

AEL 2021/10
Academy of European Law

WORKING PAPER

**The Court of Justice in the Archives Project
Analysis of the *Commission v Belgium* case
(149/79)**

Aruna Michiels

European University Institute
Academy of European Law

The Court of Justice in the Archives Project
Analysis of the *Commission v Belgium* case 149/79

Aruna Michiels

AEL Working Paper 2021/10

ISSN 1831-4066

© Aruna Michiels, 2021

This work is licensed under a [Creative Commons Attribution 4.0 \(CC-BY 4.0\)](#) International license.

If cited or quoted, reference should be made to the full name of the author(s), editor(s), the title, the series and number, the year and the publisher.

Published in June 2021 by the European University Institute.

Badia Fiesolana, via dei Roccettini 9
I – 50014 San Domenico di Fiesole (FI)
Italy

www.eui.eu

Views expressed in this publication reflect the opinion of individual author(s) and not those of the European University Institute.

This publication is available in Open Access in [Cadmus](#), the EUI Research Repository:



With the support of the
Erasmus+ Programme
of the European Union

The European Commission supports the EUI through the European Union budget. This publication reflects the views only of the author(s), and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Abstract

This working paper is part of the Court of Justice in the Archives project, shedding new light on a seminal case in the jurisprudence on free movement of workers in the European Union: Case 147/97, *Commission v Belgium*. The paper reports findings from accessing and analysing the digitalised original case files from a perspective focusing on how the archival resource could contribute to socio-legal research. From this particular case-study, two key takeaways emerged. First, the case-files were a valuable asset to reconstruct the social and political context of the decision, spanning the period from the petition to the final judgment. Whilst the parties' submissions contained good indications, consulting additional secondary sources proved necessary to flesh out the connections between the context and the content of the submissions. Second, with regard to actors, institutions and procedure, the casefiles proved a powerful resource to gain insight into the pre-litigative infringement procedure. Whilst a single case-study does not suffice, using the archival resources with comparative methods seems a promising avenue for conducting socio-legal research into the machinery, procedural culture and social dynamics at the Court and other institutions in the past to inform our understandings of the present.

Keywords

Free movement of workers, public service, infringement procedure, socio-legal research.

Acknowledgment

A brief expression of gratitude to Prof. Nic Shuibhne who graciously agreed to comment on a previous draft and by doing so invigorated this report. Her precious insights will no doubt strengthen the findings for this particular case and are invaluable for evaluating the findings as part of the broader project. Additional thanks go out to Prof. Rasmussen and Prof. Vauchez, whose efforts yielded insights across the various case reports to enrich the project's overall outcomes. Equal thanks go out to Jeffrey Miller for proofreading and editing and Lola Avril for formatting.

Executive summary

A. Insights into legal issues and arguments

A comparison of the publicly available materials and the original submissions proved worthwhile for this case. The opportunity to compare the original language versions of the submissions with the translations in the publicly available documents shed light on the details behind the legal reasoning of key actors that was previously inaccessible to the public.

B. Insights into procedures and institutions

The most valuable documents were the submissions and the annexes submitted as evidence. The latter mostly pertained to letters exchanged in the pre-contentious phase of the infringement procedure. This type of primary source constitutes a valuable resource for gaining insight into the diplomatic dynamics of enforcement of EU law through the infringement procedure provided for in Article 169 of the EEC Treaty. The letters were useful to compare to the parties' submissions. Moreover, a comparison between the submissions and the publicly available materials revealed what legal issues the Advocate General (AG) and the Court chose to focus on and to what extent the Member States involved aligned or complemented their positions.

C. Insights into actors

The analysis did not reveal that one specific individual actor had a strong influence on the outcome of the case. However, the occasion did arise to explore the role of a rapporteur for the European Parliament that produced a source that was cited in the submissions. In addition, the agent that represented the Belgian government wrote an article in 1987 that provides an interesting window into the reception of the case. Finally, the dossier sheds a different light on the role of the AG than the publicly available materials alone reveal. To fully exploit this resource, the researcher needs to have a good mastery of the languages that are used in the *dossier*.

D. The dossier as a document

The analysis of the dossier of Case 149/79 led to interesting insights, for one by revealing some contextual information. Additional research outside the confines of the dossier was required to investigate these insights fully. The dossier as a document can mostly be dealt with in a technical way, which seems less useful for an individual case. Comparative analysis across cases is recommended to further explore what insights the dossier's formal features entail. Whilst 25% of the original file was redacted, the redaction occurred at 'unsurprising' instances, where one would expect the preliminary report of the juge-rapporteur and the *délibéré*.

E. Key paragraph of the decision

'7. It follows from [the preliminary judgment of 17 December 1980], in particular from paragraphs 12 and 19, that employment within the meaning of Article 48 (4) of the Treaty must be connected with the specific activities of the public service in so far as it is entrusted with the exercise of powers conferred by public law and with responsibility for safeguarding the general interests of the State, to which the specific interests of local authorities such as municipalities must be assimilated.'

Table of contents

1. Introduction	5
2. Overview of the case.....	5
2.1 Law, context and facts.....	5
2.1.1 Law.....	6
2.1.2 Context	7
2.1.3 Facts.....	8
2.2 Analysis of publicly available materials	9
2.2.1 The Parties' Submissions: Reports of the Oral Hearing.....	9
2.2.3 Interim Judgment.....	12
2.2.4 Second round of proceedings and final judgment.....	13
2.3 Reception of the case.....	14
2.3.1 Reception at the domestic level	14
2.3.2 Reception at the European level	15
3. The composition of the dossier	15
3.1 Submissions.....	16
3.2 Evidence.....	17
3.3 Procedure-related documents	18
3.4 Publicly available materials	19
3.5 Redacted Materials	19
4. Added value of the dossier.....	20
4.1 Arguments and legal sources.....	20
4.2 Actors and institutions involved.....	24
4.2.1 Context of the dispute	24
4.2.2 Actors & Institutions.....	25
4.3 Procedures and case management	27
4.4 Miscellaneous takeaways.....	28
5. Concluding remarks	28
Bibliography	30
Annex I: List of documents.....	32

List of tables and figures

Table 1: Quantitative overview of elements in the dossier 16
Table 2: Summary table of positions of actors on submitted questions 21
Table 3: Overview of legal sources cited 23
Table 4: List of names of actors appearing in the *dossier* 25
Figure 1: Procedural timeline 27

1. Introduction

*Commission v Belgium*¹ is considered a milestone decision in the area of free movement in the European Union. In 1979, the Commission petitioned the Court of Justice of the European Union (ECJ) to establish that Belgium had breached its obligations under Article 48 of the Treaty establishing the European Economic Communities (EEC Treaty), now Article 45 TFEU,² by requiring possession of Belgian nationality for admission to a number of positions with public service entities such as the Belgian National Railways Company, the City of Brussels and the Commune of Auderghem. The Commission submitted that the contested positions, ranging from manual labour to care and security, fell outside the scope of Article 48(4) of the EEC Treaty, as the duties associated with these posts did not involve duties that justified the protection of special State interests.

This report gathers findings from an analysis of the original case files that have recently become available as a new primary archival source for researchers in the collection of the Historical Archives of the European Union. This report proceeds in three sections. Section 2 provides an overview of the case. Section 3 provides a mostly descriptive assessment of the composition of the dossier. Section 4 gathers findings and intriguing take-aways from processing and comparing the documents in the dossier to the publicly available materials. Digital versions of the publicly available documents and high-quality digital scans of the original documents in the *dossier de procédure* were studied and compared for a descriptive and analytical exercise aimed at exploring the potential for socio-legal research on this newly available resource in the Court's archives. A small number of additional secondary sources were consulted to complement the materials, mostly with the aim of situating the case in a broader socio-legal context and to evaluate its reception in the Member States.

2. Overview of the case

Section 2 provides an overview of the case, including a sub-section on the legal framework, the context and the facts of the case (2.1), an analysis of the publicly available materials (2.2) and an examination of the reception of the judgment in Belgian and European legal scholarship (2.3).

2.1 Law, context and facts

Aimed at eliminating discrimination on the basis of nationality for employment within the Community, the free movement of workers was first codified in Article 48 of the 1957 EEC Treaty, thereby formulating a fundamental principle of Community law. The Member States wished to exclude employment in public services from the material scope of Article 48 of the EEC Treaty to safeguard special State interests and State security, on the basis of the assumption that positions in the public services bore intrinsic duties and features that required

¹ Case 149/79 *Commission v Belgium*, ECLI:EU:C:1982:195.

² '1. Freedom of movement for workers shall be secured within the Union. 2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment. 3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health: (a) to accept offers of employment actually made; (b) to move freely within the territory of Member States for this purpose; (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action; (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission. 4. The provisions of this Article shall not apply to employment in the public service.' - TFEU (Consolidated Version of the Treaty on the Functioning of the European Union) art 45.

a special sense of loyalty one could only expect from a State national. Therefore, Article 48(4) of the EEC Treaty provided a derogation clause for 'public service employment'.

As the functions and nature of employment organised by Member States evolved and diversified, commercial, industrial and socio-economic activities entered the scope of public service employment. Gradually, more and more positions organised by State administrations no longer bore the duties and features thought to require a special sense of exclusive loyalty to the Member State. This led to a growing divergence in opinions regarding the scope of the derogation clause in Article 48(4) of the EEC Treaty. Should the exclusion of foreign nationals be relaxed? This position had the potential to strengthen the free movement of workers potential and help to eliminate discrimination on the basis of nationality. If the special derogation for state interests were interpreted restrictively, it would open up more Member State public service positions to all Community nationals. An opposing view held that a broader interpretation of the derogation clause was still justified in light of Member States' prerogative to bar foreign nationals from public service positions regardless of the specific duties involved.

The restrictive interpretation corresponds to a functional criterion. If we focus on the specific functions that the worker carries out in the post, a derogation from free movement principles should be reserved exclusively for those positions that genuinely entail the performance of tasks closely linked to special State interests. The functional position favours economic integration and the elimination of discrimination for employment within the Community. By contrast, the extensive interpretation relies on an institutional criterion. According to this viewpoint, the scope of the derogation for 'employment in the public service' is not a question of examining the functions that the worker actually carries out. Rather, one resolves the question by reviewing whether the position meets an institutional criterion, i.e. an analysis of the post as it relates to the organisation of the Member State's public service.

2.1.1 Law

The wording of Article 48(4) of the EEC Treaty is quite central to the discussion of the legal provisions at the heart of this case. Determining the scope of those three little words, 'public service employment', dominated the debate. Comparing the original language versions of the article illustrates the textual ambiguity of the provision. Linguistically, the term 'service' can have both a functional and institutional meaning. Both the English and the Dutch language versions (*betrekkingen in overheidsdienst*) integrate the ambiguous double-meaning of the term. However, the French, Italian and German language versions evoke the narrower notion of 'administration' (*emplois dans l'administration publique, impieghi nella pubblica amministrazione* and *Beschäftigung in der öffentliche Verwaltung* respectively).

With regard to legal provisions and wording, the provision of Article 55 of the EEC Treaty is relevant too; it provides the equivalent of Article 48 of the EEC Treaty for self-employed workers and their freedom of establishment within the Community. The equivalent of the derogation clause excludes 'activities which in any State include, even incidentally, the exercise of official authority' from the scope of the freedom of establishment.³ The wording of Article 55 of the EEC Treaty makes an explicit connection to the nature of the duties involved in the activities of a self-employed worker. Even though the objectives of the articles differ, the reference to 'official authority' in the wording of Article 55 of the EEC Treaty was relied on by the various parties involved in support of their positions and inspired the Advocate General and the Court to establish a criterion for assessing the scope and meaning of 'employment in the public service' that followed a restrictive, functional interpretation.

³ EEC Treaty (Treaty of Rome establishing the European Economic Community, 25 March 1957) art 55.

2.1.2 Context

Whilst it is doubtful that courts ever adopted a purely functional or purely institutional approach to interpreting the meaning of public service employment, the dissimilarity between both interpretations became very apparent towards the late 1960s. This moment was situated a good decade after the adoption of the Rome Treaty, around which time the Council of European Communities adopted Regulation (EEC) No. 1612 of 15 October 1968 on freedom of movement for workers within the Community (Council Regulation 1612/68). Its Article 8 provides that a Community national may be excluded from taking part in certain occupations governed by public law.⁴ In *Commission v Belgium*, the Belgian government relied on this provision to buttress their institutional interpretation.

In 1970, the European Parliament commissioned its Legal Affairs Committee to develop a report on the meaning of the concepts 'public service' and 'official authority' in Articles 48 and 55 of the EEC Treaty. Johannes-Bartholomeus Broeks delivered the report.⁵ Biographical sources reveal that he was a Dutch socialist who held a seat in the European Parliament between 1971 and 1979.⁶ He had a background in public broadcasting and media, but no particular expertise in the area of free movement of workers.

Rapporteur Broeks argued in the report that the wording of Article 48(4) of the EEC Treaty implicitly allowed Member States to apply the provision to any position emanating from the public service.⁷ The Broeks Report concluded that the provision left it to the discretion of Member States whether or not to ban foreign nationals and to prioritise Member State interests over the objective of market integration. Since the derogation clause did not impede Member States from admitting foreign community nationals to public service positions, the report proposed that Member States consider the admission of foreign nationals insofar as these positions did not entail any exercise of official authority.⁸ This constitutes the first formalisation of the link between the substance of employment in public service institutions and functions involving an exercise of official authority. The Broeks Report proposed a three-pronged categorisation of positions in the public service: they did, did not, or might occasionally involve the exercise of official authority. With regard to Article 55 of the EEC Treaty, the Broeks Report promoted a restrictive interpretation in favour of a broad application of freedom of establishment for self-employed workers. It followed a teleological interpretation that invoked the objective stated in Article 3(c) of the EEC Treaty to create an area of free movement of persons, services and capital.⁹

⁴ Council Regulation (EEC) 1612/68 on freedom of movement for workers within the Community (Free Movement for Workers Regulation), OJ L 257/2 art 8.

⁵ European Parliament Legal Affairs Committee, 'Report on the Definition of the Concepts of Public Administration and Public Authority in the Member States and the Consequences of This Definition for the Application of Articles 48 (4) and 55 of the Treaty Establishing the EEC of 12 January 1972' (Broeks Report) Working Documents 1971-1972, Session Document 225/71.

⁶ Huub Wijffjes, 'BROEKSZ, Johannes Bartholomeus - Biografisch Woordenboek van het Socialisme en de Arbeidersbeweging in Nederland' (Internationaal Instituut voor Sociale Geschiedenis 1995) 33 <<https://socialhistory.org/bwsa/biografie/broeks>> accessed 06 August 2020; HWA Joosten, 'Broeks, Johannes-Bartholomeus (1906-1980) (Biografisch Woordenboek van Nederland, 12 November 2013) <<http://resources.huygens.knaw.nl/bwn1880-2000/lemmata/bwn2/broeks>> accessed 06 August 2020.

⁷ 'De la lettre du paragraphe 4 de l'article 48, il découle implicitement que cette disposition peut être appliquée par un État membre à tout emploi considéré dans cet État comme relevant de l'administration publique' - Broeks Report (n 5) 8.

⁸ Broeks Report (n 5) 7.

⁹ 'For the purposes set out in the preceding Article, the activities of the Community shall include, under the conditions and with the timing provided for in this Treaty:(...) (c) the abolition, as between Member States, of the obstacles to the free movement of persons, services and capital'; - EEC Treaty 3c.

In line with the Broeks Report, the Legal Affairs Committee expressed its hope that Member States would eventually open up positions that did not involve, or only occasionally involved, the exercise of official authority to foreign Community nationals, but firmly held that Member States were under no legal obligation to do so.¹⁰ The European Parliament simply adopted the proposed resolution in its entirety in 1972.¹¹ As such, the European Parliament confirmed the Member States' right to exclude foreign nationals from employment in the public services, especially where it involved the exercise of official authority, alluding only to a very soft nudge towards a more inclusive approach in the name of integration. Remarkably, neither the Broeks Report nor the ensuing resolution ever mentioned the objective to eliminate discrimination on the basis of nationality as the reasoning behind determining the scope of Articles 48 and 55 of the EEC Treaty.

The Court had its first opportunity to interpret Article 48(4) of the EEC Treaty in the 1974 *Sotgiu* case. The Court raised the prohibition of discrimination on the basis of nationality for exclusion of foreign Community nationals from positions in a Member State's public service as a legal argument in favour of inclusion. Following a restrictive, teleological interpretation, the Court limited the material scope of Article 48(4) of the EEC Treaty to 'certain' activities in the public service that justify the protection of State interests.¹² Doing so, the Court confirmed that not any and all positions organised within the public service merit equal protection of State interests, acknowledging the existence of a substantive relationship between the features of a position in the public service and the derogation provided in Article 48(4) of the EEC Treaty.

With regard to the general socio-political context in Belgium, the timing and relevance of the debate on free movement of workers in the Community should be evaluated against the backdrop of post-war economic migration policies. Bilateral treaties with, among others, Italy, Spain, Morocco and Turkey brought a significant influx of migrant workers to sustain Belgium's extraction industry.¹³ In 1974, the Belgian government announced a 'migration stop', which ended the policy of active recruitment of migrant workers. The diversification of the work force in Belgium resulting from the preceding socio-economic policy no doubt sparked the debate on the inclusion of foreign nationals in public service activities.¹⁴

2.1.3 Facts

In *Commission v Belgium*, the Commission initiated the infringement procedure provided in Article 169 EEC of the Treaty to force Belgium to comply with Article 48 of the EEC Treaty. On 28 September 1979, the Commission lodged a complaint with the Court, arguing that the requirement that applicants have Belgian nationality for admission to certain positions in the Belgian public service was invalid because the nature of the duties to be performed did not justify the use of the derogation provided in Article 48(4) of the EEC Treaty.

Over the course of the proceedings, three Member States: Germany, France and the United Kingdom (UK) intervened in support of the Belgian government. The Court pronounced a preliminary decision on 17 December 1980, which established the criteria for determining the scope of the concept of 'employment in the public service' and the derogation clause provided

¹⁰ Broeks Report (n 5) 9.

¹¹ European Parliament, 'Resolution on the Definition of the Concepts of Public Service and Public Authority in the Member States and the Consequences of This Definition for the Application of Articles 48 (4) and 55 of the Treaty Establishing the EEC, 17 January 1972, OJ C10 4.' [11].

¹² Case 152/73 *Sotgiu v Deutsche Bundespost*, ECLI:EU:C:1974:13 [162].

¹³ Jean-Michel Lafleur, Abdeslam Marfouk & Nadia Fadil, *Migratie in België in 21 vragen en antwoorden* 27 (2018).

¹⁴ Kathlijn Pittomvils, 'Het ABVV, arbeidsmigraties en "gastarbeiders" (1960-1974)' 3 *Belgisch Tijdschrift voor Nieuwste Geschiedenis* 431 (1997).

in Article 48(4) of the EEC Treaty. Lacking concrete evidence about the nature of the duties associated with the positions contested by the Commission, the Court instructed the parties to re-examine the issues in light of the Court's interpretation. This process led the parties to reduce the number of contested positions, but a complete consensus could not be reached. The Court reopened proceedings to pronounce a final decision on the applicability of the derogation clause on the remaining contested positions on 26 May 1982. The judgment established Belgium's breach of its obligations under Article 48 of the EEC Treaty and embraced a restrictive, functional interpretation of the derogation clause for public service employment. The following subsections discuss the publicly available materials of the case, i.e., the Reports of the Oral Hearing, the Advocate-General's (AG's) Opinions and the Court's interim and final judgments.

2.2 Analysis of publicly available materials

Before assessing the *dossier de procédure* as a source of new insights in the continued relevance of *Commission v Belgium*, below, a brief assessment of the publicly available materials serves as the basis for a comparative analysis of the original case file. Overall, the first round of proceedings and the interim judgment constitute the most salient pieces in this case as the various submissions and the AG's Opinion shaped the Court's interpretation of Article 48(4) of the EEC Treaty.

2.2.1 The Parties' Submissions: Reports of the Oral Hearing

The Reports of the Oral Hearing for both the interim and the final judgment in this case were delivered by juge-rapporteur Bosco and recounted the parties' main submissions.¹⁵

Commission (applicant)

The Commission petitioned the Court to establish Belgium's breach of its obligations under Article 48 of the EEC Treaty by requiring possession of Belgian nationality for admission to a number of positions with public service entities such as the Belgian National Railways Company, the City of Brussels and the Commune of Auderghem. The Commission submitted that the contested positions, ranging from manual labour to care and security, manifestly fell outside the scope of Article 48(4) of the EEC Treaty as the duties associated did not involve any actual participation in official authority. Relying on the AG's Opinion in the *Sotgiu* case, the Commission submitted that the derogation clause in Article 48(4) of the EEC Treaty should be interpreted strictly. It argued that as a community concept, Member States could not unilaterally define the scope of 'public service employment'.¹⁶ Rather, it should be determined by factual criteria pertaining to the exercise of official authority. Referring to Belgium's submissions related to the infringement procedure, the Commission contested the Belgian government's reliance on general principles of law emanating from domestic constitutional provisions to justify non-compliance with its treaty obligations. The Commission refuted Belgium's stance proposing harmonisation measures instead to regulate free movement of workers. The Commission concluded that Member States could not reserve positions in its public service for its nationals if those positions did not involve any actual participation in the exercise of official authority.

¹⁵ Case 149/79 *Commission v Belgium*, 3886 ECLI:EU:C:1980:297; Case 149/79 *Commission v Belgium*, 1847 ECLI:EU:C:1982:195.

¹⁶ Case 152/73 *Sotgiu v Deutsche Bundespost*, Opinion of the Advocate General, ECLI:EU:C:1973:148.

Belgium (defendant)

Belgium argued that the Court did not need to interpret the provision at all. It insisted that the scope of Article 48(4) of the EEC Treaty was clear and precise enough and insisted that Member States had discretion to organise their public service as they saw fit. Belgium referred to domestic constitutional provisions to guide an historical interpretation of the derogation clause on the basis of the drafting parties' intention to exclude public service employment from the scope of free movement entirely. Relying on Article 8 of Council Regulation 1612/68, Belgium argued that Member States had an analogous right to exclude non-nationals from public service employment. Relying on the different wording of Articles 48 and 55 of the EEC Treaty respectively, Belgium argued in favour of an institutional criterion determining the scope of 'public service employment'. On the question of whether Article 48(4) of the EEC Treaty established a legal obligation for Member States to admit foreign nationals to public service positions, Belgium relied on the Broeks Report of 1972 to assert its right to exclude foreign nationals. Relying on the *Sotgiu* case, Belgium argued that, while the case-law forbid discrimination against foreign nationals once admitted to a public service position, it did not establish any legal obligations for Member States to admit foreign nationals. Pointing out the practical difficulties of a functional concept of public service employment, Belgium offered that the application of a community concept would not even suffice to assure congruent practice across Member States given the heterogeneity of public law traditions and would give rise to other forms of discrimination against public service workers. Belgium concluded that the Commission did not produce reasons as to why the contested posts would not qualify as public service positions and adduced evidence of special state interests to safeguard on account of police powers or access to public service buildings associated with some of the contested positions.

The UK (intervenor)

The UK submitted that exclusion of foreign nationals from public service employment was generally recognised as a Member State prerogative to safeguard special State interests. The UK further submitted that the interpretation proposed by the Commission would lead to arbitrary applications, as 'participation in official authority' constituted a notion completely unknown to the UK's legal order. Emphasising the practical difficulties and disproportionate burden for Member States to apply a functional interpretation of public service employment, The UK argued that the role of the Court in enforcing Article 48 of the EEC Treaty should be limited to evaluating on a case-by-case basis whether an institution qualified as a public service institution.

Germany (intervenor)

Recognising the need to first establish the exact scope of public service employment, Germany submitted that this community concept referred back to the distinct public legal orders of the Member States as the demarcation of public service activities was at the discretion of the Member States. Drawing a comparison between treatment of foreign nationals before and after the establishment of the European Communities, Germany argued that 'the status of aliens has been changed in regard to EEC nationals solely in the sense that freedom of movement is conferred upon them and not in the sense of creating Community citizenship or of putting the nationals of the various Member States on an equal footing in all respects'.¹⁷ Germany also pointed out the practical challenges of applying a functional concept in federalised State structures, which would lead to discrimination against foreign nationals.

¹⁷ Case 149/79 *Commission v Belgium* 3895, ECLI:EU:C:1982:195

France (intervenor)

France relied both on the objective and the wording of Article 48(4) of the EEC Treaty to support an institutional concept of public service employment. Citing the *Reyners* case, which indicated that it would be difficult to separate functions from entities in the concept of freedom of establishment for self-employed workers,¹⁸ France argued that the challenges would be even greater for workers and would cause more instances of discriminatory treatment of non-nationals in public service positions.

In conclusion, all the Member States involved opposed the application of a functional criterion, relying on the practical difficulty of applying a uniform concept across heterogeneous public legal orders, the organisation of which was at the complete discretion of the Member States. They shared the view that discrimination against foreign nationals according to a functional criterion would be more complex and less justifiable than according to a more 'objective' standard following an institutional criterion. Discrimination would come at the expense of limiting the area of free movement for workers within the Community in a uniform way. It is noteworthy that all of the Member States considered discrimination in their submissions. From the Report of the Hearing, it seems the Commission had not raised the adverse effects of the extensive interpretation in its original petition and instead focused mainly on establishing criteria for conceptualising 'employment in the public service'.

2.2.2 Advocate-General's Opinions¹⁹

AG Mayras' Interim Opinion is by far more salient in terms of legal reasoning than the Opinion delivered for the final judgment. The AG's Opinion first emphasised that the Commission only questioned the applicability of Article 48(4) EEC of the Treaty for the contested positions identified by the Commission in a number of advertised vacancies for positions in the public services of an industrial or commercial nature. With regard to the infringement procedure initiated by the Commission on the basis of Article 169 of the EEC Treaty, the AG raised a legal issue that none of the parties had discussed before. He argued that the Commission had overstepped its authority in the pre-litigative stage by *finding* that the Belgian government had breached EC law, rather than asserting its reasoned opinion in that sense.

The AG engaged with Belgium's submissions relying on domestic constitutional provisions. Moreover, the AG illustrated the importance of the question in light of the interest expressed by the three intervening Member States by relying on domestic provisions in both the French and German legal orders. Establishing the direct applicability of Article 48 of the EEC Treaty, as was held in *Case 167/73 Commission v French Republic* of 1974,²⁰ the AG pointed to the conciseness of the wording of the provision as a core legal issue in this case. The AG expressed his regret with regard to the Commission's reluctance to further regulate through general Community measures. It seems the AG was willing to recognise the Member States' frustration with regard to that, even though he would not accept any other legal arguments they made. The legal reasoning in the Opinion constructed a restrictive, functional interpretation of the concept 'public service employment', relying on the German ratifying bill for the EEC Treaty, contributions by various legal scholars and the Opinion that AG Mayras delivered himself in the *Sotgiu* case. Recalling the *Rutili* case,²¹ the AG drew the analogy with the strict interpretation required for the public policy exception provided in Article 48(3) of the EEC

¹⁸ Case 2/74 *Reyners v Belgium*, ECLI:EU:C:1974:68.

¹⁹ Case 149/79 *Commission v Belgium*, Opinion of the Advocate General, ECLI:EU:C:1980:220; Case 149/79 *Commission v Belgium*, Opinion of the Advocate General, ECLI:EU:C:1982:153.

²⁰ Case 167/73 *Commission v French Republic*, ECLI:EU:C:1974:35.

²¹ Case 36/75 *Rutili v Minister for the interior* ECLI:EU:C:1975:137.

Treaty. The AG argued that the restrictions based on the derogation clause 'should not surpass what is necessary for the proper functioning of the public service in a democratic society. It is not the simple fact of being engaged in the public service which activates the application of art. 48(4); only admission to certain posts or access to certain activities in the public sector is covered by derogation'.²²

Instead, the AG proposed the following criteria for determining the substantive scope of the derogation in Article 48(4) of the EEC Treaty:

- The administrative nature of the activities actually executed positively determines the scope of an 'employment in the public service';
- The derogation covers posts involving a direct or indirect relation to the exercise of any prerogatives derived from public law;
- The sole participation in managing or executing a public service does not suffice to exclude a service from the scope of Articles 48-51 of the EEC Treaty;
- Public services with an industrial or commercial character fall within the scope of Articles 48-51 of the EEC Treaty.

The AG reasoned that such an interpretation of the public service concept should extend to decentralised levels of government, including local or municipal public services. He also remarked that the disputed posts *in casu* were probably not of the kind that justified the exclusion of foreign nationals from career track positions in the public service, for which the increased difficulty in applying a functional concept frustrated the Member States. The AG thus concluded that Belgium failed to comply with its obligations under Community law with regard to the following positions:

- Unskilled workers, trainee locomotive drivers, signalmen with Belgian National Railways, night-watchmen, garden hands, plumbers with the City of Brussels,
- Semi-skilled worker and skilled worker, Grade B, with the Commune of Auderghem.

2.2.3 Interim Judgment

Key paragraph:

19. Irrespective of the fact that the wording of the Belgian Constitution does not rule out the possibility of exceptions being made to the general requirement of the possession of Belgian nationality, it should be recalled, as the Court has constantly emphasized in its case-law, that recourse to provisions of the domestic legal systems to restrict the scope of the provisions of Community law would have the effect of impairing the unity and efficacy of that law and consequently cannot be accepted. That rule, which is fundamental to the existence of the Community, must also apply in determining the scope and bounds of Article 48 (4) of the Treaty. Whilst it is true that that provision takes account of the legitimate interest which the Member States have in reserving to their own nationals a range of posts connected with the exercise of powers conferred by public law and with the protection of general interests, at the same time it is necessary to ensure that the effectiveness and scope of the provisions of the Treaty on freedom of movement of workers and equality of treatment of nationals of all Member States shall not be restricted by interpretations of the concept of public service which are based on domestic law alone and which would obstruct the application of Community rules.²³

²² Case 149/79, *Commission v Belgium*, 3886 ECLI:EU:C:1980:297.

²³ *Ibid.*

In §3 of the interim decision, the Court immediately specified the evidence submitted did not suffice to understand '*the nature of the duties* involved in the posts', alluding for the first time that it took the functional criterion seriously. In §10, the Court interpreted the provision of Article 48(4) of the EEC Treaty as 'a series of posts which involve direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the State or of other public authorities.' The Court established that positions qualifying as such presupposed their coincidence with special State interests that would sooner be safeguarded by nationals with a special sense of loyalty toward the public service (§11). The Court specified that the exclusion of foreign nationals from any position organised in a public service institution would extend beyond the objective of creating an area of free movement, given that this category would include a considerable number of positions related to socio-economic activities. The Court further specified in §12 that the key was to understand which positions were 'typical of the specific activities of the public service in so far as the exercise of powers conferred by public law and responsibility for safeguarding the general interests of the State are vested in it'.²⁴ The Court followed the Commission and the AG's positions by confirming the restrictive, functional and teleological interpretation of the derogation clause. The Court did not make any explicit reference with regard to whether the public service concept extended to decentralised levels of government, even though the AG did make an explicit argument in that sense.

The Court explicitly rejected the position put forth by Member States relying on Article 8 of Regulation No. 1612/68, stating this provision only permitted Member States to exclude foreign nationals under specified circumstances. (§15) The Court followed the AG's reasoning, which recalled elements from both the *Rutili* case and the *Sotgiu* case, to assert the strict nature of derogations from free movement provisions.²⁵

Whilst all the parties' submissions and the AG's Opinion relied on the different wording of Articles 48 and 55 of the EEC Treaty respectively, the Court did not engage with the different scope of Article 55 in the interim decision. In the substantive guidelines established by the Court, it avoided using the terminology of Article 55 of the EEC Treaty (official authority) but instead, borrowed the terminology proposed by the AG in its Opinion (powers conferred by public law). In §21 of the decision, the Court emphasised that Member States could exclude foreign nationals from posts involving the exercise of powers conferred by public law and safeguarding the general interests of the State 'by appropriate rules within the same grade, the same branch or the same class' (§20), because anything beyond that would surpass the reasonable restriction of free movement. Finally, the Court requested that the parties re-examine the issue in light of the established guidelines and subsequently opened a second round of proceedings in view of a final decision on which of the contested positions were outside the scope of the derogation clause.

2.2.4 Second round of proceedings and final judgment

The second Report of the Hearing confirmed that the parties agreed on the nature of duties involved in the contested positions.²⁶ Lacking a consensus on the applicability of the derogation clause in Article 48(4) of the EEC Treaty, the Commission and Belgium submitted separate reports to the Court for a final decision. No interventions were submitted in the second round of proceedings.

²⁴ Case 149/79 *Commission v Belgium*, 3901 ECLI:EU:C:1982:195.

²⁵ Case 36/75 *Rutili v Minister for the interior*, ECLI:EU:C:1975:137; Case 152/73 *Sotgiu v Deutsche Bundespost*, ECLI:EU:C:1974:13.

²⁶ Case 149/79 *Commission v Belgium*, 1850 ECLI:EU:C:1982:195.

The Commission conceded to the applicability of the derogation for three posts out of the remaining contested positions. Belgium raised a number of specific reasons that would justify the exclusion of foreign nationals to safeguard special State interests. AG Rozès did not engage with any of the contentious elements and simply confirmed AG Mayras' finding for the remaining contested positions, which is the position that the Court followed in its final judgement.²⁷

In the final judgement of 26 May 1982, the Court elaborated on its interpretation of public service employment by making explicit its applicability to decentralised or local levels of the public service, in line with AG Mayras' Opinion in his Interim Opinion.²⁸

Key paragraph:

7. It follows from [the preliminary judgment of 17 December 1980], in particular from paragraphs 12 and 19, that employment within the meaning of Article 48 (4) of the Treaty must be connected with the specific activities of the public service in so far as it is entrusted with the exercise of powers conferred by public law and with responsibility for safeguarding the general interests of the State, to which the specific interests of local authorities such as municipalities must be assimilated.

2.3 Reception of the case

2.3.1 Reception at the domestic level

The discussion below considers both the reception of the case at the domestic level and at the European level. At the domestic level in Belgium, two cases on free movement of workers and the public service exception preceding *Commission v Belgium* already sparked the debate: the 1974 judgments in *Sotgiu* and *Reyners*.²⁹ Legal doctrine of the late 1970s citing these cases viewed employment in the public service as a 'purely substantive concept' linked to the notion of official authority.³⁰

Following *Commission v Belgium*, the scholarly debate around the early 1980s questioned the criteria established by the Court in various ways, such as their cumulative or alternative requirement,³¹ the distinctive scope of the exceptions in Article 48(3) and (4) respectively,³² the lack of a clear classificatory tool for operating the functional interpretation in the grey area of positions that occasionally involve participation in official authority,³³ the difficulty in applying the functional interpretation in the context of public service career tracks, the implications for

²⁷ Case 149/79 *Commission v Belgium*, Opinion of the Advocate General, ECLI:EU:C:1982:153.

²⁸ Case 149/79 *Commission v Belgium*, ECLI:EU:C:1982:195.

²⁹ Case 152/73 *Sotgiu v Deutsche Bundespost*, ECLI:EU:C:1974:13; Case 2/74 *Reyners v Belgium*, ECLI:EU:C:1974:68.

³⁰ Séché, 'Free Movement of Workers under Community Law', 14 *Common Market Law Review* 385 (1977), 393.

³¹ Leenen, 'Noot Onder H.v.J. 17 December 1980', *Sociaal Economische Wetgeving* 649 (1981), 652;

³² Leenen, (n 30) 652.

³³ de Dorlodot, 'Les Exceptions Aux Règles de La Libre Circulation Des Personnes Dans Le Traité C.E.E.', 5 *Administration Publique (Trimestrielle)* 241 (1981), 247.

public services organised through both centralised and decentralised agencies,³⁴ and, the lack of an instrument of secondary European law.³⁵

Finally, it is worth highlighting the fierce resistance to the Court's functional interpretation in France. The French legislator adopted a *lex posterior* establishing certain rights for public servants which went completely against the grain of the decision. An article written by French Professor Louis Dubouis, one of the Commission's agents in *Commission v Belgium*, challenged whether the interpretation proposed by the Commission and followed by the Court would even favour the realisation of integration in light of the economic crisis at the time.

2.3.2 Reception at the European level

The importance of *Commission v Belgium* was clearly felt across the Community, which consisted of nine Member States in 1973. The fact that four out of nine were involved in this case is telling. The reception of *Commission v Belgium* at the European level was felt in relation to both the Court's interpretation and the Commission's approach to enforcing the free movement of workers. Despite dedicating several years and significant resources to study the challenge, and even after Member States and the AG called out the Commission on its reluctance to use secondary law as tools to further integration in this case,³⁶ no secondary legislation towards the implementation of the public service derogation has been adopted to date. In 1988, the Commission produced a guidance document that includes categories of activities that should be included in, or excluded from, the public service exception.³⁷ In that communication, the Commission confirmed it would continue to rely on the infringement procedure to enforce Article 48 of the EEC Treaty and explicitly resolved not to propose new Community legislation.³⁸

This first section of this report recounted the importance of the case *Commission v Belgium*, appreciating its societal context and reception. The next section takes a closer look at the composition of the *dossier de procédure*, including some quantitative data and some qualitative findings from a comparison of the case file and publicly available materials.

3. The composition of the dossier

Section 3 collects information about the composition of the *dossier* and the various categories of documents identified therein. The *dossier* for *Commission v Belgium* is composed of three volumes. The table below contains a quantitative overview of the relative proportions of documents relating to seven categories, i.e., submissions, evidence, procedure-related documents, Reports of the Oral Hearing, Advocate-General's Opinions, judgments,³⁹ and,

³⁴ Séché, 'L'apport de l'arrêt de La Cour de Justice Du 17 Décembre 1980 (Commission c. Belgique, 149/79)', 5 *Administration Publique (Trimestrielle)* 249 (1981), 250.

³⁵ Druésne, 'La Liberté de Circulation Des Personnes Dans La C.E.E. et Les 'Emplois Dans l'administration Publique' (Sur Un Arrêt Du 17 Décembre 1980 de La Cour de Justice Des Communautés Européennes)', 17 *Revue Trimestrielle de Droit Européen* 286 (1981), 297.

³⁶ Leenen (n 30) 655.

³⁷ Paul Craig and Grainne De Búrca, *European Union Law: Text, Cases, and Materials* 769 (2015).

³⁸ Commission of the European Communities, 'Freedom of Movement of Workers and Access to Employment in the Public Service of the Member States - Commission Action in Respect of the Application of Article 48(4) of the EEC Treaty' 73/3 OJ 88/C 72/02 (1988).

³⁹ The table reflects the relative volume of documents pertaining to Court decisions including four Court orders, two copies of the interim and one copy of the final judgment. To better understand the relative importance of the

redacted materials. There is a section on each category including brief assessments, both descriptive and analytic as to their contents.

Table 1: Quantitative overview of elements in the dossier

Category of document	Number of documents	% of number of documents (n = 190 inc. annexes)	Number of pages	% of the dossier (728 p)	% of the original file (912 p)
Submissions by the parties	11	5,8	185	25,4	20,3
Evidence	18	8,4	153	21	16,8
Procedure-related documents	148	77,9	203	27,9	22,3
Report of the Oral Hearing	2	1,1	52	7,1	5,7
Opinion of the AG	2	1,1	36	4,9	3,9
Decisions	9	4,7	100	13,7	11
Final Judgment	1	0,5	14	1,9	1,5
Redacted material	n.a.	n.a.	184	n.a.	20,2

3.1 Submissions

The category of submission by parties to the dispute contains 11 separate documents. In particular, the documents pertaining to the first round of proceedings include the Commission's petition (Doc 1) and reply (Doc 18 and Doc 22 (corrigendum)); the Belgian government's defence (Doc 13) and rejoinder (Doc 33); and each of the interventions submitted by the UK (Doc 81), France (Doc 80) and Germany (Doc 79). The only submissions pertaining to the second round of proceedings are the Commission's report after re-examination *inter partes* (Doc 134), the Belgian government's report (Doc 135) and Belgium's response to questions raised during the second oral hearing (Doc 162).

While representing only 11 out of 174 documents, this category represents the second largest category in terms of 'page volume'. They represent one fourth of the *dossier* and one fifth of the original case file, including redacted materials. The large majority of documents included in the *dossier* as a whole were submitted in French. The few exceptions pertain mostly to the submissions by intervening Member States, for which French translations were disseminated amongst the parties. There were no redacted materials amongst the submissions.

A comparison between the submissions and the publicly available Report of the Oral Hearing, the AG's Opinion and the Court's judgment reveals details and arguments the parties made but were not revealed in any of the publicly available documents. Unfortunately, the

final judgment with relation to the dossier as a whole, the table also reflects the relative volume of the final judgment alone.

dossier does not contain transcripts of the hearings. Therefore, there is no indication for understanding whether these elements were never brought up in the oral phase or whether juge-rapporteur Bosco decided to omit them from his report.

Some of the arguments raised by the Belgian government in its defense were not dealt with by the AG or the Court. For example, relying on Council Directive No. 259/68, Belgium raised that the Commission applied the same principle at Community level by excluding third country nationals from working in the EC's administration.

With regard to the interventions, the Report of the Hearing and the AG's Opinion chose to rely only on the domestic provisions cited by France and Germany, where the UK had equally invoked domestic provisions to illustrate the practical difficulty of applying a functional concept of 'public service employment'.

The reports submitted in the second round of proceedings should help clarify how the Commission and Belgium went about applying the guidelines established in the interim judgment with regard to the contested positions. Elements taken into consideration for qualifying as 'employment in the public service' relate to the following examples of what they agreed fell within the scope of Article 48(4) of the EEC Treaty:

- Positions in which the workers engaged by decentralised bodies enact administrative decisions (architects for urbanisation policy);
- Access to sensitive or confidential information (supervisors with public expenditure services, night watchmen in buildings of decentralised agencies);
- Policing powers (positions with national railway company).

The Commission and the Belgian government did not reach a consensus on the remaining contested positions, which the former deemed to 'manifestly' fall outside the scope of the derogation. The Commission also stated that it would not pursue the enforcement of Article 48 of the EEC Treaty with regard to other positions, which refers back to its recognition of a 'grey area' of positions that occasionally involve the exercise of official authority. The Belgian government continuously tried to apply the criteria established in the interim decision to cover as many positions as possible. Doing so, it made arguments based on the inseparability of functions and entities and hypothetical exceptional circumstances, such as insurgence or war, as justifications for the application of the derogation.

3.2 Evidence

The evidence submitted in *Commission v Belgium* can be found in 18 documents, most of them submitted as letters with annexes. Across the progression of proceedings, evidence was submitted on three occasions: first, along with the applicant's submissions (Doc 1, Annex I-VII); then just prior to the first oral hearing (Doc 99, Annex I; Doc 100, Annex I); and finally, alongside the submissions in the second round of proceedings (Doc 134, Annex I-VI, Doc 135, Annex I).

Strictly speaking in terms of volume, the evidence represents one fifth of the *dossier* and 16 % of the original case file. However, most of the documents were filed twice, so their relative importance should be underestimated. Besides the interventions submitted, this category is the only one to feature documents in a language other than French, as the illustrations of job vacancies and the Commission's reasoned opinion on the basis of Article 169 of the EEC Treaty were delivered in both Dutch and French. There were no indications of any redactions of evidence in the *dossier*.

The evidence can be divided into three subcategories. First, the majority of evidence submitted relates to letters and exchanges of views between the Commission and Belgium throughout the infringement procedure that preceded the *saisine* of the Court. They provide

valuable insights into the mechanics of the infringement procedure, EC-Member State diplomacy and the process of re-examination *inter partes*. Second, detailed descriptions of the contested positions and the duties involved were submitted. The third subcategory are examples of job offers and vacancies posted for the contested positions. Compared with some of the other cases included in this project, e.g., *Consten & Grundig*,⁴⁰ the evidence submitted was not technical in nature. Understanding the evidence in this case does not require any specialised knowledge besides a good enough knowledge of the French language.

The documents pertaining to the pre-contentious phase of the dispute consist of letters exchanged between the Commission and the Belgian government between 1 April 1977 and 7 May 1979, on which date the Commission delivered its reasoned opinion in accordance with Article 169 of the EEC Treaty. For the purpose of making a decision on which of the contested positions fall within the derogation, the most salient pieces of evidence are probably the detailed job descriptions, the elements of which served to substantiate the abstract criteria. The letters annexed as evidence reveal how Belgium proposed a comparative study across Member States to collect data on the organisation of public service and the practice of reserving those positions for nationals. The submissions of various Member States included statements of willingness to cooperate with such a survey. The Commission never engaged with this proposition, consistent with its reluctance to take any legislative initiative. The fact that various Member States promoted comparative legal studies and relied on domestic provisions and other national law potentially indicates a willingness to engage in shared best practices and to apply comparative methods for EU law enforcement litigation. The Member States involved in this case not only seemed to share a concern for the safeguarding of State interest and security, but a concern for the feasibility or practical challenges associated with implementing Community law. A lot of emphasis was placed on the heterogeneity across public legal orders.

3.3 Procedure-related documents

The vast majority of documents, 148 out of 174, are short procedure-related documents. In all respects, this category is the biggest of all. Numerous notifications from the Registrar's office, decisions of the Court's President (12 in total, e.g., Docs 5-7, 38, 73) and other decisions on procedural matters fill up the three-volume *dossier*. Examples are transmissions of deadlines (e.g., Doc 10, Doc 16, Doc 29), setting of dates (e.g. Doc 14, Doc 39), and dissemination of submissions, depositions, interventions etc. to all parties (e.g. Doc 23, Doc 34, Doc 40, Doc 101). They are typically 1- to 2-page documents with the registry's distinctive stamp on the back.

These documents represent almost 28 % of the *dossier* and 22 % of the original case file. This abundance is obviously related to the fact that every piece had to be disseminated in 5 copies to the various parties that also submitted pieces in different languages, requiring translated copies to be included as well. Whilst, generally speaking, the importance of documenting the procedure should not be underestimated, in this case the procedure-related documents did not shed any light on the context or the facts of the case. The one thing they help explain is related to the practice of requesting extensions of deadlines for various submissions by all the parties involved (Docs 8, 51, 58, 65, 72 and 129-130). Given the fact that, including the infringement procedure, it took nearly five entire years to settle this dispute, the practice of extending deadlines accounts for the lengthy process in this case.

⁴⁰ Grigorios Bacharis, 'Analysis of the *Consten and Grundig* case (56/64 and 58/64)' Working Paper, EUI AEL, 2021/02.

3.4 Publicly available materials

The remaining documents included in the *dossier* represent the publicly available materials: four Court Orders, the Report of the Oral Hearing (*rapport d'audience*) for the first (Doc 106) and second (Doc 155) rounds of proceedings; the Opinion of AG Mayras (Doc 114) for the first hearing and of AG Rozès (Doc 162) for the second hearing; and, finally, reproductions of the interim (Doc 125-128) and final judgments (Doc 174).

Together, these documents make up 25,7 % of the *dossier* and 20,6 % of the original case file. However, since the 38-page interim judgment appears twice, a strict calculation overestimates the relative importance of the judgment in the *dossier*. Counting 53 unique pages, the judgments represent 7,6 % of the *dossier* and 6 % of the original case file. The *dossier* only included French original language versions of the publicly available materials, even though they were reproduced in the other official working languages of the Community at the time. The *dossier* did contain three copies, signed upon receipt, of the registry's transmission of certified copies of the verdict to the intervening Member States (Doc 122, 123 and 124), but it is not clear whether the certified copies were transmitted along with official translations or not.

The inclusion of the publicly available materials in the *dossier* contributed to the clear establishment of a detailed timeline of the proceedings. The availability of the Report of the Oral Hearing is useful to compare details raised in the parties' submissions with elements contained in juge-rapporteur Bosco's Report of the Hearing. This raises questions as to the power of discretion the juge-rapporteur could apply to determine the future course of proceedings by including or excluding certain elements.

Unfortunately, the *dossier* does not include any transcripts of the hearing, which makes it hard to assess to what extent the arguments raised in the written submissions and withheld in the Report of the Hearing were treated or emphasised at the hearing. The Report of the Hearing is very concise in comparison to the written submissions of the various parties.

3.5 Redacted Materials

The fifth and last category of materials pertains to redacted materials. In the *dossier* for *Commission v Belgium* redaction occurs at four instances in total throughout the file, twice per round of proceedings. The redacted materials are located just before and just after an oral hearing. It is likely that the redacted materials include at least the preliminary report of the juge-rapporteur preceding the hearing and, of course, the *délibéré* after the hearing.⁴¹ From the *dossier* one can only deduce the total amount of pages redacted, following a clear pattern (8 p. and 96 p. After the first Oral Hearing; 8 p. before and 72 p. after the second Oral Hearing). In any case, the *dossier* does not indicate any redactions made to the submissions of the parties or any evidence deposited. The redacted materials still make up 20 % of the total case file, which is on the high side compared to the average amount of redacted materials across the cases selected for this project.⁴²

This overview of the composition of the *dossier de procédure* for *Commission v Belgium* gathered some descriptive findings on the various categories of documents identified, their main substantive features and some quantitative data to assess their relative importance as part of the *dossier* and the original casefile. The analytical findings based on a comparison of

⁴¹ Rules of Procedure of the Court of Justice, 22 OJ L 265 (2012).

⁴² The average percentage of redacted materials across nine cases included in this project is 16,6 percent. The only dossiers with higher percentages of redacted materials are the dossiers for *Dassonville* (27%) and *ERTA* (23 %) - Justine Muller, 'Analysis of the *Dassonville* case (8/74)' Working Paper, EUI AEL, 2021/04.

the documents in the *dossier* with the publicly available material reveal how the *dossier* can reveal insights into case-specific aspects related to context, timing and procedure. Moreover, the *dossier* and especially the evidence submitted in this case are a new source of insights into other procedures and dynamics behind the pre-contentious mechanism for EU law enforcement. Section 4 proceeds with a more in-depth analysis of notable elements and insights gained from the *dossier*.

4. Added value of the *dossier*

This section discusses what new information was uncovered in the *dossier* and highlights what potential for further research this newly available primary source has for socio-legal research. The insights gained are discussed along three thematic clusters and a fourth section that groups insights *hors catégorie*. The first subsection treats what insights the *dossier* yielded with regard to legal arguments and sources. The second subsection focuses on actors, institutions and context. The third subsection highlights findings related to procedure and case management. The fourth and final subsection contains any other notable insights gained from analysing the *dossier*.

4.1 Arguments and legal sources

With regard to argumentation and legal sources, the following general remarks can be made. Overall, the level of consistency between the argumentation pursued by the parties in their submissions is quite high compared to what was withheld in the publicly available documents, except for detailed elements. The argumentation pursued in the submissions was also consistent with the arguments raised in the documents pertaining to the infringement procedure. In this case, there was a clear tension between the Commission's point of view on the one hand and the Member States' stance on the other. The various submissions of Member States were very analogous as to the positions taken and the types of sources cited. The main commonalities across submissions pertained to the relation between the concept of public service employment and the Community and domestic legal orders respectively,⁴³ the organisation of domestic public legal orders impeding a functional interpretation,⁴⁴ and the wording of Articles 48(4) and 55 of the EEC Treaty respectively.⁴⁵

In *Commission v Belgium*, the wording for an interpretation of Article 48(4) of the EEC Treaty is interesting to trace across the various sources cited. First proposed in the Broeks-report, the wording of Article 55 of the EEC Treaty, participation in *official authority* was relied on as a criterion to delineate the scope of Article 48(4) of the EEC Treaty following a functional

⁴³ Doc 13 'Submission of Defence' 66 *Dossier de procédure original 1: affaire 149/79*, Historical Archives of the European Union, Documents from [1975] to [1980], CJUE-4112; Doc 81 'Submission of intervention and French translation' (UK) 280 *Dossier de procédure original 1*; Doc 79 'Submission of intervention and French translation' (Germany) 211 *Dossier de procédure original 1*;

⁴⁴ Doc 13 'Submission of Defence' 75 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 81 'Submission of intervention and French translation' (UK) 287 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 79 'Submission of intervention and French translation' (Germany) 214 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 80 'Submission of intervention' (France) 268 *Dossier de procédure original 1: affaire 149/79* (n 43).

⁴⁵ Doc 13 'Submission of Defence' 72 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 81 'Submission of intervention and French translation' (UK) 285 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 79 'Submission of intervention and French translation' (Germany) 211 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 80 'Submission of intervention' (France) 263 *Dossier de procédure original 1: affaire 149/79* (n 43).

interpretation.⁴⁶ AG Mayras' subsequently took over this terminology in the Opinion delivered for the *Sotgiu* case⁴⁷ and in his Opinion delivered for the interim judgment in *Commission v Belgium*. Even though the Report of the Hearing represents a very adequate summary of the parties' positions, the availability of the parties' submissions reveals their more detailed engagement with the AG's Opinion delivered in the *Sotgiu* case. The Commission relied on specific paragraphs of AG Mayras' Opinion in *Sotgiu* to assert that 'employment in the public service' should be construed as a Community concept.⁴⁸ Instead, the Member States relied on the passages warning against 'too rigid an interpretation'⁴⁹ and the tentative nature of AG Mayras' propositions.⁵⁰

Even though the Court decided to follow the reasoning proposed by AG Mayras and relied on by the Commission, the Court avoided the wording of Article 55 of the EEC Treaty and instead formulated the criterion as 'a series of posts which involve direct or indirect participation in the *exercise of powers conferred by public law* and duties designed to safeguard the general interests of the State'.⁵¹

The table below provides an overview to illustrate the positions taken by parties. The divergence of interests and objectives between Community institutions and Member States, between the pursuit of integration and the retaining of State autonomy, clearly shines through in the parties' submissions.

Table 2: Summary table of positions of actors on submitted questions

Position of Actors	Notion 'employment in the public service'	Derogation clause art. 48(4) EEC Treaty	Implementation in practice	Discrimination of non-nationals working in the public service
Commission (applicant)	functional criterion	restrictive interpretation	through uniform application of Community concept	institutional interpretation will lead to systematic discrimination for positions outside scope of art. 48(4) EEC Treaty
Belgium (defendant)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to other kinds

⁴⁶ Broeks Report (n 5) 9.

⁴⁷ Case 152/73 *Sotgiu v Deutsche Bundespost*, Opinion of the Advocate General, 170 (left column, §2) ECLI:EU:C:1973:148.

⁴⁸ Doc 1 'Petition' 11 *Dossier de procédure original 1* (n 43).

⁴⁹ Case 152/73 *Sotgiu v Deutsche Bundespost*, Opinion of the Advocate General, 170 (right column, §6) ECLI:EU:C:1973:148

⁵⁰ Doc 13 'Submission of Defence' 79 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 81 'Submission of intervention and French translation' (UK) 283 *Dossier de procédure original 1: affaire 149/79* (n 43); Doc 79 'Submission of intervention and French translation' (Germany) 214 *Dossier de procédure original 1: affaire 149/79* (n 43);

⁵¹ Case 149/79 *Commission v Belgium*, 3900 ECLI:EU:C:1982:195.

				of discrimination for positions inside the scope of art. 48(4) EEC Treaty
The UK (intervenor)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to arbitrary application of art. 48(4) EEC Treaty
Germany (intervenor)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to other kinds of discrimination for positions inside the scope of art. 48(4) EEC Treaty
France (intervenor)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to other kinds of discrimination for positions inside the scope of art. 48(4) EEC Treaty
AG	functional criterion	restrictive interpretation	Not problematic in casu; General Community legislation potential solution for other cases	discrimination of foreign nationals should not surpass what is necessary for proper functioning of the public service
The Court	functional criterion	restrictive interpretation	Member States can exclude foreign nationals from posts intended by art. 48(4) EEC Treaty by appropriate rules	discrimination should not surpass what is required to safeguard special State interests

With regard to the Belgian government's defence, the scope of their discourse widened during the litigation phase: where, before, arguments were related to lack of feasibility to implement an institutional concept of public service employment in the Belgian legal order, the ambit widened to a lack of feasibility to implement such a concept at the European level as well. This is no surprise in light of the interventions made by the other three Member States. Belgium had already proposed to the Commission to conduct a Community-wide survey to

study the organisation of public services and the practice of excluding foreign nationals across Member States in the formal exchanges that preceded the Commission’s Reasoned Opinion.

This predilection for a comparative legal approach echoes through the later submissions and interventions. Various Member States relied on domestic provisions from their own legal orders, those of other Member States and even third countries. A number of legal sources, both domestic provisions and ECJ case-law, were cited by various parties but not mentioned in the Report or the decision. That said, AG Mayras did engage with a large majority of the sources cited. A comparative overview of where legal sources appeared in the submissions and the publicly available documents respectively, reveals only 7 legal sources cited in the parties’ submissions that the AG ignored. The table below indicates for each of the legal sources cited where they appeared in the *dossier*.

Table 3: Overview of legal sources cited⁵²

Position of Actors	Notion 'employment in the public service'	Derogation clause art. 48(4) EEC Treaty	Implementation in practice	Discrimination of non-nationals working in the public service
Commission (applicant)	functional criterion	restrictive interpretation	through uniform application of Community concept	institutional interpretation will lead to systematic discrimination for positions outside scope of art. 48(4) EEC Treaty
Belgium (defendant)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to other kinds of discrimination for positions inside the scope of art. 48(4) EEC Treaty
The UK (intervenor)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to arbitrary application of art. 48(4) EEC Treaty
Germany (intervenor)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to other kinds of discrimination for positions inside the scope of art. 48(4) EEC Treaty
France (intervenor)	institutional criterion	extensive interpretation	Impossible due to heterogeneity of public legal orders	functional interpretation will lead to other kinds of discrimination

⁵² The table indicates which actors cited the source indicated and where they occurred. Where the table indicates 'Report', the corresponding legal source was withheld in the Report of the Oral Hearing; otherwise, the table indicates in what submission the legal source (first) appeared in the dossier.

				for positions inside the scope of art. 48(4) EEC Treaty
AG	functional criterion	restrictive interpretation	Not problematic in casu; General Community legislation potential solution for other cases	discrimination of foreign nationals should not surpass what is necessary for proper functioning of the public service
The Court	functional criterion	restrictive interpretation	Member States can exclude foreign nationals from posts intended by art. 48(4) EEC Treaty by appropriate rules	discrimination should not surpass what is required to safeguard special State interests

4.2 Actors and institutions involved

4.2.1 Context of the dispute

Analysing the *dossier* was a valuable exercise for better understanding the context that shaped the judgment. First, analysis of the *dossier* permitted the reconstruction of a timeline well beyond the duration of the contentious phase of the dispute. Whilst the final judgment dates back to 1982, the legal issues related to the application of Article 48 of the EEC Treaty had emerged already in the late 1960s, which is apparent from the evidence pertaining to the pre-contentious phase of the dispute.

Second, the evidence submitted helped to contextualise the legal implications of the clash between developing Community law and an expanding public sector. The documents in the *dossier* allow one to develop a more refined understanding of the interpretation of what State interests merited protection at the time, and how different cultures of statehood co-existed across a regional integration project.

Third, even though eliminating or, at least reducing, discrimination on the basis of nationality across the area of free movement was always formulated as a fundamental objective of the EEC Treaty, throughout the dispute there was surprisingly little engagement with this question. The 1970 Broeks Report, cited by various parties in the first round of proceedings, did not even mention the repercussions for discrimination following either a functional or an institutional concept of public service employment.

Throughout the submissions, the parties seemed to depart from an implicit acceptance of the inevitability of discrimination persisting in either scenario. What little weight is accorded to discrimination across the dispute focused on whether exclusion of foreign nationals from the workforce partaking in services organised by the government was preferable to excluding them from career tracks and promotions that would potentially engage the derogation of Article 48(4) of the EEC Treaty at a later stage of recruitment and selection for public service positions. The lack of engagement with non-discrimination is all the more remarkable in light of the fact that all the parties involved relied on the *Sotgiu* case, which has questions involving discrimination at its core.

4.2.2 Actors & Institutions

Where the various actors immediately involved in the proceedings can be identified in the publicly available documents, the *dossier* also revealed which actors were involved in the pre-contentious phase of the dispute. The *dossier* allowed the researcher to pinpoint in time when a certain actor first appeared. The actors identified in the infringement procedure can be traced back to institutions in the Member States and in the Community. The correspondence on behalf of the Commission was often signed by the DG of Work and Social Affairs, which is now known as the DG for Employment, Social Affairs and Inclusion. In light of the remarks made before with regard to the lack of emphasis on discrimination, the DG's new name reveals the context and the institutional identity of the Commission's service then and now. The role of the Commission's Legal Service in appointing the Commission's representation is documented in the *dossier*. The identification of actors in the *dossier* invites complementary biographical research to strengthen these findings.

At times, the *dossier* gives some indication of who might be a 'repeat player' across ECJ jurisprudence in a given area of law and legal issues. Especially the work of actors in roles such as the parties' legal representation, the AG, the President of the Court and the registrars seems to hold interesting potential. Throughout the submissions, researchers can trace to what extent parties rely on preceding Opinions delivered by the same AG, as was shown above. The Commission's agent, Professor Dubouis, translated that expertise to scholarly publications as was apparent from the section on the reception of the case above. Further comparative research across cases could strengthen findings on expertise accumulated by agents.

Table 4: List of names of actors appearing in the *dossier*

Phase of the dispute	Party	Affiliation	Name	Appears as
Pre-contentious	applicant	DG Work and Social Affairs	J. Degimbe	signatory letters on behalf of Commission
Pre-contentious	applicant	VP Commission	H. Vredeling	signatory letters on behalf of Commission
Pre-contentious	applicant	SG Commission	E. Noel	signatory letters on behalf of Commission
Pre-contentious	defendant	Belgian Ministry of Foreign Affairs	H. Simonet	Minister Foreign Affairs, signatory letters on behalf of Belgian government
Pre-contentious	defendant	Belgian Ministry of Foreign Affairs	J. Van Der Meulen	Permanent representative, signatory letters on behalf of Belgian government
Pre-contentious	defendant	Belgian Ministry of Foreign Affairs	Bassette	signatory letters on behalf of Belgian government
Litigation	defendant	Belgian Ministry of Foreign Affairs	P. Noterdaeme	Permanent representative, signatory letters on behalf of Belgian government
Litigation	defendant	Belgian Ministry of Communications	E. Flachet	DG direction du personnel et des services sociaux, signatory letters on behalf of Belgian government
Litigation	defendant	City of Brussels	J. Pletinckx	Direction du controle des dépenses et des matières, signatory letters on behalf of Belgian government

Litigation	defendant	City of Brussels	H. Caers	Protocole & Relations publiques, signatory letters on behalf of Belgian government
Litigation	defendant	City of Brussels	A. Biront	Service du chauffage et de l'électricité, signatory letters on behalf of Belgian government
Litigation	applicant	Agent Commission	J. Amphoux	Agent Commission
Litigation	applicant	Co-agent Commission	L. Dubouis	Agent Commission
Litigation	applicant	Commission Legal Service	C.-D. Ehlermann	Appointment agents for the Commission
Litigation	applicant	Commission	I. Richard	signatory letters on behalf of Commission
Litigation	defendant	Agent Belgium	R. Hoebaer	Agent Belgium
Litigation	intervenor	Agent Germany	M. Seidel	Agent Gernany
Litigation	intervenor	Co-agent Germany	E. Grabitz	Agent Gernany
Litigation	intervenor	Ministeralrat im Bundesministerium für Wirtschaft	Dr. Schlecht	Appointment agents for Germany
Litigation	intervenor	Agent UK	W. H. Godwin	Agent for the United Kingdom Treasury Solicitor's Department
Litigation	intervenor	Secretary of State for Foreign Affairs and Commonwealth Affairs	E. Denza	Appointment agents for the UK
Litigation	intervenor	Agent UK	G. I. Percival	Agent UK
Litigation	intervenor	Co-agent UK	H. Brooke	Agent UK
Litigation	intervenor	Sécretaire Général du comité interministriel pour les questions de coopération économique européenne	T. Le Roy	Appointment agents France
Litigation	intervenor	Co-agent France	P. Moreau-Defarges	Agent France
Litigation	intervenor	Agent France	G. Guillaume	Agent France
Litigation	Court	President of the Court of Justice	H. Kutscher	President of the Court
Litigation	Court	President 1st Chamber	J. Mertens de Wilmars	Presiding judge
Litigation	Court	Juge-rapporteur	G. Bosco	juge rapporteur
Litigation	Court	Judge 1st Chamber	P. Pescatore	judge
Litigation	Court	Judge 1st Chamber	T. Koopmans	judge
Litigation	Court	Judge 1st Chamber	M. Stuart	judge
Litigation	Court	Judge 1st Chamber	A. O'Keefe	judge
Litigation	Court	Judge 1st Chamber	A. Touffait	judge

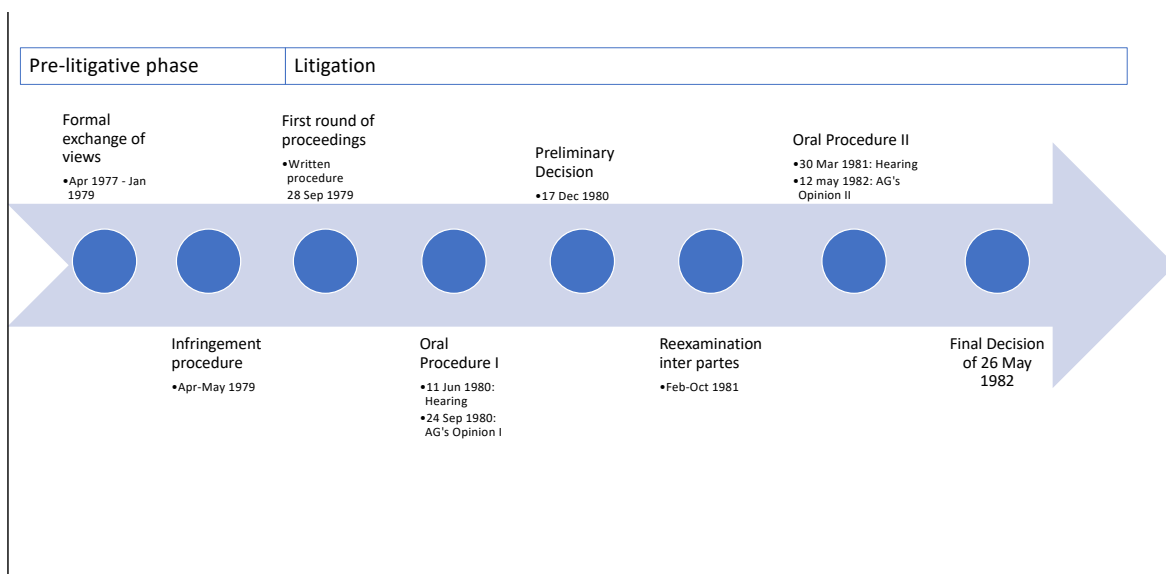
Litigation	Court	Judge 1st Chamber	O. Due	judge
Litigation	Court	Judge 1st Chamber	U. Everling	judge
Litigation	Court	Advocate-General	H. Mayras	delivery AG's opinion
Litigation	Court	Advocate-General	S. Rozès	delivery AG's opinion
Litigation	Court	Court Registry	A. Van Houtte	signing for registrar
Litigation	Court	Court Registry	H. A. Ruhl	signing for registrar Van Houtte as 'Administrateur Principal'
Litigation	Court	Court Registry	P. Heim	signing for registrar
Litigation	Court	Court Registry	J. A. Pompe	signing for the registrar as 'Greffier Adjoint'

4.3 Procedures and case management

With regard to procedures and case management in *Commission v Belgium* there were no grand surprises. With a view to comparative analysis across reports, a short description might still be useful in the context of this project.

Judge Kutscher, serving as president of the Court from 1976-1980, allocated the case to the First Chamber, appointing the bench under presiding judge Mertens de Wilmars, with Judge Bosco as *juge-rapporteur* and AG Mayras. After judge Mertens de Wilmars took over the presidency of the Court in 1980, the composition of the Court changed, which is documented through an unsigned and undated document that establishes the new composition from 7 October 1981 onwards (Doc 149). When the composition of the bench had been altered for the hearing of the final judgment, judge Bosco continued to serve as the *juge-rapporteur*, AG Rozès took over for AG Mayras. There are, however, no documents equivalent to the appointments in Docs. 5 and 6 included in the *dossier* for the second round of proceedings. The registrar signing for most of the procedure-related documents was registrar Van Houtte; occasionally registrar Ruhl appeared as the signatory for documents early on in the proceedings. Towards the end some documents were signed by registrar Reim, even though the undated Doc 149 lists Van Houtte as the only registrar.

Figure 1: Procedural timeline



Further comparative research across cases could strengthen findings on trends or best practice in case-management by focusing on procedural decisions taken by the Court's president with regard to allocation of cases, the appointment of juge-rapporteurs and granting of extensions, for example.

4.4 Miscellaneous takeaways

In this case, a final interesting finding *hors catégorie* relates to an avant-garde reference to European citizenship in Germany's submission for intervention. The Report of the Hearing recalled how Germany concluded that the right to free movement in the Community did not entail the conferment of rights associated with 'Community citizenship' that would justify equal treatment of Community nationals with regard to admission to public service positions.⁵³ In their intervention, Germany acknowledged that the EEC Treat conferred the right to free movement for professional activities, but doing so did not lift their status of alien, which would have required an explicit act.⁵⁴ This observation led to Germany's conclusion that Community nationals were not entitled to equal treatment for admission to public service positions, given the fact that even German nationals originating from different federalised states did not enjoy such privilege.⁵⁵ It is remarkable that Germany alluded to the concept of Community citizenship in its submissions at a time where this concept was by no means institutionalised in the context of EU law. This reveals the added value of access to the full original language versions of submissions, both for interpreting positions in individual cases and for tracing the origins of Community concepts in their embryonic stage.

5. Concluding remarks

This report explored the added value of re-evaluating milestone ECJ jurisprudence in light of newly available archival materials. To do so, Section 2 provided an overview of the case and its context. Section 3 gave an overview of the *dossier's* main features, including some basic statistics on its composition. Section 4 proceeded with a thematically clustered analysis of the insights and findings ensuing from the analysis of the newly available materials in the *dossier*.

The analysis has shown the importance of this case for the development of European Union law considering how little the Court's approach to the public service derogation has evolved since. One part of the added value from this research is the light it shed on the context of the case, even though the materials in the *dossier* did not suffice. Additional research, including secondary sources, was necessary to complement the *dossier's* analysis. Moreover, the analysis of the parties' submissions revealed the key elements and sources the parties relied on to assert their positions. The positions of the interventions, made available in their original language version and their translations, revealed what concerns the Member States shared and demonstrated some analogy in the reasoning and sources invoked.

The composition of the *dossier* provided some general insights on its constitutive elements. For this case, it revealed that there is some excess volume hidden in procedure-related documents and duplicates of the same elements (such as the evidence filed and the interim judgment's repetition). Perhaps for quantitative study of these *dossiers*, it would be prudent to establish a criterion whereby every document can only be counted once. This would in any case better demonstrate the relative importance of the redacted materials.

⁵³ Case 149/79, *Commission v Belgium*, 3895 ECLI:EU:C:1980:297.

⁵⁴ Doc 25 'Submission of intervention by Germany' 219 *Dossier de procédure original 1: affaire 149/79*.

⁵⁵ Doc 25 'Submission of intervention by Germany' 221 *Dossier de procédure original 1: affaire 149/79*.

Finally, the findings reflected in section 4 provide some of the more salient insights into the potential of archival materials with regard to the pre-litigative phase. For doctrinal work, the original submissions can provide interesting information such as which elements were omitted or emphasised in the Report of the Hearing or the AG's Opinion. The reception of the arguments and how the parties engage with each other's arguments can be fleshed out in detail using these documents. In any case, the availability of the *dossier* seems to hold interesting potential worth exploring further and across cases. Using the archival resources with comparative methods seems a promising avenue for conducting socio-legal research into the machinery, procedural culture and social dynamics of the Court in the past to inform our understandings of the present.

Bibliography

- Bacharis G, 'Analysis of the *Consten and Grundig* case (56/64 and 58/64)' Working Paper, EUI AEL, 2021/02.
- Broeks JB, 'Report Made on Behalf of the Legal Affairs Committee of the European Parliament on the Definition of the Concepts of Public Administration and Public Authority in the Member States and the Consequences of This Definition for the Application of Articles 48 (4) and 55 of the Treaty Establishing the EEC of 12 January 1972, Working Documents 1971-1972, (Session Document 225/71)'
- Council of the European Union, 'Regulation (EEC) No 16/12/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, OJEU No. L 257/2 of 19 October 1968'
- European Parliament, 'Resolution on the Definition of the Concepts of Public Service and Public Authority in the Member States and the Consequences of This Definition for the Application of Articles 48 (4) and 55 of the Treaty Establishing the EEC, 17 January 1972, OJ C 10, p. 4.'
- Historical Archives of the European Union (ed), 'Dossier de procédure original 1: affaire 149/79' 322
- (ed), 'Dossier de Procédure Original 2: Affaire 149/79' 148
- (ed), 'Dossier de procédure original 3: affaire 149/79' 258
- Joosten HWA, 'Broeks, Johannes-Bartholomeus (1906-1980)' (*Biografisch Woordenboek van Nederland*, 12 November 2013) <<http://resources.huygens.knaw.nl/bwn1880-2000/lemmata/bwn2/broeks>>
- Lafleur J-M, Marfouk A and Fadil N, *Migratie in België in 21 vragen en antwoorden* (Universitaire Pers Leuven 2018)
- Muller J, 'Procureur Du Roi v Benoît and Gustave Dassonville. Case 8-74.' [2020] EUI Working Papers
- Petti A, 'Analysis of the Dossier de Procédure Original': 34
- Pittomvils K, 'Het ABVV, arbeidsmigraties en "gastarbeiders" (1960-1974)' 42
- Wijffes H, 'BROEKSZ, Johannes Bartholomeus', *Biografisch Woordenboek van het Socialisme en de Arbeidersbeweging in Nederland* (Internationaal Instituut voor Sociale Geschiedenis 1995) 33 <<https://socialhistory.org/bwsa/biografie/broeks>>
- Case 2/74, Reyners v Belgium, Judgment of 21 June 1974, ECLI:EU:C:1974:68*
- Case 36/75, Rutili v Minister for the interior, Judgment of 28 October 1975, ECLI:EU:C:1975:137*
- Case 149/79, Commission v Belgium, Judgment of 26 May 1982, ECLI:EU:C:1982:195* (European Court of Justice)
- Case 152/73, Sotgiu, Judgment of 12 February 1974, ECLI:EU:C:1974:13*
- Case 152/73, Sotgiu, Opinion of Mr Advocate-General Mayras delivered on 5 December 1973, ECLI:EU:C:1973:148*
- Case 167/73, Commission v French Republic, Judgment of 4 April 1974, ECLI:EU:C:1974:35*
- Consolidated version of the Rules of Procedure of the Court of Justice of 25 September 2012
- Consolidated Version of the Treaty on the Functioning of the European Union*

Annex 1: List of documents

	Type of document	Institution	Date	No. of pages	Category
Volume I				322	
Written procedure				p. 2-117	
Doc 1	Petition (<i>Requête</i>)	Commission	27/09/1979	14	Submission
Annex I	Examples of contested job offers' listings	Commission	27/09/1979	3	Evidence
Annex II	Letter by J. DEGIMBE, Director-General of Work and Social affairs no. 77-02112 of 1 April 1977	Commission	01/04/1977	2	Evidence
Annex III	Letter by J. VAN DER MEULEN, Permanent Representative, no. R/S04/90/300.65.973 of the Permanent Representation of Belgium of 15 July 1977	Commission	15/07/1979	2	Evidence
Annex IV	Letter by Henk VREDELING, Vice-President of the Commission, no. SG (78) D/13.581 of 21 November 1978 (initiating procedure of art. 169 of the EEC Treaty)	Commission	21/11/1978	4	Evidence
Annex V	Letter by J. VAN DER MEULEN no. R/S04/90/300/70.830 of the Permanent Representation of Belgium of 15 January 1979	Commission	15/01/1979	4	Evidence
Annex VI	Reasoned Opinion of the Commission of 4 April 1979	Commission	29/05/1979	19	Evidence
Annex VII	Letter by J. VAN DER MEULEN no. R/S04/90/300/71.909 of the Permanent Representation of Belgium of 7 May 1979	Commission	07/05/1979	2	Evidence
Doc 2	Power of attorney for Mr. Jean AMPHOUX to represent the Commission as agent	Commission	14/09/1979	1	Procedure
Doc 3	Letter informing the Commission that case had been lodged in the Registry	Registrar of the Court	27/09/1979	1	Procedure
Doc 4	Certified copy of the petition sent to Belgium	Registrar of the Court	28/09/1979	1	Procedure

Doc 5	Appointment of Judge BOSCO as <i>juge rapporteur</i>	President of the Court	02/10/1979	1	Procedure
Doc 6	Appointment of Mr. Jean MAYRAS as Advocate-General	President of the Court	02/10/1979	1	Procedure
Doc 7	Assignment of the case to the 1st Chamber	President of the Court	03/10/1979	1	Procedure
Doc 8	Request for extension of deadline to submit the defence	Belgium	05/10/1979	1	Procedure
Doc 9	Extension of the deadline to submit the defence	President of the Court	09/10/1979	1	Procedure
Doc 10	Transmission of extended deadline to applicant	Registrar of the Court	09/10/1979	2	Procedure
Doc 11	Transmission of extended deadline to defendant	Registrar of the Court	09/10/1979	2	Procedure
Doc 12	Power of attorney for Mr. Robert HOEBAER to represent Belgium as agent	Belgium	09/10/1979	1	Procedure
Doc 13	Submission of defence (<i>Mémoire en défense</i>)	Belgium	30/11/1979	16	Submissions
Doc 14	Setting the date for submission of reply by the Commission	President of the Court	04/12/1979	1	Procedure
Doc 15	Certified copy of the defence sent to the Commission; Transmission of date for submission of reply to applicant	Registrar of the Court	04/12/1979	2	Procedure
Doc 16	Transmission of date for submission of reply to defendant	Registrar of the Court	04/12/1979	2	Procedure
Doc 17	Power of attorney for Mr. Louis DUBOUIS to assist Mr. Jean Amphoux as agent for the Commission	Commission	03/01/1980	1	Procedure
Doc 18	Submission of reply (<i>Mémoire en réplique</i>)	Commission	03/01/1980	22	Submissions
Doc 19	Setting the date for submission of rejoinder	President of the Court	09/01/1980	1	Procedure
Doc 20	Transmission of date for submission of rejoinder to applicant	Registrar of the Court	09/01/1980	2	Procedure
Doc 21	Transmission of date for submission of rejoinder to defendant	Registrar of the Court	09/01/1980	2	Procedure

Doc 22	Corrigendum for the reply	Commission	09/01/1980	1	Submissions
Doc 23	Transmission of corrigendum to defendant	Registrar of the Court	10/01/1980	2	Procedure
Intervention I				p. 118-122	
Doc 24	Application to intervene by the United Kingdom	UK	14/01/1980	4	Procedure
Intervention II				p.123-126	
Doc 25	Application to intervene by the Federal Republic of Germany	Germany		3	Procedure
Written procedure (cont I)				p.127	
Intervention III				p.128-133	
Doc 26	Order of the Court of 30 January 1980 on the intervention of the United Kingdom	Court of Justice, 1st Chamber	30/01/1980	2	Judgment
Doc 27	Order of the Court of 30 January 1980 on the intervention of the Federal Republic of Germany	Court of Justice, 1st Chamber	30/01/1980	2	Judgment
Doc 28	Application to intervene by the French Republic	France	30/01/1980	1	Procedure
Written procedure (cont II)				p. 134-322	
Doc 29	Transmission of applications to intervene to applicant; Transmission of date for submission of interventions	Registrar of the Court	05/02/1980	2	Procedure
Doc 30	Transmission of applications to intervene to defendant; Transmission of date for submission of interventions	Registrar of the Court	06/02/1980	2	Procedure
Doc 31	Transmission of date for submission of intervention to intervenor (UK)	Registrar of the Court	06/02/1980	2	Procedure
Doc 32	Transmission of date for submission of intervention to intervenor (Germany)	Registrar of the Court	06/02/1980	2	Procedure
Doc 33	Submission of rejoinder	Belgium	08/02/1980	12	Submission

Doc 34	Transmission of rejoinder to applicant	Registrar of the Court	12/02/1980	1	Procedure
Doc 35	Transmission of rejoinder to intervenor (UK)	Registrar of the Court	12/02/1980	1	Procedure
Doc 36	Transmission of rejoinder to intervenor (Germany)	Registrar of the Court	12/02/1980	1	Procedure
Doc 37	Order of the Court of 13 February 1980 on the intervention of the French Republic	Court of Justice, 1st Chamber	13/02/1980	2	Judgment
Doc 38	Setting the date for submission of interventions	President of the Court	18/02/1980	1	Procedure
Doc 39	Transmission of Court Order to applicant; Transmission of date for submission of interventions	Registrar of the Court	18/02/1980	1	Procedure
Doc 40	Transmission of Court Order to defendant; Transmission of date for submission of interventions	Registrar of the Court	18/02/1980	1	Procedure
Doc 41	Transmission of Court Order to intervenor (UK); Transmission of date for submission of interventions	Registrar of the Court	18/02/1980	1	Procedure
Doc 42	Transmission of Court Order to intervenor (Germany); Transmission of date for submission of interventions	Registrar of the Court	18/02/1980	1	Procedure
Doc 43	Transmission of Court Order to intervenor (France); Transmission of date for submission of interventions	Registrar of the Court	18/02/1980	1	Procedure
Doc 44	Power of attorney for Mr. Eberhard GRABITZ to represent Germany as agent	Germany	26/02/1980	3	Procedure
Doc 45	Setting the date for submission of interventions	President of the Court	28/02/1980	1	Procedure
Doc 46	Transmission of date for submission of intervention to Applicant	Registrar of the Court	28/02/1980	2	Procedure
Doc 47	Transmission of date for submission of intervention to Defendant	Registrar of the Court	28/02/1980	1	Procedure
Doc 48	Transmission of date for submission of intervention to intervenor (UK)	Registrar of the Court	28/02/1980	1	Procedure

Doc 49	Transmission of date for submission of intervention to intervenor (Germany)	Registrar of the Court	28/02/1980	1	Procedure
Doc 50	Transmission of date for submission of intervention to intervenor (France)	Registrar of the Court	28/02/1980	1	Procedure
Doc 51	Request for extension of deadline to submit the intervention	UK	29/02/1980	1	Procedure
Doc 52	Setting the date for submission of interventions	President of the Court	04/03/1980	1	Procedure
Doc 53	Transmission of date for submission of intervention to Applicant	Registrar of the Court	04/03/1980	1	Procedure
Doc 54	Transmission of date for submission of intervention to Defendant	Registrar of the Court	04/03/1980	1	Procedure
Doc 55	Transmission of date for submission of intervention to intervenor (UK)	Registrar of the Court	04/03/1980	1	Procedure
Doc 56	Transmission of date for submission of intervention to intervenor (Germany)	Registrar of the Court	04/03/1980	1	Procedure
Doc 57	Transmission of date for submission of intervention to intervenor (France)	Registrar of the Court	04/03/1980	1	Procedure
Doc 58	Request for extension of deadline to submit the intervention	France	06/03/1980	1	Procedure
Doc 59	Setting the date for submission of interventions	President of the Court	07/03/1980	1	Procedure
Doc 60	Transmission of date for submission of intervention to Applicant	Registrar of the Court	07/03/1980	2	Procedure
Doc 61	Transmission of date for submission of intervention to Defendant	Registrar of the Court	07/03/1980	2	Procedure
Doc 62	Transmission of date for submission of intervention to intervenor (UK)	Registrar of the Court	07/03/1980	2	Procedure
Doc 63	Transmission of date for submission of intervention to intervenor (Germany)	Registrar of the Court	07/03/1980	2	Procedure

Doc 64	Transmission of date for submission of intervention to intervenor (France)	Registrar of the Court	07/03/1980	2	Procedure
Doc 65	Request for extension of deadline to submit the intervention	UK	19/03/1980	1	Procedure
Doc 66	Setting the date for submission of interventions	President of the Court	20/03/1980	1	Procedure
Doc 67	Transmission of date for submission of intervention to Applicant	Registrar of the Court	20/03/1980	1	Procedure
Doc 68	Transmission of date for submission of intervention to Defendant	Registrar of the Court	20/03/1980	1	Procedure
Doc 69	Transmission of date for submission of intervention to intervenor (UK)	Registrar of the Court	20/03/1980	1	Procedure
Doc 70	Transmission of date for submission of intervention to intervenor (Germany)	Registrar of the Court	20/03/1980	1	Procedure
Doc 71	Transmission of date for submission of intervention to intervenor (France)	Registrar of the Court	20/03/1980	1	Procedure
Doc 72	Request for extension of deadline to submit the intervention	UK	01/04/1980	1	Procedure
Doc 73	Setting the date for submission of interventions	President of the Court	02/04/1980	1	Procedure
Doc 74	Transmission of date for submission of intervention to Applicant	Registrar of the Court	02/04/1980	1	Procedure
Doc 75	Transmission of date for submission of intervention to Defendant	Registrar of the Court	02/04/1980	1	Procedure
Doc 76	Transmission of date for submission of intervention to intervenor (UK)	Registrar of the Court	02/04/1980	1	Procedure
Doc 77	Transmission of date for submission of intervention to intervenor (Germany)	Registrar of the Court	02/04/1980	1	Procedure
Doc 78	Transmission of date for submission of intervention to intervenor (France)	Registrar of the Court	02/04/1980	1	Procedure

Doc 79	Submission of Intervention and French translation	Germany		31/03/1980	48	Submission
Doc 80	Submission of Intervention	France		03/04/1980	22	Submission
Doc 81	Submission of Intervention and French translation	UK		09/04/1980	30	Submission
Doc 82	Transmission submission of interventions to Applicant	Registrar of the Court		10/04/1980	1	Procedure
Doc 83	Transmission submission of interventions to Defendant	Registrar of the Court		10/04/1980	1	Procedure
Doc 84	Transmission of submission of interventions to intervenor (UK)	Registrar of the Court		10/04/1980	1	Procedure
Doc 85	Transmission of submission of interventions to intervenor (Germany)	Registrar of the Court		10/04/1980	1	Procedure
Doc 86	Transmission of submission of interventions to intervenor (France)	Registrar of the Court		10/04/1980	1	Procedure
Doc 87	Transmission of the French translation of the interventions to Applicant	Registrar of the Court		06/05/1980	1	Procedure
Doc 88	Transmission of the French translation of the interventions to Defendant	Registrar of the Court		06/05/1980	1	Procedure
Doc 89	Transmission of the French translation of the interventions to intervenor (UK)	Registrar of the Court		06/05/1980	1	Procedure
Doc 90	Transmission of the French translation of the interventions to intervenor (Germany)	Registrar of the Court		06/05/1980	1	Procedure
Doc 91	Transmission of the French translation of the interventions to intervenor (France)	Registrar of the Court		06/05/1980	1	Procedure
Volume II					148	
Instruction					p.3-4	
The pages from 4-12 of the original file are not available for public consultation					8	Redacted
	[i.a. Report of the <i>juge rapporteur</i>]					
Oral Procedure I					p.6-97	

Doc 94	Transmission of date for oral hearing to Applicant	Registrar of the Court	08/05/1980	1	Procedure
Doc 95	Transmission of date for oral hearing to Defendant	Registrar of the Court	08/05/1980	1	Procedure
Doc 96	Transmission of date for oral hearing to Intervenor (UK)	Registrar of the Court	08/05/1980	1	Procedure
Doc 97	Transmission of date for oral hearing to intervenor (Germany)	Registrar of the Court	08/05/1980	1	Procedure
Doc 98	Transmission of date for oral hearing to intervenor (France)	Registrar of the Court	08/05/1980	1	Procedure
Doc 99	Letter by R. HOEBAER of 2 June 1980; Deposition of evidence	Belgium	02/06/1980	1	Procedure
Annex I	<i>Offre d'emploi de la Société Nationale des Chemins de Fer Vicinaux</i> - [job offer for the Belgian national railway company]			2	Evidence
Doc 100	Letter by R. HOEBAER of 2 June 1980; Deposition of evidence	Belgium	02/06/1980	1	Procedure
Annex I	<i>Offres d'emploi auxquelles la Commission fait référence dans sa requête</i> - [job offer to which the Commission refers in her petition]	Belgium		4	Evidence
Doc 101	Transmission of depositions and a certified copy of the report of the <i>juge rapporteur</i> to Applicant	Registrar of the Court	04/06/1980	1	Procedure
Doc 102	Transmission of depositions and a certified copy of the report of the <i>juge rapporteur</i> to Defendant	Registrar of the Court	04/06/1980	1	Procedure
Doc 103	Transmission of depositions and a certified copy of the report of the <i>juge rapporteur</i> to Intervenor (UK)	Registrar of the Court	04/06/1980	1	Procedure
Doc 104	Transmission of depositions and a certified copy of the report of the <i>juge rapporteur</i> to Intervenor (Germany)	Registrar of the Court	04/06/1980	1	Procedure
Doc 105	Transmission of depositions and a certified copy of the report of the <i>juge rapporteur</i> to Intervenor (France)	Registrar of the Court	04/06/1980	1	Procedure

Doc 106	Report for the hearing (Rapport d'audience)	Juge Rapporteur BOSCO	11/06/1980	26	Report of the hearing
The pages from 59-155 of the original file are not available for public consultation				96	Redacted
Doc 107	Letter by W. H. GODWIN to inform of representation at hearing by Sir I. PERCIVAL as agent and Mr. H. BROOKE as co-agent	UK	03/06/1980	1	Procedure
Doc 108	Letter by T. LE ROY to inform of representation at hearing by Mr. G. GUILLAUME as agent and Mr. Ph. MOREAU DEFARGES as co-agent	France	09/06/1980	1	Procedure
Doc 109	Transmission of date for hearing of the Advocate-General's opinion to Applicant	Registrar of the Court	12/06/1980	2	Procedure
Doc 110	Transmission of date for hearing of the Advocate-General's opinion to Defendant	Registrar of the Court	12/06/1980	2	Procedure
Doc 111	Transmission of date for hearing of the Advocate-General's opinion to Intervenor (UK)	Registrar of the Court	12/06/1980	2	Procedure
Doc 112	Transmission of date for hearing of the Advocate-General's opinion to Intervenor (Germany)	Registrar of the Court	12/06/1980	2	Procedure
Doc 113	Transmission of date for hearing of the Advocate-General's opinion to Intervenor (France)	Registrar of the Court	12/06/1980	2	Procedure
Doc 114	Advocate-General's opinion (<i>Conclusions de l'Avocat général</i>)	Advocate-General MAYRAS	24/09/1980	33	AG's Opinion
Interim judgment (<i>Arrêt interlocutoire</i>)				p. 98 - 148	
Doc 115	Transmission of date for hearing of the verdict to Applicant	Registrar of the Court	11/12/1980	1	Procedure
Doc 116	Transmission of date for hearing of the verdict to Defendant	Registrar of the Court	11/12/1980	1	Procedure
Doc 117	Transmission of date for hearing of the verdict to Intervenor (UK)	Registrar of the Court	11/12/1980	1	Procedure

Doc 118	Transmission of date for hearing of the verdict to Intervenor (Germany)	Registrar of the Court	11/12/1980	1	Procedure
Doc 119	Transmission of date for hearing of the verdict to Intervenor (France)	Registrar of the Court	11/12/1980	1	Procedure
Doc 120	Transmission of certified copy of the verdict and the AG's Opinion to Applicant	Registrar of the Court	17/12/1980	1	Procedure
Doc 121	Transmission of certified copy of the verdict and the AG's Opinion to Defendant	Registrar of the Court	17/12/1980	1	Procedure
Doc 122	Transmission of certified copy of the verdict and the AG's Opinion to Intervenor (UK)	Registrar of the Court	17/12/1980	1	Procedure
Doc 123	Transmission of certified copy of the verdict and the AG's Opinion to Intervenor (Germany)	Registrar of the Court	17/12/1980	1	Procedure
Doc 124	Transmission of certified copy of the verdict and the AG's Opinion to Intervenor (France)	Registrar of the Court	17/12/1980	1	Procedure
Doc 125	Interim judgment of the Court of Justice of 17 December 1980 in case 149/79	Court of Justice, 1st Chamber	17/12/1980	38	Judgment
Doc 126	Corrigendum for the interim judgment	Registrar of the Court	17/12/1980	1	Judgment
Volum e III				258	
Interim judgment (Arrêt interlocutoire) repeated				p. 2-42	
Doc 127	Interim judgment of the Court of Justice of 17 December 1980 in case 149/79	Court of Justice, 1st Chamber	17/12/1980	38	Judgment
Doc 128	Corrigendum for the interim judgment	Registrar of the Court	17/12/1980	1	Judgment
Written procedure II				p. 43-189	
Doc 129	Letter by R. HOEBAER containing Request for extension of deadline to submit the report ordered by the Court by interim judgment	Belgium	23/06/1981	1	Procedure

Doc 130	Letter by J. AMPHOUX containing Request for extension of deadline to submit the report ordered by the Court by interim judgment	Commission	24/06/1981	2	Procedure
Doc 131	Order of the Court of 1 July 1981 to extend the date for submission of the report (ordered by the Court by interim judgment)	Court of Justice, 1st Chamber	01/07/1981	2	Judgment
Doc 132	Transmission of Court Order to Applicant	Registrar of the Court	17/07/1981	1	Procedure
Doc 133	Transmission of Court Order to Defendant	Registrar of the Court	17/07/1981	1	Procedure
Doc 134	Submission of Applicant's report (ordered by the Court by interim judgment)	Commission	28/10/1981	13	Submission
Annex I	Letter by M. DEGIMBE, Director-General of Work and Social affairs, no. 81 00 653 of 9 February 1981	Commission	09/02/1981	1	Evidence
Annex II	Letter by M. DEGIMBE, Director-General of Work and Social affairs, no. 81 00 918 of 19 February 1981	Commission	19/02/1981	1	Evidence
Annex III	Letter by M. NOTERDAEME, Permanent representative of Belgium, no. R/S01/90/300/78.516 of 2 April 1981	Commission	02/04/1981	1	Evidence
Annex IV	Letter by M. RICHARD, Member of the Commission, of 15 April 1981	Commission	15/04/1981	1	Evidence
Annex V	Letter by M. NOTERDAEME, Permanent representative of Belgium, no. Z/S04/93/157/79.046 of 15 May 1981	Commission	15/05/1981	1	Evidence
Annex Va	Letter by E. FLACHET, director-general of personnel and social services with the SNCB (Belgian National Railway Company) to the Ministry of communications, no. O.3.1 LL/MB of 4 May 1981	Commission	04/05/1981	2	Evidence

Annex Va 1)	Description of tasks associated with the contested positions with the SNCB	Commission		4	Evidence
Annex V	Letter by M. NOTERDAEME, Permanent representative of Belgium, no. Z/S04/93/157/79.046 of 15 May 1981	Commission	15/05/1981	1	Evidence
Annex Vb	SNCV: Description of tasks associated with the positions with the SNCV (Vicinaux local branch of the Belgian National Railway Company)	Commission	05/05/1981	21	Evidence
Annex VI	Letter by M. NOTERDAEME, Permanent representative of Belgium, no. Z/S01/31/300/79.213 of 27 May 1981	Commission	27/05/1981	1	Evidence
Annex VIa	Description of tasks associated with the positions with the City of Brussels				Evidence
Annex VIa 1)	Letter by J. PLETINCKX, Director of the Direction of Surveillance of expenses and materials with the City of Brussels of 20 March 1981	Commission	20/03/1981	5	Evidence
Annex VIa 2)	Letter by H. CAERS, Director of Protocol and Public Relations with the City of Brussels of 20 March 1981	Commission	20/03/1981	1	Evidence
Annex VIa 3)	Description of tasks associated with positions with the City of Brussels department of Green zones and game areas	Commission		3	Evidence
Annex VIa 4)	Letter by A. BIRONT, Director of Service of heating and electricity of the City of Brussels of 20 March 1981	Commission	20/03/1981	1	Evidence
Annex VIa 5)	Description of tasks associated with the positions with the Technical service of public construction	Commission		3	Evidence
Annex VIa 6)	Description of tasks associated with the positions with the City of Brussels	Commission		2	Evidence

Annex VIa 7)	Description of tasks associated with the positions with the Medical inspection service of the City of Brussels	Commission		6	Evidence
Annex VIb	Description of tasks associated with the positions with the Commune of Auderghem	Commission	29/05/1981	7	Evidence
Doc 135	Submission of Defendant's report (ordered by the Court by interim judgment)	Belgium	28/10/1981	5	Submission
Annex I	Deposition of evidence: description of qualifications for job offers	Belgium	28/10/1981	49	Evidence
Doc 136	Transmission of certified copy of Defendant's report to Applicant	Registrar of the Court	10/11/1981	1	Procedure
Doc 137	Transmission of certified copy of Applicant's report to Defendant	Registrar of the Court	10/11/1981	1	Procedure
Doc 138	Transmission of certified copies of Applicant's and Defendant's report to Intervenor (UK)	Registrar of the Court	10/11/1981	1	Procedure
Doc 139	Transmission of certified copies of Applicant's and Defendant's report to Intervenor (Germany)	Registrar of the Court	10/11/1981	1	Procedure
Doc 140	Transmission of certified copies of Applicant's and Defendant's report to Intervenor (France)	Registrar of the Court	10/11/1981	1	Procedure
Doc 141	Transmission of certified copies of annexes to Applicant's report to Intervenor (UK)	Registrar of the Court	16/11/1981	1	Procedure
Doc 142	Transmission of certified copies of annexes to Applicant's report to Intervenor (Germany)	Registrar of the Court	16/11/1981	1	Procedure
Doc 143	Transmission of certified copies of annexes to Applicant's report to Intervenor (France)	Registrar of the Court	16/11/1981	1	Procedure
Instruction				p. 189-191	
The pages from 190-198 of the original file are not available for public consultation				8	Redactede
	[i.a. Report of the <i>juge rapporteur</i>]				

Oral Procedure II					p. 191- 223	
Doc 144	Transmission of date for oral hearing to Applicant	Registrar of the Court	01/12/1981	1	Procedure	
Doc 145	Transmission of date for oral hearing to Defendant	Registrar of the Court	01/12/1981	1	Procedure	
Doc 146	Transmission of date for oral hearing to Intervenor (UK)	Registrar of the Court	01/12/1981	1	Procedure	
Doc 147	Transmission of date for oral hearing to intervenor (Germany)	Registrar of the Court	01/12/1981	1	Procedure	
Doc 148	Transmission of date for oral hearing to intervenor (France)	Registrar of the Court	01/12/1981	1	Procedure	
Doc 149	Composition of the Court from 7 October 1981 onwards	Unknown		1	Procedure	
Doc 150	Transmission of a certified copy of the report of the <i>juge rapporteur</i> to Applicant	Registrar of the Court	24/03/1982	1	Procedure	
Doc 151	Transmission of a certified copy of the report of the <i>juge rapporteur</i> to Defendant	Registrar of the Court	24/03/1982	1	Procedure	
Doc 152	Transmission of a certified copy of the report of the <i>juge rapporteur</i> to Intervenor (UK)	Registrar of the Court	24/03/1982	1	Procedure	
Doc 153	Transmission of a certified copy of the report of the <i>juge rapporteur</i> to Intervenor (Germany)	Registrar of the Court	24/03/1982	1	Procedure	
Doc 154	Transmission of a certified copy of the report of the <i>juge rapporteur</i> to Intervenor (France)	Registrar of the Court	24/03/1982	1	Procedure	
Doc 155	Second Report for the hearing (Deuxième Rapport d'audience - réouverture de la procédure orale)	Juge Rapporteur BOSCO	30/03/1982	26	Report of the hearing	
The pages from 218-290 of the original file are not available for public consultation				72	Redacted	
Doc 156	Transmission of date for hearing of the Advocate-General's opinion to Applicant	Registrar of the Court	30/03/1982	1	Procedure	
Doc 157	Transmission of date for hearing of the Advocate-General's opinion to Defendant	Registrar of the Court	30/03/1982	1	Procedure	

Doc 158	Transmission of date for hearing of the Advocate-General's opinion to Intervenor (UK)	Registrar of the Court	30/03/1982	1	Procedure
Doc 159	Transmission of date for hearing of the Advocate-General's opinion to Intervenor (Germany)	Registrar of the Court	30/03/1982	1	Procedure
Doc 160	Transmission of date for hearing of the Advocate-General's opinion to Intervenor (France)	Registrar of the Court	30/03/1982	1	Procedure
Doc 161	Advocate-General's opinion (<i>Conclusions de l'Avocat général</i>)	Advocate-General ROZES	12/05/1982	3	AG's Opinion
Doc 162	Letter by R. HOEBAER of 1 April 1982 containing deposition on questions that arose during oral hearing	Belgium	01/04/1982	2	Submissions
Doc 163	Transmission of certified copy of deposition by Defendant to Applicant	Registrar of the Court	15/04/1982	1	Procedure
Final judgment (Arrêt)				p. 223-258	
Doc 164	Transmission of date for hearing of the verdict to Applicant	Registrar of the Court	19/05/1982	2	Procedure
Doc 165	Transmission of date for hearing of the verdict to Defendant	Registrar of the Court	19/05/1982	2	Procedure
Doc 166	Transmission of date for hearing of the verdict to Intervenor (UK)	Registrar of the Court	19/05/1982	2	Procedure
Doc 167	Transmission of date for hearing of the verdict to Intervenor (Germany)	Registrar of the Court	19/05/1982	2	Procedure
Doc 168	Transmission of date for hearing of the verdict to Intervenor (France)	Registrar of the Court	19/05/1982	2	Procedure
Doc 169	Transmission of certified copy of the verdict and the AG's Opinion to Applicant	Registrar of the Court	26/05/1982	3	Procedure
Doc 170	Transmission of certified copy of the verdict and the AG's Opinion to Defendant	Registrar of the Court	26/05/1982	4	Procedure
Doc 171	Transmission of certified copy of the verdict and the AG's Opinion to Intervenor (UK)	Registrar of the Court	26/05/1982	5	Procedure

Analysis of the Commission v Belgium case 159/79

Doc 172	Transmission of certified copy of the verdict and the AG's Opinion to Intervenor (Germany)	Registrar of the Court	26/05/1982	6	Procedure
Doc 173	Transmission of certified copy of the verdict and the AG's Opinion to Intervenor (France)	Registrar of the Court	26/05/1982	7	Procedure
Doc 174	Final judgment of the Court of Justice in case 149/79 of 26/05/1982	Court of Justice, 1st Chamber	26/05/1982	14	Judgment

