wages and emoluments from which the host Member State, as a member of the Communities, benefits indirectly. The fact that he does not pay a tax on his salary to the national Treasury is therefore not a valid reason for differentiating the case of the official and his family from that of the migrant worker whose income is liable to taxation by the State in which he resides.

In Case 152/82

REFERENCE to the Court pursuant to Article 177 of the EEC Treaty by the Juge de Paix [Cantonal Court] of the Fourth Canton of Brussels for a preliminary ruling in the proceedings pending before that court between

SANDRO FORCHERI AND HIS WIFE MARISA FORCHERI, NÉE MARINO, residing in Linkebeek,

and

the BELGIAN STATE, represented by the Minister of National Education and French Culture,

and

ASBL INSTITUT SUPÉRIEUR DE SCIENCES HUMAINES APPLIQUÉES — ÉCOLE OUVRIÈRE SUPÉRIEURE [Higher Institute of Applied Social Sciences — Higher School of Labour Studies], Anderlecht,

on the interpretation of Articles 7 and 48 of the Treaty, Regulation No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (Official Journal, English Special Edition 1968 (II), p. 475) and Articles 12 and 13 of the Protocol on the Privileges and Immunities of the European Communities,

THE COURT (Fourth Chamber)

composed of: A. O'Keeffe, President of Chamber, P. Pescatore, G. Bosco, T. Koopmans and K. Bahlmann, Judges,

Advocate General: S. Rozès
Registrar: P. Heim

gives the following

JUDGMENT

Facts and Issues

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

I — Facts and written procedure

Mrs Forcheri, an Italian national, is the wife of an official of the Commission of the European Communities working in Brussels. She attended a course of instruction for three years at the Institut Supérieur de Sciences Humaines Appliquées, Brussels, which mostly trains its students to become social workers. When she enrolled at the beginning of the 1979/80 and 1980/81 academic years Mrs Forcheri had to pay an additional enrolment fee described as "fee for foreign students".

The fee for foreign students has generally been required in Belgium since the 1976 academic year from all students not of Belgian nationality and whose parents are not resident in Belgium. Its principle is laid down in the laws regarding the national education budget.

The detailed rules for applying the fee for foreign students in establishments of further education such as the above-mentioned Institut Supérieur are determined by circulars from the Ministry of National Education. According to a circular of 8 June 1978 in force at the material time the fee for foreign students was not required from Belgian, Luxembourg and (subject to certain conditions, in particular coming from frontier areas) French students or from the children of foreign workers resident in Belgium, foreign officials

working in Belgium and students whose spouses were resident in Belgium, were in paid employment there and paid their taxes to the Belgian Treasury. A circular dated 12 May 1981, that is to say subsequent to the facts at issue, subjects the spouse of an official of the European Communities resident in Belgium to the same enrolment fees as students of Belgian nationality.

For the 1979/80 academic year the fee for foreign students at the École Ouvrière Supérieure amounted to BFR 19 995 which was added to the BFR 6 000 required from all students as academic fees. For 1980/81 it amounted to BFR 21 723. At the beginning of the 1979/80 and 1980/81 academic years the Institut Supérieur de Sciences Humaines Appliquées took the view that Mrs Forcheri came into none of the classes of students exempt from the fee for foreign students pursuant to the circulars in force and required her to pay the fee.

By letter dated 7 May 1980 in answer to a request from Mr Forcheri for an explanation the private office of the Minister for National Education stated that Mrs Forcheri could not enjoy exemption from the fee for foreign students as the wife of an official of the European Communities since that privilege was granted only in cases where the student's spouse was in paid employment and paid taxes to the Belgian Treasury which was not the case for officials of the European Communities.

Mr and Mrs Forcheri brought an action against the Belgian State and the Institut Supérieur de Sciences Humaines Appliquées before the Juge de Paix of the Fourth Canton of Brussels for a declaration that to require Mrs Forcheri to pay the fee for foreign students was unlawful and that therefore the sums unduly paid must be refunded. By judgment dated 11 December 1981 the Juge de Paix of the Fourth Canton of Brussels decided to stay the proceedings and refer the following questions to the Court for a preliminary ruling pursuant to Article 177 of the Treaty:

1. In view in particular of the principle of non-discrimination between nationals of Member States of the European Cummunity, a principle embodied *inter alia* in Article 7 of the EEC Treaty and, in the context of freedom of movement for workers, in Articles 48 and 49 of the EEC Treaty, of Article 12 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, as amended by Council Regulation (EEC) No 312/76 of 9 February 1976, and of Article 12 of the Protocol on the Privileges and Immunities of the European Communities, is it lawful under Community law for students who are spouses of officials of the European Communities, are nationals of a Member State and reside in Belgium because their spouses must reside there by reason of their employment by one of the institutions of the European Communities to be required in Belgium to pay the enrolment fee for foreign students, when Belgian and Luxembourg students are not subject to that requirement?

2. Does not the refusal to grant an exemption from the enrolment fee for foreign students to the above-mentioned students on the ground that their spouses are officials of the European Communities and do not pay taxes to the Belgian Treasury constitute an infringement of the second paragraph of Article 13 of the Protocol on the Privileges and Immunities of the European Communities?

It should be remembered that Article 12 of Regulation No 1612/68 of the Council on freedom of movement for workers provides that: "The children of a national of a Member State who is or has been employed in the territory of another Member State shall be admitted to that State's general educational, apprenticeship and vocational training courses under the same conditions as the nationals of that State, if such children are residing in its territory."

The judgment making the reference was received at the Court Registry on 14 May 1982.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC written observations were lodged on 23 July 1982 by the Commission of the European Communities, represented by Claire Durand, a member of its Legal Department, acting as Agent, on 30 July 1982 by Mr and Mrs Forcheri, assisted and represented by Edmond Lebrun of the Brussels Bar, and on 25 August 1982 by the Italian Republic, represented and assisted by Oscar Fiumara of the Avvocatura Generale dello Stato.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General the Court decided to open the oral procedure without any preparatory inquiry. By order dated 13 October 1982 which noted that no Member State and no institution had requested that the case be decided in plenary session, the Court pursuant to Article 95 (1) and (2) of the Rules of Procedure assigned the case to the Fourth Chamber.

II — Written observations submitted to the Court

1. Observations submitted by Mr and Mrs Forcheri

The plaintiffs in the main action contend that according to Community law it is unlawful to claim in Belgium payment of the fee for foreign students, to which Belgian and Luxembourg students are not subject, from students who, like Mrs Forcheri, are the spouses of officials of the European Communities, are nationals of a Member State and live in Belgium because their spouses must live there for their work in the service of the Communities. The requirement is in breach *inter alia* of the principle of non-discrimination between nationals of Member States, contained in particular in Article 7 of the Treaty and, in the sphere of free movement of workers, in Articles 48 and 49 of the Treaty and Article 12 of Regulation No 1612/68 of the Council.

According to the plaintiffs in the main action freedom of movement, which is an aspect of the principle of non-discrimination, requires, as the preamble to the said regulation states, that obstacles to the mobility of workers should be eliminated "in particular as regards the

worker's right to be joined by his family and the conditions for the integration of that family into the host country." The fee for foreign students is an obstacle to the integration into Belgium of the family of a worker who is a national of a Member State of the Community and resides in Belgium. That is *a fortiori* the case where the fee is demanded of the spouse of an official of the Communities who is bound by the terms of the Staff Regulations to live where he works or within such distance that he is not impeded in carrying out his duties.

Article 12 of Regulation No 1612/68 mentions only the children of a national of a Member State but there is no doubt that the scope *ratione materiae* must be extended to all members of the family of a worker who are students and in particular to the spouse since the *ratio legis* is the integration of the family of the immigrant worker into the host country in accordance with the requirements of the basic principle of non-discrimination between nationals of the Member States. The Court has, moreover, already given a wide interpretation to Article 12 (Cases 9/74 *Casagrande* [1974] ECR 773 and 32/75 *Cristini* [1975] ECR 1085). In addition, according to a report from the Committee on Education adopted by the Council on 27 June 1980, where enrolment fees are required in a Member State students from other countries of the Community cannot be charged more than the students from the Member State in question (cf. Official Journal C 316, 3. 12. 1980, Commission's answer to Written Question No 1248/80 from Mr Seal).

Ex abundanti cautela the plaintiffs in the main action observe that the requirement at issue also disregards the provisions of Article 12 of the Protocol on the Privileges and Immunities and that Luxembourg students are exempt from the fee for foreign students albeit discrimination between the nationals of the various Member States is unlawful under Community law.

Alternatively the plaintiffs in the main action claim that the refusal to grant exemption from the fee on the basis that Mr Forcheri as an official of the European Communities does not pay taxes to the Belgian Treasury disregards the second paragraph of Article 13 of the Protocol on the Privileges and Immunities. According to that provision officials and other servants of the Communities are exempt from national taxes on salaries, wages and emoluments paid by the Communities. Accordingly it would be a breach of that provision to deprive the spouse of a European official of a benefit simply because the official does not pay national taxes on his remuneration.

2. Observations submitted by the Italian Government

The Italian Government does not doubt that Article 12 of Regulation No 1612/68 must also apply to the spouse of the worker. In Case 76/72 *Michel S.* [1973] ECR 457 the Court held that the scope of that article extended to measures in relation to the education of the handicapped although they were not specifically referred to there, since the article did not exhaustively list all cases which might arise but must be inter-

preted in a broad sense and in the light of the considerations which led to the adoption of the regulation, especially the need referred to in the fifth recital to ensure conditions for the integration of the worker's family into the host country.

Even though the Community legislature may not, when drafting the regulation in question, have thought of the position of officials of the Communities, the Italian Government considers that the same principles and the same provisions in the regulation must be applied to persons working for the Communities, especially if they are Community nationals; they clearly are in paid employment in the territory of a Member State in accordance with the Community rules which as such are directly applicable in the territory of the State in question. It is moreover unacceptable that European officials should be placed in a less favourable position than that of any other employed person who is a national of a Member State. Equality of treatment, which derives directly from the general principle of Article 7 of the Treaty even independently and outside the scope of Regulation No 1612/68 is a logical and inescapable premise of the Protocol on the Privileges and Immunities which in consequence is confined (in Article 12 et seq.) to laying down certain rules regarding officials and servants of the Communities with the object of confirming their independence and mobility and governing certain special aspects of their position.

The doubt expressed in the second question put by the national court is incomprehensible. The position of the Communities in relation to the national legal systems and their system of resources makes it impossible to contemplate discrimination to the detriment of Community officials resulting directly from the fact that they are not required to contribute to national public expenses. In view of the choice between national and Community taxation and of the obligation to avoid double taxation the second was chosen in order to ensure greater independence for officials of the Communities.

3. Observations submitted by the Commission

As a preliminary the Commission states that on 22 September 1978 it sent the Council (Document COM(78) 468 final) a number of proposals for the elimination of obstacles to the mobility of students at university level, one of which concerned a restriction on the number of admissions. As regards the financial aspects of that question the proposal was to the effect that where fees for study were required in a Member State, fees which students from other countries of the Community were required to pay must not be higher than those applicable in the case of national students.

In its resolution of 27 June 1980 with reference to the Commission's proposal the Council introduced a reservation with regard to the principle of equality as regards the financial aspects, to the effect that in cases where measures restricting numbers or other factors cause a substantial disequilibrium in the movement of students a Member State may take appropriate measures to ensure that the effects of this disequilibrium

remain limited. In the Commission's opinion that reservation must not be interpreted as justifying a measure of a general nature by which the enrolment fees in all faculties are higher for students from other Member States than for the national students. On the contrary that exception must be understood as applying only in cases where there is real disequilibrium and where the capacity of a Member State to accept students is found to be inadequate. Moreover, although the Commission does not think the Court likely to find that such a resolution has direct effect capable of creating rights for individuals, nevertheless it feels that the Court cannot allow a Member State to rely on such a resolution to escape its obligations under the Treaty or secondary law.

The Commission observes that the conditions for integration of the family into the society of the host country involve opportunities available not only for the children of the worker, as expressly stated in Article 12 of Regulation No 1612/68, but also for the spouse accompanying the worker, to acquire or perfect training in a career. The conditions for access to education available for the spouse in another Member State may easily lead the worker to forego employment in another Member State or to decide to leave such employment to return to his country of origin. They may therefore constitute an obstacle to mobility should they be discriminatory.

As regards the first question the Commission contends that the applicant is dependent on the legal position to which a Community official is entitled as regards himself and his family, which is the result primarily of the Protocol on the Privileges and Immunities. It recalls that Article 20 of the Staff Regulations provides that: "An official shall reside either in the place where he is employed or at no greater distance therefrom than is compatible with the proper performance of his duties."

Article 12 of the Protocol on the Privileges and Immunities, which provides that: "In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall . . . (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens", covers two concepts which are re-echoed several times in Community law: that of the family unit and the principle of the recruitment of officials on the widest geographical basis. The question must therefore arise whether in particular the conditions for integrating an official's family into the Member State where he is required to reside are not likely to affect the freedom of the Communities to choose and recruit officials on the widest possible geographical basis and more particularly whether conditions for admission to educational facilities for members of the family of the official and

which are discriminatory on the basis of nationality are not likely to restrict the number of potential candidates according to country and even to affect the stability of the staff of the Communities. Such a measure would create moreover an appreciable difference in treatment contrary to the principle of equality of treatment of officials.

As Case 208/80, *Lord Bruce of Donington* [1981] ECR 2205 establishes, the obligation imposed on Member States by Article 5 of the Treaty to facilitate the achievement of the Community's tasks "includes the duty not to take measures which are likely to interfere with the internal functioning of the institutions of the Community". Further, even though educational policy is not as such within the area covered by the Treaty, the principle of non-discrimination embodied in Article 7 of the Treaty may be applied to a measure relating thereto when the issue is the exercise of Community functions, in the present case the very running of the institutions.

As regards the second question the Commission refers in the first place to the objective of Article 13 of the Protocol which is to ensure uniform taxation of officials' salaries and to guarantee the right of the institutions to determine uniformly the effective amounts of salaries. The provision indeed prevents "their effective remuneration from differing according to their nationality or fiscal domicile" (Case 32/67 *Van Leeuwen* [1968] ECR 43). Although it is true that Community officials do not contribute to the general budget of the State in which their place of employment is situated on the same terms and to the same extent as other taxpayers of the same State the reason is that it would have seemed wrong that because of the presence of the institutions the host country should draw unjustified revenue from charging taxes on salaries paid to officials by the said institutions from contributions paid by all the Member States. That does not however mean that the officials of the Communities do not contribute to the general budget of the host State. Indirectly through the intermediary of taxes paid by the officials to the Communities and directly by their presence on the territory of that country they in fact contribute to the revenue of the State.

Moreover it is right to observe that the measure in question in the present case does not subject women of Belgian or Luxembourg nationality who are wives of officials working in Belgium to the fee for foreign students. However, their husbands contribute to the general budget of the Belgian State to the same extent as the officials whose wives are not of one of those two nationalities but who are subject to the fee; nor do those officials pay national taxes on their salaries. The Commission also recalls that notwithstanding that tax exemption the children of officials living in Belgium have been exempt from the fee for foreign students since the measure was brought in. Those considerations in the Commission's view allows it to be said that the argument based on the tax exemption laid down in Article 13 does

not apply uniformly to all situations. Above all they lead to a conclusion that there is discrimination on the basis of nationality.

III — Oral procedure

Mr and Mrs Forcheri, represented by Edmond Lebrun of the Brussels Bar, the Government of the United Kingdom, represented by David Donaldson, Barrister-at-law, and the Commission, represented by Claire Durand, a member of its Legal Department, acting as Agent, presented oral argument at the sitting on 25 November 1982.

The Advocate General delivered her opinion at the sitting on 26 January 1983.

Decision

1 By a judgment of 11 December 1981, received at the Court on 14 May 1982, the Juge de Paix [Cantonal Court] of the Fourth Canton of Brussels referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty two questions on the interpretation of Articles 7 and 48 of the Treaty, Regulation No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (Official Journal, English Special Edition 1968 (II), p. 475) and Articles 12 and 13 of the Protocol on the Privileges and Immunities of the European Communities.

2 Those questions were raised in proceedings relating to an additional enrolment fee described as "fee for foreign students" required at the beginning of the 1979 and 1980 academic years from the Italian wife of an official of the Commission, also of Italian nationality, working in Brussels.

3 The said fee has in principle been required in Belgium since the 1976 academic year from all students not of Belgian nationality and whose parents are not resident in Belgium. In non-university further education, which includes the Institut Supérieur de Sciences Humaines Appliquées in which Mrs Forcheri enrolled, a circular from the Minister for National Education of 8 June 1978 in force at the time of the enrolment in issue in the main proceedings, stated that the fee for foreign students was not required in particular from students whose parents were foreign officials working in Belgium with the European Communities or whose spouse was resident in

Belgium, was in paid employment there and paid taxes to the Belgian Treasury. It must however be observed that for the 1981/82 academic year a circular of 12 May 1981 accords the spouse, and no longer only the children, of an official of the Communities resident in Belgium the same treatment as students of Belgian nationality.

4 Upon a request for an explanation from the Minister for National Education Mrs Forcheri's husband received an answer by letter dated 7 May 1980 to the effect that Mrs Forcheri could not "enjoy exemption from the fee for foreign students as the wife of an official of the European Communities since that privilege was granted only in cases where the student's spouse was in paid employment and paid taxes to the Belgian Treasury which is not the case for officials of the European Communities".

5 The plaintiffs in the main action brought the matter before the Juge de Paix of the Fourth Canton of Brussels who took the view that the case involved problems of the interpretation of Community law and referred the following questions to the Court of Justice for a preliminary ruling:

1. In view in particular of the principle of non-discrimination between nationals of Member States of the European Community, a principle embodies *inter alia* in Article 7 of the EEC Treaty and, in the context of freedom of movement for workers, in Articles 48 and 49 of the EEC Treaty, of Article 12 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, as amended by Council Regulation (EEC) No 312/76 of 9 February 1976, and of Article 12 of the Protocol on the Privileges and Immunities of the European Communities, is it lawful under Community law for students who are spouses of officials of the European Communities, are nationals of a Member State and reside in Belgium because their spouses must reside there by reason of their employment by one of the institutions of the European Communities to be required in Belgium to pay the enrolment fee for foreign students, when Belgian and Luxembourg students are not subject to that requirement?

2. Does not the refusal to grant an exemption from the enrolment fee for foreign students to the above-mentioned students on the ground that their spouses are officials of the European Communities and do not pay taxes to the Belgian Treasury constitute an infringement of the second paragraph of Article 13 of the Protocol on the Privileges and Immunities of the European Communities?

6 Those questions are intended to allow the national court to determine the compatibility with Community law of a national provision subjecting the spouse of an official of the European Communities resident in a Member State where he performs his duties to the payment of an enrolment fee for taking part in a course of further education when such a fee is not required from a national of that State or the spouse of such a person.

7 It must be remembered first of all that Article 7 of the Treaty prohibits within the scope of application of the Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality.

8 It is not denied in this case that the Belgian rules lay down in connection with this matter different treatment for Belgian nationals and the nationals of other Member States. The national court is therefore asking whether in the case of the spouse of an official of the Community who is not of Belgian or Luxembourg nationality the payment of the enrolment fee falls "within the scope of application" of the Treaty and if so whether the fact that officials of the Community working in Belgium are exempt from payment of taxes to the Belgian State may be relevant in that respect.

9 In answer to that question it must be observed that the legal position of officials of the Community in the Member States in which they are employed comes within the scope of the Treaty on a dual basis by reason of their post with the Community and because they must enjoy all the benefits flowing from Community law for the nationals of Member States in relation to freedom of movement, freedom of establishment and social security.

10 Article 48 of the Treaty provides that freedom of movement for workers shall be secured within the Community by the end of the transitional period at the latest. It entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

11 According to both the legislative practice of the Community and the established case-law of the Court the right to free movement must not be interpreted narrowly. As the recitals in the preamble to Regulation No 1612/68 of the Council state, it constitutes a fundamental right of workers and their families since mobility of labour within the Community must be one of the means by which the worker is guaranteed the possibility of improving his living and working conditions and promoting his social advancement.

12 According to the fifth recital in the preamble to the same regulation the right of freedom of movement, in order that it may be exercised, by objective standards, in freedom and dignity, requires that equality of treatment shall be ensured in fact and in law in respect of all matters relating to the actual pursuit of activities as employed persons and to eligibility for housing, and also that obstacles to the mobility of workers shall be eliminated, in particular as regards the worker's right to be joined by his family and the conditions for the integration of that family into the host country.

13 The question therefore arises whether access to educational courses, in particular those concerning vocational training, falls within the scope of application of the Treaty.

14 Article 128 of the Treaty provides that the Council shall, acting on a proposal from the Commission and after consulting the Economic and Social Committee, lay down general principles for implementing a common vocational training policy capable of contributing to the harmonious development both of the national economies and of the common market.

15 In application of that provision the Council of the EEC adopted Decision No 63/266 of 2 April 1963 laying down general principles for implementing a common vocational training policy (Official Journal, English Special Edition 1963/64 p. 25). The recitals to that decision state, *inter alia*, that implementation of an effective common vocational training policy will help to bring about freedom of movement for workers and that every person should, during the different stages of his working life, be able to receive adequate basic and advanced training, and any necessary vocational re-training.

16 According to the second principle stated in the decision, the common vocational training policy must have certain fundamental objectives which are *inter alia*, to bring about conditions which will guarantee adequate vocational training for all and to offer to every person, according to his inclinations and capabilities, working knowledge and experience, the opportunity to gain promotion or to receive instruction for a new and higher level of activity.

17 It follows that although it is true that educational and vocational training policy is not as such part of the areas which the Treaty has allotted to the competence of the Community institutions, the opportunity for such kinds of instruction falls within the scope of the Treaty.

18 Consequently if a Member State organizes educational courses relating in particular to vocational training, to require of a national of another Member State lawfully established in the first Member State an enrolment fee which is not required of its own nationals in order to take part in such courses constitutes discrimination by reason of nationality, which is prohibited by Article 7 of the Treaty.

19 As regards the special position of an official of the Communities and his family it must be remembered that the official is bound by Article 20 of the Staff Regulations normally to reside in the place in which he is employed. Moreover, although under the second paragraph of Article 13 of the

Protocol on the Privileges and Immunities of the European Communities he is exempt from national taxes on salaries, wages and emoluments paid by the Communities, he is liable on the other hand, under the first paragraph of the same article, to a tax for the benefit of the Communities on salaries, wages and emoluments from which the host Member State, as a member of the Communities, benefits indirectly. The fact that he does not pay a tax on his salary to the national Treasury is therefore not a valid reason for differentiating the case of the official and his family from that of the migrant worker whose income is liable to taxation by the State in which he resides.

Costs

20 The costs incurred by the Governments of the Italian Republic and the United Kingdom and by the Commission, which have submitted observations to the Court, are not recoverable. As these proceedings are, in so far as the parties to the main action are concerned, in the nature of a step in the proceedings pending before the national court, the decision as to costs is a matter for that court.

On those grounds,

THE COURT (Fourth Chamber),

in answer to the questions referred to it by the Juge de Paix of the Fourth Canton of Brussels by judgment of 11 December 1981, hereby rules:

If a Member State organizes educational courses relating in particular to vocational training, to require of a national of another Member State lawfully established in the first Member State an enrolment fee which is

not required of its own nationals in order to take part in such courses constitutes discrimination by reason of nationality, which is prohibited by Article 7 of the Treaty.

O'Keeffe Pescatore

Bosco Koopmans Bahlmann

Delivered in open court in Luxembourg on 13 July 1983.

P. Heim
Registrar

A. O'Keeffe
President of the Fourth Chamber

OPINION OF MRS ADVOCATE GENERAL ROZÈS DELIVERED ON 26 JANUARY 1983 [1]

Mr President,
Members of the Court,

Two questions for a preliminary ruling are put to the Court by the Juge de Paix [Cantonal Court] of Brussels in relation to the payment of the special enrolment fee described as "fee for foreign students" required from students who are not Belgian or Luxembourg nationals.

The facts are as follows:

Mr Forcheri, an Italian national, works in Brussels. His wife who is also Italian and without occupation lives with her husband in Belgium. She attended a course of instruction for three years at the Institut Supérieur de Sciences Humaines Appliquées — École Ouvrière Supérieure [Higher Institute of Applied Sciences — Higher School of Labour Studies], which mostly trains its students to become social workers. The institute is a further educational establishment for social advance, approved and subsidized by the Belgian Ministry of National Education. To follow the course Mrs Forcheri had to pay, in addition to the enrolment fees paid by Belgian students, the sums of BFR 19 995 for the 1979/80 academic year and BFR 21 723 for the 1980/81 academic year representing the enrolment fee for "foreign students".

1 — Translated from the French.