

EUROPOLITICS

The European affairs daily |

Thursday 18 September 2008 | N° 3598 | 36th year |[Table of Contents](#)**FOCUS**

Ditching a commissioner?

By Célia Sampol

To quote Jean-Claude Juncker, it does not seem realistic to think that the Lisbon Treaty can come into force before the European elections in June 2009. It will rather be "early 2010," because "to be able to come into force in June 2009, the text should be ratified by all the member states before late February".

This was widely suspected, but coming from the mouth of a man as experienced and respected as the prime minister of Luxembourg and the president of the Eurogroup, these words take on a more resounding meaning. In this context, if the second Irish referendum really does not take place before the EU elections, that means that the new European Parliament will be elected on the basis of the current Treaty of Nice and will be made up of 736 MEPs and not 751 as set out in Lisbon. But, above all, and this is more complicated, it means that there will need to be an agreement on the reduced European Commission, including fewer members than member states, which would mean 26 commissioners maximum.

To resolve this sensitive point, there has been talk in EU circles that the country that loses a commissioner should be the one which holds the post of high representative for foreign policy and security (currently Spain, with Javier Solana). Another institutional quick fix to resolve an EU deadlock.

CAP HEALTH CHECK

Presidency submits compromise proposals

By Luc Vernet

The initial suggestions submitted by the EU Presidency in the framework of negotiations on the Common Agricultural Policy (CAP) 'health check' will be informally discussed by agriculture ministers during their session of 29 and 30 September in Brussels.

They essentially aim to relax the provisions proposed by the European Commission to improve the allocation of aid and decouple aid which is still linked to production or transformation, in order to grant specific aid to certain regions or sectors, manage risks and crises and accompany the anticipated dismantling of dairy quotas.

To ensure a better distribution of support for farmers, the Commission proposes that member states move from a single payment scheme based on historic references to a regionalised system or towards the reconciliation of the value of payment entitlements.

These two options raise both political and technical difficulties and therefore require a sufficient period of preparation, considers the French Presidency of the EU, which proposes that member states be able to decide by 1 August 2010 - and not 1 August 2009, as recommended by the Commission - whether to establish, as of the following year, regionalisation or the reconciliation of payment entitlements.

At the same time, the Presidency

considers that the objective of a better distribution of support between farmers can also be fulfilled by granting member states a certain flexibility thanks to the instruments proposed by the Commission.

In particular, the implementation of the reconciliation of payment levels or regionalisation could also mobilise financial resources resulting from the decoupling of aid anticipated in the framework of the 'health check'. Likewise, member states will have the possibility of increasing their reserve (difference between the national budgetary ceiling and the total value of all payment entitlements granted) when the anticipated decoupling involves low amounts.

Lastly, according to the French Presidency, a technical measure of simplifying management of the single payment scheme could be taken by opening up the possibility of creating "special single payment entitlements".

DECOUPLING OF AID

The Presidency intends to anticipate, on a case-by-case basis, together with the Commission, an extension of the transition period towards the decoupling of aid still linked to production and transformation.

The objective, it explains, is to ensure sufficient visibility for the sectors concerned and to maintain a transformation industry in the regions where this is economically essential. **(continued on page 5)**



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AIR TRANSPORT**New Olympic Airways to take off**

By Isabelle Smets

The European Commission cleared, on 17 September, the plan presented by Greece for the privatisation of part of the assets of Olympic Airlines and Olympic Airways Services. The process will result in the liquidation of the two debt-laden companies and the creation of a new 100% private airline. The project "involves no state aid," explained Transport Commissioner Antonio Tajani.

The Greek plan provides for the sale at prevailing market rates of certain assets of Olympic Airlines and Olympic Airways Services, the two firms that succeeded Olympic Airways in 2003. Three ventures will be created: an airline that will take over part of Olympic Airlines' capacities - around 65% - and will be allowed to use the Olympic Airways name and logo, and two other companies that will operate ground handling and maintenance services. The new airline will necessarily be smaller than its predecessor (handling

65% at most in terms of capacity), which "will give other airlines the possibility to take advantage of the market and the slots freed up," said Tajani. According to the commissioner, the transaction will have to be brought to conclusion by the

"In no case will the new private company be identical to the earlier one"

end of December 2009. "In no case will the new private company be identical to the earlier one."

An independent supervisory body will oversee the privatisation process and, in close collaboration with the Commission, will ensure that the Greek government abides by its commitments. "If the Commission is not satisfied with any aspect of the procedure, it may re-open the case," notes a press release.

The announcement of the go-ahead for

the liquidation of Olympic and the creation of a new airline coincided with the official conclusion of the Commission's investigation, opened in December 2007, into state aid granted to Olympic Airlines/Airways since December 2004. It was no surprise that the EU executive concluded that the aid estimated at just over €850 million was illegal. "It will therefore have to recover the funds," explained Antonio Tajani.

The repayment of the illegal aid will take place "on the basis of the sale of the assets of the former Olympic". According to experts, however, the sale of assets may not be enough to cover the entire debt, which is perfectly legal in the case of a liquidation procedure.

Part of the investigation "requires further review" and has not been concluded to date. Furthermore, a procedure underway before the EU Court of Justice for failure to recover illegal aid paid after December 2002 "is still open," added Tajani. ■

ENERGY TECHNOLOGIES**EP seminar examines patents blocking technology transfer**

By Dafydd ab Iago

The transfer of environmentally-friendly technology plays a crucial role in international efforts to combat climate change. However, according to a workshop in the European Parliament, on 17 September, organised by the Greens-EFA group, intellectual property rights are increasingly an impediment to the transfer of green energy technology. This is despite the significant proportion of research in the energy and environmental sector that is publicly funded. The EU currently enjoys a leading position in eco-industries, accounting for almost one-third of the global sector turnover. According to some estimates, the global market is set to double to around €2,300 billion by 2020. The EU market for eco-innovation itself has been calculated at some €230 billion or around 2.2% of EU GDP, accounting for 3.4 million jobs.

Eva Lichtenberger (Greens, Austria) pointed to the increasing problems caused by patents that block areas of innovation.

One area that has seen broad claims is that of hydrogen propulsion for vehicles. According to panellist David Martin, CEO of M-CAM, a company involved in knowledge asset management, many patents issued 15 to 20 years ago are now abandoned and litter the research space. This makes it increasingly difficult to patent commercial applications today. Martin vigorously attacked the notion of intellectual property rights (IPR) as restricting access as a means of control. "The IPR paradigm is unfounded," said Martin. He questioned the idea that economic growth is stimulated via intellectual property. Martin accused patent offices of having a vested interest in issuing ever more patents in order to gain greater fee income.

A less anti-IPR approach was taken by other panellists. Gérard Giroud, director of European and international affairs at the European Patent Office, stressed the role of intellectual property protection in establishing incentives that push forward energy technologies. He also noted that

as an emerging area of technology, the need for incentives is even more important. Renewables is also area where there are fewer dangers of monopolies patent at this point in time. James Love, director at Knowledge Ecology International, underlined the great increase in the number of energy-related patents in recent years, especially in the field of alternative fuels and renewables. He, nonetheless, stressed the need for a balanced approach in deciding when it might be important to override exclusive rights granted by patents. "In fighting climate change, you actually want the developing world to use energy efficient technology. This benefits everyone," said Love. He also pointed to the need to move away from the idea that a single patent has an exclusive right. "This can block development," said Love. He referred to US presidential candidate John McCain's proposal to offer a federal prize of US\$300 million to push forward development of new-generation batteries for electric cars and plug-in hybrids. ■

CAP health check

(continued from page 1)

According to the French Presidency, transitional provisions should be taken to allow member states to incorporate into this article (the use of up to 10% of national budgetary ceilings for specific support) measures which were applied by way of its predecessor, Article 69.

The French Presidency considers that, being a matter of collected insurance, the current provisions in place at national level must not be called into question.

Furthermore, member states should have the possibility of adapting the public contribution granted to farmers

according to production sector, the rate of 60% of the insurance premium pro-

The French Presidency considers that the current provisions in place at national level must not be called into question

posed by the Commission then being considered as a maximum.

In this case, the Community's financial participation would be expressed as a percentage of public expenditure.

Moreover, the anticipated mechanism for collected insurance could be

extended to livestock production in member states which so desire, within the limits allowed by the World Trade Organisation's 'green box'.

Lastly, the French Presidency intends to analyse, together with the Commission, the possibility of the coexistence of measures of the Article 44 type on single market organisation (exceptional measures for the support of markets in the event of animal diseases affecting trade) and the proposals drawn up by the Commission for mutualisation funds in the event of animal and vegetable diseases.

At the same time, the range of these funds will be extended to cover local environmental risks. ■

INTEGRATION

Barrot clarifies position on data collection on Roma

By Nathalie Vandystadt

EU Commissioner for Justice, Freedom and Security Jacques Barrot set the record straight on the debate over the collection of data on Roma in Italy. The first European Roma summit, held on 16 September in Brussels, was an event for the ten million people throughout the EU belonging to the Roma community, who are often victims of discrimination. But the Roma used the conference to express their anger over the Commission's recent endorsement of the fingerprinting of the Roma by Silvio Berlusconi's government.

Barrot was critical of the remarks by philanthropist George Soros, founder and president of the Open Society Institute. The American billionaire of Hungarian origin said he feared that "the fingerprinting of Roma in Italy" may become a "de facto rule" in the EU.

"Either Mr Soros is not aware of the facts or else he is acting in bad faith," said Barrot. Concerning the Italian project, "we immediately said that in no case would we accept the fingerprinting of minors without a court order and without legitimate reasons. We also expressed our opposition to doing so on the basis

of ethnic group or religion." The commissioner nevertheless noted that it had to be seen "how these measures are applied". He has received confirmation that a European Parliament delegation will go to Italy to check on how the measures are applied.

Barrot also urged the 27 member states to adopt the Framework Decision on racism and xenophobia, saying it was a "particular source of concern" to see that a text proposed by the Commission in 2001 has still not been adopted in spite of the support of almost all the member states. ■

DATA PROTECTION

Commission speaks out on Edvige

The subject is explosive in France and the European Commission also has its opinion on the French 'Edvige' proposal for a database of personal information.

According to the daily *Le Monde* of 17 September, Jacques Barrot, the French commissioner for justice, freedom and security, "has made it known to Home Affairs Minister Michèle Alliot-Marie that he wants the shortest possible data retention period for minors over age 13 concerned by Edvige".

"This would be in the spirit of the EU institutions: the retention period for such data has to be limited, especially

if the subject is not a repeat offender," Barrot told *Le Monde*. The commissioner, who is not in charge of law and order, defence or the protection of state activities (which is the exclusive competence of the member states), warns on the other hand that "the principle of proportionality must be observed," since the register will collect information on people involved in political, trade union or associative activities. He rejects the collection of data on the basis of ethnic background or religion.

According to the French daily, the commissioner's services create a "paral-

lel" with the equally controversial issue of creating a database on Roma in Italy. "We immediately said that we would not agree to the fingerprinting of minors without an order from a judge and for legitimate reasons. We also expressed our opposition to collecting information based on individuals' ethnic background or religion," said Barrot, on 16 September in Brussels.

"What was done with the Italians must apply elsewhere," said a senior official quoted by *Le Monde*. Like the Italian case, the French proposal will be reviewed by the Commission. ■

FISHERIES**CFP revision kicks off**

By Anne Eckstein

The 2002 reform of the Common Fisheries Policy (CFP) unquestionably improved the management of resources and fisheries, but its implementation still presents difficulties, noted Joe Borg, on 17 September. The fisheries commissioner presented to the European Commission an assessment and guidelines for the future of the CFP (see *Europolitics* 3585), kicking off the mid-term review of the CFP, set to be revised in 2012.

During their debate, the commissioners acknowledged that the 2002 reform has helped improve fisheries management in the EU, but it is clear that it still suffers from serious shortcomings and problems. Short-term decision-making, coupled with irresponsible behaviour by certain parts of the industry, continue to penalise fishermen acting for the common good. The result is a vicious circle that has undermined both the ecological balance of oceans and the sector's economic prof-

itability. Joe Borg said it will take time to prepare a full analysis of the changes needed and to put an action plan in place. He also considers it essential for all stakeholders to take part in this process, which is why the process of assessing the 2002 reform needs to be launched now.

Commissioner Borg listed some of the achievements made under the earlier reform: greater credibility and transparency of the scientific basis of policy, a significant number of stocks brought under long-term management plans; actions to deter and eliminate illegal fishing and to reduce discards, and better dialogue with stakeholders. On the latter point, the creation of seven Regional Advisory Councils (RAC)¹, the most recent of which, the Mediterranean RAC, was declared operational on 16 September, represents a major advance.

There are nonetheless still many obstacles to truly sustainable fishing in EU waters, which will be at the heart of the next reform. These include overcapacity

in the EU fleet; the need to make fishermen accountable for the sustainable use of a public resource; the priority of ecological sustainability over economic and social sustainability; revision of the decision making process and simplification of regulations; and alignment of the CFP with the marine strategy framework directive.

The informal Fisheries Council, on 29 September, will focus on this theme. If the European Council, in December 2008, gives the Commission the go-ahead to start work on the reform of the CFP, the EU executive will present a discussion document in early 2009 to serve as the starting point for a broad consultation of the member states and stakeholders. ■

(1) North Sea RAC, created in 2004, Pelagic RAC and Northwestern Waters RAC (2005), Baltic Sea RAC (2006), Distant Water Fisheries RAC and Southwestern Waters RAC (2007)



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FINANCIAL CRISIS

Juncker feels a "rare degree of uncertainty"

By Jean Chartier

Jean-Claude Juncker, president of the Eurogroup, acknowledges that there is "a rare degree of uncertainty at the moment for the financial situation". He judges the "impact on the real economy" of the latest twists and turns in the financial crisis to be uncertain. But after the collapse of Lehman Brothers and the last-minute rescue, during the night, of the insurer AIG by Washington, at a cost of US\$85 billion, he is moving cautiously forward in the minefield: "If I respond that the banking crisis will grow, I make the headlines; if I answer that it will ease, the same papers will call me out in two weeks".

On 17 September, the president of the Eurogroup was addressing the European Policy Centre (EPC). Even if the banking crisis is not over, he said that the European economic situation will be more robust in late 2008 than the American situation, even if the figures for the second and third quarters prove, in fact, to be worse in Europe. He maintained that it would not be wise to imitate the USA. "The American tax plan only had a short-term effect, and only once," he said.

But despite the banking crisis, Juncker does not believe that Europe is moving toward a marked recession (like in 1980-1982). He insists that Europe keep its current approach to the situation in the medium term as well as for the short-term crisis.

At the event, the prime minister of Luxembourg specified that the 16 finance ministers of the Eurogroup already decided, two years ago, on their strategy to fight inflation and on



Juncker: "We cannot react with more taxation in Europe"

their political line, wanting to be able to do everything to further contest member states' indirect taxation: "We cannot react with more taxation in Europe," he said.

Juncker describes the interest of the functioning of the group which he presides over in these words: "The Eurogroup is a reduced and informal form of the Council. All elements discussed are not communicated; exchanges are direct and frank but discrete".

He says that, for two years, the Eurogroup has held discussions with the Spanish

finance minister regarding his views on a possible economic emergency plan. "Ministers must defend their positions, they can not hold up with one against fourteen. The Solbes plan was not a surprise for us."

In response to a participant, Juncker mentioned that it would be a mistake to consider the European Central Bank responsible for the functioning of the European economy. However, "I acknowledge that we have discussions, that they are long and that the results are small".

Juncker turned toward his EPC counterpart and asked him, maliciously: "Do you think that the economy would be better with 16 national banks? Do you think that 16 Trichets would be more compliant with a better economic policy than one Trichet? I think that one Trichet is enough for me, actually!"

This leads him to also want, in the near future, a single representative for all the finance ministers of the eurozone at international meetings. Jokingly, he even said: "I cannot wait for Didier Reynders [the Belgian minister of finance - Ed] to take his seat in the first row".

Juncker does not define himself as a defender "of a European authority centralised in all respects," but he wants the same rules to be applied everywhere in Europe.

The Eurogroup president concluded: "The integration of financial markets must happen." ■

UK/TREATY

Anticipated Tory victory would be bad for new treaty

By Célia Sampol

In the event of the anticipated legislative elections in the UK, the Conservatives could return to power and challenge the ratification of the Lisbon Treaty in their country.

British MEP Richard Corbett (PES), a member of Labour, explains to *Europolitics* that if the leader of the Tories, the young and charismatic David Cameron, took the reins of the country after the elections planned for mid-2010, "it would be catastrophic for the UK and the European Union". Because Cameron has announced that if his party were to win, and if all the EU member states

have not yet ratified the Lisbon Treaty, he would withdraw the British ratification, which was concluded in July 2008, and would organise a referendum on the EU text. The Conservatives would not hesitate to fiercely campaign for the 'no'. Cameron has also ensured that even if all the countries have ratified the text at that moment, he "would not leave things that way".

There are a lot of 'ifs', acknowledges Corbett, but these scenarios should not be underestimated. Labour Prime Minister Gordon Brown's popularity is at an all-time low and a few days from Labour's annual conference, which will

take place in Manchester from 20 to 23 September, Brown could well lay it all on the line. Three members of the government have already been relieved of their duties for being associated with an inner revolt which is being organised against Tony Blair's successor. However, Labour's strategy is not to organise the anticipated general elections – because it would risk losing given the popularity lapse in the polls – but to dismiss Brown, whose lack of popularity is damaging the party's image. If this were the case, 20% of Labour MPs (71) would have to give their support to another candidate. ■

EU/GEORGIA**Jouyet confirms Europe's position**

By Eric van Puyvelde

The Georgian crisis and the situation in Serbia and Belarus were discussed with the French Secretary of State for European Affairs, Jean-Pierre Jouyet, during an extraordinary meeting of the European Parliament's Committee on Foreign Affairs, on 15 September in Brussels.

"The coherence and unity of the EU, the mediator of this conflict, is striking," declared Jouyet, while presenting the results of the Council of 15-16 September regarding Georgia (see *Europolitics* 3596).

He believes that Europe must give greater importance to Central Asia and move ahead with its neighbourhood policy in the Caucasus as well as in the Mediterranean. In response to a question from Michael Gahler (EPP-ED, Germany), he indicated that "the priority is the withdrawal of the Russian forces from the areas adjacent to South Ossetia and Abkhazia, along lines similar to those before the onset of hostilities".

The European Commission, which has announced aid of €500 million for Georgia, hopes that the EU's global efforts will help to double this figure with contributions from the 27 member states during the donors' conference in October (3596). "I anticipate that our contribution, as per usual, represents approximately 50% of the EU's cumulative promises" in the end, says External Relations Commissioner Benita Ferrero-Waldner in a letter addressed to the Parliament, which must validate the release of €500 million.

Jean-Pierre Jouyet was cautious with regard to this objective. "We hope to have the highest possible amount of aid" during the donors' conference, but it is difficult to give figures, he said at the close of his hearing before the parliamentary committee. "Do not forget that certain states are facing budgetary difficulties" with the economic slowdown, he added.

With a billion euro, Europeans would exceed the pledges of the United States, which has already committed to provide aid

of one billion dollars (approximately €700 million) to Georgia, of which US\$570 million by the end of the year.

Normally, Georgia receives between €30 million and €40 million per year by way of the European Neighbourhood Policy.

Moreover, Charles Tannock (EPP-ED, UK) and Vytautas Landsbergis (EPP-ED, Lithuania) estimated that strong signals should be sent to **Belarus**, which recently freed its last political prisoners - including Alexander Kozulin, a candidate for the 2008 Sakharov Prize - and did not recognise the secessionist republics of Georgia. Jouyet said he preferred to wait and see under which conditions the elections of 28 September would be held.

With regard to **Serbia**, the secretary of state shares the disappointment of the rapporteur on this issue, Jelko Kacin (ALDE, Slovenia), considering that signals should rapidly be sent to Serbia. The General Affairs Council has postponed the implementation of the interim agreement (3596). ■

EU/ACP**Commission targets EPAs by end 2009**

By Sébastien Falletti

The negotiations for controversial new trade pacts between Europe and its former colonies are still facing major hurdles and the conclusion of the so-called economic partnership agreements (EPAs) will take at least one extra year, admitted the European Commission, on 16 September, following a troika meeting with the African Union (AU) in Brussels. Louis Michel, the commissioner in charge of development, recalled the need to respond to the concerns expressed by the countries of the African, Caribbean and Pacific (ACP) group and said that fully-fledged EPAs could be concluded "by the end of 2009". This new date confirms the slipping of the calendar of the negotiations, which started in 2001 with the objective of putting EU-ACP trade relations in line with World Trade Organisation rules.

The meeting between the EU and the AU confirmed that the level and speed of trade liberalisation as well as its impact on the development of ACP countries is

still a concern. Ministers called for a close political monitoring of the negotiations led by the Commission. In a joint statement, they stressed "the importance of continuing discussions at the political level in order to effectively address the still contentious issues" of the EPA negotiations. In particular, it recalls the pledge made during the EU-Africa summit, in December 2007 in Lisbon, by José Manuel Barroso to hold high-level political talks with African countries. The president of the European Commission had made this pledge in Lisbon in order to allay the fears expressed by several African leaders, such as Abdulaye Wade, president of Senegal, which had put the summit in jeopardy.

While many ACP countries concluded emergency interim deals covering goods in order to comply with a WTO deadline at the end of 2007, they have not formally signed those agreements and are reluctant to move towards fully-fledged EPAs that would include services and rules. Despite the efforts of EU Trade Commissioner

Peter Mandelson to speed up the process, African countries are still concerned by the impact of trade liberalisation. On top of that, the signature of the only comprehensive EPA concluded so far with the Caribbean region is now put into question. Originally planned in July, the signature has been postponed until October officially because of time constraints. The reality is that the unity of the Caribbean region is put in jeopardy again with Guyana and Haiti refusing to sign the deal.

The French Presidency of the EU has confirmed its willingness to listen more carefully to the concerns raised by the ACP and to change the dynamics of the negotiations. "We want to be as flexible as possible," said Alain Joyandet, the French secretary of state in charge of development, who was leading the EU delegation. In the context of the food crisis, Joyandet stressed in particular the need to protect the agricultural sector of the ACP countries. "We need a kind of food exception," he added, stressing the need to put development at the heart of the EPAs. ■

SPECIAL DOSSIER

Citizens' access to law and justice in Europe

Published on the occasion of the conference organised by the Delegation of French Bars in Brussels

"We must build a genuine European judicial area"

By Jacques Barrot(*)

After building the internal market, the European Union has succeeded in offering its citizens an area of free movement.

This freedom means that eight million European citizens reside today in a member state other than their home country, either to study, work, accompany their spouse or spend their retirement. There are also between 50,000 and 100,000 transnational inheritances every year and 170,000 divorces between spouses with different nationalities.

Yet, while Europe's physical borders have been abolished, legal borders all too often remain in place. And citizens fail to understand why their rights are left behind in a context of increasing mobility across Europe. It is high time for the famous reflection by Blaise Pascal ("A strange justice that is bounded by a river! Truth on this side of the Pyrenees, error on the other side...") to become a thing of the past...

We must build a genuine European judicial area where all citizens are able to assert their rights, irrespective of the member state where they reside. This is a fundamental element of the construction of European citizenship, which is one of my major objectives.

The Tampere European Council in 1999 made the mutual recognition of court decisions and of legal acts the keystone of this European judicial area.

This principle of mutual recognition may not reside solely in the existence of a high degree of mutual confidence between member states. Only quality national judicial systems can nurture such trust. This great edifice connecting national rights in Europe must also respect the history and traditions of the different judicial systems in Europe.

In the field of civil justice, family law is a priority.

At the top of my mind is the issue of binational divorce.

Conflicts of law concerning child custody have been settled and the Commission's pro-

posal to improve recovery of maintenance obligations is also undergoing final adoption.

But the law applicable to binational divorce is still too often a source of conflicts of jurisdiction. Adoption of the 'Rome III' proposal



Barrot: "Family law is a priority"

for a regulation would give divorcing couples the possibility to choose by common agreement the law applicable to their case.

Considerable progress is also needed on the division of estates in cases of separation.

On the second big issue in family law, namely transnational inheritances, no legislative instrument exists for now. That is why I will present, early in 2009, detailed proposals for the development of a European certificate of inheritance. Every European citizen would thus be able to prove his or her entitlement as heir in all the member states, regardless of the location of the property inherited. I will also start up reflection on the creation of a European register of wills, building on the interconnection of national registers put in place by European solicitors.

Recognition and mutual confidence are also the cornerstones of justice in commercial law.

In this area, the creation of the European enforcement order, the European order for payment procedure, which will come into force at the end of 2008, and the regulation enabling all European citizens to prove a claim in bankruptcy all represent significant progress in the internal market.

The ultimate aim of these major Euro-

pean advances for civil and commercial law is the abolition of the exequatur for court decisions. Over and above that, we must engage in general reflection on the direct recognition of authentic instruments from each member state in the other member states. A green paper to that effect will be drawn up in 2009.

We will be able to bring these projects to successful conclusion by using three levers, which all have in common the concepts of dialogue and partnership.

First, the lever of the European Judicial Network. I have proposed its enlargement beyond judges to encompass all legal professions.

Second, the lever of e-Justice. An internet portal, planned for next year, will give all European citizens access to information on the different national courts and enable them to participate in direct contacts using video conferences. Judges will also benefit from the placing of judgements online on this portal.

Third, we must strengthen the lever of European training for the legal professions, by ensuring that initiatives already launched for the training of judges are also extended to lawyers.

On the basis of my experience as transport commissioner, where I was able to take forward many issues thanks to the contributions of all stakeholders, I will be constantly attentive to the contributions of professionals from the world of justice.

With their practical, day-in-day-out knowledge of the problems encountered by citizens seeking justice, they will help me bring about progress on access for all Europeans to justice throughout the European Union, an indispensable condition for a European citizenship to which we all aspire. ■

(*) Jacques Barrot is vice-president of the European Commission responsible for justice, freedom and security

INTERVIEW WITH DOMINIQUE VOILLEMOT, PRESIDENT OF THE DELEGATION OF FRENCH BARS IN BRUSSELS

Lawyers bridge gap between citizens and Europe

By Nathalie Vandystadt

Dominique Voillemot, an honorary member of the Paris Bar and a member of the Brussels Bar, has chaired the Delegation of French Bars in Brussels since 2005.

Why is there a Delegation of French Bars in Brussels?

French lawyers became aware of the growing importance of Community law some 25 years ago. To stay well informed on its development, the Paris Bar, spurred on by its President Bernard du Granrut, and subsequently all French bars, began to see the need for setting up in Brussels a structure that would provide information for lawyers and serve as a contact point with the Community authorities. The Delegation of French Bars (DBF) was therefore founded in 1983. At the same time, French lawyers noted that their profession was moving beyond national borders. The directive facilitating the exercise by lawyers of freedom to provide services enabled them to practice occasionally in another European Union member state. The establishment directive then gave them the possibility to exercise their profession in any member state of their choice. The DBF was given the task of assisting French lawyers in exercising the possibilities offered by these directives. Today, the DBF that I am honoured to chair is composed of three lawyers, assisted by a legal expert, a communication manager and a secretary. This team handles a wide range of activities. First of all, the delegation represents French lawyers with the EU institutions (Commission, Parliament, Permanent Representation of France). Second, it defends the interests and values of the profession. To that end it, works closely with the Council of Bars and Law Societies of Europe (CCBE) and the other represen-

tations of national bars present in Brussels. Third, the DBF, based in the heart of the EU district, keeps French lawyers informed on a weekly basis of the latest developments in Community law with an electronic newsletter *L'Europe en*

law and case-law. Today, it affects every aspect of citizens' lives, in both criminal and civil matters (European arrest warrant, European family law, European company law, European consumer law, etc). This development is continuing and encompasses ever more spheres of law.



Voillemot: Today, Community law affects every aspect of citizens' lives

Why did you choose the subject of citizens' access to law and justice in Europe as the subject of your conference?

A number of reasons led us to choose the subject of citizens' access to law and justice in Europe. First, this is an objective of the French EU Presidency. French President Nicolas Sarkozy has asked Alain Lamassoure, member of the European Parliament and former European affairs minister, to "come forward with

Bref and quarterly with a review containing in-depth articles and summaries of recent judgements, *L'Observateur de Bruxelles*. Along the same lines, it provides legal support for French lawyers with Community law research and organises training sessions in both Brussels and France.

When you moved to Brussels in 1967, you were one of the first European lawyers. What are the major phases in the evolution of European law that stand out in your mind?

I did indeed arrive in Brussels in 1967 to open the first foreign office of Gide, Loyrette, Nouel. At the time, it was the only French law office in Brussels. There was also a German law firm, Gleis. In the 1970s, the issues were mainly related to the development of the Common Agricultural Policy and competition policy. In the 1980s and 1990s, Community law focused on the development of the internal market: free movement of goods, services, capital and persons. Over the years, Community law came to have increasing influence on national

practical proposals to improve the effective application of Community law for citizens" because "while the law applicable to companies and agricultural policy rules are generally well applied, the same cannot be said for laws relating to ordinary citizens". By organising this conference, the French Bar and the Delegation of French Bars have chosen to demonstrate their interest in European integration and their involvement with a view to a successful French EU Presidency. With this event, French lawyers wish to make their contribution to the challenge of bringing Europe closer to its citizens. Our objective is to highlight the achievements of European integration for EU citizens and to illustrate the added value of building a European area of security, justice and freedom. We also wish to stress the essential role played by lawyers, who have the task of making the instruments made available by Community law more accessible and more intelligible to citizens. Indeed, lawyers must be one of the principal vehicles for narrowing the gap between citizens and justice and law in Europe. ■

INTERVIEW WITH JONATHAN FAULL, DIRECTOR-GENERAL AT THE EUROPEAN COMMISSION

'European rule of law' is cement that holds Union together

By Nathalie Vandystadt

Jonathan Faull has held the post of director-general of the European Commission's Justice, Freedom and Security department since 15 March 2003. He gives to Europolitics his vision of this policy area.

EU law was originally more focused on the internal market. Will we witness a rise of European civil law, such as family law or intellectual property law?

Yes, this is definitely one of the directions EU law is taking. Justice and Home Affairs has emerged in recent years as an important policy domain on the European agenda. Civil law questions are becoming more important as Europeans and their businesses interact with each other. Similarly, the single market, globalisation and world market developments have made intellectual property an issue of growing importance.

How can European competition law

respond to the growing challenges of globalisation?



Faull: EU initiatives are certainly not "absent"

As markets become more international in scope, more mergers and acquisitions require European attention and more cooperation is needed with competition authorities around the world.

If the EU Court of Justice is becoming more powerful, is it because European law is developing or is it the result of an absence of EU initiatives?

The more laws and member states there are, the greater the responsibilities of the

EU become and the more we need a court giving authoritative rulings to ensure justice and consistency. So the Court's role is very important. That said, it has been important since the EU started back in the 1950s. Its role in interpreting treaty rules and legislation is crucial. A political-legal system with so many participants and languages needs a court to provide coherence. Meanwhile, EU initiatives are certainly not

"absent".

Can we speak about a 'European rule of law'?

Yes, definitely. It is a great originality and success of the EU to have created a unique system of international cooperation with sharing of sovereignty under the rule of law. The 'European rule of law' is the cement that holds the Union together. ■



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Free movement of lawyers gets good report

By Nathalie Vandystadt

The free movement of lawyers in the European Union works rather well, according to the European Commission, which says that it has not received any "substantial complaints" from this profession. It is important to add that the Council of the Bars and Law Societies of the European Union (CCBE) had actively participated in drafting Directive 98/5/EC on lawyers' freedom of establishment. Until then, the profession was governed by Directive 77/249/EEC on the free movement of their activities.

Now, any lawyer certified to practice in a member state can "permanently practice in any other member state their profession with the qualification from their country of origin". Knowing that they have the possibility to practice the law of their country of origin, the law of their host country and Community law, as well as the activities of a local lawyer, particularly counsel and legal representation. On this last point, the host country can

nonetheless impose on a foreign lawyer to act in consultation with a lawyer certified with the jurisdiction referred to.

There are two conditions to be respected: they must be a lawyer in their country of origin and be native of a member state.

There could have been one pitfall, according to the Commission: Luxembourg tried to impose linguistic conditions on lawyers native to another EU country and wanting to work there. Therefore, a British lawyer would be refused inclusion on the roll of lawyers for not proving his linguistic abilities. Luxembourg was ultimately dismissed in 2006 by the EU Court of Justice, which had been asked to rule on the matter.

PETITIONS

In November 2007, the Liberals' group in the European Parliament had, however, reported "numerous barriers, both visible and invisible," to free establishment. Italian MEP Luciana Sbarbati said she had received a petition from an Italian lawyer and other individual demands. This, at

the time, had surprised the CCBE, as the few complications had been settled amicably within the European association (for example, the principle of double ethics that a lawyer practicing in another member state is subject to and which posed some minor problems).

Beyond the practical concerns – VAT rates or robes, linked to Directive 89/48/EEC on the recognition of qualifications – Marti de Anzizu, a lawyer in France and Spain, also pointed out problems arising from the directive on establishment: competition, insurance, civil liability (the host member state must recognise the origin state's civil liability, but in practice the recognition of equivalency is delicate) and double ethics.

The Commission has postponed the delivery of its report on the 1998 directive, giving the 12 new member states time to test it before assessing its functioning. The CCBE is working of the problems encountered so that all these points are covered in a future revision. ■



Gide Loyrette Nouel

AVOCATS - ATTORNEYS AT LAW

Gide Loyrette Nouel A.A.R.P.I.

View Building

Rue de l'Industrie, 26-38

1040 Brussels

Tel. +32 (0)2 231 11 40

gln.brussels@gide.com

www.gide.com

Contact Partners

Olivier Prost

Stéphane Hautbourg

With 40 years experience in Brussels, Gide Loyrette Nouel is renowned for its expertise in competition, merger control, distribution law and consumer protection, as well as international trade / WTO and EU regulatory law. Gide lawyers act both as legal advisers and appear as advocates before the French and European courts.

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Competition law becoming more accessible to citizens

By Hugues Parmentier and Ségolène Nusbaumer(*)

Among the main areas of Community law, competition law is not one to which citizens seem to have the greatest access.

It is a fact that the purpose of the policy that underpins it is often misunderstood. The inclusion of free and fair competition as one of the Union's objectives, seen as 'ultraliberal', was one of the many causes of rejection of the European Constitutional Treaty by French voters in 2005.

The reference to this objective was deleted from the Lisbon Treaty, for fear of it being misunderstood again.

Yet, as the spokesman for Commissioner Neelie Kroes remarked recently, "competition policy consists primarily in enforcing the rules to ensure that companies compete with each other to sell their products, innovate and offer attractive prices to consumers".

Community competition law has always attached importance to citizen-consumers.

First, in terms of objectives, the aim of competition law "is not consumer protection [and it] is not the auxiliary of consumer law".

However, over and above protection of the working of the market itself, the protection of economic operators – including consumers – is a foundation of competition law.

Second, in terms of methods, in assessing anti-competitive practices, the test of injury to consumers is essential.

What is more, "progress for the Community as a whole, and thus for consumers, can justify an individual exemption, [and] the definition of the relevant market is based on consumers".

But beyond this objective and these methods arises the question of the type of practical actions to be implemented to guarantee effective access by citizen-consumers to competition law.

This concern has emerged only recently.

Indeed, unlike the United States, the drive to combat anti-competitive practices was originally placed primarily in the hands of the competition authorities

(public action) empowered to impose administrative sanctions (particularly fines).

It was the judgement handed down by the European Court of Justice in the Courage and Crehan case (C-453/99),

The aim of competition law "is not consumer protection [and it] is not the auxiliary of consumer law"

on 20 September 2001, that marked a turning point by expressly recognising that the victims of infringements had grounds to seek redress for the damage they had suffered (civil action).

The modernisation of Community competition law by Regulation 1/2003 also constituted an important step since it extended the role of national judges, ie those closest to citizen-consumers. According to this regulation, "national courts have an essential part to play in

The modernisation of Community competition law also constituted an important step since it extended the role of national judges

applying Community competition rules. When deciding disputes between private individuals, they protect the subjective rights under Community law, for example by awarding damages to the victims of infringements".

THE WHITE PAPER'S PROMISES

From the start of her term of office, in her speech to the European Parliament in November 2004, Commissioner Kroes pointed out the important role consumers should play in competition law. That is why the most recent sector investigations conducted by the Commission's Directorate-General for Competition have focused on areas of activity that directly concern consumers: air

transport, mobile phones, energy, retail banking and pharmaceuticals. This makes competition policy and law more tangible. To supplement this approach, DG Competition created last June, in its Policy and Strategy Directorate, a special unit responsible for relations with consumers (Unit A6). It also made a 'user's guide' widely available last spring.

To facilitate private actions, which are currently few and far between, the Commission published a white paper last April on damages actions for breach of Community anti-trust rules.

The green paper that preceded it adopted an activist approach, noting that "by being able effectively to bring a damages claim, individual firms or consumers in Europe are brought closer to competition rules and will be more actively involved in enforcement of the rules".

This white paper proposes a new model aimed at eliminating the obstacles capable of deterring consumers and companies from seeking redress.

One of its key proposals calls for the creation of collective redress mechanisms, particularly through representatives, which would allow groups of victims, all having suffered individual injury but in a limited amount, to go to court.

Another essential recommendation concerns disclosure of evidence.

The Commission recommends, as is already the case for its decisions, that the final decisions of the competition authorities of the member states be considered sufficient proof of the existence of the infringements challenged in the actions for redress initiated subsequently.

Thus, armed with a decision by an authority, complainants would have a document that could be used immediately to assert their rights. In such cases, the public action places itself at the service of the private action, proof that citizens' access to competition law could truly renew this field of law. ■

(*) The authors are a lawyer and a trainee, respectively, at Gide Loyrette Nouel in Brussels

Union strengthens tools of European judicial area

By Nathalie Vandystadt

The creation of a European public prosecutor's office is not likely to happen any time soon, especially as long as justice remains subject to the rule of unanimity by the 27 member states, in the absence of the new Lisbon Treaty. Even after a switchover to qualified majority, such a decision is likely to encounter resistance.

Under the impetus of the French EU Presidency, however, the slow maturation of the European judicial area, for both penal and civil matters, is picking up speed. At the Justice Council, on 25 July, Paris secured a political agreement on the reinforcement of Eurojust, the EU body that brings together 27 national judges (or high-level prosecutors), along with a "general approach" to the consolidation of the European Judicial Network for criminal matters. These reforms are "anything but negligible," according to the experts.

Eurojust, set up in 2002 to enhance the effectiveness of the member state authorities when they deal with serious forms of cross-border organised crime (terrorism, fraud, trafficking in human beings, etc), has been given new powers.

Emphasis is placed on operational capacity, particularly for the joint investigation teams (enabling judges and investigators from different member states to work together directly on the same case and to carry out joint investigations). Under the political agreement, this cooperation will no longer be limited to the coordination of investigations and prosecution. Eurojust members will be able to take special investigative measures, have better access to national criminal records and participate in joint investigation teams. Eurojust may even in the future settle conflicts of jurisdiction between member states. Lastly, the EU will reinforce its judicial cooperation with third countries by enabling Eurojust to place liaison judges on secondment in these countries.

On the European Judicial Network in civil and commercial matters, which has created 'contact points' between national judges, the main innovation proposed by the Commission resides in opening up the network to the legal professions (barristers, solicitors, bailiffs), with the backing of the Council of Bars and Law Societies of Europe (CCBE). Some countries have already taken the lead, Belgium, for example, with its integration of the Chamber of Bailiffs, and France, with its Higher Council of Solicitors.

There is nevertheless the problem of "a growing number of judicial cooperation bodies in Europe," notes Jean-Luc Warsmann, chairman of the French Senate's Committee on Laws. "More exhaustive cooperation" between the different networks would significantly boost the effectiveness of legal cooperation, he maintains.

In any case, that is the aim of the reforms the French EU Presidency hopes to push through by the end of December. ■

EU to go electronic for its legal communication

By Nathalie Vandystadt

Though the European legal space is advancing slowly, it does so assuredly with the help of new technologies. The e-justice project, presented by the European Commission on 30 May, will certainly contribute to this modernisation of European justice, and, as a result, will improve citizens' access to justice. "It is not only a matter of new technologies," stressed French Justice Minister Rachida Dati, whose country currently holds the EU Presidency, "but of a justice that can be explained, which can be read through the interconnection of criminal records and the possibility for citizens to access judges and legal aid".

E-JUSTICE

The method, however, is not completely new. The EU already has portals on Community law (Eur-Lex or N-Lex), case law portals, such as the one for the presidents of the supreme judicial

courts (www.network-presidents.eu), or the European Judicial Network in civil and commercial matters (ec.europa.eu/civiljustice).

But the e-justice initiative must go further: the creation, in 2009, of a European portal linking all the existing sites, a permanent aid for translation and interpretation in procedures, particularly criminal, the interconnection of company registers, and, in particular, criminal records. Thirteen member states have already committed to this networking of criminal records accessible to judges and law enforcement services from throughout the EU. And among these pioneers, six countries (Germany, France, Spain, Belgium, the Czech Republic and Luxembourg) are already connected.

In parallel, the Commission proposed to the Council creating a European Criminal Records Information System (ECRIS). Its objective is to encourage member states to exchange information

through joint interconnection software and automatic translation mechanisms. Because, in this field, everything needs to be done, "as national jurisdictions often hand down punishments solely on the basis of the sentencing record produced by the member state," stresses the Commission. The securised infrastructure will be European, but the criminal records forming it will be exclusively held in databases managed by member states.

The EU has significant progress to make in terms of civil law. According to a Eurobarometer published in April 2008, only 17% of Europeans judged the access to civil justice in another member state to be easy, such procedures only involving 2% of them. The reasons? The lack of information on the rules which are applied, but also linguistic problems, the cost, and more generally the lack of confidence in the procedure's outcome. However, according to this European survey, 74% ask for measures to help them exercise European law. ■

Reinforced cooperation to facilitate binational divorces?

By Nathalie Vandystadt

Due to lack of unanimity, a 'small Europe of divorce' seems to be on the horizon. It is true that, even if the two partners are EU nationals, going ahead with the dissolution of a binational marriage can quickly become a legal headache. Who is the competent judge? What is the applicable law? On the questions of 'conflict of jurisdictions' and 'conflict of laws', Community law says nothing. The European Commission did make a proposal, in July 2006, known as 'Rome III', modifying the legislation to introduce common rules on the conflict of laws and the competent jurisdiction in matrimonial matters, in particular divorce¹. But, in June 2008,

Sweden, worried about retaining its more liberal national law, vetoed it. Any subject pertaining to family law requires unanimity.

But progress could nonetheless be made. About ten countries – Romania, Hungary, Austria, Spain, Italy, Slovenia, Luxembourg, Greece, France and Bulgaria – want to move forward. Especially because the subject – visible and concrete – interests European citizens as well as their courts: the EU has 350,000 binational marriages and 170,000 binational divorces each year. These figures will rise further with the EU's geographic enlargement and the abolition of borders. Since the Justice Council, on 25 July 2008, the question of using 'reinforced cooperation', ie a formal initiative allowing a small group of member states to implement the European Commission's proposal, has been raised. In fact, eight countries asked for it and 'reinforced cooperation' only requires gathering eight countries (France supports the initiative without officially announcing it to respect the neutrality obligations of the EU Presidency, and Bulgaria is coming around to the idea).

This moment is historic. The 'reinforced cooperation' mechanism has been avail-

able since the 1997 Treaty of Amsterdam, but it has never been activated due to lack of political will. Some see in the initiative of these eight countries the spectre of a 'two-speed Europe', following the example of Estonia, which evoked "opening Pandora's



The EU has 350,000 binational marriages and 170,000 binational divorces each year

box". This concern is shared by Poland, the Czech Republic, Finland and Latvia.

COMPLEX SITUATIONS

However, the status quo remains likely to increase the number of slightly different situations as matrimonial law varies so much from one country to another. For example, if an Italian-Portuguese couple married in Italy want to divorce, and the husband decided to return to Portugal and the wife to remain in Italy, they would certainly have the choice of jurisdiction, but the Italian court will usually apply the law of the country where the marriage was mainly spent, while in Portugal, it is the law of the usual country of residence which prevails. On the other hand, an Italian couple living in Germany will not be able to divorce there: in their case, it is the law of their shared nationality – Italian – which will be applied. In France, Belgium and Germany, divorce is officially linked to some of its consequences (alimony, partition of goods, allocation of family home, child custody, etc). This may pose problems for one of the divorcees. For Sweden, however, if the national judge is competent, he applies the 'lex fori', in other words, his own.

At this stage, the Commission may or may not propose another draft. Justice, Liberty and Security Commissioner Jacques Barrot, however, has no intention to divide Europe: "We are examining it [the request for 'reinforced cooperation'] without taboos, but we want to see all the consequences that that involves," he had said in July.

The rules in the conflict of laws set out in the proposal aim to make it so that, no matter where the married couple present their request for a divorce, the courts of a member state usually apply the same substantive law (avoiding 'forum shopping').

If it is presented, the 'reinforced cooperation' proposal will have to clear the hurdle of qualified majority, which has not yet been

gathered. Sweden announced that it would not oppose it, and the UK, the Netherlands and Ireland have implied that they will not participate. But many others – Germany, Belgium, Portugal, Lithuania and Slovakia – are hesitating. There has never been a question of harmonising the divorce laws, nor of creating the possibility that a married couple, in the framework of a divorce or legal separation procedure, can choose the competent court by joint agreement and define the applicable law in the framework of this litigation. If no law can be chosen by the couple, the text would introduce 'conflict of law' rules. France, which holds the EU Presidency, is counting on the pressure of the applicant countries: "Reinforced cooperation is not a tool against Europe, but a way of starting with some to convince others. It is a convincing tool," said French Minister of Justice Rachida Dati, rejecting any notion of 'division'. ■

(1) Regulation 2201/2003/EC, called 'Brussels II bis', deals with provisions on the competent jurisdiction for cross-border divorce and child custody, but does not cover the question of applicable law.

Criminal sanctions for pollution at sea

By Isabelle Smets

On 11 March 2008, the European Commission presented a proposal for a directive which establishes acts of intentionally committed maritime pollution or following serious negligence as criminal infringements. That was the final chapter in a saga which began five years beforehand and saw the EU Court of Justice decide in favour of the Commission at the end of a Homeric struggle with the Council of ministers over the right to demand that EU member states punish this deliberate harm to the environment.

THE 'THIRD PILLAR' ARGUMENT

In March 2003, a proposal for a directive qualified maritime pollution committed in certain circumstances as "criminal infractions". The proposal was minimal: it contented itself to qualify these acts as criminal infractions, but, in no case did it define the type or level of sanctions to be applied. These essential definitions were supposed to be established in an EU Council framework decision, which should have been adopted at the same time, but falling under an intergovernmental decision (the 'third pillar' of the Treaty of Nice).

This approach went too far for the EU27, which, for more than 18 months, asserted that even the principle of criminal sanctions could not be decreed by a Community legislative act ('first pillar'). Put

clearly, that a directive could not oblige member states to qualify certain infractions as criminal. Before this deadlock, the Commission and the Parliament decided to give up and Directive 2005/35/EC that was finally adopted contented itself to state that certain acts of maritime pollution must be considered infractions and sanctioned appropriately. It is the Framework Decision 2005/667/JHA, adopted at the same time, which qualifies these infractions as "criminal," specifying the nature, type and the level of sanctions. However, it was a question of a 'third pillar' decision, therefore without the possibility of appeal to the Court of Justice in the event of shortcomings from a member states. This was an incontestable weakness in the eyes of the Commission and Parliament, for whom a directive mute on criminal sanctions would never have the dissuasive effect that they had hoped for.

SEPTEMBER 2005: THE TURNING POINT

However, things did not stay this way. On 13 September 2005, exactly two months after the adoption of the controversial directive, the EU Court of Justice annulled a framework decision of the Council on the protection on the environment by criminal law (Case C-176/03). Reason: this act reserves the decision to use criminal sanctions to the member states alone, since it is an act falling under the 'third pillar'. Now, states the Court, nothing prevents

the Community legislator from taking measures which force the member states to intervene at a criminal level if it is necessary to combat the serious harm to the environment. This was a decisive ruling as it finally recognised the competence of the Community in criminal matters.

The opportunity was clearly too good for the Commission which, in its wake, decided to lodge an action for annulment of the Framework Decision on maritime transport (Case C-440/05). Coherent, the Court ruled in its favour, on 23 October 2007. The obligation to criminally sanction intentional maritime pollution or maritime pollution following serious negligence should have been decreed, said the judge, in the framework of the Common Transport Policy. And therefore be in a directive, and not in a framework decision.

Moreover, the Court went a step further in defining this competence. The 2005 ruling left open the delicate question of the circumstance in which the Community is competent to demand criminal sanctions. The Court pasted over this lacuna: the Community legislator can impose criminal sanctions if they are necessary to ensure the effectiveness of environment protection norms and on condition that they are indispensable in the fight against serious environmental infractions. This is clearly the case with the fight against maritime pollution. ■



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Unlike lobbyists, lawyers are part of the judicial system

By Spyros A. Pappas (*)

The penetration of Community law in the European citizens' every day life converges to the conclusion that legal expertise in Community law has already become indispensable for the legal treatment of most cases. Be it, by way of example, in the competition field or in public procurement, environment or agriculture, even health that is not a Community competence, legal problems may find their solution at the European level quicker, in a binding or guiding manner, depending on the policy field. Legal tools such as complaints lodged with the European Commission, preliminary rulings by the Court of Justice of the European Communities or direct applications to it, and public debates in the European Parliament may prove to be either definitive or influential ways to attaining a satisfactory result.

The policy element that is inherent in the legal advice at the European level brings lawyers close to the lobbyists. In an effort to enhance public confidence and trust, the European Commission established a voluntary register to bring more transparency to interest representation, its actors and their activities. In its original proposal for a code, it proposed to "exclude activities performed by independent members of the professions providing legal advice, such as lawyers, insofar as such activities relate to the exercise of the fundamental right to a fair trial of a client, including the right of the defence in administrative proceedings". The Council of Bars and Law Societies of Europe (CCBE), representing the European lawyers, found this exemption far too narrow and proposed that the following are excluded from the definition of 'interest representation': "a. all activities carried out by a lawyer in the sense of Directive 77/249/EEC and Directive 98/5/EC in connection with any representation of a client in judicial, quasi-judicial, administrative, disciplinary and other proceedings; b. all activities concerning legal advice in the context of the political and decision making processes of the European institutions; and c. all responses following a request by the European institutions...."

In fact, it is common ground in all member

states that client confidentiality is a core value of the professional code of deontology for all lawyers in the EU as this is also recognised by the case law of the Court of Justice of the European Communities (C-309/99). However, an oral amendment during the debate



Pappas: Belonging to a bar is an honour

of the Commission's proposal before the Committee on Constitutional Affairs of the European Parliament led to the inclusion of giving legal advice under the definition of lobbying. That caused another reaction by CCBE that urged the European Parliament to exclude legal advice from the definition of lobbying. An amendment tabled by the EPP-ED and the ALDE groups to the report changed the definition of lobbying to include lawyers only when their purpose is to "influence policy rather than to provide legal assistance and defence in legal proceedings or to give legal advice". The final communication from the Commission on the European Transparency Initiative (SEC(2008) 1926/27.5.2008), excluded from it "activities concerning legal and other professional advice, in so far as they relate to the exercise of the fundamental right to a fair trial of a client, including the right of defence in administrative proceedings, such as carried out by lawyers or by any other professionals involved therein".

The fact that the Commission felt the need to propose a register shows that there is a public problem of how to safeguard objec-

tivity in the definition and formulation of Community policies. The problem is new in Europe and coincides with the practice of lobbying. However, it would be unfair to say that the problem emerged exclusively because of the lobbyists' activism. Isn't it the

Commission itself that proclaimed in the white paper on the European governance and favoured a participatory decision making it an effort to prove its democratic legitimacy? Lobbyists just went on the carpet opened to them. Hence, the question is whether this new phenomenon constitutes a problem that is caused by the outsiders trying to influence the institutions, namely the Commission, or rather by the insiders who cannot manage themselves vis à vis the outsiders? Isn't this after all an internal managerial problem that has been addressed by recommending external measures (registration)? Will registration of lobbyists 'lato sensu' resolve the problem? Probably not. Even if there is improvement, there will always be ways to escape. What matters is internal culture and openness. In any event, what is certain is that lawyers exist since ever, whereas the phenomenon is new. Consequently, they are not part of it.

More importantly, lawyers have always been considered to be parts of the system of justice performing in a public mission. Therefore, they are trained accordingly, checked for a long time before they take their professional oath, registered with a bar, bound to strict deontology codes and continuously accountable. Belonging to a bar is already an honor and commitment that is more binding than any law. Putting lawyers under the obligation to declare their cases/clients as if they were assumed to manoeuvre contrary to their professional obligations, irrespective of the incompatibility with the confidentiality barrier, downgrades their public contribution and might ultimately have negative results. Wouldn't it be more opportune instead to upgrade lobbyists by letting them get organised likewise lawyers are? ■

(*) Attorney-at-law, founder of the Pappas & Associates Law firm, former director-general in the European Commission and judge in the Hellenic Supreme Court

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EU/CANADA

Launch of talks on new economic partnership in jeopardy

By Sébastien Falletti

Paris and Ottawa's push for an ambitious transatlantic economic rapprochement during the next Canada-EU summit, on 17 October in Montreal, is thwarted by the reluctance of the European Commission to engage in brand new negotiations. The launch of talks on a broad and comprehensive bilateral economic partnership during the summit, as originally hoped for by the French EU Presidency and Canada, is not on the agenda any more. Instead, the Commission wants first to reopen discussions about some of the most sensitive issues included in the previous negotiations, which have been frozen since 2006. This sectoral approach falls short of the expectations of Canada, which wants to strengthen its ties with the Old Continent to reduce its dependency on the US.

Instead formally kicking off a new negotiation round, the summit would "set events in motion by defining the steps towards an enhanced, ambitious and balanced economic partnership," indicated a draft letter from Nicolas Sarkozy, the French president, and José Manuel Barroso, the European Commission's head, to Canadian Prime Minister Stephen Harper and seen by *Europolitics*. This wording confirms the lowering of the initial ambitions of the French Presidency.

The EU wants first to test Canadian determination to negotiate before engaging in new talks. Therefore, it is proposing to reopen some of the most sensitive issues that blocked

the negotiations for a previous trade and investment enhancement agreement (TIEA), which have been stalled since 2006. "Negotiations could be relaunched at the summit on a number of non-tariff issues, with the aim of achieving initial results by the end of the year," propose Sarkozy and Barroso. The talks would include "public procurement, intellectual property, geographical indications, regulatory cooperation, job mobility and recognition of qualifications". Only quick and concrete progress would open the door to a new economic partnership.

COMMISSION CAUTIOUS

This cautious approach is the result of pressure from the European Commission, which is less enthusiastic than France about the idea of negotiating a new trade deal with Ottawa. Peter Mandelson, the EU trade commissioner, is focussing his efforts on Asia, where he is negotiating free trade agreements with Korea, the ASEAN and India, as outlined in the Global Europe strategy adopted in 2006. He believes emerging markets should be the priority of the EU's trade strategy. He was already cool on German Chancellor Angela Merkel's plan to establish, in 2007, an EU-US economic council in order to boost transatlantic trade.

Moreover, the Commission's negotiators have bad memories of the failed TIEA talks, which were stalled notably because of the refusal by some Canadian provinces to open sectors such as public procurement. Despite

the unprecedented support expressed over the summer by all the Canadian provinces and despite Ottawa's push in favour of a new economic partnership with the EU, European negotiators remain cautious. They want to see first whether Canada is ready to show some flexibility in addressing some of the key European interests.

This approach has disappointed Canada, although no official statement has been made so far by Ottawa. "We do not like this sectoral approach," said a Canadian diplomat, who believes it is a way for the EU to get concessions on some sensitive issues such as geographic indications or public procurement, without giving something in return. However, Canada is still hopeful that France and several like-minded member states will manage to win over the Commission's concerns.

The summit in Montreal, which will coincide with the 400th anniversary of Quebec and the summit of the French-speaking world, is a golden opportunity for Nicolas Sarkozy to dramatically upgrade the EU's relations with Canada. However, the decision made by Stephen Harper to call for general elections on 14 October might complicate France's push for a landmark summit. If Sarkozy does not get his way on trade, he will insist on his determination to "enhance significantly" cooperation on foreign relations, energy and the environment. Climate change could remain a divisive issue, since Canada is reluctant to agree on new binding targets. ■

EU/VIETNAM/CHINA

Commission rebuked over anti-dumping duties on footwear

By Sébastien Falletti

Chinese and Vietnamese footwear have triggered a new anti-dumping war within the EU, on 17 September, in Brussels. For the first time ever, member states have rejected a proposal from the European Commission to open an expiry review that would have kept in place for at least 15 months the 16, 5% and 10% extra duties imposed, respectively, on Chinese and Vietnamese leather shoe producers. Fifteen member states expressed their opposition to the Commission's plan, while 12 voted in favour during a long-awaited

meeting of the anti-dumping committee.

The coalition in favour of dropping the measures included the UK, Sweden, Denmark and Germany, while Austria, France, Italy and Spain wanted to maintain the duties for as long as possible. "This is a clear indication of the opposition to these unnecessary measures," said Jan Eggert, secretary-general of the Foreign Trade Association, which has been fighting hard against those measures imposed in 2006. "This is a good result for the European importers and retailers and also for the European consumers," he added.

Two years after the outbreak of the

controversy over issue of Chinese and Vietnamese footwear, the rejection of the expiry review leaves the Commission in a tricky situation again. Further discussions with the member states and within the college will probably be needed. The latter could expose the opposition between Günter Verheugen, the commissioner for industry who supports a strong anti-dumping policy, and Peter Mandelson, his colleague in charge of trade, who would prefer to drop the measures. The clock is ticking tough: if no agreement is found by 6 October, when the measures expire, the duties will be gone forever. ■

ESDP CHAD-CAR MISSION**Low-key mid-term assessment for preparing post-EUFOR**

By Nicolas Gros-Verheyde

Javier Solana, the high representative for the EU's Common Foreign and Security Policy, will be turning in to the United Nations, on 24 September, his assessment report on the EUFOR military mission in Chad and the Central African Republic (CAR). This mid-term review is prescribed by the UN resolution establishing the mission's international framework and the EU joint action establishing its European framework. "The security situation remains stable but fragile. The underlying causes of the conflict should not change significantly," explains the high representative. He hopes that the Security Council decision, expected in late September, will allow for "clarification of the objective and channels for the future planning effort," in short, that it will determine who will take over the EUFOR operation on 1 March 2009.


The force, "whose full deployment is planned for September," is perceived "positively," notes the report. It enables humani-

tarian players to operate "effectively" and "to facilitate the full deployment of MINURCAT", the UN Mission in CAR and Chad

"EUFOR and MINURCAT are not in a position to directly address the problem of cross-border movement by armed groups"

(primarily police forces). But the document makes no secret of the "challenges" of maintaining a safe "humanitarian area" in the region and of the "militarisation of camps of refugees and displaced persons". The international humanitarian community "must deal with the security threats that are paralysing its effort". Crime is "endemic and widespread". And while rebel activity remains "sporadic" and the overall security situation has "remained relatively calm during this period, with few incidents involving the EUFOR", the main threat to secu-

rity and a safe environment is "crime, which has a direct impact on the civilian population and humanitarian efforts". The outlook is a bit less optimistic at the UN, according to an initial interim report by the secretary-general. "EUFOR and MINURCAT are not in a position to directly address the problem of cross-border movement by armed groups. Furthermore, their mandates limit the role of the two missions to addressing only the consequences and not the issues underlying the conflict in Chad," writes Ban Ki-moon, referring to the political instability in Sudan and Chad and the "tense relations between these two countries". NGOs are also pessimistic, calling MINURCAT into question more than EUFOR. In a report that came out in early September, Oxfam states that "one year after the start of the mission, the policing elements are still not operational and European troops are struggling to deal with the lawlessness and growing banditry". ■

 The reports are available at www.europolitics.info > Search > 233211

In Brief

EU trade deficit inching up

The first estimate for the July 2008 extra-EU trade balance was a deficit of €21.5 billion, compared with -€13.6 bn in July 2007 and -€20 bn in June 2008, according to data published by Eurostat on 17 September. In July 2008, compared with June 2008, seasonally adjusted exports rose by 3.9% and imports by 4.1%. The EU's trade surplus fell with the USA, while it increased with Switzerland. The trade deficit grew with Russia and Norway and remained nearly stable with China and Japan. Concerning the member states, the largest surplus was observed in Germany (+€103.2 bn in January-June 2008), followed by the Netherlands (+€21.8 bn) and Ireland (+€13 bn). The United Kingdom (-€61.1 bn) registered the largest deficit, followed by Spain (-€50.2 bn), France (-€31.9 bn) and Greece (-€18.1 bn).

Verheugen "shocked" by influence of lobby groups

Enterprise and Industry Commissioner Günter Verheugen has said he was "shocked" when he realised how often the EU's legislative process is "triggered" by lobby organisations and interest groups. "Simply the result of pressure from one interest group is presented as something that is important for the public, but it is not. More often it is only representing one group or even one company," he said at a conference on better regulation that was organised, on 10 September, by the European Institute of Public Administration and the Bertelsmann Foundation. (MSL)

Poland to adopt euro in 2012 and not 2011

Polish Prime Minister Donald Tusk has corrected his objective for his country's entry into the eurozone, implying that it would be 2012, and not 2011 as he had announced the week before (see *Europolitics* 3594). "2011 must be the year in which Poland will observe the criteria and the year of a positive decision by the European Commission with regard to Poland's entry into the eurozone," declared the prime minister, on 17 September. He did not give a date in 2012 but, traditionally, the EU authorities (the Commission and the Council) do so in the year preceding entry into the eurozone.

In Brief

Ferrero-Waldner meets Azeri foreign minister

The meeting of External Relations Commissioner Benita Ferrero-Waldner with Azerbaijani Foreign Minister Elmar Mammadyarov, on 16 September in Brussels, focused on the situation in the South Caucasus, bilateral cooperation on energy and strengthening of the relationship between the EU and Azerbaijan, including in the framework of the implementation of the European Neighbourhood Policy Action Plan. Ferrero-Waldner and Mammadyarov paid special attention to the perspectives for a peaceful settlement of the conflict over Nagorno-Karabakh. Commissioner Ferrero-Waldner said: "I fully support the territorial integrity of Azerbaijan and a negotiated, peaceful solution to the conflict over Nagorno-Karabakh. I am committed to our close cooperation with Azerbaijan and the countries of the Caucasus region in order to achieve political and economic stability, which is in the interest of all of us".

State aid investigation at SNCB

The European Commission will have to investigate possible subsidies illegally exchanged within the SNCB group (Société Nationale des Chemins de fer Belges), after receiving a complaint lodged by the European Rail Freight Association (ERFA). The sums at stake amount to a little more than €420 million in public money, which the company may have reserved for commercial activities. In early September, a report from the Belgian Court of Auditors, published in the press, talked of a funding process which "can be exposed to criticism from the EU state aid rules". (ISM)

Call for liberation of Aung San Suu Kyi

Meeting informally, on 16 September, eleven Sakharov Prize winners called for the immediate liberation of the Burmese activist Aung San Suu Kyi (Sakharov Prize 1990) and of all political prisoners in Burma (Myanmar). Head of the National League for Democracy, the winning party in the 1990 elections, Aung San Suu Kyi has been under house arrest since May 2003. The signatories are: Adem Demaçi (1991 winner), Taslima Nasreen (1994), Wei Jingsheng (1996), Salima Ghezali (1997), Dom Zacarias Kamwenho (2001), Oswaldo José Paya Sardinias (2002), the Belarusian Journalist Association – BAJ (2004), Hauwa Ibrahim (2005), Reporters Without Borders (2005), Alexander Milinkevich (2006) and Salih Mahmoud Mohamed Osman (2007). This call comes just a few weeks after the twentieth anniversary of the Sakharov Prize, awarded by the European Parliament to reward those fighting for the defence of human rights. (Contact rsf_eu@rsf.org).

MEPs' declaration on terrorism blacklist

Several MEPs - Paulo Casaca (PES, Portugal), Jan Zahradil (EPP-ED, Czech Republic), Vytautas Landsbergis (EPP-ED, Lithuania), Piia-Noora Kauppi (EPP-ED, Finland), Tunne Kelam (EPP-ED, Estonia) and Vice-President Alejo Vidal-Quadras (EPP-ED, Spain) - adopted, on 16 September, a declaration criticising the EU Council for having kept the main Iranian opposition party, People's Mujahedin of Iran (PMOI), on the EU's terrorist list. Several European political personalities, as well as Maryam Radjavi, the elected president of the National Council for the Resistance of Iran, and other jurists attended a conference organised by the European

Parliament to defend a group which renounced violence in 2001. "The Council has not succeeded in supporting or justifying its decision by the precise, serious and credible information that the law requires," says a press release from the National Council for the Resistance of Iran. According to the declaration, the Council has seriously violated the text and the spirit of EU law concerning its terrorism list, and a fundamental right set out by Community legislation: the right to defence. The PMOI criticises the Council for not giving it the opportunity to defend itself on any occasion, stating that it does not know what evidence the Council's decision is based on. These MEPs have also created a new committee demanding the removal of the PMOI from the blacklist. (NVA)

Marseille European capital of culture in 2013

Ultimately, it is Marseille that was chosen, on 16 September, as the European capital of culture 2013 for France. Four cities were still in the running after the pre-selection meeting last December: Bordeaux, Lyon, Marseille and Toulouse. The formal naming of Marseille by the EU Council should take place in May 2009. France and Slovakia are the two member states which will host a European capital of culture in 2013. On 9 September, Kosice was recommended as the European capital of culture for Slovakia. The examination of candidates was entrusted to an international jury made up of 13 members: six appointed by the country concerned, and the seven others by the EU institutions. This year, the European capitals of culture are Liverpool in the UK and Stavanger in Norway. Further information is available at ec.europa.eu/culture/our-programmes-and-actions/doc413_en.htm (CSA)

EU Agenda

Thursday 18

EUROPEAN PARLIAMENT

THE PRESIDENT'S DIARY

10:00-10:30 *Brussels*

■ 10.00 - Meeting with President of the Andalusia region, Manuel Chaves Gonzalez

PARLIAMENTARY COMMITTEES COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

9:00-13:00

■ Workshop on Microcredit in Europe

PUBLIC HEARINGS

■ European citizens' initiative.

9:00-12:30 *Brussels, PHS 1A2*

The Constitutional Affairs Committee will hold a round table discussion with NGOs on the implementation of the European citizens' initiative, a tool giving citizens members of the public the opportunity to collect signatures to ask the Commission to put forward a proposal on any issues of EU's competence. The hearing will contribute to the drafting of the guidelines for a regulation on the implementation of the citizens initiative, by rapporteur Sylvia-Yvonne Kaufmann (GUE/NGL, DE).

Contact: Federico De Girolamo, constitpress@europarl.europa.eu, (32-2) 28 31389 (BXL), (32) 0498.983.591

COUNCIL OF MINISTERS

CITIZENS' ACCESS TO LAW AND JUSTICE IN EUROPE

Brussels

On 18 September 2008, on the occasion of the French Presidency of the Council of the European Union, the French Bar Association and the Delegation of the

French Bar Association is organising a conference in Brussels on citizens' access to law and justice in Europe.

INFORMAL MEETING OF FAMILY MINISTERS

Institut du Monde Arabe, Paris

This meeting, chaired by Xavier Bertrand, the French Minister of Labour, Labour Relations, Family and Solidarity and Nadine Morano, the French Secretary of State for family affairs, will be one of the major events of the French presidency in the social sphere.

LA RENCONTRE DE SAINT-ETIENNE: FRENCH TERRITORIES, EUROPE AND CULTURE

18-20 September, *Saint-Etienne, Hôtel de Ville*

The association 'Les rencontres', founded for and by elected representatives with responsibility for culture and education from all levels of local government of the European Union and further afield, is a forum for cooperation, debates and actions in the area of the cultural policies of towns and cities, departments, regions, provinces etc.

ACCOUNTING REFORMS IN THE EUROPEAN STATES

18-19 September, *Paris*

The representatives of the 27 EU member states and EU candidate countries are meeting during a seminar to discuss accounting reforms in the European states.

EUROPEAN SEMINAR ON CREATIVE CONTENT ONLINE

18-19 September

Two main subjects will be debated during this seminar :

- Towards which creative online content economy?
- How can legally available content be promoted and how can piracy be combatted?

GENERAL ASSEMBLY OF 'MISSING CHILDREN EUROPE'

18-20 September, *Paris, Bain & Company*

YOUNG EUROPEANS SUMMER UNIVERSITY (FRANCE) ON THE THEME OF THE FRENCH PRESIDENCY

18-21 September, *Clermont-Ferrand, Université d'Auvergne – Amphi Domat*

The Young Europeans Summer University (France) from 18 to 21 September in Clermont-Ferrand, will focus on 'The French Presidency of the Council of the EU: A springboard to the European elections'.

1ST EU-CENTRAL ASIA MINISTERIAL FORUM ON SECURITY ISSUES

Château de la Muette, OECD headquarters

This Forum will focus on three main issues: terrorist threat and non-proliferation related-aspects, the fight against human and drug trafficking, and energy and environmental security. Our intent is to analyse these security issues together to draw up concrete policies which address them, in a forum of exchange that we hope will last.

EUROPEAN COMMISSION

TRAVEL AND VISITS

■ Mr José Manuel Durão Barroso participates at the European Ideas Network (Rome)

■ Mr Günter Verheugen opens the Tourism Conference (Bordeaux)

■ Mr Jacques Barrot participates in the opening of the French Bar Conference 'Accès du Citoyen au droit et à la justice en Europe' (Concert Noble)

■ Mr Siim Kallas delivers the opening speech : 'The challenge of e-signatures for e-procurement' at a conference on the cross-border use of e-signatures in

e-procurement processes (European Economic and Social Committee)

■ Mr Jacques Barrot receives Mrs Cristina Garcia Ortega, Ambassador and Head of the Mission of the Philippines to the EC

■ Mr Jacques Barrot receives Mr Alexandre Kononov, Russian Minister of Justice

■ Mr Joaquín Almunia in Madrid: Participation in a conference on global financial markets held by the Comisión Nacional del Mercado de Valores (CNMV); participation at a lunch debate held by the Foro Nueva Economía

■ Mr Olli Rehn delivers a Keynote speech at Enlargement Conference (Prague)

■ Mrs Neelie Kroes gives a speech at the Clingendael European Studies Programme (CESP) Conference (Institut Clingendael, The Hague)

■ Mrs Mariann Fischer Boel receives a delegation from the Fédération Française des Trufficulteurs

■ Mr Vladimír Špidla in Brno for the Brno Trade Fair (CZ Republic)

■ Mr Andris Piebalgs receives Mr Philippe Maystadt, President of the European Investment Bank

COURT OF JUSTICE

GRAND CHAMBER

9:30

■ **Opinion C-442/07 Verein Radetzky-Orden**

Approximation of laws

Reference for a preliminary ruling - Oberster Patent- und Markensenat - Interpretation of Article 12(1) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the member states relating to trade marks (OJ 1989 L 40, p. 1) - Trade marks used on business papers, writing paper, on advertising material and in the form of badges by a non-profit-making association in the context of its activity of seeking to preserve military traditions and collecting and distributing donations - Classification of that use as 'genuine use' capable of preserving the rights attached to the mark?

Advocate-General: Mazák

FIRST CHAMBER

9:30

■ **Judgement C-514/06 P Armacell v Office for Harmonisation in the Internal Market**

Intellectual property

Appeal against the judgment of the Court of First Instance (Second Chamber Extended Composition) of 10 October 2006 in Case T-172/05 Armacell Enterprise GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) whereby the Court dismissed an action by the applicant for the word mark 'ARMAFOAM' for goods in Class 20 for annulment of Decision R 552/2004-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 23 February 2005 annulling the decision of the Opposition Division dismissing the opposition brought by the proprietor of the Community word mark 'NOMAFOAM' for goods in Classes 11, 19, 20, 27 and 28

Advocate-General: Trstenjak

■ **Opinion C-391/07 Glencore Grain Rotterdam**

Agriculture

Interpretation of the second paragraph of Article 13 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals - (OJ 1995 L 147, p. 7) - Simplified procedure: obligation to produce transport documents.

Advocate-General: Sharpston

■ **Opinion C-161/07 Commission v Austria**

Freedom of establishment

Failure of a member state to fulfil obligations - Infringement of Article 43 EC - National legislation laying down the conditions of registration of undertakings held by third-country nationals, applicable also to Czech, Estonian, Latvian, Lithuanian, Hungarian, Polish, Slovene and Slovak nationals - Obligation for all members of partnerships and for minority shareholders in limited liability companies who perform work that is typical of an employment relationship to follow a special procedure for determining the applicant's self-employed status, in which he has to

prove his influence on the management of the business he wishes to have registered in the member state

Advocate General : Poiares Maduro

■ **Hearing C-348/07 Semen**

Freedom of establishment

Reference for a preliminary ruling - Landgericht Hamburg - Interpretation of Article 17(2)(a) of Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the member states relating to self-employed commercial agents (OJ L 382, p. 17) - Entitlement of commercial agent to an indemnity after termination of the agency contract - Determination of the amount of that indemnity in a situation in which the benefits which the principal continues to derive from business with customers which the commercial agent brought exceed the his loss of commission

SECOND CHAMBER

9:30

■ **Hearing C-473/07 Association nationale pour la protection des eaux and rivières et Association OABA**

Environment and consumers

Reference for a preliminary ruling - Conseil d'État (France) - Interpretation of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ 1996 L 257, p. 26) - The scope *ratione materiae* of the directive - Installations for the intensive rearing of poultry with more than 40 000 places (subject to an authorisation requirement) (paragraph 6.6 of Annex I to the directive) - Concepts of 'poultry' and 'places' - Whether quail, partridge and pigeon are included within the scope of the directive - If so, whether national legislation which gives weighting to the number of animals per place according to species is admissible

THIRD CHAMBER

9:30

■ **Hearing C-330/07 Jobra**

Freedom to provide services

Preliminary ruling - Unabhängiger Finanzsenat - Interpretation of Articles 43 EC and 49 EC - National legislation reserving a tax advantage in respect of the acquisition of unused tangible assets (Investitionszuwachsprämie) to traders using those assets in a domestic place of business

FOURTH CHAMBER**9:30**■ **Opinion C-282/07 Truck Center**
Free movement of capital

Reference for a preliminary ruling
 - Cour d'appel de Liège (Belgium)
 - Interpretation of Articles 56 EC and 58 EC - Free movement of capital
 - Taxation of legal persons - Withholding tax deducted by the tax authorities of one member state on income from capital allocated by a company established in that State to a company established in another member state - No deduction of withholding tax where that income is allocated to a company established in the same member state - Unjustified difference in treatment or difference in situation justifying different treatment?
 - Effect, in that respect, of a bilateral convention for the avoidance of double taxation

Advocate-General: Kokott

■ **Hearing C-343/07 Bavaria and Bavaria Italia****Agriculture**

Question of the legality of Council Regulation (EC) No 1347/2001 of 28 June 2001 supplementing the Annex to Commission Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ 2001 L 182, p. 3) - If lawful, possibility of adverse effects, brought about by registration of the protected geographical indication 'Bayerisches Bier', on the validity or usability of pre-existing marks of third parties in which the word 'Bavaria' appears

COURT OF FIRST INSTANCE**FIFTH CHAMBER****9:30**■ **Hearing T-316/07 Commercy v OHMI - easyGroup IP Licensing (easyHotel)****Intellectual property**

Community trade mark - Action for annulment brought by the proprietor of the national word mark 'EASYHOTEL' for goods and services in Classes 9, 38 and 42 against the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 19 June 2007 in Case R 1295/2006-2 dismissing the appeal against the Cancellation Division's decision which rejected the application brought by the applicant for a declaration of invalidity in respect of the Community word mark 'easyHotel' for goods and services in Classes 16, 25, 32, 33, 35, 36, 39, 41 and 42

ECONOMIC AND SOCIAL COMMITTEE**PLENARY SESSION****17-18 September, Brussels**

For the agenda see on Wednesday 17 September

COMMITTEE OF THE REGIONS**Conference**

Social and territorial dimension of pharmaceutical public services.

Subject: The aim of the conference is to contribute to the current debate on the infringement procedures initiated by the European Commission against several member states due to their legal national systems on establishment of pharmacies, which will have an impact on the provision of pharmaceutical services in the EU.

Organiser: Fundacion Comunidad Valenciana Region-Europea

Contact: Teresa Tena: farmacia-eu@delcomval.be - Phone: +32 2 2824160 - Fax: +32 2 2824161

Location: Brussels, at the CoRn room JDE-51, 5th floor

CONFERENCES AND SEMINARS**18 September, Brussels**■ **The access of citizens to law and justice in Europe**

Themes: The rights of European citizens ; The access of European citizens to justice - new perspectives ; Cooperation between member states dedicated to the effectiveness of justice ; How to strengthen the protection of the fundamental rights of European citizens ?
 French / English interpretation
 Organisers : The French Bar and the French Bar Delegation.

Contact : Talita Coumau, +32

(0)2.230.83.31 – talita.coumau@dbfbruxelles.eu

Address : Concert Noble, 82 rue d'Arlon, 1040 Brussels

18 September, Brussels■ **Cross-border use of e-Signature in e-Procurement process**

Subject: Conference in the presence of Siim Kallas, Vice-President of the European Commission in charge of Administrative affairs. EUROCHAMBRES will use the e-Procurement process of the Commission as a case study. This case tackles a number of issues such as authentication in tender procedures, signature of contracts online, invoicing online, archiving, etc.

Organisers: Eurochambres

More info and registration at

www.eurochambres.eu/content/default.asp?PageID=1&DocID=1148

Venue: European Economic and Social Committee, Brussels