JUDGMENT OF THE COURT
12 May 1998 *

In Case C-336/96,

REFERENCE to the Court under Article 177 of the EC Treaty by the Tribunal Administratif, Strasbourg, France, for a preliminary ruling in the proceedings pending before that court between

Mr and Mrs Robert Gilly

and

Directeur des Services Fiscaux du Bas-Rhin

on the interpretation of Articles 6, 48 and 220 of the EC Treaty,

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, M. Wathelet (Rapporteur) and R. Schintgen (Presidents of Chambers), G. F. Mancini, J. C. Moitinho de Almeida, P. J. G. Kapteyn, J. L. Murray, J.-P. Puissochet, G. Hirsch, L. Sevón and K. M. Ioannou, Judges,

* Language of the case: French.

Advocate General: D. Ruiz-Jarabo Colomer,
Registrar: H. A. Rühl, Principal Administrator,

after considering the written observations submitted:

— by Mr and Mrs Gilly, the applicants in the main proceedings,

— on behalf of the French Government, by C. de Salins, Head of Subdirectorate in the Legal Directorate of the Ministry of Foreign Affairs, and G. Mignot, Foreign Affairs Secretary in the same directorate, acting as Agents,

— on behalf of the Belgian Government, by J. Devadder, General Adviser in the Ministry of Foreign Affairs, Trade and Cooperation with Developing Countries, acting as Agent,

— on behalf of the Danish Government, by P. Biering, Legal Adviser, Head of Division in the Ministry of Foreign Affairs, acting as Agent,

— on behalf of the German Government, by E. Röder, Ministerialrat in the Federal Ministry of Economic Affairs, acting as Agent,

— on behalf of the Italian Government, by Professor U. Leanza, Head of the Legal Department of the Ministry of Foreign Affairs, acting as Agent, assisted by G. De Bellis, Avvocato dello Stato,

— on behalf of the Finnish Government, by H. Rotkirch, Ambassador, Head of the Legal Department of the Ministry of Foreign Affairs, acting as Agent,

— on behalf of the Swedish Government, by E. Brattgård, Departmentsråd in the Foreign Trade Department of the Ministry of Foreign Affairs, acting as Agent

— on behalf of the United Kingdom Government, by J. E. Collins, Assistant Treasury Solicitor, acting as Agent, and

— on behalf of the Commission of the European Communities, by H. Michard and E. Traversa, of its Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of Mr Gilly; of the French Government, represented by G. Mignot; of the Danish Government, represented by J. Molde, Legal Adviser, Head of Division in the Ministry of Foreign Affairs, acting as Agent; of the Italian Government, represented by G. De Bellis; of the Netherlands Government, represented by M. Fierstra, Deputy Legal Adviser in the Ministry of Foreign Affairs, acting as Agent; of the United Kingdom Government, represented by R. Singh, of the Treasury Solicitor's Department, acting as Agent; and of the Commission, represented by H. Michard, at the hearing on 23 October 1997,

after hearing the Opinion of the Advocate General at the sitting on 20 November 1997,

gives the following

Judgment

1 By judgment of 10 October 1996, received at the Court on 11 October 1996, the Tribunal Administratif (Administrative Court), Strasbourg, referred to the Court for a preliminary ruling under Article 177 of the EC Treaty six questions on the interpretation of Articles 6, 48 and 220 of that Treaty.

2 Those questions were raised in the context of various proceedings brought by Mr and Mrs Gilly against the Directeur des Services Fiscaux du Bas-Rhin (Direc-

tor of Tax Services for the *département* of Bas-Rhin) concerning the calculation of their personal income tax for the tax years 1989, 1990, 1991, 1992 and 1993, pursuant to the Convention signed in Paris on 21 July 1959 between the French Republic and the Federal Republic of Germany for the avoidance of double taxation and the establishment of rules for mutual legal and administrative assistance in the field of income and wealth tax and in the field of business tax and land tax ('the Convention'), as amended by the protocols signed in Bonn on 9 June 1969 and 28 September 1989.

3 Mr and Mrs Gilly reside in France, near the German border. Mr Gilly, a French national, teaches in a State school in France. Mrs Gilly, who is a German national having also acquired French nationality by marriage, teaches in a State primary school in Germany, in the frontier area.

4 As regards taxation of income from employment, Article 13(1) of the Convention lays down the following basic principle:

'Subject to the provisions of the following paragraphs, income from dependent work shall be taxable only in the Contracting State in which the personal activity in respect of which it is received is carried out. In particular, salaries, wages, pay, gratuities or other emoluments shall be deemed to constitute income from dependent work, together with all similar benefits paid or awarded by persons other than those referred to in Article 14.'

5 Article 13(5)(a) contains an exception to the rule that income is to be taxed in the country where the work is carried out in the case of frontier workers, who are to be taxed in their State of residence:

'By way of exception to paragraphs 1, 3 and 4, income from dependent work earned by persons who work in the frontier area of one Contracting State and who

have their permanent home in the other Contracting State, to which they normally return each day, shall be taxable only in that other State.'

6 However, taxpayers receiving remuneration and pensions from the public sector are in principle taxable, under Article 14(1) of the Convention, in the paying State:

'Salaries, wages and similar remuneration, and retirement pensions, paid by one of the Contracting States, by a *Land* or by a legal person of that State or *Land* governed by public law to natural persons resident in the other State in consideration for present or past administrative or military services shall be taxable only in the first State. However, that provision shall not be applicable where the remuneration is paid to persons having the nationality of the other State without being at the same time nationals of the first State; in such cases, the remuneration shall be taxable only in the State in which such persons are resident.'

7 Article 16 of the Convention lays down a special rule applicable to teachers who are temporarily resident, under which taxation remains with the State of their original employment:

'Teachers resident in one of the Contracting States who, in the course of a period of temporary residence not exceeding two years, receive remuneration in respect of teaching in a university, college, school or other teaching establishment in the other State shall be taxable in respect of that remuneration only in the first State.'

8 As regards double taxation, Article 20(2)(a)(cc) of the Convention, as amended by the protocol signed on 28 September 1989, reads as follows:

'2. Double taxation of persons resident in France shall be avoided in the following manner:

(a) Profits and other positive income arising in the Federal Republic and taxable there under the provisions of this Convention shall also be taxable in France where they accrue to a person resident in France. The German tax shall not be deductible for calculation of the taxable income in France. However, the recipient shall be entitled to a tax credit to be set against the French tax charged on the taxable amount which includes that income. That tax credit shall be equal:

...

(cc) for all other income, to the amount of the French tax on the relevant income. This provision shall apply in particular to the income referred to in Articles ... 13(1) and (2) and 14.'

9 It appears from the national court's judgment that under the 'effective rate' rule, the amount of the tax credit is equal to the amount of the net income taxed in Germany multiplied by the ratio between the tax actually payable in respect of the total net income taxable under the French legislation and the amount of that income.

10 The national court states that the tax credit to be set against the French tax may prove to be less than the tax actually paid in Germany because of the greater

progressivity of the tax scale in the latter country. French frontier workers taxed both in Germany on income received there and in France on their total income after deduction of the tax credit mentioned above may thus be taxed more heavily than persons receiving exactly the same income but only in France.

11 In the present case, the public-service remuneration received by Mrs Gilly in Germany in 1989, 1990, 1991, 1992 and 1993 was taxed in Germany in accordance with Article 14(1) of the Convention, because she is a German national. That remuneration was also taxed in France pursuant to Article 20(2)(a) of the Convention. However, under Article 20(2)(a)(cc), the fact that it was taxed in Germany entitled her to a tax credit equal to the amount of the French tax on the relevant income.

12 In the proceedings which they initiated before the Tribunal Administratif, Strasbourg, on 8 July 1992 and 21 July 1995, Mr and Mrs Gilly submitted that application of the abovementioned provisions of the Convention had led to unjustified, discriminatory and excessive taxation which was incompatible with Articles 6 (formerly Article 7 of the EEC Treaty), 48 and 220 of the EC Treaty. They therefore sought to be discharged from the contested tax obligations and to have the amount of the tax which they claimed to have been wrongly charged reimbursed to them by the tax authorities.

13 The Tribunal Administratif took the view that the dispute before it turned on the interpretation to be given to Articles 6, 48 and 220 of the Treaty. It therefore stayed proceedings and requested a preliminary ruling by the Court on the following questions:

(1) Is the principle of freedom of movement for workers, as embodied in the Treaty of Rome and the implementing legislation, contravened by a tax regime, applicable to frontier workers, of the kind provided for by the Franco-German Convention, in so far as the latter lays down taxation arrangements which are different for people whose remuneration is paid by a

public entity as compared with those whose remuneration is paid by private persons and as a result is liable to have an impact on access to posts in the public or private sectors depending on residence in one State or another?

(2) Is a rule under which a frontier worker receiving remuneration from a State or an agency thereof governed by public law is taxable in that State, whereas, if the frontier worker has the nationality of the other State but is not at the same time a national of the first State, his remuneration is taxable in the State where the frontier worker resides, compatible with the principle of freedom of movement and the abolition of all discrimination on grounds of nationality?

(3) Is a tax provision which lays down for frontier workers employed by persons governed by public law and residing in one of the Member States a tax regime which differs according to whether they are nationals only of that State or have dual nationality compatible with Article 7 [now Article 6] of the Treaty?

(4) Is the principle of freedom of movement for workers, as embodied in the Treaty, contravened by tax rules which are liable to affect the choice made by teachers in the Contracting States as to whether to work on a more or less long-term basis in another State having regard to the differences, based on the duration of employment, in the tax regimes of the States in question?

(5) Must the objective of abolishing double taxation laid down in Article 220 of the Treaty be regarded, in view of the time which the Member States have had to implement it, as now having the status of a directly applicable rule under which double taxation may no longer take place? Is the objective of avoiding double taxation assigned to the Member States by Article 220 contravened by a tax convention under which the tax regime applicable to frontier workers of States party to the convention varies according to their nationality and the public or private nature of the post held? Does a tax credit regime applicable to a household living in one State which does not take into account the exact amount of the tax paid in another State but only a tax credit, which may be lower, meet the objective assigned to the Member States of abolishing double taxation?

(6) Must Article 48 be interpreted as meaning that nationals of a Member State who are frontier workers in another Member State may not, by reason of a tax credit mechanism of the type provided for by the Franco-German Convention, be taxed more heavily than persons whose occupational activity is pursued in their State of residence?

The fifth question

14 By its fifth question, which should be addressed first, the national court raises the question whether the second indent of Article 220 of the Treaty is directly applicable.

15 As the Court has already held in Case 137/84 *Mutsch* [1985] ECR 2681, at paragraph 11, Article 220 is not intended to lay down a legal rule directly applicable as such, but merely defines a number of matters on which the Member States are to enter into negotiations with each other 'so far as is necessary'. Its second indent merely indicates the abolition of double taxation within the Community as an objective of any such negotiations.

16 Although the abolition of double taxation within the Community is thus included among the objectives of the Treaty, it is clear from the wording of that provision that it cannot itself confer on individuals any rights on which they might be able to rely before their national courts.

17 The answer to the fifth question must therefore be that the second indent of Article 220 of the Treaty does not have direct effect.

The first, second and fourth questions

18 By its first, second and fourth questions, the national court wishes to know whether, on a proper construction, Article 48 of the Treaty precludes the application of provisions such as those in Articles 13(5)(a), 14(1) and 16 of the Convention, under which the tax regime applicable to frontier workers differs depending on whether they work in the private sector or the public sector and, where they work in the public sector, on whether or not they have only the nationality of the State of the authority employing them or not, and the regime applicable to teachers differs depending on whether their residence in the State in which they are teaching is for a short period or not.

Applicability of Article 48 of the Treaty

19 The first matter to be determined is whether a situation such as that of the applicants in the main proceedings falls within the Treaty rules relating to freedom of movement for workers.

20 At the hearing, the French Government expressed the view that Mrs Gilly has not exercised in France the rights conferred upon her by Article 48 of the Treaty, since she works in her State of origin, namely Germany.

21 It need merely be pointed out here that Mrs Gilly has acquired French nationality by her marriage and works in Germany whilst residing in France. She must therefore be considered in France as a worker exercising her right to freedom of movement, as guaranteed by the Treaty, in order to work in a Member State other than that in which she resides. The circumstance that she has retained the nationality of the State in which she is employed in no way affects the fact that, for the French

authorities, she is a French national working in another Member State (see, to the same effect, Case 292/86 *Gullung* v *Conseils de l'Ordre des Avocats du Barreau de Colmar et de Saverne* [1988] ECR 111, paragraph 12).

22 A situation such as that in issue in the main proceedings must therefore be held to fall within the scope of Article 48 of the Treaty.

Compatibility of the fiscal connecting factors with Article 48 of the Treaty

23 Whilst abolition of double taxation within the Community is, as stated in paragraph 16 above, one of the objectives of the Treaty, it must none the less be noted that, apart from the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (OJ 1990 L 225, p. 10), no unifying or harmonising measure for the elimination of double taxation has yet been adopted at Community level, nor have the Member States yet concluded any multilateral convention to that effect under Article 220 of the Treaty.

24 The Member States are competent to determine the criteria for taxation on income and wealth with a view to eliminating double taxation — by means, *inter alia*, of international agreements — and have concluded many bilateral conventions based, in particular, on the model conventions on income and wealth tax drawn up by the Organisation for Economic Cooperation and Development ('OECD').

25 That is the context in which the Convention concluded between the French Republic and the Federal Republic of Germany applies a number of connecting factors for the purpose of allocating jurisdiction between the contracting parties as to the taxation of income from dependent work.

26 Although as a general rule workers are taxed in accordance with Article 13(1) of the Convention in the State in which the personal activity in respect of which the income is received is carried out, frontier workers are taxed in their State of residence, under Article 13(5)(a).

27 However, the first sentence of Article 14(1) of the Convention provides that taxpayers receiving public-service remuneration are in principle to be taxed in the paying State. There is also an exception to the latter rule (hereinafter 'the paying State principle') in the second sentence of Article 14(1), under which remuneration paid to a person having the nationality of the other State without being at the same time a national of the first State is taxable in the taxpayer's State of residence.

28 In addition, Article 16 of the Convention lays down a special connecting rule applicable to teachers habitually resident in one of the Contracting States who, in the course of a short period of residence not exceeding two years in the other Contracting State, receive remuneration for teaching in the latter State. Taxpayers in that category are taxed in the State of original employment.

29 It is thus clear that Articles 13(1) and (5)(a), 14(1) and 16 of the Convention lay down different connecting factors depending on whether the taxpayer is a frontier worker or not, is a teacher in short-term residence or not, or is employed in the private or the public sector. Taxpayers in the latter category are in principle taxed in the paying State unless they have the nationality of the other Contracting State without being at the same time nationals of the first, in which case they are taxed in their State of residence.

30 Although the criterion of nationality appears as such in the second sentence of Article 14(1) for the purpose of allocation of fiscal jurisdiction, such differentiation

cannot be regarded as constituting discrimination prohibited under Article 48 of the Treaty. It flows, in the absence of any unifying or harmonising measures adopted in the Community context under, in particular, the second indent of Article 220 of the Treaty, from the contracting parties' competence to define the criteria for allocating their powers of taxation as between themselves, with a view to eliminating double taxation.

31 Nor, in the allocation of fiscal jurisdiction, is it unreasonable for the Member States to base their agreements on international practice and the model convention drawn up by the OECD, Article 19(1)(a) of the 1994 version of which in particular provides for recourse to the paying State principle. According to the commentary on that article, that principle is justified by 'the rules of international courtesy and mutual respect between sovereign States' and 'is contained in so many of the existing conventions between OECD member countries that it can be said to be already internationally accepted'.

32 In the present case, the first sentence of Article 14(1) of the Convention reproduces the tenor of Article 19(1)(a) of the OECD model convention. It is true that under the second sentence the paying State principle is abandoned where the taxpayer has the nationality of the other Contracting State without being at the same time a national of the first State, but the same type of exception, based at least in part on the criterion of nationality, is found in Article 19(1)(b) of the model convention in cases where the services are rendered in the other Contracting State and the taxpayer is a resident of that State who '(i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services'.

33 In any event, even if the second sentence of Article 14(1), the legality of which is challenged by Mrs Gilly, were to be ignored, her tax position would remain unchanged because the paying State principle would still have to be applied to her income earned in Germany from teaching in the State education system.

34 Nor is it established in the present case that the choice of the paying State as the State competent to tax income earned in the public sector can of itself be to the disadvantage of the taxpayers concerned. As has been pointed out by the governments of the Member States which have submitted observations and by the Commission, whether the tax treatment of the taxpayers concerned is favourable or unfavourable is determined not, strictly speaking, by the choice of the connecting factor but by the level of taxation in the competent State, in the absence of any Community harmonisation of scales of direct taxation.

35 The answer to the first, second and fourth questions must therefore be that, on a proper construction, Article 48 of the Treaty does not preclude the application of provisions such as those in Articles 13(5)(a), 14(1) and 16 of the Convention, under which the tax regime applicable to frontier workers differs depending on whether they work in the private sector or the public sector and, where they work in the public sector, on whether or not they have only the nationality of the State of the authority employing them, and the regime applicable to teachers differs depending on whether their residence in the State in which they are teaching is for a short period or not.

The third question

36 By its third question, the national court wishes to know whether, on a proper construction, Article 7 of the EEC Treaty, now Article 6 of the EC Treaty, precludes the application of a provision such as that contained in the second sentence of Article 14(1) of the Convention, under which the tax regime applicable to frontier workers employed in the public sector in a Member State differs depending on whether they have the nationality of that State or not.

37 It is settled case-law that Article 6 of the Treaty, which lays down the general principle of the prohibition of discrimination on grounds of nationality, applies inde-

pendently only to situations governed by Community law in respect of which the Treaty lays down no specific prohibition of discrimination (see in particular Case C-131/96 *Mora Romero* v *Landesversicherungsanstalt Rheinprovinz* [1997] ECR I-3659, paragraph 10).

38 In the field of freedom of movement for workers, the prohibition of discrimination has been specifically implemented and embodied in Article 48 of the Treaty and by acts of secondary legislation including, in particular, Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968 (II), p. 475).

39 It follows from the answer given to the first, second and fourth questions that a situation such as that in the main proceedings falls within Article 48 of the Treaty. It is therefore unnecessary to rule on the interpretation of Article 6 of the Treaty.

The sixth question

40 By its sixth question, the national court wishes to know whether, on a proper construction, Article 48 of the Treaty precludes the application of a tax credit mechanism such as that provided for in Article 20(2)(a)(cc) of the Convention.

41 The purpose of the tax credit mechanism set up by Article 20(2)(a)(cc) of the Convention, which is based on the arrangements envisaged for that purpose in the OECD model convention, is to avoid the double taxation of French residents in receipt, in Germany, of profits or other income taxable in both Germany and France.

42 That mechanism involves first aggregating the income earned from work in Germany within the taxable basis calculated in accordance with the French legislation and then giving a tax credit in respect of the tax paid in Germany of the same amount, in particular for the income referred to in Article 14 of the Convention, as that of the French tax on the relevant income. The latter amount is calculated on the basis of the proportion of the total net income taxable in France constituted by the net income taxable in Germany.

43 It further appears from the case-file that Mrs Gilly's personal and family circumstances were not taken into account when calculating the tax on her income from employment in Germany during the tax years in issue, whereas those circumstances were taken into account in the calculation of the tax payable in France, when determining the total household income and when granting various tax rebates and reductions.

44 In the submission of the applicants in the main proceedings, the tax credit mechanism in issue penalises those who have exercised their freedom of movement in that it allows a degree of double taxation to remain. In the present case, as a result of the greater degree of progressivity of the German tax scale as compared with the French tax scale and having regard to the proportion of the total income of the tax household taxable in France constituted by Mrs Gilly's income from employment, the amount of the tax credit is always lower than that of the tax actually paid in Germany. Moreover, because Mrs Gilly's personal and family circumstances are not taken into account in Germany, whereas they are taken into account in France when calculating the tax on the total income, the tax credit accorded in the State of residence is lower than the amount of tax actually paid in the State of employment, taking account of the rebates and reductions accorded in the first State.

45 Double taxation could be fully avoided, the applicants in the main proceedings submit, only by a tax credit equal to the amount of tax charged in Germany.

46 Here, it must be stressed, as has been done by the Advocate General at point 66 of his Opinion, that the object of a convention such as that in issue is simply to prevent the same income from being taxed in each of the two States. It is not to ensure that the tax to which the taxpayer is subject in one State is no higher than that to which he or she would be subject in the other.

47 However, it is common ground that any unfavourable consequences entailed in the present case by the tax credit mechanism set up by the bilateral convention, as implemented in the context of the tax system of the State of residence, are the result in the first place of the differences between the tax scales of the Member States concerned, and, in the absence of any Community legislation in the field, the determination of those scales is a matter for the Member States.

48 Furthermore, as has been observed by the French, Belgian, Danish, Finnish, Swedish and United Kingdom Governments, if the State of residence were required to accord a tax credit greater than the fraction of its national tax corresponding to the income from abroad, it would have to reduce its tax in respect of the remaining income, which would entail a loss of tax revenue for it and would thus be such as to encroach on its sovereignty in matters of direct taxation.

49 As regards the effect on the amount of the tax credit of the fact that the taxpayer's personal and family circumstances are taken into account in the State of residence but not in the State of employment, it must be pointed out that the disparity derives from the fact that, in relation to direct taxes, the situations of residents and of non-residents are not, as a rule, comparable, since income received in the territory of a State by a non-resident is in most cases only a part of his total income, which is concentrated at his place of residence (Case C-279/93 *Finanzamt Köln-Altstadt* v *Schumacker* [1995] ECR I-225, paragraphs 31 and 32).

50 Nor is that observation inapplicable to a situation such as that of Mrs Gilly; although her individual income from employment is received in Germany, it is none the less aggregated within the basis for assessing the personal income tax payable by her tax household in France, where she is therefore entitled to the tax advantages, rebates and deductions provided for in the French legislation. The German tax authorities, however, were not obliged to take account of her personal and family circumstances in such a situation.

51 The applicants in the main proceedings also submit that application of Article 20(2)(a)(cc) of the Convention in their case gives rise to discrimination on grounds of nationality, contrary to Article 48 of the Treaty, since, if Mrs Gilly possessed only French nationality and not dual nationality, her tax situation would be governed by Article 13(5)(a) of the Convention, under which the income of frontier workers is taxed in their State of residence.

52 Here, it must be borne in mind that the purpose of Article 20(2)(a)(cc) of the Convention is to prevent double taxation arising, in a case such as that with which the main proceedings are concerned, from taxation in Germany of the income received there by Mrs Gilly, in accordance with Article 14(1) of the Convention, when the total household income, including that income from Germany, is taxable in France.

53 As is clear from the answer to the first, second and fourth questions, the fact that in allocating powers of taxation between them the contracting parties have chosen various connecting factors, in particular nationality with regard to public-service remuneration received in the State other than the State of residence, cannot in itself constitute discrimination prohibited by Community law.

54 In the light of the foregoing, the answer to the sixth question must be that, on a proper construction, Article 48 of the Treaty does not preclude the application of a tax credit mechanism such as that provided for in Article 20(2)(a)(cc) of the Convention.

Costs

55 The costs incurred by the French, Belgian, Danish, German, Italian, Netherlands, Finnish, Swedish and United Kingdom Governments and by the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the questions referred to it by the Tribunal Administratif, Strasbourg, by judgment of 10 October 1996, hereby rules:

1. **The second indent of Article 220 of the EC Treaty does not have direct effect.**

2. **On a proper construction, Article 48 of the EC Treaty does not preclude the application of provisions such as those in Articles 13(5)(a), 14(1) and 16 of the Convention signed in Paris on 21 July 1959 between the French Republic and the Federal Republic of Germany for the avoidance of double taxation, as amended by the protocols signed in Bonn on 9 June 1969 and 28 September 1989, under which the tax regime applicable to frontier workers differs depending on whether they work in the private sector or the public sector and, where they work in the public sector, on whether or not they have only the nationality of the State of the authority employing them, and the**

regime applicable to teachers differs depending on whether their residence in the State in which they are teaching is for a short period or not.

3. **On a proper construction, Article 48 of the Treaty does not preclude the application of a tax credit mechanism such as that provided for in Article 20(2)(a)(cc) of the said convention.**

Rodríguez Iglesias Wathelet Schintgen

Mancini Moitinho de Almeida Kapteyn

Murray Puissochet Hirsch

Sevón Ioannou

Delivered in open court in Luxembourg on 12 May 1998.

R. Grass

Registrar

G. C. Rodríguez Iglesias

President