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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 12 September 1979

THE COURT,

Having regard to the powers conferred on the Court of Justice by the Treaty establishing the European Coal and Steel Community, the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community (Euratom),

Having regard to Articles 3 and 4 of the Convention on Certain Institutions Common to the European Communities,

Having regard to Article 44 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community,

Having regard to Article 44 of the Protocol on the Statute of the Court of Justice of the European Economic Community,

Having regard to Article 45 of the Protocol on the Statute of the Court of Justice of the European Atomic Energy Community,

Having regard to Article 8 of the Treaty Establishing a Single Council and a Single Commission of the European Communities,

Whereas the considerable increase in the number of cases brought before the Court of Justice makes it necessary to amend the Rules of Procedure;

With the unanimous approval of the Council of the European Communities given on 26 July 1979,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

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 of 28 December 1974, p. 1) shall be amended as follows:

1. The following shall be substituted for Article 9:

'*Article 9*

1. The Court shall set up Chambers in accordance with the provisions of the second paragraph of Article 32 of the ECSC Treaty, the second paragraph of Article 165 of the EEC Treaty and the second paragraph of Article 137 of the Euratom Treaty and shall decide which judges shall be attached to them.

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

2. As soon as an application originating proceedings has been lodged, the President shall assign the case to one of the Chambers for any preparatory inquiries and shall designate a Judge from that Chamber to act as Rapporteur.

3. The Court shall lay down general principles governing the assignment of cases to Chambers.

4. These rules shall apply in a corresponding manner to proceedings before the Chambers.

In cases assigned to or devolving upon a Chamber the powers of the President of the Court shall be exercised by the President of the Chamber.'

2. The following shall be substituted for Article 10:

'*Article 10*

1. The Court shall appoint for a period of one year the Presidents of the Chambers and the First Advocate-General.

The provisions of Article 7 (2) and (3) shall apply in a corresponding manner.

Appointments made in pursuance of this paragraph shall be published in the *Official Journal of the European Communities*.

2. The First Advocate-General shall assign each case to an Advocate-General as soon as the Judge-Rapporteur has been designated by the President. He shall take the necessary steps if an Advocate-General is absent or prevented from attending.'

3. (a) The following shall be substituted for Article 16 (6):

'6. Notice shall be given in the *Official Journal of the European Communities* of the date of registration of an application originating proceedings, the names and permanent residences of the parties, the subject-matter of the dispute, the claims made in the application and a summary of the contentions and of the main arguments adduced in support.'

(b) At the end of Article 16 there shall be inserted, as paragraph 7, the following paragraph:

'7. Where the Council or the Commission is not a party to a case, the Court shall forward 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 the third paragraph of Article 36 of the ECSC Treaty, Article 184 of the EEC Treaty or Article 156 of the Euratom Treaty.'

4. The second subparagraph of Article 26 (3) shall be deleted.

5. At the end of Article 29 (3) there shall be inserted, as the fourth subparagraph, the following:

'Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when intervening in a case before the Court or when taking part in any reference of a kind mentioned in Article 103. 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.'

6. The following shall be substituted for Article 31:

'*Article 31*

Texts of documents drawn up in the language of the case or in any other language authorized pursuant to Article 29 of these rules shall be authentic.'

7. The following shall be substituted for Article 37 (1):

'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 and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.'

8. The following shall be substituted for Article 44 (1):

'1. After the rejoinder provided for in Article 41 (1) of these rules has been lodged, the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Court. The report shall contain recommendations as to whether a preparatory inquiry or any other preparatory step should be undertaken and whether the case should be referred to the Chamber to which it has been assigned under Article 9 (2).

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

The same procedure shall apply:

(a) where no reply or no rejoinder has been lodged within the time limit fixed in accordance with Article 41 (2) of these rules;

(b) where the party concerned waives his right to lodge a reply or rejoinder.'

9. The following shall be substituted for Article 47 (6):

'6. The Registrar shall draw up minutes in which the evidence of each witness is reproduced. The minutes shall be signed by the witness and by the Registrar. They shall constitute an official record.'

10. The following shall be substituted for Article 70:

'Article 70

Without prejudice to the second subparagraph of Article 69 (3) of these rules, in proceedings under Article 95 (3) of these rules, institutions shall bear their own costs.'

11. The following shall be substituted for Article 92:

'Article 92

1. Where it is clear that the Court has no jurisdiction to take cognizance of an application lodged with it in pursuance of Article 38 (1), the Court may by reasoned order declare the application inadmissible. Such a decision may be adopted even before the application has been served on the party against whom it is made.

2. The Court may at any time of its own motion consider whether there exists any absolute bar to proceeding with a case, and shall give its decision in accordance with Article 91 (3) and (4) of these rules.'

12. (a) The following shall be substituted for Article 93 (1):

'1. An application to intervene must be made within three months of the publication of the notice referred to in Article 16 (6) of these rules.'

(b) The following shall be substituted for Article 93 (4) and (5):

'4. If the Court allows the intervention, the intervener shall receive a copy of every document served on the parties. The Court may, however, on application by one of the parties, omit secret or confidential documents.

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

The President shall prescribe a period within which the intervener is to state in writing the grounds for his submissions.'

13. The following shall be substituted for Article 95:

'Article 95

1. The Court may assign to a Chamber any reference for a preliminary ruling of a kind mentioned in Article 103 of these rules as well as any action instituted by a natural or legal person

under Article 33 (2), Article 34 (2), Article 35, Article 36 (2), Article 40 (1) and (2), and Article 42 of the ECSC Treaty, Article 172, Article 173 (2), Article 175 (3), Article 178 and Article 181 of the EEC Treaty, and Article 144, Article 146 (2), Article 148 (3), Article 151 and Article 153 of the Euratom Treaty, in so far as the difficulty or the importance of the case or particular circumstances are not such as to require that the Court decide it in plenary session.

2. The decision so to assign a case shall be taken by the Court at the end of the written procedure upon consideration of the preliminary report presented by the Judge-Rapporteur and after the Advocate-General has been heard.

However, a case may not be so assigned if a Member State or an institution of the Communities, being a party to the proceedings, has requested that the case be decided in plenary session. In this Subparagraph the expression "party to the proceedings" means any Member State or any institution which is a party to or an intervener in the proceedings or which has submitted written observations in any reference of a kind mentioned in Article 103 of these rules.

3. Proceedings commenced by an official or other servant of an institution against the institution shall, with the exeption of applications for the adoption of interim measures, be tried by a Chamber designated each year by the Court for that purpose. Such allocation shall not preclude the adoption of appropriate measures in cases whose subject-matter is related.

4. A Chamber may at any stage refer to the Court any case assigned to or devolving upon it.'

14. In Article 96 (1) for the words 'Article 95 (2)' there shall be substituted the words 'Article 95 (3)'.

15. (a) For the first subparagraph of Article 103 (1) there shall be substituted the following:

'1. In cases governed by Article 20 of the EEC Statute and Article 21 of the Euratom Statute, the provisions of Article 43 *et seq.* of these rules shall apply after the statements of case or written observations provided for in the said Articles 20 and 21 have been lodged.'

(b) For the third subparagraph of Article 103 (3) there shall be substituted the following:

'After these documents have been lodged, or where they have not been lodged within the time prescribed in the preceding subparagraph, the provisions of Article 43 *et seq.* of these rules shall apply.'

16. The following shall be substituted for Article 104:

'*Article 104*

1. The decisions of national courts or tribunals referred to in Article 103 of these rules shall be communicated to the Member States in the original version, accompanied by a translation into the official language of the State to which they are addressed.

2. As regards the representation and attendance of the parties to the main proceedings in the preliminary ruling procedure the Court shall take account of the rules of procedure of the national court or tribunal which made the reference.

3. It shall be for the national court or tribunal to decide as to the costs of the reference.

In special circumstances the Court may grant, as legal aid, assistance for the purpose of facilitating the representation or attendance of a party.'

17. The following shall be substituted for Article 105 (3):

'3. As soon as the application has been lodged the President shall designate a Judge to act as Rapporteur. The First Advocate-General shall assign the case to an Advocate-General as soon as the Judge-Rapporteur has been designated.'

Article 2

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 15th day after publication.

Done at Luxembourg, 12 September 1979.