Selection of judgments of the ECJ applying and/or interpreting Articles 28 to 30 of the EC Treaty (from 01.01.2001 to 24.11.2005)[1]

Case	Date of judgment	Parties	Summary
Foodstuffs			
C-420/01	19-06-2003	Commission v Italy	*"By applying to drinks produced and marketed in other Member States a rule prohibiting the marketing in Italy of energy drinks containing caffeine in excess of a certain limit, without showing that that limit is necessary and proportionate for the protection of public health, the Italian Republic has failed to fulfil its obligations under Articles 28 EC and 30 EC;[…]".*
C-192/01	23-09-2003	Commission v Denmark	*"By applying an administrative practice which entails that enriched foodstuffs lawfully produced or marketed in other Member States can be marketed in Denmark only if it is shown that such enrichment with nutrients meets a need in the Danish population, the Kingdom of Denmark has failed to fulfil its obligations under Article 28 EC."*
C-41/02	02-12-2004	Commission v Netherlands	*"By applying an administrative practice under which foodstuffs for everyday consumption fortified with vitamin A (in the form of retinoids), vitamin D, folic acid, selenium, copper or zinc which are lawfully produced or marketed in other Member States may be marketed in the Netherlands, when they are neither substitution products nor reconstituted foodstuffs within the meaning of Article 1(1)(c) and (d) of the Warenwetbesluit Toevoeging micro-voedingsstoffen aan levensmiddelen (Decree implementing the Warenwet, on the addition of micronutrients to foodstuffs) of 24 May 1996 only if that enrichment meets a nutritional need in the Netherlands population and, in addition, without ascertaining whether those fortified foodstuffs might be a substitute for foodstuffs already marketed for which the addition of those nutrients is mandatory, the Kingdom of the Netherlands has failed to fulfil its obligations under Article 30 of the EC*

[1] The text of all judgments is available in several language versions on the website of the European Court of Justice : http://curia.eu.int

			Treaty (now, after amendment, Article 28 EC).”
C-366/04	24-11-2005	Georg Schwarz v Bürgermeister der Landeshauptstadt Salzburg	*“It is not contrary to Articles 28 EC, 30 EC and Article 7 of Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs for a provision of national law, adopted before the entry into force of that directive, to prohibit the offer for sale from vending machines of sugar confectionery or products made using sugar substitutes, without wrapping.”*
Authorisation procedures – Foodstuffs			
C-270/02	05-02-2004	Commission v Italy	*“By maintaining in force legislation which subjects the marketing of food products for sportsmen and women lawfully manufactured and marketed in other Member States to a requirement of applying for prior authorisation and of initiating a procedure for that purpose without having shown that it is necessary and proportionate, the Italian Republic has failed to fulfil its obligations under Articles 28 EC and 30 EC.”*
C-95/01	05-02-2004	Greenham + Abel	*“Articles 28 EC and 30 EC must be interpreted as meaning that they do not preclude a Member State from prohibiting the marketing without prior authorisation of foodstuffs lawfully manufactured and marketed in another Member State, where nutrients such as vitamins or minerals have been added thereto other than those whose use has been declared lawful in the first Member State, provided that certain conditions are satisfied.”* *First, the prior authorisation procedure must be readily accessible and capable of being completed within a reasonable time and, if it leads to a refusal, the decision of refusal must be open to challenge before the courts. Secondly, refusal to authorise marketing must be based on a detailed assessment of the risk to public health, based on the most reliable scientific data available and the most recent results of international research.”*

C-24/00	05-02-2004	Commission v France	***"****By failing to provide for a simplified procedure for having included on the national list of authorised nutrients those added to foodstuffs for daily consumption and foodstuffs intended for particular nutritional uses which are lawfully manufactured and/or marketed in other Member States, and by hindering the marketing in France of certain foodstuffs, such as food supplements and dietary products containing the substances L-tartrate and L-carnitine, and confectionery and drinks to which certain nutrients have been added, without establishing that the marketing of such foodstuffs entails a real risk for public health, the French Republic has failed to fulfil its obligations under Article 30 of the EC Treaty (now, after amendment, Article 28 EC)."*
Authorisation procedures – Other products			
C-390/99	22-01-2002	Canal Satélite Digital	*"**1.** National legislation which makes the marketing of apparatus, equipment, decoders or digital transmission and reception systems for television signals by satellite and the provision of related services by operators of conditional-access services subject to a prior authorisation procedure restricts both the free movement of goods and the freedom to provide services. Therefore, in order to be justified with regard to those fundamental freedoms, such legislation must pursue a public-interest objective recognised by Community law and comply with the principle of proportionality; that is to say, it must be appropriate to ensure achievement of the aim pursued and not go beyond what is necessary in order to achieve it.* ***2.** In determining whether national legislation such as that at issue in the main proceedings complies with the principle of proportionality, the referring court must take into account the following considerations in particular: **-** for a prior administrative authorisation scheme to be justified even though it derogates from those fundamental freedoms, it must, in any event, be based on objective, non-discriminatory criteria which are known in advance, in such a way as to circumscribe the exercise of the national authorities' discretion, so that it is not used arbitrarily; **-** a measure introduced by a Member State cannot be regarded as necessary to achieve the aim pursued if it essentially duplicates controls which have already been carried out in the context of other procedures, either in the same State or in another Member State; **-** a prior authorisation procedure will be necessary only where subsequent control must be regarded as being too late to*

			be genuinely effective and to enable it to achieve the aim pursued; ***-*** *a prior authorisation procedure does not comply with the fundamental principles of the free movement of goods and the freedom to provide services if, on account of its duration and the disproportionate costs to which it gives rise, it is such as to deter the operators concerned from pursuing their business plan.* ***3.*** *National legislation which requires operators of conditional-access services to enter the equipment, decoders or systems for the digital transmission and reception of television signals by satellite which they propose to market in a register and to obtain prior certification for those products before being able to market them constitutes a technical regulation within the meaning of Article 1, point 9, of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations, as amended and updated by Directive 94/10/EC of the European Parliament and of the Council of 23 March 1994."*
C-429/00 & C-388/00	20-06-2002	RadioSistemi	*"****1)*** *Article 28 EC precludes legislation and national administrative practice which - in the context of a system where matters concerning conformity assessment procedures for the purposes of placing radio equipment on the market and putting such equipment into service have been delegated to the administrative authorities, to be decided at their discretion - prevents economic operators from importing, marketing or holding in stock, with a view to selling, radio equipment that has not undergone national type-approval, and which does not admit other forms of evidence, equally reliable but less burdensome to obtain, to prove that such equipment is in conformity with requirements concerning the proper use of the radio frequencies authorised under national law.* ***(…)*** *3) The term measure within the meaning of Article 1 of Decision No 3052/95/EC of the European Parliament and of the Council of 13 December 1995 establishing a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods within the Community includes any measures, other than judicial decisions, taken by a Member State having the effect of restricting the free movement of goods lawfully produced or marketed in another Member State. Where the administrative authorities, having seized a particular model or a particular type of product which is lawfully marketed in another Member State, continue to withhold that model or product after a check has been carried out by the public authorities responsible for technical checks to ascertain that the product in question is in conformity with both national and Community legislation, that is a measure which must be notified to the Commission within the meaning of that provision.* ***(4)*** *Where national*

			provisions have been recognised as being contrary to Community law, the imposition of fines or other coercive measures for infringements of those provisions is also incompatible with Community law."
C-455/01	16-10-2003	Commission v Italy	*"By keeping in force legislation under which products in respect of which there has not yet been full harmonisation, intended for use on merchant vessels flying the Italian flag, may be marketed only if a certificate of conformity has been issued by a national body - so that in some cases the right to market the products is enjoyed only by the grantee of the certificate - and by not recognising the validity of tests carried out in accordance with international standards by bodies recognised in the other Member States, even where the relevant information is made available to the competent authority and it is clear from the certificates that the equipment guarantees a degree of safety equivalent to that required for Italian products, the Italian Republic has failed to fulfil its obligations under Article 28 EC."*
C-387/99	29-04-2004	Commission v. Germany	*"By automatically classifying as medicinal products vitamin preparations lawfully manufactured or marketed as food supplements in the other Member States in the case where they contain three times more vitamins, other than vitamins A and D, than the daily amount recommended by the Deutsche Gesellschaft für Ernährung (German Food Association), the Federal Republic of Germany has failed to fulfil its obligations under Article 30 of the EC Treaty (now, after amendment, Article 28 EC)."*
C-443/02	15-07-2004	Schreiber	*"The fact that a Member State requires prior authorisation for the marketing of blocks of red cedar wood having natural anti-moth properties, which have been lawfully placed on the market in another Member State in which there is no requirement of authorisation or registration, constitutes a measure having equivalent effect contrary to Article 28 EC, which may nevertheless be regarded as justified on grounds of the protection of public health under Article 30 EC."*
C-212/03	26-05-2005	Commission v France	*The Court declares that, by applying:* ***i)*** *" a prior authorisation procedure to personal imports, not effected by personal transport, of medicinal products lawfully prescribed in France and authorised under Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation*

			or administrative action relating to proprietary medicinal products, as amended by Council Directive 93/39/EEC of 14 June 1993, both in France and in the Member State where they are purchased;" ***ii)*** *" a prior authorisation procedure to personal imports, not effected by personal transport, of homeopathic medicinal products lawfully prescribed in France and registered in a Member State pursuant to Council Directive 92/73/EEC of 22 September 1992 widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down additional provisions on homeopathic medicinal products; and"* ***iii)*** *" a disproportionate prior authorisation procedure to personal imports, not effected by personal transport, of medicinal products lawfully prescribed in France and not authorised in that Member State but only in the Member State where they are purchased,* *the French Republic has failed to fulfil its obligations under Article 28 EC."*
C-432/03	10-11-2005	Commission v Portugal	*"By failing to take account of approval certificates issued by other Member States in a procedure, under Article 17 of the General Law on Urban Construction, adopted by Decree-Law No 38/382 of 7 August 1951, for approval of polyethylene pipes imported from those other Member States, and by not informing the Commission of such a measure, the Portuguese Republic has failed to fulfil its obligations under Articles 28 EC and 30 EC and under Articles 1 and 4(2) of Decision No 3052/95/EC of the European Parliament and of the Council of 13 December 1995 establishing a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods within the Community."*
Decision 3052/95/EC			
C-429/00 & C-388/00	20-06-2002	RadioSistemi	*"* ***1)*** *Article 28 EC precludes legislation and national administrative practice which - in the context of a system where matters concerning conformity assessment procedures for the purposes of placing radio equipment on the market and putting such equipment into service have been delegated to the administrative authorities, to be decided at their discretion - prevents economic operators from importing, marketing or holding in stock, with a view to selling, radio equipment that has not undergone national type-approval, and which does not admit other forms of*

			evidence, equally reliable but less burdensome to obtain, to prove that such equipment is in conformity with requirements concerning the proper use of the radio frequencies authorised under national law. ***(…)*** *3) The term measure within the meaning of Article 1 of Decision No 3052/95/EC of the European Parliament and of the Council of 13 December 1995 establishing a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods within the Community includes any measures, other than judicial decisions, taken by a Member State having the effect of restricting the free movement of goods lawfully produced or marketed in another Member State. Where the administrative authorities, having seized a particular model or a particular type of product which is lawfully marketed in another Member State, continue to withhold that model or product after a check has been carried out by the public authorities responsible for technical checks to ascertain that the product in question is in conformity with both national and Community legislation, that is a measure which must be notified to the Commission within the meaning of that provision.* ***(4)*** *Where national provisions have been recognised as being contrary to Community law, the imposition of fines or other coercive measures for infringements of those provisions is also incompatible with Community law."*
C-432/03	10-11-2005	Commission v Portugal	*"By failing to take account of approval certificates issued by other Member States in a procedure, under Article 17 of the General Law on Urban Construction, adopted by Decree-Law No 38/382 of 7 August 1951, for approval of polyethylene pipes imported from those other Member States, and by not informing the Commission of such a measure, the Portuguese Republic has failed to fulfil its obligations under Articles 28 EC and 30 EC and under Articles 1 and 4(2) of Decision No 3052/95/EC of the European Parliament and of the Council of 13 December 1995 establishing a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods within the Community."*

"Strawberry" Regulation			
C-112/00	12-06-2003	Schmidberger	*"The fact that the authorities of a Member State did not ban a demonstration in circumstances such as those of the main case is not incompatible with Articles 30 and 34 of the EC Treaty (now, after amendment, Articles 28 EC and 29 EC), read together with Article 5 of the EC Treaty (now Article 10 EC)."*
Selling arrangements ("Keck" case law)			
C-405/98	08-03-2001	Gourmet International Products	*"Articles 30 and 36 of the EC Treaty (now, after amendment, Articles 28 EC and 30 EC) and Articles 56 and 59 of the EC Treaty (now, after amendment, Articles 46 EC and 49 EC) do not preclude a prohibition on the advertising of alcoholic beverages such as that laid down in Article 2 of Lagen 1978:763 med vissa bestämmelser om marknadsföring av alkoholdrycker (Swedish Law laying down provisions on the Marketing of Alcoholic Beverages), as amended, unless it is apparent that, in the circumstances of law and of fact which characterise the situation in the Member State concerned, the protection of public health against the harmful effects of alcohol can be ensured by measures having less effect on intra-Community trade."*
C-159/00	06-06-2002	Sapod Audic v. Eco-Emballages SA	*"[…]* ***6.*** *If the national court were to interpret a provision such as the second paragraph of Article 4 of Decree No 92-377 as not requiring a mark or label to be applied but as imposing only a general obligation to identify the packaging collected for disposal by an approved undertaking, that provision may be regarded as a selling arrangement. It is for the national court to verify whether the relevant conditions under the case-law of the Court for exempting such an obligation from the scope of application of Article 30 of the EC Treaty (now, after amendment, Article 28 EC) are met, namely that the provision at issue applies to all relevant traders operating within the national territory and that it affects in the same manner, in law and in fact, the marketing of domestic products and of those from other Member States."*

C-416/00	18-09-2003	Morellato	*"**1.** The requirement for prior packaging imposed by the law of a Member State on the sale of bread obtained by completing, in that Member State, the baking of partly baked bread, whether deep-frozen or not, that has been imported from another Member State does not constitute a quantitative restriction or a measure having equivalent effect within the meaning of Article 30 of the EC Treaty (now, after amendment, Article 28 EC), provided that it applies without distinction to both national and imported products and that it does not in reality constitute discrimination against imported products. If the national court, in examining these measures, finds that that requirement results in an obstacle to imports, then it cannot be justified by reasons relating to the protection of the health and life of humans within the meaning of Article 36 of the EC Treaty (now, after amendment, Article 30 EC).* ***2.** National courts have an obligation to ensure the full effect of Article 30 of the Treaty by disapplying on their own initiative domestic provisions which do not comply with that article."*
C-20/03	26-05-2005	Burmanjer e.a.	*"Article 28 EC does not preclude national rules under which a Member State makes an offence of the itinerant sale within its territory, without prior authorisation, of subscriptions to periodicals, where such rules apply, without distinction based on the origin of the products in question, to all the economic operators concerned carrying on their activity within that State, provided that such rules affect in the same manner, in law and in fact, the marketing of products originating in that State and that of products from other Member States. It is for the referring court to determine, having regard to the facts of the main proceedings, whether the application of national law is such as to ensure that those rules affect in the same manner, in law and in fact, the marketing of domestic products and that of products from other Member States, and, if that is not the case, to establish whether the rules in question are justified by an objective in the general interest within the meaning which the Court's case-law gives to that expression and whether they are proportional to that objective."*
Distance selling			
C-322/01	11-12-2003	Deutscher Apothekenverband	*"[...] **1 (a)** A national prohibition on the sale by mail order of medicinal products the sale of which is restricted to pharmacies in the Member State concerned, such as the prohibition laid*

		("DocMorris")	*down in Paragraph 43(1) of the Arzneimittelgesetz (Law on medicinal products) in the version of 7 September 1998, is a measure having an effect equivalent to a quantitative restriction for the purposes of Article 28 EC.* ***(b)*** *Article 30 EC may be relied on to justify a national prohibition on the sale by mail order of medicinal products which may be sold only in pharmacies in the Member State concerned in so far as the prohibition covers medicinal products subject to prescription. However, Article 30 EC cannot be relied on to justify an absolute prohibition on the sale by mail order of medicinal products which are not subject to prescription in the Member State concerned.* ***(c)*** *Questions 1(a) and 1(b) do not need to be assessed differently where medicinal products are imported into a Member State in which they are authorised, having been previously obtained by a pharmacy in another Member State from a wholesaler in the importing Member State.* ***2.*** *Article 88(1) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use precludes a national prohibition on advertising the sale by mail order of medicinal products which may be supplied only in pharmacies in the Member State concerned, such as the prohibition laid down in Paragraph 8(1) of the Heilmittelwerbegesetz (Law on the advertising of medicinal products), in so far as the prohibition covers medicinal products which are not subject to prescription."*
C-497/03	28-10-2004	Commission v. Austria	*"By prohibiting under Paragraph 50(2) of the Gewerbeordnung the sale of food supplements by mail order, the Republic of Austria has failed to fulfil its obligations under Article28 EC."*
Parallel imports			
C-143/00	23-04-2002	Boehringer Ingelheim & Others	*"****1.*** *Article 7(2) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks, as amended by the Agreement on the European Economic Area of 2 May 1992, must be interpreted as meaning that a trade mark proprietor may rely on its trade mark rights in order to prevent a parallel importer from repackaging pharmaceutical products unless the exercise of those rights contributes to artificial partitioning of the markets between Member States.* ***2.*** *Replacement packaging of pharmaceutical products is objectively necessary within the meaning of the Court's case-law if, without such*

			repackaging, effective access to the market concerned, or to a substantial part of that market, must be considered to be hindered as the result of strong resistance from a significant proportion of consumers to relabelled pharmaceutical products. ***3.*** *A parallel importer must, in any event, in order to be entitled to repackage trade-marked pharmaceutical products, fulfil the requirement of prior notice. If the parallel importer does not satisfy that requirement, the trade mark proprietor may oppose the marketing of the repackaged pharmaceutical product. It is incumbent on the parallel importer himself to give notice to the trade mark proprietor of the intended repackaging. In the event of dispute, it is for the national court to assess, in the light of all the relevant circumstances, whether the proprietor had a reasonable time to react to the intended repackaging."*
C-172/00	10-09-2002	Ferring Arzneimittel	*"****1.*** *Article 28 EC precludes national legislation under which the withdrawal of the marketing authorisation of reference for a medicinal product on application by the holder thereof means that the parallel import licence for that product automatically ceases to be valid.* ***2.*** *The fact that the new version of the medicinal product has been placed on the market of the Member State of importation alone or is also found on the market in other Member States does not alter the answer to the first question.* ***3.*** *If it is demonstrated that there is in fact a risk to public health arising from the coexistence of two versions of the same medicinal product on the market in a Member State such a risk may justify restrictions on the importation of the old version of the medicinal product in consequence of the withdrawal of the marketing authorisation of reference by the holder thereof in relation to that market."*
C-122/03	11-12-2003	Commission v France	*"By imposing, pursuant to Article R. 5142-15 of the Code de la santé publique, on traders importing or distributing in France medicinal products which are already covered by a marketing authorisation for the French or Community market a requirement that they submit, when first so requested by the monitoring authorities, either a certified copy issued by the Agence française de securité sanitaire des produits de santé of the French marketing authorisation or of the registration of the medicinal product, or a document issued by that Agency certifying that the imported medicinal product has obtained a marketing authorisation issued by the European Community, the French Republic has failed to fulfil its obligations under Article 28 EC."*

C-112/02	01-04-2004	Kohlpharma	*"[…]In the case where* **-** *an application for a marketing authorisation for a medicinal product is submitted with reference to a medicinal product that has already been authorised,* **-** *the medicinal product which is the subject of the application is imported from a Member State in which it has obtained a marketing authorisation,* **-** *the assessment of safety and efficacy carried out for the medicinal product which is already authorised can be used in the application for a marketing authorisation for the second medicinal product without any risk to public health; Articles 28 EC and 30 EC preclude the application being rejected solely on the ground that the two medicinal products do not have a common origin."*
C-263/03	12-10-2004	Commission v. France	*"By failing to lay down specific rules relating to the authorisation of imports of medicinal products from other Member States of the European Community when those products are the same as medicinal products which have already been authorised in France (parallel imports), the French Republic has failed to fulfil its obligations under Article 28 EC."*
C-114/04	14-07-2005	Commission v. Germany	*"By failing to grant parallel importers a reasonable period in which to liquidate their stocks following withdrawal of a marketing authorisation for a phytopharmaceutical reference product, the Federal Republic of Germany failed to fulfil its obligations under Article 28 EC."*
Article 29 EC (exports)			
C-469/00	20-05-2003	Ravil	*"[…]* ***2.*** *Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, as amended by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, must be interpreted as not precluding the use of a protected designation of origin from being subject to the condition that operations such as the grating and packaging of the product take place in the region of production, where such a condition is laid down in the specification.* ***3.*** *Where the use of the protected designation of origin `Grana Padano' for cheese marketed in grated form is made subject to the condition that grating and packaging operations be carried out*

			in the region of production, this constitutes a measure having equivalent effect to a quantitative restriction on exports within the meaning of Article 29 EC, but may be regarded as justified, and hence compatible with that provision. ***4.*** *However, the condition in question may not be relied on against economic operators, as it was not brought to their knowledge by adequate publicity in Community legislation. Nevertheless, the principle of legal certainty does not preclude that condition from being regarded by the national court as capable of being relied on against operators who carried on the activity of grating and packaging the product in the period prior to the entry into force of Regulation No 1107/96, should that court consider that during that period the Decree of 4 November 1991 was applicable by virtue of the aforesaid Convention between the French Republic and the Italian Republic and capable of being relied on against those concerned by virtue of the national rules on publicity."*
C-12/02	02-10-2003	Grilli	*"Article 29 EC precludes the rules of a Member State which prohibit a national of another Member State, on pain of criminal penalties such as imprisonment or a fine, from taking to that other State a vehicle purchased in the first Member State bearing temporary number plates issued, for the purpose of the export of the vehicle to that other Member State, by the competent authorities of the latter State, if those rules are of such a kind as to restrict export patterns, create a difference in treatment between a State's domestic trade and its external trade and give rise to an advantage for national trade at the expense of that of another Member State, provided that those rules cannot be justified under Article 30 EC. It is for the national court to ascertain whether that is so in the main proceedings."*
Labelling – Indications of origin – Quality marks			
C-30/99	21-06-2001	Commission v. Ireland	*"- By prohibiting the marketing in Ireland with the description and indication of fineness which they bear in their country of origin, of articles made from precious metals (gold, silver or platinum) lawfully manufactured and marketed in other Member States but not complying with the Irish provisions concerning standards of fineness, or by obliging these imports to replace their hallmarks with those for the appropriate lower official Irish standard of fineness;* *- by requiring articles made from precious metals imported from another Member State, and*

			marketed in Ireland, to bear a sponsor's mark indicative of the maker, worker or dealer in such articles, registered by the Wardens and Commonalty of Goldsmiths of the city of Dublin which appoints the Assay Master by which these articles are intended to be struck with the approved hallmark, when these articles already bear a sponsor's mark conforming to the legislation of the Member State of origin; *- by requiring articles made from precious metals imported from another Member State, and marketed in Ireland, which have been lawfully struck in another Member State with a hallmark stamped by a body which offers guarantees of independence, and which offers appropriate information to consumers, to bear an approved hallmark struck by the Assay Master which is appointed by the Wardens and Commonalty of Goldsmiths of the city of Dublin or an international hallmark notified in accordance with the Convention on the Control and Marking of Articles of Precious Metals; and* *- by establishing differences between approved hallmarks struck on articles manufactured in Ireland and those hallmarks of the same type struck on articles imported from other Member States,* *Ireland has failed to fulfil its obligations under Article 30 of the EC Treaty (now, after amendment, Article 28 EC).”*
C-325/00	05.11.2002	Commission v. Germany	*“By awarding the quality label `Marenqualität aus deutschen Landen' (quality label for produce made in Germany) to finished products of a certain quality made in Germany, the Federal Republic of Germany has failed to fulfil its obligations under Article 30 of the EC Treaty (now, after amendment, Article 28 EC)”.*
C-6/02	06-03-2003	Commission v France	*“By maintaining the national legal protection afforded to the name Salaisons d'Auvergne and to the regional labels Savoie, Franche-Comté, Corse, Midi-Pyrénées, Normandie, Nord-Pas-de-Calais, Ardennes de France, Limousin, Languedoc-Roussillon and Lorraine, the French Republic has failed to fulfil its obligations under Article 28 EC.”*
C-108/01	20-05-2003	Prosciutto di Parma	*“**1.** Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, as amended by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland*

			and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, must be interpreted as not precluding the use of a protected designation of origin from being subject to the condition that operations such as the slicing and packaging of the product take place in the region of production, where such a condition is laid down in the specification. ***2.*** *Where the use of the protected designation of origin Prosciutto di Parma for ham marketed in slices is made subject to the condition that slicing and packaging operations be carried out in the region of production, this constitutes a measure having equivalent effect to a quantitative restriction on exports within the meaning of Article 29 EC, but may be regarded as justified, and hence compatible with that provision.* ***3.*** *However, the condition in question cannot be relied on against economic operators, as it was not brought to their attention by adequate publicity in Community legislation."*
C-255/03	22-01-2005	Commission v. Belgium	*"By adopting and maintaining in force rules under which 'the Walloon label of quality' is granted to finished products of a certain quality manufactured or processed in Wallonie, the Kingdom of Belgium has failed to fulfil its obligations under Article 28 EC."*
Control measures			
C-14/02	08-05-2003	ATRAL	*"[…]* ***3.*** *Articles 28 EC and 30 EC must be interpreted as meaning that even in the absence of harmonising Community measures, products lawfully produced and marketed in a Member State must be able to be marketed in another Member State without being subject to additional controls. In order to be justified, national legislation imposing such controls must be covered by one of the exceptions provided for in Article 30 EC or one of the overriding requirements recognised by the case-law of the Court and, in either case, must be appropriate for securing the attainment of that objective and not go beyond what is necessary in order to attain it.* ***4.*** *It is for the Member State which claims to have a reason justifying a restriction on the free movement of goods to demonstrate specifically the existence of a reason relating to the public interest, the necessity for the restriction in question and that the restriction is proportionate in relation to the objective pursued."*

Registration of cars			
C-451/99	21-03-2002	Cura Anlagen	*"The provisions of the EC Treaty on the freedom to provide services (Articles 49 EC to 55 EC) preclude legislation of a Member State, such as that at issue in the main proceedings, requiring an undertaking established in that Member State which takes a lease of a vehicle registered in another Member State to register it in the first Member State in order to be able to use it there beyond a period that is so short, in this case three days, that it makes it impossible or excessively difficult to comply with the requirements imposed. The same provisions of the Treaty preclude legislation of a Member State, such as that at issue in the main proceedings, requiring an undertaking established in that Member State which takes a lease of a vehicle registered in another Member State to register it in the first Member State and imposing on it one or more of the following conditions: - a requirement that the person in whose name the vehicle is registered in the Member State of use reside or have a place of business there, in so far as it obliges a leasing undertaking either to have a principal place of business in that Member State or to accept registration of the vehicle in the name of the lessee and the consequent limitation of its rights over the vehicle; - a requirement to insure the vehicle with an authorised insurer in the Member State of use, if that requirement implies that the insurer must have its principal place of business in that Member State, as the home State within the meaning of the non-life insurance directives, and have official authorisation there; - a requirement of a roadworthiness test when the vehicle has already undergone such testing in the Member State where the leasing company is established, save where that requirement is aimed at verifying that the vehicle satisfies the conditions imposed on vehicles registered in the Member State of use that are not covered by the tests carried out in the Member State where the leasing company is established and/or, if the vehicle has in the meantime been used on the public highway, that its condition has not deteriorated since it was tested in that latter Member State, provided similar testing is imposed where a vehicle previously tested in the Member State of use is presented for registration in that State; - payment, in the Member State of use, of a consumption tax the amount of which is not proportionate to the duration of the registration of the vehicle in that State."*

Relation of Articles 28-30 to secondary legislation – Full v. incomplete harmonisation			
C-324/99	13-12-2001	Daimler Chrysler AG v. Land Badem Württemberg	*"**1.** Where a national measure generally prohibiting exports of waste for disposal is justified by the principles of proximity, priority for recovery and self-sufficiency, in accordance with Article 4(3)(a)(i) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community, it is not necessary for that national measure to be subject to a further and separate review of its compatibility with Articles 34 and 36 of the EC Treaty (now, after amendment, Articles 29 EC and 30 EC). **2.** Article 4(3) of Regulation No 259/93 does not authorise a Member State which has adopted legislation introducing an obligation to offer waste for disposal to an approved body to provide that, where the waste is not allocated to a treatment centre for which that body is responsible, its shipment to treatment installations in other Member States is authorised only on condition that the intended disposal satisfy the requirements of the environmental protection legislation of that Member State. **3.** Articles 3 to 5 of Regulation No 259/93 preclude a Member State from applying to shipments between Member States of waste for disposal, before the implementation of the notification procedure laid down in the regulation, its own procedure in relation to the offer and allocation of the waste."*
C-463/01	14-12-2004	Commission v. Germany	*"By establishing, through Paragraphs 8(1) and 9(2) of the Verordnung über die Vermeidung und Verwertung von Verpackungsabfällen (Regulation on the Avoidance and Recovery of Packaging Waste), a system seeking the re-use of packaging for products which, under Council Directive 80/777/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters, must be bottled at source, the Federal Republic of Germany has failed to fulfil its obligations under Article 5 of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste in conjunction with Article 28 EC."*
C-309/02	14-12-2004	Radlberger Getränkegesellschaft	*"[…] **1.** Article 1(2) of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste does not preclude the Member States from introducing*

		and S. Spitz	*measures designed to promote systems for the reuse of packaging.* ***2.*** *While Article 7 of Directive 94/62 does not confer on the producers and distributors concerned any right to continue to participate in a given packaging-waste management system, it precludes the replacement of a global system for the collection of packaging waste with a deposit and return system where the new system is not equally appropriate for the purpose of attaining the objectives of that directive or where the changeover to the new system does not take place without a break and without jeopardising the ability of economic operators in the sectors concerned actually to participate in the new system as soon as it enters into force.* ***3.*** *Article 28 EC precludes national rules, such as those laid down in Paragraphs 8(1) and 9(2) of the Verordnung über die Vermeidung und Verwertung von Verpackungsabfällen (Regulation on the Avoidance and Recovery of Packaging Waste), when they announce that a global packaging-waste collection system is to be replaced by a deposit and return system without the producers and distributors concerned having a reasonable transitional period to adapt thereto and being assured that, at the time when the packaging-waste management system changes, they can actually participate in an operational system."*
Others			
C-379/98	13.03.2001	PreussenElektra AG & Schleswag AG	*"1. Statutory provisions of a Member State which, first, require private electricity supply undertakings to purchase electricity produced in their area of supply from renewable energy sources at minimum prices higher than the real economic value of that type of electricity, and, second, distribute the financial burden resulting from that obligation between those electricity supply undertakings and upstream private electricity network operators do not constitute State aid within the meaning of Article 92(1) of the EC Treaty (now, after amendment, Article 87(1) EC).* *2. In the current state of Community law concerning the electricity market, such provisions are not incompatible with Article 30 of the EC Treaty (now, after amendment, Article 28 EC)."*

C-115/02	23-10-2003	Rioglass & Transremar	*"Article 28 EC is to be interpreted as precluding the implementation, pursuant to a legislative measure of a Member State concerning intellectual property, of procedures for detention by the customs authorities of goods lawfully manufactured in another Member State and intended, following their transit through the territory of the first Member State, to be placed on the market in a non-member country."*
C-320/03	15-11-2005	Commission v. Austria	*"By prohibiting lorries of over 7.5 tonnes, carrying certain goods, from driving on a section of the A 12 motorway in the Inn valley, following the adoption of the Regulation of the First Minister of the Tyrol limiting transport on the A 12 motorway in the Inn valley (sectoral prohibition on road transport) […], of 27 May 2003, the Republic of Austria has failed to fulfil its obligations under Articles 28 EC and 29 EC."*