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# The Brussels Office Update Series:

# Developments from the European Court of Justice

## April 2008

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## INTRODUCTION

### April – News from the EU Courts

In the case of *Maruko* (C-267/06), the Court stated that EU equal treatment rules could extend to provide those in same sex couples entitlement to survivor's benefits. Equally in *Impact* (C-268/06) the Court has come down on the side of Irish public sector workers, whose treatment by the Irish Government was not found to be in line with the spirit of the EU's rules on fixed-term workers.

Advocate General Sharpston also gave the European Commission a rebuke in *Heinrich* (C-345/06) for failing to publish annexes to a regulation in the Official Journal. She stated that the Court should find the regulation to be legally non-existent.

The Court was asked to rule on the extent to which the sporting goods manufacturer, Adidas, could enforce its trade mark rights on its three-stripe motif against companies, such as H & M, that were producing clothing with similar, two-stripe motifs. The Court came down in favour of Adidas (C-102/07).

The Court has also been asked to look at consumer rights: the ability of companies to charge consumers for the use of defective goods before they are returned (*Quelle,* C-404/06); and on the extent to which Member States can limit consumers' cancellation rights under the doorstep selling rules (*Hamilton*, C-412/04).

In *Marks and Spencers* (C-309/06)*,* the ECJ ruled on the Community rules applicable to VAT refunds. The Court held that where a Member State has misinterpreted legislation, the trader in question has the right to recover any sums paid mistakenly, in accordance with general principles of Community law.

### Coming up in May

The Court will give a ruling on the need to translate all the annexes to documents in order that they can be properly served between EU Member States in *Weiss und Partner* (C-14/07).

An Opinion will also be given in the case of *Unión General de Trabajadores de la Rioja* (Cases C-428/06 to 434/06), which concerns the extent to which lower tax rates and special deductions offered by regions within Member States amounts to illegal State aid.

The Court will also give its ruling in the European Parliament's challenge to certain of the EU rules adopted in relation to the granting and withdrawal of asylum status (*Parliament v Council*, C-133/06).

### Case tracker

The case tracker in Annex I sets out timetables for the progress of individual cases of interest and provides Links to relevant documents/further sources of information for some of the most interesting and important cases going through the Courts.

## 1. CIVIL JUSTICE

### 1.1 Reference in Roda Golf & Beach Resort SL (C-14/08)

Lodged 14 January 2008

***Service of documents - Civil and commercial matters***

The Court is asked whether Regulation 1348/2000 on the service in the Member States of judicial and extra judicial documents in civil or commercial matters extends exclusively to the service of documents where court proceedings are already in progress or whether it extends to documents served through the courts when proceedings have not been started.

*Link*
Reference

## 2 CRIMINAL JUSTICE

### 2.1 Opinion in Staatsanwaltschaft Regensburg v Klaus Bourquain (C-297/07)

8 April 2008, Advocate General Ruiz-Jarabo

***Criminal Justice - Schengen – Ne bis in idem – Ruling in absentia***

*Background*
Mr Bourquain is a German citizen who had served with the Foreign Legion. In 1961, a French military tribunal in Algeria tried and found him guilty *in absentia* of murdering another German soldier. The military law applicable stated that, even if Mr Bourquain had been found, the penalty would have not been enforced but he would have been retried. As Mr Bourquain had fled to Germany, he did not appear before the military court. No further action was taken in relation to the crime he had committed in Algeria until 2002, when proceedings were brought against him in Germany. By this point, not only had the sentence delivered *in absentia* become time barred, the death penalty had been abolished in France and amnesty relating to the events in Algeria had been declared. Given the circumstances, the referring German court asks for an opinion on the principle of *ne bis in idem* within the Schengen area, according to which a person whose trial has been dealt with and disposed of in one Member State cannot be prosecuted for the same in another.

*Opinion*
Advocate General Ruiz Jarabo opined that the principle of *ne bis in idem* operates on the condition that the initial judgment is final at the time when the second set of proceedings is instituted. In this regard, the sentence that was delivered *in absentia* constituted a final judgment, albeit the penalty would not be enforced by virtue of the military law. Such a penalty, which is the result of an ultimate judgment but which has never been enforceable due to national procedural requirements, still falls within the realm of the *ne bis in idem* principle and will accordingly prevent Mr Bourquain from being retried on the same facts in Germany.

*Link*
Opinion

## 3 COMMUNITY LAW

### 3.1 Opinion in Gottfried Heinrich (C-345/06)

10 April 2008, Advocate General Sharpston

***Community law – Regulation on aviation security – Unpublished annex – Non-binding force***

*Background*
Community law prescribes at Article 254 TEC that regulations are to be published in the Official Journal. Regulation 2320/2002, establishing common rules in the field of aviation security, was adopted by the Parliament and Council in 2002. Commission Regulation 622/2003 implemented the rules prescribed by the former. The annex to this Regulation contained details of the items that would not be permitted onboard an aircraft. The Regulation was published but the annex specifying prohibited items was not. Mr Heinrich was ordered by security to leave an aircraft at an airport in Vienna for carrying tennis racquets in his hand luggage, an item which had been listed in the unpublished annex as prohibited. The referring Austrian court asks whether regulations, or parts of regulations such as annexes, can have legally binding force if they have not been published in the Official Journal.

*Opinion*
Advocate General Sharpston considered an annex as constituting a fundamental part of a regulation or legal document. Without having had sight of the annex, the material body or substance of the legislative measure cannot be comprehended. Publication of a regulation without its annex does not satisfy the requirements of Community law as set out in Article 254 TEC. Accordingly, publication of the Regulation as it stands is defective and amounts to a breach of the necessary procedural requirements. The Advocate General recommended to the Court that it should find the Regulation not just to be invalid, but non-existent.

*Link*
Opinion

## 4 COMPETITION LAW

### 4.1 Reference in T-Mobile Netherlands, KPN Mobile, Raad van bestuur van de Nederlandse Mededingingsautoriteit, Orange Nederland NV (C-8/08)

Lodged 9 January 2008

***Article 81 TEC – Criteria employed to establish concerted practice***

The Court is asked which criteria must be employed in applying Article 81(1) TEC on agreements, decisions and concerted practices. The question at issue is whether this Article requires evidence to be adduced of causation between a concerted practice and market conduct. Alternatively it asks whether a presumption exists of such a causal link even where the concerted practice is an isolated event.

*Link*
Reference

## 5 CONSUMER LAW

### 5.1 Judgment in Quelle AG v Bundesverband der Verbraucherzentralen und Verbraucherverbande (C-404/06)

17 April 2008, First Chamber

***Directive 1999/44 – Sale and guarantee of consumer goods – Right of the seller to compensation for use of goods***

*Background*
Bundesverband (a consumers' association) is acting for Ms Bruning who bought a kitchen from Quelle in August 2002. In January 2004 Ms Bruning noticed that a layer of the enamel in the interior of the oven was detached. This defect was impossible to repair and so she sought to obtain a replacement from Quelle. As the warranty period had expired, Quelle requested payment of an indemnity for the use of the original oven (at a value of €119.97), but Quelle accepted a payment of €69.97 from her. In the current proceedings Bundesverband is seeking to recover the indemnity paid, claiming that Quelle was not entitled to obtain compensation for use of the goods that had been delivered. Such compensation was provided by the German legislation. As such, the question referred was whether Directive 1999/44 on certain aspects of the sale of consumer goods and associated guarantees prevents the seller from relying on such national legislation, which allows it to obtain compensation from the consumer for the use of replaced goods.

*Judgment*
The Court stated that the German legislation was not in conformity with the provisions of the Directive. As such the consumer could not be asked to pay compensation for the use of goods, which were not in conformity with the contract of sale and which were later replaced. Although reference was made to recital 15 of the Directive, which allows account to be taken of use of the goods by the consumer, this related only to the situation where the contract was to be terminated. The Court noted that the Directive provides sellers sufficient protection, by setting a two-year time limit and allowing them to refuse to replace goods where this would incur unreasonable costs.

*Link*
Judgment

### 5.2 Judgment in Annelore Hamilton v Volksbank Filder eG (C-412/06)

10 April 2008, First Chamber

***Doorstep selling - Time-limit on right of cancellation – Defective notice***

*Background*
In 1992 Mrs Hamilton was visited by a door-to-door salesman from Volksbank Filder, with whom she entered into a contract for a loan. This loan was then used to buy shares in a real estate fund, the dividends from which she used to repay the interest on the loans. In 1997 the fund went into bankruptcy and the dividends decreased. Mrs Hamilton rescheduled her debt into a building society savings contract and with the help of an interim loan she repaid Volksbank in full. In 2002 she cancelled the loan contract and in 2004 brought an action to recover the interest paid under the loan contract. Directive 85/577 on doorstep selling provides that consumers should

have a right to cancel such contracts within at least seven days and that this period does not start until the trader has informed the consumer of the cancellation right. Where such information is not supplied, Member States are to provide appropriate protections. The German legislation provides that in this case the right of cancellation did not lapse until one month after the parties have performed in full their obligations under the agreement. Hamilton claimed that, at the time of entering into the contract, the information she received was incorrect as to her rights to withdraw from the contract. The German court asks whether national law may place on the right of withdrawal a one-month time limit that does not start to run until after the contract has been fully performed.

*Judgment*
The Directive is designed to safeguard against risks that may arise out of the conclusion of contracts away from business premises. Ms Hamilton was given incorrect information as to cancellation, which the Court has held previously to equate to receiving no information. The Court stated however, that the protection afforded to consumers is not without limits. It stated that for the purposes of Article 4 of the Directive an appropriate measure would be one that provided that fulfilment of the contractual obligations caused the right of cancellation to lapse. Accordingly, the Directive does not preclude national legislation from prescribing that the right of cancellation can be employed no later than one month following the completion of both parties' contractual obligations, even where defective notice of such rights has been given.

*Link*
Judgment

### 5.3 Reference in Asturcom Telecomunicaciones SL v Cristina Rodríguez Nogueira (C-40/08)

Lodged 5 February 2008

***Unfair Terms - Arbitration awards- Consumer protection***

*Background*
The Court of First Instance of Bilbao seeks to establish whether Directive 93/13 on unfair terms in consumer contracts requires a court, hearing a case for enforcement of a final arbitration award in the absence of the consumer, to determine of its own accord whether an arbitration agreement contains an unfair term detrimental to the consumer. As such, must the court find the arbitration agreement is void and annul the award if it does find that the agreement contains unfair terms?

*Link*
Reference

## 6 EMPLOYMENT LAW

### 6.1 Judgment in Rechtsanwalt Dr Dirk Ruffert, as the liquidator of the assets of Objekt und Bauregie GmbH & Co. KG v Land Niedersachsen (C-346/06)

3 April 2008, Second Chamber

***Minimum wage – Collective agreement - Freedom to provide services – Posting of workers***

*Background*
A German public authority had awarded Objekt and Bauregie a contract to build a prison. That company had then sub-contracted certain work to a Polish company that had used Polish workers on the site. It was a condition of the public works contract with Objekt and Bauregie that the terms of certain collective agreements had to be met and that, in particular, workers employed on the building site had to receive the minimum wage stipulated for that place of work by such collective agreements. The contract was terminated when it was discovered that the Polish sub-contractor was employing workers at less than half the rate of pay set in the collective agreement. The public authority also sought the activation of a penalty clause requiring the sub-contractor to pay the outstanding wages. In the ensuing dispute, it was queried whether the national legislation, which required public authorities to impose local minimum wage rates, was in conformity with Article 49 TEC on the freedom to provide services.

*Judgment*
The Court decided to expand its examination of the case, by looking at the provisions of Directive 96/71 on the posting of workers. Based on its examination, it held that Community law precluded a requirement in national law for contractors to accept to apply levels of remuneration prescribed by local collective agreements. The Directive provides that minimum wage rates of the host Member State may be applied according to the circumstances set in the Directive. If such rates are set by collective agreement, they must have been declared "universally applicable", which was possible in Germany but had not happened in relation to the collective agreement in question. In addition, the German law in question only concerned part of the construction sector – public sector contracts – and not all of it. The relevant provisions of the German legislation were found not to comply with the Directive or Article 49 TEC.

*Link*
Judgment

### 6.2 Judgment in Tadao Maruko v Versorgungsanstalt der deutschen Buhnen (C-267/06)

1 April 2008, Grand Chamber

***Employment benefits – Definition of pay – Discrimination on grounds of sexual orientation***

*Background*
German law makes provision for registered life partnerships. Mr Maruko was in such a partnership with a designer affiliated to the German Theatre Pension Institution (VddB), to which he had contributed since 1959. On the death of his partner, Mr Maruko attempted to claim a widower's pension from the VddB. His application was refused on the grounds that provision is made only in respect of spouses and not in respect of surviving life partners. The referring court asks whether such refusal is contrary to Community law, as specified by Directive 2000/78 establishing a general framework for equal treatment in employment and occupation, which aims inter alia to eliminate discrimination on grounds of sexual orientation. Since this Directive does not relate to social security, the ECJ is also asked to rule whether the pension falls under the definition of 'pay' under Article 141 TEC.

*Judgment*
The Court held that the pension derived from an employment relationship and is calculated according to the worker's period of service, membership and the value of contribution made. The state has no financial involvement in this regard. The pension is therefore classified as 'pay' and is accordingly governed by Article 141 TEC and falls within the scope of the Directive. In deliberating as to whether equal treatment rules have been infringed, the Court considered that while Germany has made specific provision for the establishment of life partnership on equal conditions to those relating to marriage, payment of the VddB pension is only awarded to surviving spouses. Accordingly, if the national court decides that life partners and surviving spouses are in a comparable situation, yet life partners are treated in a less favourable manner than their counterparts, there is direct discrimination on grounds of sexual orientation.

*Link*
Judgment

### 6.3 Judgment in Othmar Michaeler, Subito GmbH, Ruth Volgger v Amt fur sozialen Arbeitsschutz, Autonome Provinz Bozen (Joined Cases C-55/07 and C-56/07)

24 April 2008, Third Chamber

***Employment – Notification of part-time employment contracts – Penalty for failure to comply***

*Background*
Italian national laws impose an obligation to give notice of part-time employment contracts. Undertakings are required to send a copy of every part-time employment contract to the competent authorities within 30 days of its signature, with a penalty of 15 euro per day for failure to do so. The ECJ is asked whether such an obligation to notify, and the subsequent imposition of penalties, is compatible with Directive 97/81 concerning the framework agreement on part-time work and the principle of equal treatment between men and women.

*Judgment*
The Court held that the purpose of the Community rules is to promote part-time work by removing discrimination against part-time workers and eliminating barriers that may serve to discourage the use of such workers by undertakings. The Italian national measures however seem to do the opposite. Compulsory notification is a hurdle to the pursuit and development of part-time employment. Additionally, there seems to be no such notification provision for full-time employment contracts. The Court considered the Italian Government's objectives, namely combating fraud and undeclared work. The Court held that, as there were less stringent measures which could be employed to achieve these, the measures in place were not proportionate and were contrary to the Directive.

*Link*
Judgment

### 6.4 Judgment in Impact v Ireland (C-268/06)

15 April 2008, Grand Chamber

***Fixed-term employment in public sector - Renewal of fixed-term contracts***

*Background*
Impact, a trade union, is representing a number of its members who have been employed as civil servants by the Irish Government under successive fixed-terms contracts. It argues those public sector fixed-term employees are subject to different employment schemes to that of permanent civil servants. Impact is claiming equal employment conditions for some of the complainants and indefinite contracts for those who have more than three years continuous employment. Ireland implemented the EU framework agreement on fixed-term work, put into law by Directive 1999/70, in July 2003, two years after the transposition deadline for the Directive. This legislation states that after three years employment, a fixed-term contract may only be renewed for one additional year. Before the legislation came into force, the Government agreed new eight-year contracts with certain of its existing workers. The trade union referred the issues to a Rights Commissioner, relying on the Irish legislation and on the direct effect of the Directive in the period 2001 - 2003. The Government challenged the Rights Commissioner's jurisdiction claiming that she was confined to adjudicate only on domestic law matters. It also argued that Clauses 4 and 5 of the framework agreement were not unconditional or sufficiently precise, did not have direct effect and as such could not be relied upon by the claimants in the national court. It was also contended that under Clause 4 fixed-term workers were not entitled to the same pay and pension conditions as those with permanent contracts.

*Judgment*
The Court held that the Rights Commissioner did have jurisdiction to determine a claim arising directly from the Directive, before it had been implemented. As the transposing legislation conferred jurisdiction to determine such claims on the basis of the national implementing legislation, bringing a separate claim before the ordinary courts would involve procedural disadvantages. The Court held that Clause 4(1), on the principle of equal treatment, is unconditional and sufficiently precise for individuals to be able to rely on it, and it encompasses issues relating to pay and pensions (to the exclusion of statutory social security). In relation to Clause 5, on combating abuse through the use of successive fixed-term contracts, the Court stated that it did not have direct effect because of the discretion it leaves to Member States. It did go on to state that Member States, acting as an employer, could not adopt measures contrary to the objectives of the Directive (such as the unusually long fixed-term contracts) in the period between the deadline for transposition and the entry into force of the implementing legislation.

*Link*
Judgment

### 6.5 Reference in Virginie Pontin v T-Comalux SA (C-37/08)

Lodged 18 February 2008

***Pregnant workers – Protection from dismissal – Time limits***

*Background*
The Luxembourg Court asks whether the time limitations in national legislation (eight or fifteen days) for the bringing of actions by a pregnant employee who has been dismissed during her pregnancy are permissible. It asks if these time limits are too short to allow the employee to safeguard her rights in terms of Directive 92/85 on improvement measures for the safety and health at work of pregnant workers, workers that have recently given birth or are breastfeeding. Finally it asks whether the employee should be denied the right to bring an action for damages for wrongful dismissal when such action is reserved to other kinds of dismissed employees.

*Link*
Reference

## 7 ENVIRONMENT

### 7.1 Reference in Asociación Ecologistas an Acción - CODA v Ayuntamiento de Madrid (C-142/07)

Lodged 13 March 2007

***Environmental impact assessments – Urban roads – Splitting up projects***

*Background*
The Administrative Court of Madrid seeks to establish whether certain urban road projects in Spain should, depending on their effects, be subject to the procedural requirements of an environmental impact assessment, according to Directives 85/377 and 97/11. In particular it is suggested that a previously larger project is being divided into smaller projects. The national court also asks whether the Spanish authorities have in effect complied with the obligations of the Directive by submitting the urban road projects they wish to carry out to environmental assessment.

*Link*
Reference

## 8 FREE MOVEMENT

### 8.1 Opinion in Heinz Huber v Bundesrepublik Deutschland (C-524/06)

3 April 2008, Advocate General Poiares Maduro

***Free movement - Data protection – Citizenship – Freedom of establishment***

*Background*
Mr Huber is an Austrian citizen who has been living and residing in Germany since 1996. His personal data, including details relating to his passport, residence, domicile and marital status, have been stored along with that of other foreign citizens living in Germany in a central register. Personal details of German citizens are stored in local, municipal registers. Mr Huber requested his details to be removed from the central register. He argued such a difference in the storage of data was incompatible with: the Community law prohibition of restrictions on the freedom of establishment of nationals of a Member State (Article 43 TEC); the requirement of necessity outlined in Directive 95/46 on the protection of individuals with regard to

processing of their personal data; and Directive 2004/38 on the right of citizens of the Union to move and reside freely within the territory of the Member States. The referring court asks the ECJ whether the processing of personal data in a central register of foreign nationals is compatible with Community law or whether it serves to discriminate against foreign EU nationals.

*Opinion*
Advocate General Poiares Maduro opined that by having two separate systems, a clear distinction is drawn between the two groups of individuals, hindering integration and perpetuating the 'us' and 'them' categorisation which Community law endeavours to overcome. The appropriate test to be employed is one of effectiveness. Accordingly the national court will have to determine whether there are other means of data processing by virtue of which the residence status rules could be enforced. If such a system exists, then the German provisions are contrary to Community law provisions on the prohibition of discrimination on grounds of nationality. In addition, the Advocate General is of the opinion that in including data (which can be examined by bodies other than immigration authorities) beyond that which is specified in Directive 2004/38, the system is incompatible with the requirement of necessity.

*Link*
Opinion

### 8.2 Opinion in Stefan Grunkin and Dorothee Regina Paul v Leonard Matthias Grunkin-Paul and Standesamt Stadt Niebüll (C-353/06)

24 April 2008, Advocate General Sharpston

***Discrimination on grounds of nationality – Freedom of movement and residence – Conflict of law – Personal names***

*Background*
The matter relates to the conflict existing between the legislation of two Member States in relation to determining the surname of a person. Leonard Matthias Grunkin-Paul (the child) was born in Denmark to parents that hold only German nationality. Although his birthplace and residence are in Denmark, he is a German national. Under Danish law a surname is determined in accordance with the rule of law of the country of residence, whereas German law states that the law of your country of nationality determines the rule. Danish law allows a combination of the parents' names. German law does not allow this for German nationals, but allows it according to the laws applicable to non-German nationals. The parents chose to register a compound name for the child in Denmark, where they were residing at the time of birth, but were later refused registration by the German authorities.

*Opinion*
Advocate General Sharpston stated that the refusal by a Member State to register the surname of one of its nationals, when that surname was lawfully registered and recognised in a different Member State, rendered it appreciably more difficult for that person to exercise his right to move and reside freely in the Community territory. A choice of law rule by which a person's surname is to be determined in accordance to the law of his nationality is not in itself incompatible with the EC Treaty. However, such a rule must respect the citizen's right to freedom of movement and residence in the territory of the Community. In consequence, the authorities of a Member State, in registering the name of a citizen, cannot automatically refuse to recognise the name under which that person has already been lawfully registered in another

Member State, unless the recognition would conflict with the overriding public interest.

*Link*
Opinion

## 9 INTELLECTUAL PROPERTY

### 9.1 Judgment in Peek & Cloppenburg KG v Cassina SpA (C- 456/06)

17 April 2008, Fourth Chamber

***Copyright - Use of reproductions of copyright-protected furniture - Transfer of ownership or possession***

*Background*
Cassina, a manufacturer of furniture, brought proceedings against Peek & Cloppenburg (P&C), a chain of German clothing shops. In one of its shops, P&C decided to set up a rest area for customers fitted out with reproductions of armchairs and sofas in one of the design lines manufactured by Cassina. P&C also fitted a display window with furniture from the same Cassina range for decorative purposes. The items used in the shop had not been manufactured or sold by Cassina but were unauthorised reproductions made by another Italian company. Cassina brought proceedings against P&C seeking for the latter to desist from displaying the items and to provide Cassina with information as to the manufacturer and distribution channels for the reproduction items. The German Federal Court of Justice seeks to establish whether allowing the public to use reproductions of items which are protected by copyright, without transferring the ownership or possession of those items, can be classified as a distribution to the public otherwise than by sale for the purposes of Article 4(1) of Directive 2001/79. Similarly the Federal Court also asks whether the exhibition of a reproduction of a protected work in a shop window for decorative purposes also constitutes a form of distribution to the public.

*Judgment*
The Court explained that Article 4(1) of the Directive is not sufficiently precise in explaining what 'distribution to the public of a work protected by copyright' means. However, Community legislation should be interpreted consistently with international law and the preamble to the Directive states that the instrument is intended to implement at Community level the provisions of the World Intellectual Property Organisation, Copyright Treaty (CT) and the WIPO Performances and Phonograms Treaty. Article 6(1) of the CT defines distribution as the right by an author of literary and artistic work to exclusively authorise the making available to the public of the original and copies of their work through sale or 'other transfer of ownership'. The Court stated that distribution to the public covers only acts which entail a transfer of ownership of the item. As a result, allowing the public to use reproductions of a work protected by copyright or exhibiting those reproductions to the public without granting the right to use them, does not constitute a form of distribution and therefore, does not contravene the provisions of Article 4(1) of the Directive.

*Link*
Judgment

### 9.2 Judgment in Adidas AG and Adidas Benelux BV v Marca Mode CV, C&A Nederland CV, H&M Hennes & Mauritz Netherlands BV, Vendex KBB Nederland BV (C-102/07)

10 April 2008, First Chamber

***Trade marks - Infringement and dilution of mark - Availability***

*Background*
Adidas brought proceedings against several companies, including the clothing store H & M, that started marketing clothing featuring a two-parallel-stripe motif similar to the well-known mark used by Adidas. The company argued that the requirement of availability relied upon by the defendants could only be used in relation to assessing the validity of a trade mark under Article 3 of the Directive 89/104 and not in relation to assessing an infringement or confusion. The requirement dictates that it should not be possible to protect certain motifs because of the public interest in keeping them available for use.

*Judgment*
The Court agreed and stated that the requirement of availability cannot be relied upon to limit or restrict the exclusive rights granted to the owner of a trade mark. As such it was not relevant to consider it in relation to Article 5 of the Directive in relation to infringements. The owner of the trade mark has the right to prevent all third parties from using a sign which, by being identical or similar to the registered trade mark, may cause confusion in the general public. In relation to marks with a reputation, the Court explained that there is no need for a likelihood of confusion – the similar mark need only create a connection with the brand in the mind of the public. In relation to Article 6(1) on the limitations of the trade mark's effects, this only allows the use of signs by a third party that are indicative of the kind, quality, provenance and intended purpose of the specific items, i.e. a label on a clothing item stating where the item was made or giving care instructions.

*Link*
Judgment

## 10 PENSIONS

### 10.1 Judgment in KD Chuck v Raad van Bestuur van de Sociale Verzekeringsbank (C-331/06)

3 April 2008, Second Chamber

***Social security contributions - Calculation of periods of insurance – Residence in a non-Member State***

*Background*
Mr Chuck, a UK national, worked and was resident in the Netherlands between 1972 and 1977. However, for a period of nine months from April 1975 to January 1976 he worked in Denmark where he also paid social security contributions. In 1978 Mr Chuck immigrated to the United States where he has been residing ever since. On reaching retirement age, he submitted a claim for an old-age pension to the Raad van Bestuur van de Sociale Verzekeringsbank (Management Board of the Social Insurance Bank; SVB). The SVB granted him the pension but in its calculations it did not take into account the period of insurance in Denmark on the ground that the

claimant no longer resided in a Member State. After an unsuccessful appeal, Mr Chuck brought an action before the Rechtbank te Amsterdam (Amsterdam District Court) which now seeks the Court's directions. The question referred is whether Article 48 of Regulation 1408/71, concerning the application of social security schemes to employed persons, self-employed persons and to members of their families moving within the Community, requires the competent authority in the last Member State in which the worker resided to take into account periods of work in another Member State when the worker is now residing outside the Community territory.

*Judgment*
The Court explained a claimant has the right to bring a claim for a pension from different institutions and such a right is directly derived either by national law or by national law and Community law combined. Therefore, the Regulation ensures that the worker that has worked in different Member States will be able to enforce the pension rights deriving from his contributions in a similar way to a worker that has never left his country of residence and that has paid contributions in only one national scheme. The Court pointed out that the application of Article 48 does not depend on the place of residence of the worker at the time of claiming the pension and the Article does not restrict a worker that is currently residing in a non-Member State to enforce his rights in one or more Member States. Finally the Court held that Article 48(2) of Regulation 1408/71 requires the relevant institution of the last Member State in which the worker resided to take into account, when calculating his pension, periods when he worked in a different Member State, notwithstanding the fact that the person now resides in a non-Member State.

*Link*
Judgment

## 11 PROFESSIONAL PRACTICE

### 11.1 Judgment in Confederatie van Immobilien-Beroepen van Belgie VZW v Willem Van Leuken (C-197/06)

17 April 2008, Second Chamber

***Estate agency - Freedom of establishment – Mutual recognition of qualifications***

*Background*
Mr Van Leuken is an estate agent, established in the Netherlands, specialising in the sale of Belgian property to clients in the Netherlands. Action was taken against him in Belgium for breach of national laws applicable to professional activity, as a consequence of which he was prohibited from carrying out the activities of estate agency until such time as he complied with the rules in force. Subsequently, Mr Van Leuken requested authorisation from the BIV (a body made up of authorised estate agents established in Belgium). This request was granted on the condition that he completed an aptitude test. Rather than take the test, Mr Van Leuken concluded a cooperation agreement with Ms van Asten, an estate agent established in Belgium, by virtue of which she would act as an intermediary in the sale of property located in Belgium. Despite having taken measures to comply with the requirements of the BIV, proceedings were again brought against him. In this regard, the ECJ is asked whether Directive 89/48 on a general system for the recognition of higher education diplomas precludes national rules which make the performance of activities by

providers established in another Member State conditional upon success in an aptitude test.

*Judgment*
Directive 89/48 stipulates that a Member State may not refuse a national of another Member State to pursue a regulated profession on the grounds of inadequate professional qualification if he fulfils certain criteria. The choice between an adaptation period and aptitude test should be left open to the applicant, unless practice of the professional activity requires a precise knowledge of national law. Given that in Belgium, the training of estate agents does not involve significant legal training, nor do estate agents require such knowledge of national law, the profession does not fall within the scope of the latter derogation. By the reorganisation of his activities in a manner that meant Mr Van Leuken no longer exercised any legal aspects of sale, the requirements imposed on him by national law remain beyond what is necessary for the protection of those receiving his services. Accordingly it was held that the Directive precluded the national legislation at issue.

*Link*
Judgment

### 11.2 Judgment in Philippe Derouin v URSSAF de Paris – Région parisienne (C-103/06)

3 April 2008, Third Chamber

***Social security contributions - Migrant workers - Double-taxation***

*Background*
This case concerns a lawyer based in Paris who is subject to French social security provisions. The French social security authorities had asserted that they should take account of income generated in the UK for the purposes of levying social security contributions. The applicant in the case has argued that the contributions under discussion (general social contributions and social debt repayment contributions) are in fact taxes rather than social security. The UK/France Taxation Convention of 1968 makes provision against the double imposition of income tax. As tax has already been paid in the UK on the UK income, he claims that it should not be taxed again. The Social Security Tribunal in Paris asks whether Regulation 1408/71 (on the application of social security schemes) prohibits that such a taxation convention exclude the inclusion of the UK income from the basis upon which the general social contribution and social debt repayment contribution levied in France is assessed.

*Judgment*
The Court held that it is for the Member State to determine the tax base for social contributions and the income that should be taken into account in calculating those contributions. However, the Member State must also respect the spirit and principles of the Regulation, for example, the principle of 'single State' applicable to social security contributions. The Court stated that according to Community law a Member State is entitled to exclude from the calculation of the tax base for social security contributions, income earned in another Member State by a resident self-employed person, when that person is subject exclusively to the social legislation of the country where he resides.

*Link*
Judgment

## 12 PUBLIC PROCUREMENT

### 12.1 Judgment in Ing. Aigner, Wasser-Wärme-Umwelt GmbH v Fernwärme Wien GmbH (C-393/06)

10 April 2008, Fourth Chamber

***Public law body – Application of directives to all activities***

*Background*
This reference from the Austrian courts seeks to ascertain the extent to which EU public procurement procedures apply to all the activities of bodies falling within the scope of the directives. Fernwärme Wien is a company established by and owned wholly by the City of Vienna in order to supply energy for district heating to the city generated by waste. The company is also involved, however, in the planning of refrigeration plants for large real estate projects on a commercial basis. It carried out a public tender for the installation of refrigeration plants in 2006, stating that the Austrian public procurement legislation did not apply to the procedure. The tender of Ing Aigner was rejected on the basis of bad references and the company challenged this, stating that Community public procurement rules should apply. Fernwärme Wien's heating activities fall within the scope of Directive 2004/17 governing public procurement for water, energy, transport and postal services (sectoral directive), but it was not clear to what extent contracts for services not falling within the scope of the directives were covered.

*Judgment*
The Court held first of all that contracts for services were only governed by the procedures in Directive 2004/17 when the award was for a contract related to the activities covered by the scope of the Directive. The Court went on to examine whether Fernwärme Wien was to be considered as a body governed by public law within the meaning of Directives 2004/17 and 2004/18, which concerns the public procurement procedures for public works, supply and service contracts. It concluded that it was, in particular after an examination of whether the needs met by the entity were in the general interest of an industrial or commercial nature. As such, the Court concluded that all contract awards by the body, which did not fall within the scope of Directive 2004/17, should be governed by the procedures in Directive 2004/18. The Court concluded that the rules applied regardless of whether certain activities were carried out under competitive conditions or whether accounting systems existed to maintain a clear distinction between the two sets of activities.

*Link*
*Judgment*

## 13 TAXATION

### 13.1 Judgment in Marks & Spencer v Her Majesty's Commissioners of Customs and Excise (C-309/06)

10 April 2008, Third Chamber

***VAT – Equal treatment – Neutrality – Principles relating to refunds***

*Background*
This preliminary reference from the House of Lords concerns the Community rules to be applied in relation to VAT refunds. The Sixth VAT Directive allows Member States to apply derogations from the rules, as transitional measures, and the UK therefore applied a zero VAT rating to food. Until 1994 the UK authorities considered Marks & Spencer's tea cakes as biscuits and applied a standard rate of VAT. Thereafter, they viewed the product as a cake and applied a zero rating. Marks & Spencer applied for a refund of the £3.5 million of VAT that had been paid before 1994. Section 80(3) of the UK Value Added Tax Act 1984 provided a defence to the Commissioners in such a circumstance if the repayment would unjustly enrich the claimant. As such, only the 10% of the VAT paid, which had not been passed on to customers, was refunded. This section only applied to net tax payers (payment traders), and not in respect of "repayment traders" i.e. those whose input tax deduction exceeded the VAT payable in respect of outputs.

*Judgment*
The Court decided that where a Member State provides for an exemption with refund of input tax, but has then misinterpreted this legislation, the trader in question has the right to recover any sums paid mistakenly, in accordance with general principles of Community law, including that of fiscal neutrality. The Court went on to state that in principle the Community rules did not prevent Member States from having a rule against unjust enrichment. They did not, however, permit such a rule to be applied in a manner that was inconsistent with the principle of equal treatment i.e. applying the rule to payment traders and not to repayment traders. The national court had to ensure that an economic analysis of all the relevant circumstances was conducted to ascertain the extent that such repayment would be considered unjust enrichment. The Court then concluded that the difference in treatment between payment traders and repayment traders did in principle contravene the principles of fiscal neutrality and equal treatment, and that traders who paid tax as a result of such discrimination should be refunded entirely, unless other remedies were available. As for the temporal effects of the infringement of equal treatment, the national court was to draw its own conclusions, based on principles of Community law and national rules, and ensuring that remedies conform to Community law.

*Link*
Judgment

### 13.2 Judgment in Zweckverband zur Trinkwasserversorgung und Abwasserbeseitigung Torgau-Westelbien v Bundesministerium der Finanzen (C-442/05)

3 April 2008, Second Chamber

***VAT – Supply of drinking water – Sixth VAT Directive***

*Background*
The Zweckverband is the municipal association for the supply of drinking water and sewage disposal in the Torgau-Westelbien district. Their work comprises collection, piping, treatment and supply of drinking water. In that regard, they are also responsible for laying the necessary mains connections, for which they charge a separate flat fee. Finanzamt, the tax office, considered that the supply of water was distinct from laying mains connections. Accordingly it applied a reduced rate of VAT to the former and the standard rate of VAT to the latter, as prescribed by national laws. The Zweckverband contends that the supply of water and laying of connections are both part of the single service of 'supplying water'. In Annex D to

the Sixth VAT Directive on the harmonisation of the laws of the Member States relating to turnover taxes, 'water supplies' are mentioned in the list of supplies of goods and services which may be subject to reduced rates of VAT. The referring court asks whether or not the household connection installed by the Zweckverband falls within the definition of supply of water.

*Judgment*
The Sixth Directive does not provide a definition for the 'supply of water'. In determining what constitutes this, it was held that the supply of water is typified by making water available to the public by means of fixed networks or connections, as is the situation in the present case. If a connection to a building is not laid down, water will not be made available to the owners of that building. The connection is therefore indispensable in making the water available and accordingly forms part of the 'supply of water'. Member States may therefore, while respecting the principle of fiscal neutrality, apply a reduced rate of VAT to such aspects of water supply.

*Link*
Judgment

### 13.3 Judgment in JCM Beheer BV v Staatssecretaris van Financien (C-124/07)

3 April 2008, First Chamber

***Sixth VAT Directive - VAT exemptions - Insurance brokers and agents***

*Background*
The Netherlands Regional Court of Appeal is seeking to establish whether a sub-agent for an insurance broker and agent can also benefit from the exemptions on VAT provided by Article 13 of the Sixth VAT Directive. National measures provide that insurance and reinsurance transactions and services performed by insurance agents and brokers are exempt from VAT. JCM Beheer BV (JCM) is a sub-agent of VDL Polisassuradeuren BV (VDL) a company which itself carries out services of insurance brokering and agency. JCM concludes, transfers and issues insurance policies on behalf of VDL; it also carries out insurance services independently from VDL. JCM was issued a supplementary turnover tax assessment in respect of undeclared commission profits. The Regional Court of Appeal seeks to establish whether Article 13 B(a) of the Sixth VAT Directive extends also to the activities of a person who carries out the essential activities of an insurance broker and agent, but where such activities are carried out on behalf of another insurance broker and agent for the purposes of bringing about insurance transactions.

*Judgment*
The Court stated that the provisions of Article 13 of the Sixth Directive are to be interpreted strictly since they provide for exemptions to the general principle that VAT is to be paid on all services supplied for consideration by a taxable person. It also stated that the activities carried out by JCM are unquestionably those of an insurance broker and agent by being contractually linked to VDL and acting in the name and on behalf of VDL as an insurance agent and broker. The Court also stated that Article 13 B(a) does not preclude insurance and reinsurance related services to be considered as recognised activities of insurance brokering and agency. The Court therefore held that Article 13 B(a) must be interpreted as meaning that the sub-agent's services should not be precluded from being exempt from VAT under the Directive.

*Link*
Judgment

### 13.4 Reference in RCI Europe v Commissioners of HM Revenue and Customs (C-37/08)

Lodged 31 January 2008

***Sixth VAT Directive - Classification of services***

*Background*
The appellant is a company that deals with timeshare and home exchange holiday schemes. RCI Europe, in the context of the services it offers its members, seeks to understand what are the factors to be considered when determining whether services are 'connected with' immovable property under the meaning of Article 9(2)(a) of the Sixth VAT Directive. Once it has been established that the services are 'connected with' immovable property, it also asks how it can determine the criteria for classification of the services under the Sixth VAT Directive. Finally, it requests clarification on how to identify the 'exchange fee' income for the supply of the following services: facilitating the exchange of holiday usage rights between members belonging to the scheme run by the company; and of supplying usage rights for accommodation purchased by the company to increase the portfolio of properties available to its members.

*Link*
Reference

**ANNEX I: CASE TRACKER**

"C" indicates a case before the ECJ, whereas "T" indicates the CFI.

| Topic | Case | Hearing | *Opinion* | *Judgment* |
|---|---|---|---|---|
| Civil justice | | | | |
| Language of documents served in legal proceedings | Weiss und Partner v Handelskammer Berlin C-14/07 | | 29 November 2007 | |
| Enforcement of judgments – failure to comply with court injunction | Marco Gambazzi v Daimler Chrysler Canada Inc C-394/07 | | | |
| Mutual recognition of decision on placement of child in custody | A C-523/07 | | | |
| Consumer | | | | |
| Right of seller to claim compensation when consumer cancels within "cooling off" period | Messner v Firma Stefan Kruger C-489/07 | | | |
| Criminal | | | | |
| Standing in private prosecutions | István Roland Sós C-404/07 | | | |
| Prosecution of a national for a crime already prosecuted in another Member State | Staatsanwaltschaft Regensburg v Klaus Bourquain C-297/07 | | 8 April 2008 | |
| Prosecution of a national for a crime already prosecuted but discontinued in another Member State | Vladimir Turansky C-491/07 | | | |
| Employment | | | | |
| Discrimination on grounds of disability | S. Coleman v Attridge Law, Steve Law C-303/06 | 9 October 2007 | 31 January 2008 | |
| Indefinite sick leave | Stringer v HMRC C-520/06 | 20 November 2007 | 24 January 2008 | |
| Indemnity for commercial agents | Turgay Semen v Deutsche Tamoil GmbH C-348/07 | | | |
| Refusal of pension rights to surviving partner of a civil partnership | Tadao Maruko v Versorgungsanstalt der deutschen Bühnen C-267/06 | | 6 September 2007 | 1 April 2008 |
| Right to claim | Jorn Petersen v | | | |

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|---|---|---|---|---|
| unemployment benefit while residing in another Member State | Arbeitsmarktservice Niederosterreich C-228/07 | | | |
| Legality of national legislation enforcing obligatory retirement ages | Age Concern England v Secretary of State for Business, Enterprise and Regulatory Reform C-388/07 | | | |
| Freedom of information | | | | |
| Access to European Council documents | Sweden and Maurizio Turco v Council Joined Cases C-39/05 and C-52/05 | | 29 November 2007 | |
| Immigration | | | | |
| Power of Council to legislate on immigration issues | Parliament v Council C-133/06 | | 27 September 2007 | 6 May 2008 |
| Intellectual property | | | | |
| Trade mark protection – taking account of other traders' general interest | Adidas v Marca Mode & Others C-102/07 | | 16 January 2008 | 10 April 2008 |
| Entitlement to copyright protection of new media | Sony Music Entertainment v Falcon Neue Medien Vertrieb GmbH C-240/07 | | | |
| Professional Practice | | | | |
| Privilege of in-house lawyers under EC competition | Akzo Nobel T-253/03 R T-125/03 R Appeal notice 8 December 2007 (C-550/07) | 28 June 2007 | | 17 September 2007 |
| Social security for migrant workers | Derouin C-103/06 | 7 March 2007 | 18 October 2007 | 3 April 2008 |
| Setting of mandatory minimum lawyers' fees | Hospital Consulting Srl C-386/07 | | | |
| Local conditions on temporary provision of patent lawyers' services | Commission v Austrian C-564/07 | | | |
| State aid | | | | |
| Calculation methods for recovery of aid | Département du Loiret v Commission C-295/07 | | | |
| Taxation | | | | |
| Corporate tax regime – parent and foreign subsidiary | Finanzamt Hamburg-Am Tierpark v Burda Verlagsbeteiligungen GmbH C-284/06 | | 31 January 2008 | |

| | | | | |
|---|---|---|---|---|
| Autonomous regional tax policies conflicting with national tax law | Unión General de Trabajadores de la Rioja<br>C-428/06 | | | |
| Sixth VAT Directive – zero rating | Marks & Spencer plc v HMRC<br>C-309/06 | | 13 December 2007 | 13 April 2008 |
| Offsetting of profits and losses | Société Papillon v Ministère du budget<br>C-418/07 | | | |
| Tax treatment of charitable donations to foreign entities | Hein Persche v Finanzamt Lüdenscheid<br>C-318/07 | | | |
| VAT applicable to UK postal services | TNT Post UK Ltd v HMRC and Royal Mail Group Ltd<br>C-357/07 | | | |
| Entitlement of bookmakers' agents to VAT exemptions | Tierce Ladbroke SA v Belgium<br>C-232/07 | | | |
| Telecommunications | | | | |
| Unbundling of local loop access | Arcor AG & Co. KG v Germany<br>C-55/06 | | 18 July 2007 | 24 April 2008 |
| Transport | | | | |
| Air passenger rights when flight cancelled | Eivind F Kramme v SAS<br>C-396/06 | | 27 September 2007 | |
| Imposition of public service obligations on publicly-run bus company | Antrop v Council<br>C-504/07 | | | |

## ANNEX II: OVERVIEW OF THE EUROPEAN COURT OF JUSTICE

This update is a monthly publication summarising the main cases that are being heard by the EU Courts and which are of importance and interest to practising solicitors in the UK and other legal practitioners.

The European Court institution comprises the European Court of Justice (ECJ), the Court of First Instance (CFI) and the Civil Service Tribunal, recently established to deal with staff cases. This update shall only cover the case law of the ECJ and CFI.

The ECJ was established in 1952 under the ECSC Treaty and its competence was later expanded to ensure that the then EEC legislation was interpreted and applied consistently throughout the Member States. While subsequent treaty amendments have further extended the Court's jurisdiction to new areas of EU competence, the Court has also been instrumental, through its *Judgment*s and rulings, in furthering the process of European integration. Articles 7, 68, 88, 95, 220-245, 256, 288, 290, 298, and 300 of the Treaty of the EC set down the composition, role and jurisdiction of the Court.

Currently there are 27 Judges (one from each Member State) and 8 Advocates General who are appointed by Member States for a renewable term of six years. The Advocates General assist the Court by delivering, in open court and with complete impartiality and independence, *Opinion*s in all cases, save as otherwise decided by the Court where a case does not raise any new points of law.

The ECJ has competence to hear actions by Member States or the EU institutions against other Member States or institutions – either enforcement actions against Member States for failing to meet obligations (such as implementing EU legislation) or challenges by Member States and institutions to EU legal acts (such as challenging the validity of legislation) – although some jurisdiction for the latter has now passed to the CFI. The ECJ also hears preliminary references from the courts in the Member States, in which national courts refer questions on the interpretation of EU law to the ECJ. The ECJ normally gives an interpretative ruling, which is then sent back to the national court for it to reach a *Judgment*.

The CFI was set up in 1989, creating a second tier of the ECJ. All cases heard by the CFI may be subject to appeal to the ECJ on questions of law. The CFI deals primarily with actions brought by individuals and undertakings against decisions of the Community institutions (such as appeals against European Commission decisions in competition cases or regulatory decisions, such as in the field of intellectual property).

For more detail please refer to the Glossary of Terms at Annex III of this update and the Court's website: http://curia.europa.eu/en/index.htm

**ANNEX III: GLOSSARY OF TERMS AND ACRONYMS**

| THE INSTITUTIONS | |
|---|---|
| ECJ | European Court of Justice<br>The Court of Justice may sit as a full Court, in a Grand Chamber (13 Judges) or in chambers of three or five Judges. It sits in a Grand Chamber when a Member State or a Community institution that is a party to the proceedings so requests, or in particularly complex or important cases. Other cases are heard by a chamber of three or five Judges. The Presidents of the chambers of five Judges are elected for three years, the Presidents of the chambers of three Judges for one year. The Court sits as a full Court in the very exceptional cases exhaustively provided for by the Treaty (for instance, where it must compulsorily retire the European Ombudsman or a Member of the European Commission who has failed to fulfil his obligations) and where the Court considers that a case is of exceptional importance. The quorum for the full Court is 15. |
| CFI | Court of First Instance<br>The Court of First Instance sits in chambers composed of three or five Judges or, in certain cases, may be constituted by a single Judge. It may also sit in a Grand Chamber or as a full court in particularly important cases. |
| Community institutions | The three main political institutions are the European Parliament, the Council of Ministers (comprising Member States) and the European Commission. The ECJ and the Court of Auditors are also Community institutions. |
| JURISDICTION OF COURTS | |
| Reference for a preliminary ruling<br><br>Article 234 TEC | As certain provisions of the Treaties and indeed much secondary legislation confers individual rights on nationals of Member States which must be upheld by national courts, national courts may and sometimes must ask the ECJ to clarify a point of interpretation of Community law (for example whether national legislation complies with Community law). The ECJ's response takes the form of a ruling which binds the national court that referred the question and other courts in the EU faced with the same problem. The national court then proceeds to give its *Judgment* in the case, based on the ECJ's interpretation. Only national courts may make a preliminary reference, but all parties involved in the proceedings before the national court, the Commission and the Member States may take part in the proceedings before the ECJ. |
| Action for failure to fulfil an obligation<br><br>Articles 226 & 227 TEC | Usually the Commission, although also another Member State (very rare in practice) can bring an action at the ECJ for another Member States' breach of Community law. The ECJ can order the Member State to remedy the breach and failing that can impose a financial penalty. Most commonly this concerns a Member State's failure to properly implement a directive. |

| | |
|---|---|
| Action for annulment<br><br>Article 230 TEC | The applicant (Member State, Community institution, an individual who can demonstrate direct and individual concern) may seek the annulment of a measure adopted by an institution. Grounds for annulment are limited to: lack of competence; infringement of an essential procedural requirement; infringement of the Treaty or of any rule of law relating to its application; and misuse of powers. |
| Action for failure to act<br><br>Article 232 TEC | Either the ECJ or CFI can review the legality of a Community institution's failure to act after the institution has been called to act and not done so. These actions are rarely successful. |
| Appeals | Appeal on points of law only against Judgments of the CFI may be brought before the ECJ. |
| PROCEDURE | |
| Written Procedure | Any direct action or reference for a preliminary ruling before the ECJ must follow a specific written procedure. Actions brought before the CFI follow a "written phase". |
| Hearing | Where a case is argued orally in open court before the ECJ. In the CFI there is an "oral phase" (which can follow on from an initial "written phase") where a case may be argued openly in court. |
| *Opinion* of the Advocate General | In open court an Advocate General will deliver his *Opinion* which will analyse the legal aspects of the case and propose a solution. This often indicates the outcome of a case but the judges are not bound to follow the *Opinion*. |
| Judgment/Rulings | Judgments and rulings in both the CFI and ECJ are delivered in open court. No dissenting *Opinion*s are ever delivered. |
| Reasoned order | Where a question referred to the ECJ for a Preliminary Ruling is either identical to a question on which the ECJ has already ruled or where the answer to the question admits no reasonable doubt or may be deduced from existing case law the ECJ may give its ruling in the form of an Order citing previous *Judgment*s |
| TREATIES | |
| TEC | The Treaty establishing the European Community |
| TEU | The Treaty on the European Union |
| ECHR | European Convention on Human Rights |

Further information can be found in the "texts governing procedure" section of the ECJ website: http://curia.europa.eu/en/index.htm

EU legislation can be found on the Eur-lex web-site: http://eur-lex.europa.eu/en/index.htm