

STUDIES IN PRIVATE INTERNATIONAL LAW

INTERNATIONAL ANTITRUST LITIGATION

Conflict of Laws
and Coordination

Edited by
Jürgen Basedow
Stéphanie Francq
and Laurence Idot

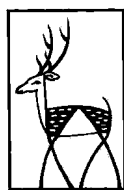


• HART •
PUBLISHING

International Antitrust Litigation

Conflict of Laws and Coordination

Edited by Jürgen Basedow, Stéphanie Francq
and Laurence Idot



• H A R T •
PUBLISHING

OXFORD AND PORTLAND, OREGON

2012

Published in the United Kingdom by Hart Publishing Ltd
16C Worcester Place, Oxford, OX1 2JW
Telephone: +44 (0)1865 517530
Fax: +44 (0)1865 510710
E-mail: mail@hartpub.co.uk
Website: <http://www.hartpub.co.uk>

Published in North America (US and Canada) by
Hart Publishing
c/o International Specialized Book Services
920 NE 58th Avenue, Suite 300
Portland, OR 97213-3786
USA
Tel: +1 503 287 3093 or toll-free: (1) 800 944 6190
Fax: +1 503 280 8832
E-mail: orders@isbs.com
Website: <http://www.isbs.com>

© The editors and contributors severally 2011

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

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted,
in any form or by any means, without the prior permission of Hart Publishing, or as expressly permitted
by law or under the terms agreed with the appropriate reprographic rights organisation. Enquiries
concerning reproduction which may not be covered by the above should be addressed to Hart Publishing Ltd
at the address above.

British Library Cataloguing in Publication Data
Data Available

ISBN: 978-1-84946-039-2

Typeset by Hope Services, Abingdon
Printed and bound in Great Britain by
CPI Group (UK) Ltd, Croydon, CR0 4YY

SERIES EDITORS' PREFACE

'Studies in Private International Law' by Hart was always intended to be much broader than a traditional series of academic monographs. In the first series editors' preface we emphasised that the focus in the series was on 'quality' and not form. Therefore we welcomed not only 'scholarly monographs' but also 'collections of essays, or other specialised works on private international law.' The 'Studies' got off to a traditional start with the first three volumes being scholarly monographs on substantive aspects of commercial private international law based on traditional library-based legal research. Since then the diversity has come to fruition. Volume 4 is a comprehensive cases and materials book on EU Private International Law. Volume 5 is a first rate treatise length textbook on commercial disputes in private international law. Volume 6 is a short work that essentially reports some significant empirical research on international child abduction. Volume 7 is another short work in the field of international child abduction that comes up with novel ideas about adjectival private international law – mediation. Volume 8 finally fulfils our hope to have a collection of essays in the Series and it also showcases the value of having a large team of experts brought together to do funded legal research.

Private international law of competition raises some of the big questions of private international law: the public/private law divide and how private remedies can be used to reinforce public regulation; the complexities of devising fair jurisdiction and applicable law rules given the mosaic effect in different legal systems of the same breaches of competition law; the limits on recognition and enforcement of judgments and arbitral awards that are needed to protect public policy (either to restrain excessive damages granted under a foreign competition law or to avoid the evasion of the enforcing court's competition policy); and the difficulties of creating fair rules of procedure for obtaining cross border evidence that do not allow those who breach competition law to cover their tracks. Readers will not be disappointed as serious attempts are made to answer these and other key questions.

This volume is edited by some of the leading private international lawyers in Europe and has several 'household' names in the field making contributions eg, Hannah Buxbaum, Marc Fallon, Catherine Kessedjian, Ralf Michaels, Barry Rodger and Michael Wilderspin. The last of these manages to combine earning a living working for the European Commission Legal Service with a highly refreshing independent spirit that is typified by his characterisation of the case law of the Court of Justice of the European Union on Article 6(1) of the Brussels I Regulation as 'perverse . . . it strains at a gnat but swallows a camel.' (p 46). Hopefully readers will feel the urge to find out which aspect of the Court's case law constitutes the camel and which the gnat!

The star studded cast have not been allowed to behave like prima donnas and pick and choose the bits of private international law of competition they want to write about. The editors have ensured that the writers, including themselves, create a fairly complete picture of the subject for the reader. In this regard the coverage is broader than that of Danov's Volume 3 in this Series, in that it covers much more on international co-ordination of anti-trust litigation issues and on applicable law, but the serious researcher will find much value

in comparing Danov's treatment of jurisdiction, applicable law, recognition and enforcement of judgments and arbitration with that of the various authors in this book.

Readers of this collection will find that there is some excellent material in specialist chapters which has a strong relevance for other areas of private international law eg, Komninos' thorough and insightful chapter on 'Arbitration and EU Competition Law' has an excellent section on public policy control of arbitral awards that is of great interest and value for those concerned with public policy control of foreign judgments.

Finally, the book is a clear invitation to law reformers, particularly in the European Union but also at the national level, to consider some carefully thought through law reform suggestions by the contributors that are pulled together by the editors at the end of the book. Sadly the impact of the proposals for reform of Brussels I will be limited by the extent to which these issues are still open in the current Recast discussions in the Council and European Parliament. It would be good if, even now, Wilderspin's plea for reform of Article 6(1) were to be taken up by the Commission so that the condition 'to avoid the risk of irreconcilable judgments resulting from separate proceedings' is either deleted or given a very broad interpretation by a recital and a new requirement is added that the claim against the anchor defendant should not be manifestly inadmissible or unfounded.

Paul R Beaumont (University of Aberdeen)
Jonathan Harris (King's College, London)

TABLE OF ABBREVIATIONS

ABA	American Bar Association
ALI	American Law Institute
Arb	Arbitration: the Journal of the Chartered Institute of Arbitrators
Arb Int'l	Arbitration International
ARC	Act against Restraints of Competition
BGH	Bundesgerichtshof
BVerfG	Bundesverfassungsgericht
Bull ASA	Swiss Arbitration Association Bulletin
CA	Competition Authorities
CA Paris	Paris Court of Appeal
CAT	Competition Appeal Tribunal
CMLRev	Common Market Law Review
CPI	Competition Policy International Antitrust Journal
CUP	Cambridge University Press
DG	Directorate General
DOJ	Department of Justice
DUP	Dundee University Press
EAW	European Arrest Warrant
EBLR	European Business Law Review
ECJ	European Court of Justice
ECLR	European Competition Law Review
ECN	European Competition Network
EJN	European Judicial Network
EU PIL	European private international law
Eur Law Rev	European Law Review
EuZW	Europäische Zeitschrift für Wirtschaftsrecht
Fordham L Rev	Fordham Law Review
FTAIA	Foreign Trade Antitrust Improvements Act
GAR	Global Antitrust Review
GCLR	Global Competition Litigation Review
GEDIP/EGPIL	Groupe Européen de Droit International Privé/European Group for Private International Law
Giust Civ	Giustizia Civile
GP	Gazette du Palais
GRURInt	Gewerblicher Rechtsschutz und Urheberrecht: Internationaler Teil
GWB	Gesetz gegen Wettbewerbsbeschränkungen
Harvard ILJ	Harvard International Law Journal
HLJ	The Hastings Law Journal
ICC	International Chamber of Commerce
ICLQ	International & Comparative Law Quarterly

ICN	International Competition Network
ILA	International Law Association
ILPr	International Litigation Procedure
Int ALR	International Arbitration Law Review
IPRax	Praxis des Internationalen Privat- und Verfahrensrechts
JCP	Juris-classeur périodique
JCP/E	La Semaine Juridique – Entreprise et Affaires
JDI Clunet	Journal du droit international – Clunet
JT	Journal des Tribunaux
JIA	Journal of International Arbitration
JLS	Justice-Liberty-Security
JPIL	Journal of Private International Law
JZ	JuristenZeitung
LGDJ	Librairie générale de droit et de jurisprudence
Lloyd's Rep	Lloyd's Law Reports
LMCLQ	Lloyd's Maritime and Commercial Law Quarterly
NCA	National Competition Authority
NCCUSL	National Conference of Commissioners on Uniform State laws
NJW	Neue Juristische Wochenschrift
NOU	Nämnden för offentlig upphandling
OECD	Organisation for Economic Co-operation and Development
OFT	Office of Fair Trading
OPEC	Organization of the Petroleum Exporting Countries
OUP	Oxford University Press
PIL	private international law
PUF	Presses Universitaires de France
RabelsZ	Rabels Zeitschrift für ausländisches und internationales Privatrecht
RCADI	Recueil des Cours de l'Académie de Droit International
RCDIP	Revue Critique de droit international privé
RDAI/IBLJ	Revue de Droit des Affaires Internationales/ International Business Law Journal
RDIDC	Revue de Droit International et de Droit Comparé
Rev Arb	Revue de l'Arbitrage
Riv Arbitrato	Rivista dell'arbitrato
RIW	Recht der Internationalen Wirtschaft
RLC	Revue Lamy de la Concurrence
RLDA	Revue Lamy droit des affaires
SCA	Swedish Competition Authority
SchiedsVZ	Zeitschrift für Schiedsverfahren
SIAR	Stockholm International Arbitration Review
TFEU	Treaty on the Functioning of the European Union
UNTS	United Nations Treaty Series
USC	United States Code
USCCAN	United States Code Congressional and Administrative News
USGPO	US Government Printing Office
VuR	Verbraucher und Recht
WLR	Weekly Law Reports

WM	Wertpapier-Mitteilungen
YJIL	Yale Journal of International Law
YCA	Yearbook Commercial Arbitration
YPIL	Yearbook of Private International Law
ZWeR	Zeitschrift für Wettbewerbsrecht
ZZPInt	Zeitschrift für Zivilprozeß International

TABLE OF CASES

Belgium

Tribunal de première instance Bruxelles (Civ Bruxelles), 15 October 1975, Preflex SA v Lipski (1976) 91 Journal des Tribunaux 493	212
Tribunal de première instance Bruxelles (Civ Bruxelles), 8 March 2007, SNF SAS v Cytec Industrie BV (2007) 127 GP No 112-114, 53	217

Cyprus

Supreme Court, judgment of 7 November 2005 (294/2005)	385
---	-----

European Union

EU cases in alphabetical order

A Ahlström Osakeyhtiö and others v Commission of the European Communities (Wood Pulp), Joined Cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85, C-125/85, C-126/85, C-127/85, C-128/85 and C-129/85, [1994] ECR I-99 (ECJ)	74, 77
A Ahlström Osakeyhtiö and others v Commission (Woodpulp I), Joined Cases C-89/85, 104/85, 114/85, 116/85-117/85 and 125/85 to 129/85, [1988] ECR 5193 (ECJ)	34, 109, 122, 199-200
Aalborg Portland A/S Irish Cement Ltd, Ciments français SA, Italcementi – Fabbriche Riunite Cemento SpA, Buzzi Unicem SpA and Cementir – Cementerie del Tirreno SpA v Commission of the European Communities, Joined Cases C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00P, [2004] ECR I-123	68
AC-Treuhand AG v Commission, Case T-99/04, [2008] ECR II-1501	211
Aéroports de Paris v Commission, Case T-128/98, [2000] ECR II-3929	195
Agrofert, Case T-11/07, [2010] (CFI)	271
Akzo, Case C-7/04P (R), [2004] ECR I-8739	274
Akzo, Joined Cases T-125/03R and T-253/03R, [2004] ECR II-4771	274
Akzo Chemie BV and Akzo Chemie UK Ltd v Commission, Case 53/85, [1986] ECR 1965	274
Akzo Nobel Chemicals Ltd and Akros Chemicals Ltd v Commission of the European Communities, Joined Cases T-125/03 and T-253/03, [2007] ECR II-3523	274
Akzo Nobel Chemicals Ltd and Akros Chemicals Ltd v European Commission, Case C-550/07P, [2010]	274
AM & S Europe Limited v Commission of the European Communities, Case 155/79, [1982] ECR 1575 (ECJ)	274
Arcado v Haviland, Case 9/87, [1988] ECR 1539	133-4, 149-50
Archer Daniels Midland Co v Commission, Case C-511/06P, [2009] ECR I-5843	376, 380-1

Archer Daniels Midland Co v Commission, Case T-59/02, [2006]	
ECR II-3627	376, 380-1
Athanasios Kalfelis v Bankhaus Schröder, Münchmeyer, Hengst and Co and others,	
Case 189/87, [1988] ECR 5565 (ECJ)	22, 26-7, 42, 48, 133-4, 151, 411
Automec Srl v Commission, Case T-24/90, [1992] ECR II-2223	84-5, 87, 350, 360
Béguelin Import Co v SAGL Import Export, Case 22/71, [1971] ECR 949	74, 79, 83
Bernard Denilauler v SNC Couchet Frères, Case 125/79, [1980] ECR 1553	269
Bernardus Hendrikman and Maria Feyen v Magenta Druck & Verlag GmbH,	
Case C-78/95, [1996] ECR I-4943	219
Besix SA v WABAG and Plafog, Case C-256/00, [2002] ECR I-1737	26, 39, 363, 407
Binon v AMP, Case 243/83, [1985] ECR 2015 (ECJ)	84
Brasserie de Haecht II, Case 48/72, [1973] ECR 77	84
C, Case C-435/06, [2007] ECR I-10141	96
Car Trim v KeySafety, Case C-381/08, [2010] ECR I-1255 (ECJ)	21, 405
Cartesio Oktató és Szolgáltató bt, Case C-210/06	171
CEPSA v LV Tobar, Case C-279/06, [2008] ECR I-6681	24
Color Drack v Lexx International, Case C-386/05, [2007] ECR I-3699 (ECJ)	21, 24, 405
Colozza and Rubinat v Italy, Series A no 89 (1985) (ECHR)	187-8
Commission of the European Communities v Italian Republic, Case C-372/99,	
[2002] ECR I-819	163
Commission of the European Communities v Lisrestal, Case C-32/95P, [1996]	
ECR I-5373	187
Commission of the European Communities v Technische Glaswerke Illmenau,	
Case C-139/07P, [2010]	271
Commission v Italy [1973], Case 39/72, ECR 101	90
Courage Ltd v Bernard Crehan, Case C-453/99, [2001] ECR I-6297	
(ECJ)	17, 24, 56, 69, 74, 83-4, 86-8, 90, 93, 99, 111,
	137-8, 145-6, 148, 162-4, 172, 174, 263, 406, 413, 421
Dalmine v Commission, Case C-407/04P, [2007] ECR I-829 (ECJ)	381
Delimitis v Henninger Brau AG, Case C-234/89, [1991] ECR I-935 (ECJ)	73, 312
Dieter Krombach v André Bamberski, Case C-7/98, [2000] ECR I-1935	188, 219, 397
Dirección General de Defensa de la Competencia v Asociación Española de Banca	
Privada and others, Case C-67/91, [1992] ECR I-4785 (Spanish banks case)	275
Dumez v Hessische Landesbank, Case C-220/88, [1990] ECR I-49 (ECJ)	28
Eco Swiss China Time Ltd v Benetton International NV, Case C-126/97, [1999]	
ECR I-3055	54-5, 67, 74-5, 86, 195, 197, 201, 205, 209, 213-19, 222
Effer SpA v Hans-Joachim Kantner, Case 38/81, [1982] ECR 825 (ECJ)	23
Eirini Lechouritou and others v Dimosio tis Omospondiakis Dimokratias tis	
Germanias, Case C-292/05, [2007] ECR I-1519	96-7
Electrosteel Europe v Edil Centro, Case C-87/10 (ECJ)	21
Elisa María Mostaza Claro v Centro Móvil Milenium SL, Case C-168/05, [2006]	
ECR I-10421	74, 86
Erhard Eschig v UNIQA Sachversicherung AG, Case C-199/08, [2009] ECR I-8295	163
Erich Gasser GmbH v MISAT Srl, Case C-116/02, [2003]	
ECR I-14693	53, 56-7, 187, 387, 411
Etablissements Consten and Grundig-Verkaufs v Commission of the European	
Economic Community, Joined Cases 56/64 and 58/64, [1966] ECR 299	68, 73

Eurofood, Case C-341/04, [2006] ECR I-3813	383
Europemballage Corporation and Continental Can Company Inc v Commission of the European Communities, Case 6/72, [1975] ECR 495 (ECJ)	120
Falco Privatstiftung v Weller-Lindhorst, Case C-533/07, [2009] ECR I-3327 (ECJ).....	20-1, 25-6, 405
Fiatagri and New Holland Ford v Commission, Case T-34/92, [1994] ECR II-905	195
Fiona Shevill and others v Presse Alliance SA, Case C-68/93, [1995] ECR I-415 (ECJ).....	28, 33, 35, 118, 139, 184, 233, 406, 422
Fonderie Officine Meccaniche Tacconi SpA v Heinrich Wagner Sinto Maschinenfabrik GmbH (HWS), Case C-334/00, [2002] ECR I-7357	22-4, 363
France Telecom SA v Commission, Cases T-339/04 and T-340/04, [2007] ECR II-521	354
Freeport v Olle Arnoldsson, Case C-98/06, [2007] ECR I-8319.....	47-8
Gemeente Almelo and others v Energiebedrijf Ijsselmij NV, Case C-393/92, [1994] ECR I-1477	197
Gemeente Steenberg v Luc Baten, Case C-271/00, [2002] ECR I-10489	97
Gencor Ltd v Commission, Case T-102/96, [1999] ECR II-753.....	77, 79, 122, 199
Giuseppe Francesco Gasparini and Others, Criminal proceedings against, Case C-467/04, [2006] ECR I-9199	387
Gorraiz Lizarraga and others v Spain, (App No 62543/00), ECHR 2004.III	163
Götz Leffler v Berlin Chemie AG, Case C-443/03, [2005] ECR I-9611	104
Gregory Paul Turner v Felix Fareed Ismail Grovit, Harada Ltd and Changepoint SA, Case C-159/02, [2004] ECR I-3565.....	187, 387
Gubisch Maschinenfabrik KG v Palumbo, Case C-144/86, [1987] ECR 4861 (ECJ).....	57, 80, 357-8
Guy Denuit and Betty Cordenier v Transorient – Mosaïque Voyages and Culture SA, Case C-125/04, [2005] ECR I-923.....	197, 205
H J Banks & Co Ltd v British Coal Corporation, Case C-128/92, [1994] ECR I-1209	162
Handelskwekerij GJ Bier BV v Mines de potasse d'Alsace SA, Case 21/76, [1976] ECR 1735 (ECJ)	28, 32, 139, 184
Hoffmann-La Roche Co AG v Commission of the European Communities, Case 85/76, [1979] ECR 461 (ECJ)	120
Horst Ludwig Martin Hoffmann v Adelheid Krieg, Case 145/86, [1988] ECR 645.....	48, 219, 400, 411
IB v Conseil des Ministres, Case C-306/09.....	385
Industrie Tessili Italiana v Dunlop AG, Case 12/76, [1976] ECR 1473	139, 151
Ingmar GB Ltd v Eaton Leonard Technologies Inc, Case C-381/98, [2000] ECR I-9305	199
Inspecteur van de Belastingdienst v X BV, Case C-429/07, [2009] ECR I-4833 (ECJ).....	202, 299
Ireks-Arkady v Council and Commission, Case 238/78, [1979] ECR 2955.....	90
Irish Beef Industry, Case C-209/07 (ECJ)	300
Italian Republic v Council of the European Economic Community and Commission of the European Economic Community, Case 32/65, [1966] ECR 389	72
Jakob Handte & Co GmbH v Traitements Mécano-chimiques des Surfaces SA, Case C-26/91, [1992] ECR I-3967 (ECJ)	24, 26, 97, 132-4, 148-9

JCJ Wouters and others v Algemene Raad van de Nederlandse Orde van Advocaten, Case C-309/99, [2002] ECR I-1577.....	212
Jean-Claude Arblade and others, Criminal proceedings against, Joined Cases C-369/96 and C-376/96, [1999] ECR I-8453 (ECJ)	81, 200
Just, Case 68/79, [1980] ECR 501	90
Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd, Case C-167/01, [2003] ECR I-10155	171
Kanal 5 Ltd and TV 4 AB v Föreningen Svenska Tonsättares Internationella Musikbyrå (STIM) upa, Case C-52/07, judgment of 11 December 2008	294–5
Leclerc v Commission, Case T-88/92, [1996] ECR II-1961	85
LTU Lufttransportunternehmen GmbH & Co KG v Eurocontrol, Case 29/76, [1976] ECR 1541	97, 132
Manfredi, <i>see</i> Vincenzo Manfredi and others	
Manuele Arduino, Criminal Proceedings against, Case C-35/99, [2002] ECR I-1529	212
Marco Gambazzi v DaimlerChrysler Canada Inc and CIBC Mellon Trust Company, Case C-394/07, [2009] ECR I-2563	219
Martin Peters Bauunternehmung GmbH v Zuid Nederlandse Aanemers Vereniging, Case 34/82, [1983] ECR 987	133, 357
Masterfoods Ltd v HB Ice Cream Ltd, Case C-344/98, [2000] ECR I-11369 (ECJ).....	207, 393
Meletis Apostolides v David Charles Orams and Linda Elizabeth Orams, Case C-420/07, [2009] ECR I-3571	383, 387
Metro SB-Grossmärkte GmbH & Co KG v Commission of the European Communities, Case 26/76, [1977] ECR 1875	68
Michailidis, Joined Cases C-441/98 and C-442/98, [2000] ECR I-7145	90
Microsoft Corp v Commission, Case T-201/04, [2007] ECR II-3601	193
Netherlands State v Reinhold Rüffer, Case 814/79, [1980] ECR 3807	97
Nordsee Deutsche Hochseefischerei GmbH v Reederei Mond Hochseefischerei Nordstern AG & Co KG and Reederei Friedrich Busse Hochseefischerei Nordstern AG & Co KG, Case 102/81, [1982] ECR 1095	197, 205, 213
NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration, Case 26/62, [1963] ECR I	145
NV L'Oréal and SA L'Oréal v PVBA "De Nieuwe AMCK", Case 31/80, [1980] ECR 3775 (ECJ)	120
Océano Grupo Editorial SA v Rocio Murciano Quintero, Joined Cases C-240/98 to C-244/98, [2000] ECR I-4941	163
Odile Jacob, Case T-237/05, [2010] (CFI)	271
Osterreichischer Gewerkschaftsbund, Gewerkschaft öffentlicher Dienst v Republik Österreich, Case C-195/98, [2000] ECR I-10497	163
Overseas Union Insurance, Case C-351/89, [1991] ECR I-3317 (ECJ)	80
Owners of the cargo lately laden on board the ship "Tatry" v the owners of the ship "Maciej Rataj", Case C-406/92, [1994] ECR I-5439	48, 50, 57, 80, 357–8, 411–12
Owusu (Andrew) v NB Jackson, Case C-281/02, <i>trading as</i> 'Villa Holidays Bal-Inn Villas' and others, [2005] ECR I-1383	32, 55, 187, 219, 359, 363
Pellegrini v Italy, no 30882/96 ECHR, 20 July 2001 (ECtHR)	397
Petra Engler v Janus Versand GmbH, Case C-27/02, [2005] ECR I-481 (ECJ)	23–4, 97
Pfleiderer AG v Bundeskartellamt, Case C-360/09, lodged 9 September 2009	276
Pierre Fabre Dermo-Cosmétique, Case C-439/09	299

Portelange, Case 10/69, [1969] ECR 309	83
Postbank NV v Commission of the European Communities, Case T-353/94, [1996] ECR II-921	270, 275, 278, 430
Powell Duffryn v Petereit, Case C-214/89, [1992] ECR I-1745	45
Productores de Música de España (Promusicae) v Telefónica de España SAU, Case C-275/06, [2008] ECR I-271	277
Régie Nationale des Usines Renault SA v Maxicar SpA, Case C-38/98, [2000] ECR I-2973	55, 74, 188, 219-20
Rehder v Air Baltic, Case C-204/08, [2009] ECR I-6073 (ECJ)	21, 405
Reisch Montage AG v Kiesel Baumaschinen Handels GmbH, Case C-103/05, [2006] ECR I-6827	46-7, 53, 410
Réunion européenne SA and Others v Spliethoff's Bevrachtungskantoor BV and the Master of the vessel Alblasgracht V002, Case C-51/97, (ECJ 27 October 1998) [1998] ECR I-6511	32, 47, 134
Riviera Auto Service Etablissements Dalmasso SA, Garage des quatre vallées SA, Pierre Joseph Tosi, Palma SA (CIA - Groupe Palma), Christophe and Gérard Palma v Commission of the European Communities, Joined Cases T-185/96, T-189/96 and T-190/96, [1999] ECR II-93	70, 85, 87
Roche Nederland BV and Others v Frederick Primus and Milton Goldenberg, Case C-539/03, [2006] ECR I-6535	46, 48-50, 52-3, 57, 411
Rosmarie Kapferer v Schlank & Schick GmbH, Case C-234/04, [2006] ECR I-2585	218
Rudolf Gabriel, Case C-96/00, [2002] ECR I-6367	22
Saint Paul Dairy Industries NV v Unibel Exser BVBA, Case C-104/03, [2005] ECR I-3481 (ECJ)	265, 269
Salonia v Poidomani and Baglieri, Case 126/80, [1981] ECR 1563 (ECJ)	84
SEP v Commission, Case C-36/92P, [1994] ECR I-1911	274
SGL Carbon AG v Commission of the European Communities, Case C-308/04P, [2006] ECR I-5977	68, 86
Shearson Lehmann Hutton Inc v TVB, Case C-89/91, [1993] ECR I-139	184
Société de distribution de mécaniques et d'automobiles (Sodima) v Commission of the European Communities, Case T-62/99, [2001] ECR II-2579	70
Société de Vente de Ciments et Bétons de l'Est SA v Kerpen & Kerpen GmbH und Co KG, Case 319/82, [1983] ECR 4173	85-6
Société Technique Minière (LTM) v Maschinenbau Ulm GmbH (MBU), Case 56/65, [1966] ECR 235	84
Stanley George Adams v Commission of the European Communities, Case 53/84, [1985] ECR 3539	274-5
Stefan Grunkin and Dorothee Regina Paul, Case C-353/06, 14 October 2008 (ECJ)	394
Sumitomo Chemical Co Ltd and Sumika Fine Chemicals Co Ltd v Commission of the European Communities, Joined Cases T-22/02 and T-23/02, [2005] ECR II-4065	85
T v Italy, judgment of 12 October 1992, Application No 14104/88	187-8
T-Mobile Netherlands BV and others v Raad van Bestuur van de Nederlandse Mededingingsautoriteit, Case C-8/08, [2009] ECR I-4529	67, 105
Tatry, <i>The see</i> Owners of the cargo lately laden on board the ship 'Tatry' v the owners of the ship 'Maciej Rataj' [1994] ECR I-5439	

Tokai Carbon Co Ltd and Others v Commission of the European Communities, Joined Cases T-236/01, T-239/01, T-244/01 to T-246/01, T-251/01 and T-252/01, [2004] ECR II-1181	68, 81
Tremblay and Others v Commission	85
Überseering BV v Nordic Construction Company Baumanagement GmbH, Case C-208/00, [2002] ECR I-9919	171
Unibet (London) Ltd and Unibet (International) Ltd v Justitiekanslern, Case C-432/05, [2007] ECR I-2271 (ECJ)	164
VAG France SA v Etablissements Magne SA, Case 10/86, [1986] ECR 4071	70, 87
Verein für Konsumenteninformation v Commission of the European Communities, Case T-2/03, [2005] ECR II-1121 (CFI)	271
Verein für Konsumenteninformation v Karl Heinz Henkel, Case C-167/00, [2002] ECR I-8111	97, 183-4
Vincenzo Manfredi and others v Lloyd Adriatico Assicurazioni SpA and others, Joined Cases C-295/04 to C-298/04, [2006] ECR I-6619 (ECJ)	17, 28, 67, 69, 74, 88, 90, 111, 137-8, 145-6, 148, 162-4, 172, 174, 195, 263, 406, 413, 421
Volker Sonntag v Hans Waidmann and others, Case C-172/91, [1993] ECR I-1963	97
Volkswagen AG v Commission of the European Communities, Case T-62/98, [2000] ECR II-2707	72
Walt Wilhelm and others v Bundeskartellamt, Case 14/68, [1969] ECR 1	79
Wood Floor Solutions Andreas Domberger v Silva Trade, Case C-19/09, [2010] ECR I-2121 (ECJ)	21, 25, 405
Yavuz v Austria, judgment of 27 May 2004, Application No 46549/99	188

EU cases in chronological order

Case 26/62, NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration [1963] ECR 1	145
Joined Cases 56/64 and 58/64, Etablissements Consten and Grundig-Verkaufs v Commission of the European Economic Community [1966] ECR 299	68, 73
Case 32/65, Italian Republic v Council of the European Economic Community and Commission of the European Economic Community [1966] ECR 389	72
Case 56/65, Société Technique Minière (LTM) v Maschinenbau Ulm GmbH (MBU) [1966] ECR 235	84
Case 14/68, Walt Wilhelm and others v Bundeskartellamt [1969] ECR 1	79
Case 10/69, Portelange [1969] ECR 309	83
Case 22/71, Béguelin Import Co v SAGL Import Export [1971] ECR 949	74, 79, 83
Case 6/72, Europemballage Corporation and Continental Can Company Inc v Commission of the European Communities [1975] ECR 495 (ECJ)	120
Case 39/72, Commission v Italy [1973] ECR 101	90
Case 48/72, Brasserie de Haecht II [1973] ECR 77	84
Case 12/76, Industrie Tessili Italiana v Dunlop AG [1976] ECR 1473	139, 151
Case 21/76, Handelskwekerij GJ Bier BV v Mines de potasse d'Alsace SA [1976] ECR 1735 (ECJ)	28, 32, 139, 184
Case 26/76, Metro SB-Grossmärkte GmbH & Co KG v Commission of the European Communities [1977] ECR 1875	68

Case 29/76, LTU Lufttransportunternehmen GmbH & Co KG v Eurocontrol	
[1976] ECR 1541	97, 132
Case 85/76, Hoffmann-La Roche Co AG v Commission of the European Communities	
[1979] ECR 461 (ECJ)	120
Case 238/78, Ireks-Arkady v Council and Commission [1979] ECR 2955	90
Case 68/79, Just [1980] ECR 501	90
Case 125/79, Bernard Denilauler v SNC Couchet Frères [1980] ECR 1553	269
Case 155/79, AM & S Europe Limited v Commission of the European Communities	
[1982] ECR 1575 (ECJ)	274
Case 814/79, Netherlands State v Reinhold Rüffer [1980] ECR 3807	97
Case 31/80, NV L'Oréal and SA L'Oréal v PVBA "De Nieuwe AMCK" [1980]	
ECR 3775 (ECJ)	120
Case 126/80, Salonia v Poidomani and Baglieri [1981] ECR 1563 (ECJ)	84
Case 38/81, Effer SpA v Hans-Joachim Kantner [1982] ECR 825 (ECJ)	23
Case 102/81, Nordsee Deutsche Hochseefischerei GmbH v Reederei Mond	
Hochseefischerei Nordstern AG & Co KG and Reederei Friedrich Busse	
Hochseefischerei Nordstern AG & Co KG [1982] ECR 1095	197, 205, 213
Case 34/82, Martin Peters Bauunternehmung GmbH v Zuid Nederlandse Aanemers	
Vereniging [1983] ECR 987	133, 357
Case 319/82, Société de Vente de Ciments et Bétons de l'Est SA v Kerpen & Kerpen	
GmbH und Co KG [1983] ECR 4173	85–6
Case 243/83, Binon v AMP [1985] ECR 2015 (ECJ)	84
Case 53/84, Stanley George Adams v Commission of the European Communities	
[1985] ECR 3539	274–5
Case 53/85, Akzo Chemie BV and Akzo Chemie UK Ltd v Commission [1986]	
ECR 1965	274
Joined Cases C–89/85; C–104/85; C–114/85; C–116/85; C–117/85; C–125/85; C–126/85;	
C–127/85; C–128/85 and C–129/85, A Ahlström Osakeyhtiö and others v Commission	
of the European Communities (Wood Pulp) [1994] ECR I–99 (ECJ)	74, 77
Joined Cases C–89/85; 104/85; 114/85; 116/85–117/85 and 125/85 to 129/85,	
A Ahlström Osakeyhtiö and others v Commission (Woodpulp I) [1988]	
ECR 5193 (ECJ)	34, 109, 122, 199–200
Case 10/86, VAG France SA v Etablissements Magne SA [1986] ECR 4071	70, 87
Case C–144/86, Gubisch Maschinenfabrik KG v Palumbo [1987] ECR 4861	
(ECJ)	57, 80, 357–8
Case 145/86, Horst Ludwig Martin Hoffmann v Adelheid Krieg [1988]	
ECR 645	48, 219, 400, 411
Case 9/87, Arcado v Haviland [1988] ECR 1539	133–4, 149–50
Case 189/87, Athanasios Kalfelis v Bankhaus Schröder, Münchmeyer, Hengst and	
Co and others [1988] ECR 5565 (ECJ)	22, 26–7, 42, 48, 133–4, 151, 411
Case C–220/88, Dumez v Hessische Landesbank [1990] ECR I–49 (ECJ)	28
Case C–214/89, Powell Duffryn v Petereit [1992] ECR I–1745	45
Case C–234/89, Delimitis v Henninger Brau AG [1991] ECR I–935 (ECJ)	73, 312
Case C–351/89, Overseas Union Insurance [1991] ECR I–3317 (ECJ)	80
Case T–24/90, Automec Srl v Commission [1992] ECR II–2223	84–5, 87, 350, 360
Case C–26/91, Jakob Handte & Co GmbH v Traitements Mécano-chimiques des	
Surfaces SA [1992] ECR I–3967 (ECJ)	24, 26, 97, 132–4, 148–9

Case C-67/91, Dirección General de Defensa de la Competencia v Asociación Española de Banca Privada and others [1992] ECR I-4785 (Spanish banks case)	275
Case C-89/91, Shearson Lehmann Hutton Inc v TVB [1993] ECR I-139.....	184
Case C-172/91, Volker Sonntag v Hans Waidmann and others [1993] ECR I-1963	97
Case T-34/92, Fiatagri and New Holland Ford v Commission [1994] ECR II-905	195
Case C-36/92P, SEP v Commission [1994] ECR I-1911	274
Case T-88/92, Leclerc v Commission [1996] ECR II-1961.....	85
Case C-128/92, H J Banks & Co Ltd v British Coal Corporation [1994] ECR I-1209.	162
Case C-393/92, Gemeente Almelo and others v Energiebedrijf Ijsselmij NV [1994] ECR I-1477	197
Case C-406/92, The owners of the cargo lately laden on board the ship “Tatry” v the owners of the ship “Maciej Rataj” [1994] ECR I-5439.....	48, 50, 57, 80, 357–8, 411–12
Case C-68/93, Fiona Shevill and others v Presse Alliance SA [1995] ECR I-415 (ECJ).....	28, 33, 35, 118, 139, 184, 233, 406, 422
Case T-353/94, Postbank NV v Commission of the European Communities [1996] ECR II-921	270, 275, 278, 430
Case C-32/95P, Commission of the European Communities v Lisrestal [1996] ECR I-5373	187–8
Case C-78/95, Bernardus Hendrikman and Maria Feyen v Magenta Druck & Verlag GmbH [1996] ECR I-4943.....	219
Case T-102/96, Gencor Ltd v Commission [1999] ECR II-753.....	77, 79, 122, 199
Joined Cases T-185/96; T-189/96 and T-190/96, Riviera Auto Service Etablissements Dalmasso SA, Garage des quatre vallées SA, Pierre Joseph Tosi, Palma SA (CIA - Groupe Palma), Christophe and Gérard Palma v Commission of the European Communities [1999] ECR II-93 (ECJ)	70, 85, 87
Joined Cases C-369/96 and C-376/96, Criminal Proceedings against Jean-Claude Arblade and others [1999] ECR I-8453 (ECJ)	81, 200
Case C-51/97, Réunion européenne SA and Others v Spliethoff’s Bevrachtungskantoor BV and the Master of the vessel Alblasgracht V002, (ECJ 27 October 1998) [1998] ECR I-6511	32, 47, 134
Case C-126/97, Eco Swiss China Time Ltd v Benetton International NV [1999] ECR I-3055	54–5, 67, 74–5, 86, 195, 197, 201, 205, 209, 213–19, 222
Case C-7/98, Dieter Krombach v André Bamberski [2000] ECR I-1935.....	188, 219, 397
Case C-38/98, Régie Nationale des Usines Renault SA v Maxicar SpA [2000] ECR I-2973	55, 74, 188, 219–20
Case T-62/98, Volkswagen AG v Commission of the European Communities [2000] ECR II-2707	72
Case T-128/98, Aéroports de Paris v Commission [2000] ECR II-3929.....	195
Case C-195/98, Österreichischer Gewerkschaftsbund, Gewerkschaft öffentlicher Dienst v Republik Österreich [2000] ECR I-10497	163
Joined Cases C-240/98 to C-244/98, Océano Grupo Editorial SA v Rocío Murciano Quintero [2000] ECR I-4941	163
Case C-344/98, Masterfoods Ltd v HB Ice Cream Ltd [2000] ECR I-11369 (ECJ).....	207, 393
Case C-381/98, Ingmar GB Ltd v Eaton Leonard Technologies Inc [2000] ECR I-9305	199
Joined Cases C-441/98 and C-442/98, Michailidis [2000] ECR I-7145.....	90

Case C-35/99, Criminal Proceedings against Manuele Arduino [2002] ECR I-1529	212
Case T-62/99, Société de distribution de mécaniques et d'automobiles (Sodima) v Commission of the European Communities [2001] ECR II-2579	70
Case C-309/99, JCJ Wouters and others v Algemene Raad van de Nederlandse Orde van Advocaten [2002] ECR I-1577.....	212
Case C-372/99, Commission of the European Communities v Italian Republic [2002] ECR I-819	163
Case C-453/99, Courage Ltd v Bernard Crehan [2001] ECR I-6297 (ECJ).....	17, 24, 56, 69, 74, 83-4, 86-8, 90, 93, 99, 111, 137-8, 145-6, 148, 162-4, 172, 174, 263, 406, 413, 421
Case C-96/00, Rudolf Gabriel [2002] ECR I-6367	22
Case C-167/00, Verein für Konsumenteninformation v Karl Heinz Henkel [2002] ECR I-8111	97, 183-4
Joined Cases C-204/00 P; C-205/00 P; C-211/00 P; C-213/00 P; C-217/00 P and C-219/00 P Aalborg Portland A/S Irish Cement Ltd, Ciments français SA, Italcementi – Fabbriche Riunite Cemento SpA, Buzzi Unicem SpA and Cementir – Cementerie del Tirreno SpA v Commission of the European Communities [2004] ECR I-123	68
Case C-208/00, Überseering BV v Nordic Construction Company Baumanagement GmbH [2002] ECR I-9919.....	171
Case C-256/00, Besix SA v WABAG and Plafog [2002] ECR I-1737	26, 39, 363, 407
Case C-271/00, Gemeente Steenberghe v Luc Baten [2002] ECR I-10489	97
Case C-334/00, Fonderie Officine Meccaniche Tacconi SpA v Heinrich Wagner Sinto Maschinenfabrik GmbH (HWS) [2002] ECR I-7357	22-4, 363
Case C-167/01 Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd [2003] ECR I-10155.....	171
Joined Cases T-236/01; T-239/01; T-244/01 to T-246/01; T-251/01 and T-252/01, Tokai Carbon Co Ltd and Others v Commission of the European Communities [2004] ECR II-1181	68, 81
Joined Cases T-22/02 and T-23/02, Sumitomo Chemical Co Ltd and Sumika Fine Chemicals Co Ltd v Commission of the European Communities [2005] ECR II-4065	85
Case C-27/02, Petra Engler v Janus Versand GmbH [2005] ECR I-481 (ECJ)	23-4, 97
Case T-59/02, Archer Daniels Midland Co v Commission [2006] ECR II-3627	376, 380-1
Case C-116/02, Erich Gasser GmbH v MISAT Srl [2003] ECR I-14693	53, 56-7, 187, 387, 411
Case C-159/02, Gregory Paul Turner v Felix Fareed Ismail Grovit, Harada Ltd and Changepoint SA [2004] ECR I-3565	187, 387
Case C-281/02, Owusu (Andrew) v NB Jackson, <i>trading as</i> 'Villa Holidays Bal-Inn Villas' and others [2005] ECR I-1383.....	32, 55, 187, 219, 359, 363
Case T-2/03, Verein für Konsumenteninformation v Commission of the European Communities [2005] ECR II-1121 (CFI).....	271
Case C-104/03, Saint Paul Dairy Industries NV v Unibel Exser BVBA [2005] ECR I-3481 (ECJ).....	265, 269
Joined Cases T-125/03 and T-253/03, Akzo Nobel Chemicals Ltd and Akcros Chemicals Ltd v Commission of the European Communities [2007] ECR II-3523	274
Joined Cases T-125/03R and T-253/03R, Akzo [2004] ECR II-4771.....	274