Economic and
Social Rights
under the EU Charter
of Fundamental Rights

A Legal Perspective

Edited by Tamara Hervey and Jeff Kenner

Economic and Social Rights under the EU Charter of Fundamental Rights—A Legal Perspective

Edited by
TAMARA K HERVEY AND JEFF KENNER
University of Nottingham



OXFORD – PORTLAND OREGON 2003 Published in North America (US and Canada) by Hart Publishing c/o International Specialized Book Services 5804 NE Hassalo Street Portland, Oregon 97213-3644 USA

© The editors and contributors severally 2003

The Authors have asserted their right under the Copyright, Designs and Patents Act 1988, to be identified as the authors of this work

Hart Publishing is a specialist legal publisher based in Oxford, England.

To order further copies of this book or to request a list of other
publications please write to:

Hart Publishing, Salter's Boatyard, Folly Bridge,
Abingdon Road, Oxford OX1 4LB
Telephone: +44 (0)1865 245533 or Fax: +44 (0)1865 794882
e-mail: mail@hartpub.co.uk
WEBSITE: http://:www.hartpub.co.uk

British Library Cataloguing in Publication Data
Data Available
ISBN 1-84113-095-8 (hardback)

Typeset by Hope Services (Abingdon) Ltd. Printed and bound in Great Britain by Biddles Ltd, www.biddles.co.uk

ECONOMIC AND SOCIAL RIGHTS UNDER THE EU CHARTER OF FUNDAMENTAL RIGHTS— A LEGAL PERSPECTIVE

The Charter of Fundamental Rights of the European Union includes, in addition to the traditional 'civil and political rights', a large number of rights of an economic or social nature. This collection of essays by leading scholars in this field considers the significance of the inclusion of such rights within the EU Charter, in terms of protection of individual and collective social and economic interests within and between the EU and its Member States. What differences might it make to EU law and policy (both in terms of its substance, and in terms of the processes by which it is formed), that certain economic and social rights are proclaimed in the EU Charter?

Introduction

The Charter of Fundamental Rights of the European Union, solemnly proclaimed at Nice in December 2000, brings together 'modern' economic and social rights with 'traditional' and more widely recognised civil and political rights in a single text that boldly aims to make visible the 'common values' of European Union (EU) citizens. Fundamental rights proclaimed in the Charter are drawn from a variety of international and national sources including human rights instruments of the United Nations, the Council of Europe and the European Community's own Charter of the Fundamental Social Rights of Workers of 1989. Additional sources include the European Community Treaty, Community legislation and case law of both the European Court of Justice and the European Court of Human Rights. This edited collection explores, from a legal perspective, the significance of the elevation of economic and social rights in the Charter, the content of those rights and their relationship with civil, political and cultural rights, both as expressed in the Charter and elsewhere in international and national human rights law.

The publication of this collection is intended to coincide with the final stages of the work of the Convention on the Future of the European Union which has, as part of its mandate, the task of debating the legal status of the Charter and its place in a putative 'Constitution for European citizens'.¹ The uncertainty as to the legal status of the Charter² may be compounded, with respect to economic and social rights found in the Charter, by the uncertainty as to the legal effectiveness of such rights more generally. The Charter is addressed to the institutions and bodies of the EU and to its Member States 'only when they are implementing Union law'.³ In the context of economic and social rights, the obligations in the Charter range from negative obligations not to interfere in the exercise of a particular right, through more positive obligations to protect and ensure effective exercise of a right, to obligations to promote rights of a programmatic or aspirational nature. Economic and social rights are traditionally conceptualised as falling into the latter category. However, even rights in the

¹ Laeken Declaration on the 'The Future of European Union', 15 December 2001. Available at: http://europa.eu.int/futurum/documents.

² The Charter is not formally binding in the sense of having full legislative scope. However, as Advocate General Tizzano has stated, in the context of the right to annual paid leave in Art 31(2) EUCFR, that, 'in proceedings concerned with the nature and scope of a fundamental right, the relevant statements of the Charter cannot be ignored' (Case C–173/99 R v Secretary of State for Trade and Industry, ex parte BECTU [2001] ECR I–4881, Opinion of 8 February 2001, para 28).

³ Art 51(1) EUCFR.

latter sense may impose enforceable obligations, for instance an obligation not to retract from rights once given.⁴

The papers in this collection engage with a number of inter-related research questions, with respect to the status of economic and social rights within the Charter, in the contexts of international human rights law and the place of the Charter within the EU's unique legal order. Research questions include: the extent to which the rights set out in the Charter merely codify or represent a development of existing provisions of Community or EU law; whether strategic litigation based on economic and social rights in the Charter might be conceived; what are the relationships between the 'economic' and 'social' rights in the Charter and those contained in international or national constitutional instruments; how problems with social rights in a market legal order might be resolved; and the relationship between social rights in the Charter and the EU's emerging constitutional order, new modes of governance and juridical constitutionalism.

The publication of this collection follows a workshop entitled *Economic and Social Rights under the EU Charter of Fundamental Rights: a legal perspective*, held at the School of Law, University of Nottingham, on 28–29 June 2002. All the papers in this collection were presented and fully debated at the workshop attended by both the paper givers and invited discussants. The mix of expertise among the participants (comprising EU, human rights, international and labour lawyers, from both civil and common law traditions) made for a lively debate and exchange of different perspectives, drawing together links and contradictions between the different papers. These different perspectives, and also the different legal methodologies brought by the various contributors, are reflected in this collection.

As we were holding our workshop in June 2002, Frank Vandenbroucke, the Belgian minister for social affairs, sketched his vision for the EU's involvement in the development of social policy. He took the view that the social protection agenda in the EU 'remains politically and institutionally fragile'. One of our over-arching research questions in this collection has been to consider the extent to which the Charter might affect that position. In the context of globalisation, post-Fordism and other challenges and changes to the post-war European labour law and welfare settlement, could the expression of economic and social rights in the Charter actually make a difference in terms of embedding values of community and solidarity within the EU's legal order? To what extent could the Charter *improve upon* or go beyond that 1950s labour and welfare settlement for instance, by encompassing different gender roles in the workplace and family, or taking account of the multi-cultural nature of European societies? Ultimately the values of community and solidarity proceed from the basis of judging a society in terms of its treatment of the least privileged within it—or even its treatment of those who are 'outsiders'. Traditionally, one way of

⁴ See Art 53 EUCFR on the level of protection.

expressing these values is to adopt the terminology of human rights, with all its 'normative cachet'. Rights inhere in individuals by virtue of their humanity, not their status, and therefore by definition encompass the least privileged, the 'excluded' and the 'outsider'. Extending the concept of 'rights' to labour law rights and social or welfare rights and principles may constitute one mechanism for shoring up values of community and solidarity. While legal mechanisms, including 'rights', are of course inherently limited in terms of their ability to alter power relationships in society, they do represent one potent institutional force that at least potentially may have that effect. Ultimately, then, if they are to survive, the values of community and solidarity need to find expression (perhaps as rights) within all the global over-lapping legal orders or discourses. These would of course include national constitutional legal orders and traditional international human rights fora, but also trade-related legal orders such as that of the World Trade Organisation and the EU. Does the inclusion of economic and social rights in the Charter therefore signal a change of status of these values within the EU's legal order?

Looking at the contributions overall, responses to this question have been mixed. Some contributors (Barbera, Costello) have pointed to the potential that the Charter may have for protecting social values and engendering a more deliberative and dynamic form of European constitutionalism (Poiares Maduro). In this light, some have pointed to the significance of the inclusion of economic and social rights (and also cultural rights) in the same document as civil and political rights (Bell, Deakin & Browne, Wallace & Shaw, Kenner); to the possibility of using the Charter to shore up the positions of the less-privileged, for instance within internal market or competition law litigation (Hunt, Ryan, Hervey); or in the law and policy-making processes of the EU institutions and Member States (Poiares Maduro, Bernard, Bell, Barbera, Tooze). In the specific context of litigation, contributors have discussed the potential for courts to use the Charter in their armoury against dominant positions represented by capital rather than labour, but the limited scope for the EU courts to invoke the Charter has also been recognised (Bernard, Poiares Maduro). Several contributors have highlighted negative features of the Charter, such as gaps in coverage (Bell, Hervey), hierarchies of rights and principles (Hunt, Kenner); inconsistencies with what has already been achieved, through either national, EU or international fora (Tooze), and to the extent that the Charter expresses rights as inhering in individuals, it may also be fundamentally problematic in terms of essentially collective values such as community and solidarity (Ryan).

A further set of research questions considered in this collection focuses on the models or assumptions that underpin the provisions found in the Charter. For instance, what model or models of equality does the Charter express (Bell, Costello, Wallace & Shaw)? What notions—in terms of representativity, legitimacy, democracy and accountability—underpin the Charter's provisions on collective activity in the labour law field (Ryan, Bernard)? How far is the Charter compatible with the capability approach whereby social rights can help to shape the mobilisation of labour and resources at local level and act as a bridge between the welfare state and the market (Deakin & Browne)?

Finally, the collection engages with a set of research questions relating to the relationship between economic and social rights in the Charter and the EU's methods of governance. This is particularly significant given the application of the EU's 'new governance' processes to many of the main 'sites' of economic and social rights in the revised EC Treaty post-Nice: in particular, labour law, employment promotion and social exclusion. Will these 'new governance' methods extend the reach of the Charter to national social and cultural policies (Bernard, Wallace & Shaw)? Does the true significance of the Charter lie in the process by which it was reached—a process perhaps endowing the Charter with greater legitimacy than the EU's 'ordinary' intergovernmental settlements, as a 'constitutional moment' of true importance (Poiares Maduro)? If the Charter is the start of a dialogic process, rather than the expression of some sort of human rights nirvana, can we hope for a more enriched dialogue, given the rich traditions the Charter has called upon (Wallace & Shaw, Costello, Bell, Bernard, Kenner, Tooze)? This may be one of the most significant elements of the Charter, if it can be seen as part of a historical process of articulating—through various dialogues—economic and social rights as part of an ongoing process of deliberative constitutionalism (Poiares Maduro).

The collection begins with an overview of the history of economic and social rights in the EU's legal order, in the context of an analysis of whether the Charter's apparent commitment to the 'indivisibility' of human rights is real or a 'mirage' (Kenner). This locates the Charter's economic and social rights within the wider international human rights discourse on 'indivisibility' of rights. The next chapter develops this theme by arguing for a conception of 'social rights' that not only recognises their equivalence with 'market rights', but also identifies them as a constitutive part of a functioning market order. In this way the market can be understood as a mechanism for the application of social rights through processes of regulatory learning and reflexive law (Deakin & Browne). There follow two chapters considering the impact or potential impact of the Charter on individual (Hunt) and collective (Ryan) labour law at both EU and national levels. Three chapters then turn to the Charter's provisions on equality and non-discrimination. Bell sets the scene, with an overview of the general equality provisions in the Charter. This is followed by a more detailed examination of the Charter's gender equality provisions, in the context of their interactions with other equality provisions (Costello), and the specific measures on 'reconciliation of work and family life' (Barbera). The emphasis of the latter, of necessity, takes the enquiry outside the labour market sphere, and chapters follow this on the provisions on social security and social assistance (Tooze) and health care (Hervey) in the Charter. The other 'social welfare' element considered in the collection is that of education, and this is discussed in the context of the Charter's contribution or potential contribution to the multi-culturalism agenda in the EU (Wallace & Shaw). One of Wallace and Shaw's conclusions is

that the processes by which the Charter was negotiated may turn out to be more significant than its actual content. The collection closes with two further contributions concerned with the Charter's medium and longer-term significance for governance and constitutional processes in the EU (Bernard, Poiares Maduro). Bernard identifies the Open Method of Co-ordination as potentially the most effective mechanism for adapting the Charter to the circumstances of each Member State and providing a filter for the development of a European discourse on fundamental rights. Poiares Maduro highlights the dual nature of the Charter as both an independent and dynamic source of European constitutionalism, distinct from national constitutions, and, paradoxically, as a tool to limit the integration of Europe by raising the status of national constitutional values.

We gratefully acknowledge the funding given for the workshop from the British Academy (Award No BCG-33316) and, at the University of Nottingham, the Human Rights Law Centre and the School of Law. We would also like to thank Catherine Lovesy for her excellent administrative support for the project as a whole, particularly the organisation of the workshop, and the support given by our two graduate students, Tawhida Ahmed and Lioubov Samokhina at the workshop. Tawhida Ahmed also deserves special thanks for her editorial support for this collection.

The discussants and other participants at the workshop—Kenneth Armstrong, Catherine Barnard, David Harris, Robert McCorquodale, Clare McGlynn, Jean McHale, Tonia Novitz, Steve Peers, Joanne Scott, Phil Syrpis, Patrick Twomey, Martin Trybus, Lisa Waddington and Stephen Weatherill were unstinting with their time and energy, and we gratefully acknowledge their contributions, comments and suggestions. Finally, we would like to thank Richard Hart, for being the most understanding publisher with whom we have ever worked.

> Tamara K Hervey and Jeff Kenner Nottingham, February 2003

List of Contributors

Marzia Barbera is Professor of Labour Law, University of Brescia.

Mark Bell is a Senior Lecturer in Law, Centre for European Law and Integration, University of Leicester.

Nicholas Bernard is a Reader in Law, Queen's University Belfast.

Jude Browne is a Research Fellow, Centre for Business Research, University of Cambridge.

Cathryn Costello is a Lecturer in European Law, University of Dublin.

Simon Deakin is Robert Monks Professor of Corporate Governance, Centre for Business Research, University of Cambridge.

Tamara K Hervey is Professor of Law, University of Nottingham.

Jo Hunt is a Lecturer in Law at Cardiff University, and an associate member of the university's Centre for Business Relationships, Accountability, Sustainability and Society (BRASS).

Jeff Kenner is a Senior Lecturer in Law, University of Nottingham.

Miguel Poiares Maduro is Professor of Law, New University of Lisbon.

Bernard Ryan is a Lecturer in Law, University of Kent.

Jo Shaw is Professor and Jean Monnet Chair of European Law, University of Manchester; and Senior Research Fellow at the Federal Trust for Education and Research, London.

Jennifer Tooze is a Home Office sponsored legal trainee. Previously, a PhD student at the University of Nottingham.

Chloë Wallace is a Lecturer in Law, Centre for the Study of Law and Policy in Europe, University of Leeds.

Table of Cases

-				
<i>-</i>		_	_	_
(.a	ш	124	"	

Secession of Quebec, Reference re [1998] 2 SCR 217265
European Commission and Court of Human Rights
Abdulaziz, Cabales and Balkandali v United Kingdom
Series A No 94 [1985] 7 EHRR 47193
Airey v Ireland Series A No 32 [1979] 2 EHRR 305
Belgian Linguistic Case Series A No 6 [1979-80] 1 EHRR 252237
Campbell and Cosans v United Kingdom Series A No 60 [1991]
13 EHRR 441237
Chassagnou v France [2000] EHRR 61570
Cheall v United Kingdom [1985] 42 DR 17870
Gaygusuz v Austria [1996] 23 EHRR 364, Reports 1996-IV at 38193, 99, 183
Gustafsson v Sweden [1996] EHRR 40970
Karakurt v Austria, Application 32441/96 [2001] EHRR CD 27372
Kjeldsen, Busk Madsen and Pedersen v Denmark Series A No 23
[1979–80] 1 EHRR 711237, 241
National Association of Teachers in Further and Higher Education v United
Kingdom [1998] 93 DR 63
National Union of Belgian Police v Belgium Series A No 20 [1975]
1 EHRR 57812–13, 7
Schmidt and Dahlstrom v Sweden Series A No 2 [1979-80] 1 EHRR 6327
Sibson v United Kingdom Series A No 258-A [1993] 17 EHRR 19370
Sigurjonsson v Iceland Series A No 264 [1993] 16 EHRR 42270
Swedish Engine Drivers' Union v Sweden Series A No 20 [1976]
1 EHRR 61713,7
UNISON v United Kingdom, Application 53574/99, 10 January 20027
Van Raalte v Netherlands [1977] 24 EHRR 503
Wilson and the National Union of Journalists and others v United
Kingdom v United Kingdom, Applications 30668/96, 30671/96
and 30678/96, 2 July 20027
Young, James and Webster v United Kingdom Series A No 44
[1982] EHRR 3870

European Court of Justice and Court of First Instance
(Alphabetical)
A v Commission (Case T-10/93) [1994] ECR II-17993
Abdoulaye and others v Renault (Case C-218/98) [1999]
ECR I–5723122, 145
Abrahamsson and Anderson v Fogelqvist (Case C-407/98)
[2000] ECR I–553995, 113, 119–20
Aktien-Zuckerfabrik Schöppenstedt v Council (Case 5/71)
[1971] ECR 975257
Albany International BV v Stichting Bedrijfspensioenfonds Textielindustrie
(Case C-67/96) [1999] ECR I-575111-13, 23, 27, 37,
41–2, 69–70, 75, 81–4, 251–2
Antonissen. See R v The Immigration Appeal Tribunal, ex parte Antonissen
(Case C-292/99)
Arben Kava v Secretary of State for the Home Department (Case C-466/00),
Opinion of 11 July 2002, not yet reported282
Badeck and Others v Hessischer Ministerpräsident (Case C-158/97)
[2000] ECR I–187595, 113, 119–21, 254
Barber v Guardian Royal Exchange Assurance Group (Case C-262/88)
[1990] ECR I–1889
Baumbast and another v Secretary of State for Home Department
(Case C–413/99) [2002] ECR I–7091287
BECTU. See R v Secretary of State for Trade and Industry, ex parte
Broadcasting, Entertainment, Cinematographic and Theatre Union
(Case C-173/99)
Belgium v Humbel (Case 263/86) [1988] ECR 5365249–50
Bestuur van het Algemeen Burgerlijk Pensioenfonds v Beune
(Case C-7/93) [1994] ECR I-4471
Bilka-Kaufhaus GmbH v Karin Weber von Hartz (Case 170/84)
[1986] ECR 1607
Birds Eye Walls Ltd v Friedel M Roberts (Case C–132/92) [1993]
ECR I–5579
Blaizot v University of Liège (Case 24/86) [1988] ECR 379
Bofrost (Case C–62/99) [2001] ECR I–2579
Bond van Adverteerders v Netherland (Case C-352/85) [1998]
ECR 2085
Booker Aquaculture (Cases C–20 and 64/00), Opinion of 20 Sept. 2001,
not yet reported
Bosphorus v Minister for Transport (Case C–84/95) [1996]
ECR I–3953
Bowden and others v Tuffnells Parcels Express Ltd (Case C-133/00)
[2001] ECR I–7031
Royle v FOC (Case C-411/96) [1998] FCR I-6401 151 155-56

Brentjens (Joined Cases C-115/97 to C-117/97) [1999]
ECR I-602569, 75, 81-82
Brown v Rentokil (Case C-394/96) [1998] ECR I-4185145-6
Buchner v Sozialversicherungsanstalt der Bauern (Case C-104/98)
[2000] ECR I–3625176
CCE de la Société Générale des Grandes Sources and others v
Commission (Case T-96/92R) [1992] ECR II-2579
Cinétheque (Cases 60 and 61/84) [1985] ECR 2605
Coloroll Pension Trusees Ltd v Russell and others (Case C-200/91)
[1994] ECR I–4389
Commission v Austria (Case C-465/01) (OJ 2002 C84/43)72
Commission v Council (Re ERTA) (Case 22/70) [1971] ECR 263256
Commission v France (Case 312/86) [1986] ECR 6316
Commission v France (Case C-265/95) [1997] ECR I-695979-80, 259
Commission v Greece (Case 305/87) [1989] ECR 1461237
Commission v Italy (Case 163/82) [1983] ECR 3273145
Commission v United Kingdom (Case C-382/92) [1994] ECR I-243573
Commission v United Kingdom (Case C-383/92) [1994] ECR I-247973
Corbeau. See Criminal Proceedings against Paul Corbeau (Case C-320/91)
Costa v ENEL (Case 6/64) [1964] ECR 585
Council v Hautala (Case C-353/99) [2001] ECR I-9565282
Criminal Proceedings against Paul Corbeau (Case C-320/91) [1993]
ECR I–2533
Criminal Proceedings against Stoeckel (Case C-345/89) [1991]
ECR I–4047
D ν Council (Case T-264/97) [1999] ECR I-A, II-1141
D & Sweden v Council (Joined Cases C-122/99 and C-125/99)
[2001] ECR I—4319115, 141–2
Decker (Case C–120/95) [1998] ECR I–1831206
Defrenne v Sabena II (Case 43/75) [1976] ECR 45511, 27, 111
Defrenne v Sabena III (Case 149/77) [1978] ECR 136511–12, 111
Dekker v Stichting Vormingscentrum voor Jong Volwassenen
(VJV-Centrum) Plus (Case C–177/88) [1991] ECR I–394136, 111, 145
Deutsche Post v Sievers and Schrage (Joined Cases C-270/97 and
C–271/97) [2000] ECR 2267
Deutsche Telekom AG v Schröder (Case C–50/96) [2000] ECR I–74311
Deutsche Telekom AG v Vick and Conze (Cases C-234-235/96)
[2000] ECR I–929
Drijvende Bokken (Case C–219/97) [1999] ECR I–612169, 75, 81–2
Elliniki Radiophonia Tileorassi AE v Domitiki Etiria Pliroforissis
and Sotiris Kouvelas (ERT) (Case C-260/89) [1991]
ECR I–2925204, 208, 257–8, 290
ECR 1-2925
FCR I-4269

Equal Opportunities Commission. See R v Secretary of State for Social
Security, ex parte Equal Opportunities Commission (Case C-9/91)
ERTA. See Commission v Council (Case 22/70) [1971] ECR 263256
Eurocontrol. See SAT Fluggesellschaft v Eurocontrol (Case C-364/92)
Familiapress. See Vereinigte Familiapress v Henrich Bauer Verlag (Case
C-368/95)
Fédération Française des Sociétés d'Assurance (FFSA) and Others v Ministère
de l'Agriculture et de la Pêche (Case C-244/94) [1995] ECR I-4013251
Finalarte (Joined Cases C-49, 50, 52-54, 68-71/98) [2001] ECR I-783163-4
France v Commission (Re Pensions Funds Communication)
(Case C-57/95) [1997] ECR I-1627256
Gemeinsam Zajedno (Case C-171/01) (OJ 2001 C173/30)72
Geraets-Smits and Peerbooms (Case C-157/99) [2001]
ECR I–5473206, 250–2, 254
Germany v Commission (Cases 281, 283, 285, 287/85) [1987] ECR 3203128
Germany v Council (Case C-280/93) [1994] ECR I-4973278
Germany v Parliament and Council (Tobacco Advertising)
(Case C-376/98) [2000] ECR I-841985-6
Gillespie (Case C-342/93) [1996] ECR I-475151, 155-6
Graham (Rose). See Secretary of State for Social Security v Rose
Graham and others (Case C-92/94)
Grant v South West Trains (Case C-249/96) [1998] ECR I-621141
Gravier v City of Liège (Case 293/83) [1985] ECR 593249–51
Griesmar v Minister de l'Economie, des Finances et de l'industrie
(Case C-366/99) [2001] ECR I-9383125
Grimaldi v Fonds des Maladies Professionnelles (Case C-322/88)
[1989] ECR 4407205, 256-8
Handels- og Kontorfunktionærernes Forbund v Dansk Arbejdsgiverforening
(Case 179/88) [1990] ECR I–3979145
Hauer v Land Rheinland-Pfalz (Case 44/79) [1979] ECR 372712, 17
Hautala. See Council v Hautala (Case C-353/99)
Hertz145-6
Hill & Stapleton v Revenue Commissioners (Case C–243/95)
[1998] ECR I–3739122
Hofmann v Barmer Ersatzkasse (Case 184/83) [1984] ECR 3047122, 145
Höfner (Klaus) and Fritz Elser v Macrotron GmbH (Case C-41/90)
[1991] ECR I–1979250, 252
Humbel. See Belgium v Humbel (Case 263/86)
IBM v Commission (Case 60/81) [1981] ECR 2639256
Internationale Handelsgesellschaft mbH v Einfuhr- und Vorratsstelle für
Getreide und Futtermittel (Case 11/70) [1970] ECR 112512, 296
Jégo-Quéré et Cie v Commission (Case T-177/01) [2002]
ECR II–2365
Ienkins v Kingsgate (Case 96/80) [1981] ECR 911

Job Centre (Case C-55/96) [1997] ECR I-7119250, 252
Johnston v Chief Constable of the RUC (Case 222/84) [1986]
ECR 165112, 116
Jorgensen (Case C–226/98) [2000] ECR I–244798
Kalanke v Freie Hansestadt Bremen (Case C-450/93) [1995]
ECR I-3051113, 119-22, 124, 254
Khalil and others (Cases C-95/99 to 98/99 and Case C-180/99)
[2001] ECR I–741398
Kohll v Union des Caisses de Maladie (Case C-158/96) [1998]
ECR I–1931206, 209
Lehtonen v FRBSB (Case C-176/96) [2000] ECR I-268169
Levin (Case 53/81) [1982] ECR 1035
Lewen v Denda (Case C-333/97) [1999] ECR I-7243122, 151, 155-7
Lommers v Minister van Landbouw, Natuurbeheer en Visserij
(Case C-476/99) [2002] ECR I-2891113, 118-19, 121-2, 124-7, 153
Marschall (Hellmut) v Land Nordrhein-Westfalen (Case C-409/95)
[1997] ECR I–6363113, 119–23, 125, 254
Marshall v Southampton and South West Area Health Authority II
(Case C-271/91) [1993] ECR I-4376111
Martinez and others v European Parliament (Cases T-222/99,
T-327/99 and T-329/99) [2001] ECR II-28369
Martinez and others v European Parliament (Cases C-486/01P
and C-488/01P)69
Maurin (Case C-144/95) [1996] ECR I-2909258
Maurissen v Court of Auditors (Cases 193/87 and 194/87) [1990]
ECR I–9570
max.mobil Telekommunication v Commission (Case T-54/99)
[2002] ECR II–31377, 99, 205, 233
$\textit{Mazzoleni v ISA} \; (\text{Case C}165/98) \; [2001] \; \text{ECR I}2189 \dots \dots$
$Montecatini\ v\ Commission\ (Case\ C-235/92P)\ [1999]\ ECR\ I-453969$
Moroni (Michael) v Collo GmbH (Case C-110/91) [1993] ECR I-6591 177
Neath (David) v Hugh Sleepes Ltd (Case C-152/91) [1993] ECR I-6935 177
Netherlands v Reed (Case 59/85) [1986] ECR I–1283141
Newstead (George Noel) v Department of Transport and HM
Treasury (Case 192/85) [1987] ECR 4753
Nold v Commission (Case 4/73) [1974] ECR 491210, 279
Oebel (Case 155/80) [1981] ECR 199363
Opinion 1/78 (Natural Rubber Agreement) [1979] ECR 297186
Opinion 2/91 [1993] ECR I–1061
Opinion 2/94 (Accession to the ECHR) [1996] ECR I-17596, 85, 259
Opinion 2/00 (Biosafety Protocol) [2001] ECR I–971387
P v S and Cornwall CC (Case C–13/94) [1996] ECR I–214311–12
Pavlov (Pavel) v Stichting Pensioenfonds Medische Specialisten (Joined Cases
C-180/98 to C-184/98) [2000] ECR I-645127, 82

Podesta v CRICA (Case C–50/99) [2000] ECR I–4039176
Portugal v Council (Case C-268/94) [1996] ECR I-6177260
Poucet and Pistre (Joined Cases C-159/91 and C-160/91)
[1993] ECR I-637250-1
Prais v Council (Case 130/75) [1976] ECR 158999
Punto Casa v PPV (Joined Cases C-69 and 258/93) [1994]
ECR I-235563
R v Immigration Appeal Tribunal, ex parte Antonissen (Case C–292/99)
[1991] ECR I–74510
R v Secretary of State for Employment, ex parte Nicole Seymour-Smith
and Laura Perez (Case C-167/97) [1999] ECR I-623117
R v Secretary of State for Health, ex parte Richardson (Case C-137/94)
[1995] ECR I–3407
R v Secretary of State for Social Security, ex parte Equal Opportunities
Commission (Case C-9/91) [1992] ECR I-4297
R v Secretary of State for Trade and Industry, ex parte Broadcasting,
Entertainment, Cinematographic and Theatre Union (BECTU)
(Case C-173/99) [2001] ECR I-4881vii, 22-3, 60-3, 77, 205, 233, 282
Razzouk and Beydoun v Commission (Cases 75/82 and 117/82)
[1984] ECR 1509
Remi van Cant v Rijksdient voor Pensionen (Case C-154/92) [1993]
ECR I–3811176
Richardson. See R v Secretary of State for Health, ex parte Richardson
(Case C–137/94)
Rutili v Minister for the Interior (Case 36/75) [1975] ECR 121912, 208
Sabbatini v European Parliament (Case 20/71) [1972] ECR 34599
SAT Fluggesellschaft v Eurocontrol (Case C–364/92) [1994]
ECR I-43
Schmidberger v Austria (Case C-112/00), judgment of 12 June 2003,
not yet reported
Schöppenstedt. See Aktien-Zuckerfabrik Schöppenstedt v Council
(Case 5/71)
Seco v EVI (Joined Cases 62/81 and 63/81) [1982] ECR 223
Secretary of State for Social Security v Rose Graham and others
(Case C–92/94) [1995] ECR I–2521
Secretary of State for Social Security v Evelyn Thomas and Others
(Case C–328/91) [1993] ECR I–1247
Seymour-Smith. See R v Secretary of State for Employment, ex parte
Nicole Seymour-Smith and Laura Perez (Case C–167/97)
Sodemare and Others v Regione Lombardia (Case C-70/95) [1997]
ECR I-3395251
Stoeckel. See Criminal Proceedings against Stoeckel (Case C–345/89)
T Port GmbH & Co KG v Bundesanstalt für Landwirtschaft und
Ernährung (Case C–68/95) [1996] ECR I–6065261, 278
LITERITERING (Case C 00/73) [1770] LCR 1-0003

Technische Glaswerke v Commission (Case 1–198/01K)
[2002] ECR II–2153
Temco Service Industries SA v Imzilyn and others (Case C-51/00)
[2002] ECR I–96927
Thibault (Case C-136/95) [1998] ECR I-2011
Thomas (Evelyn). See Secretary of State for Social Security v
Thomas and Others (Case C-328/91)
Tideland Signal v Commission (Case T-211/02), CFI judgment of
27 September 2002
Tobacco Advertising. See Germany v Parliament and Council
(Case C–376/98)
Torfaen BC ν B & Q Plc (Case C-145/88) [1989] ECR 3851
Union Européene de l'Artisanat et des Petites et Moyennes Entreprises
(UEAPME) v EU Council and EC Commission (Case T–135/96)
[1998] ECR II–2235
Unión de Pequeños Agricultores (UPA) v Council (Case C-50/00)
[2002] ECR I–6677
Union Royale de Belge des Sociétés de Football Association ASBL (URBSFA)
et al v Bosman (Case C-415/93) [1996] ECR I-492169-70, 82, 285
Union Syndicale, Massa and Kortner v Councl (Case 175/73)
[1974] ECR 91770
United Kingdom v Council (Working Time Directive) (Case C–84/94)
[1996] ECR I–5755
Vanbraekel (Case C–368/98) [2001] ECR I–5363
van der Woude v Stichting Beatrixoord (Case C–222/98) [2000]
ECR I-7111
Van Duyn v Home Office (Case 41/74) [1974] ECR 1337
van Gend en Loos (Case 26/62) [1963] ECR 1
Vereinigte Familiapress v Henrich Bauer Verlag (Case C–368/95)
[1997] ECR I–3689208, 286
Von Colson & Kamann v Land Nordrhein-Westfalen (Case 14/83)
[1984] ECR 1891
VSETTG (Case C–398/95) [1997] ECR I–3091
Wachauf v Germany (Case 5/88) [1989] ECR 260912, 204, 257, 279, 290
Webb v EMO Air Cargo Ltd (Case C–32/93) [1994] ECR I–3567
Working Time Directive. See United Kingdom v Council (Case C–84/94)
working Time Directive. See Ontea Ringdom v Council (Case C-04/)4)
(Chronological)
26/62 van Gend en Loos [1963] ECR 1
6/64 Costa v ENEL [1964] ECR 585
11/70 Internationale Handelsgesellschaft mbH v Einfuhr- und
Vorratsstelle für Getreide und Futtermittel [1970] ECR 112512, 296
22/70 Commission v Council (Re ERTA) [1971] ECR 263
5/71 Aktien-Zuckerfabrik Schöppenstedt v Council [1971] ECR 975257