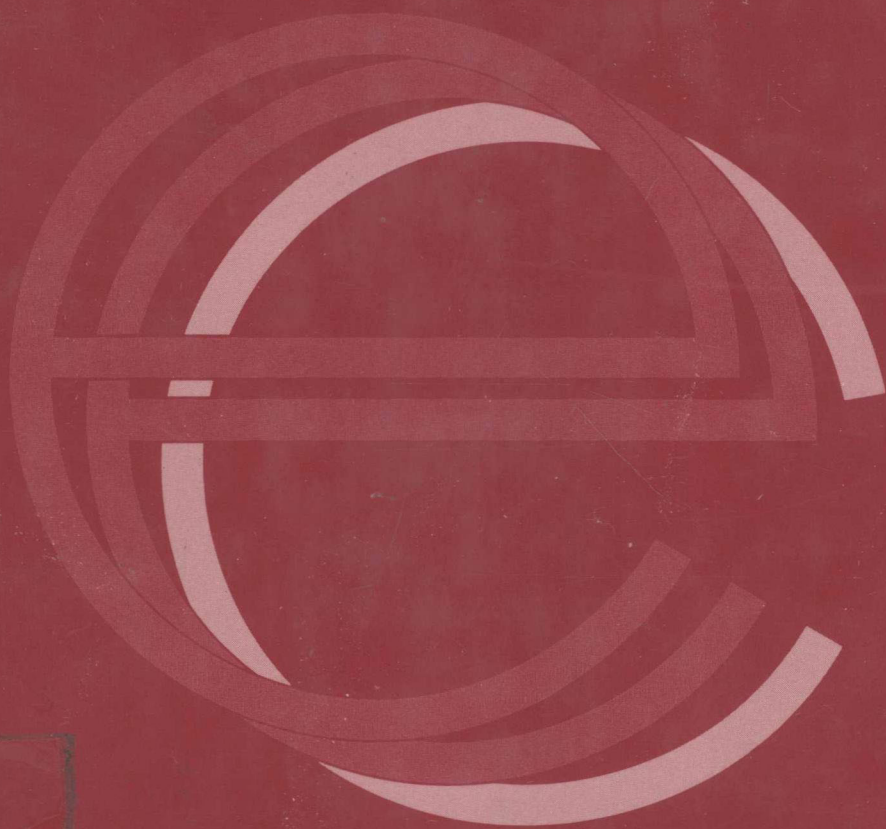


EUROPEAN COURT PRACTICE

John A. Usher



SWEET & MAXWELL

EUROPEAN COURT PRACTICE

by

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PREFACE

The fundamental importance of the part played by the European Court of Justice in the development of the European Communities is amply witnessed by the considerable literature on the role of the Court and the remedies available before it. However, whilst I was a Legal Secretary at the Court, the view was frequently expressed, by colleagues as well as by those appearing before the Court and by other visitors, that there was a need for a practical guide to the procedure before the Court, and the present book is offered as an attempt to fulfil that need. Although the idea was conceived in Luxembourg, its (rather prolonged) gestation took place in the academic environment of the Centre of European Governmental Studies in the University of Edinburgh, but whilst the academic's urge to probe beneath the surface has not always been resisted, the basic aim has remained that of practical utility.

The judicial remedies available before the Court are discussed as such only by way of introduction: the substance of the book is concerned with the conduct of proceedings before the Court. The basic scheme is to deal with the various stages of procedure in chronological order, and in relation to each topic the relevant legislative and administrative provisions are printed together (which was felt to be preferable to paraphrasing them in a narrative text) followed by a commentary on the matters at issue, referring in particular to the relevant judgments and orders of the European Court. These, however, should be read subject to the caveat that whilst the Court departs from its earlier decisions relatively rarely, and in many matters a consistent practice has indeed developed, it is in the last analysis not bound by them. In this context, I should like to express my gratitude to the staff at the Court, who have supplied me with copies of judgments and orders with commendable promptitude, and cheerfully answered such questions as I have raised.

Given the continuing increase in the number of cases heard by the Court, a book such as this runs a risk perhaps even greater than usual of being overtaken by new developments. Although the basic text was completed somewhat earlier, it has been possible to incorporate material available to me in Edinburgh at the end of February 1983. By way of illustration of the developments even in the last few months, on September 11, 1982 President Mertens de Wilmars confirmed his innovation of granting *ex parte* conservatory measures in the *Ford Motors* case (see para. 10-16), and on October 6, 1982 the Court decided for the first time to set up two Chambers of five judges each as well as the usual three Chambers of three judges (see para. 5-05).

Finally, my grateful thanks are due to the forbearance of the publishers, who encouraged me to continue despite supervenient difficulties and the expiry of successive deadlines, to Mrs. Neeltje Brady and Miss Margaret Ainslie, who successively had the unenviable task of

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deciphering my handwriting, to Mrs. Elizabeth Thompson, who prepared the Tables, and last but not least, to the cheerful tolerance of my family.

*Edinburgh,
March 1983*

J. A. Usher

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