

Judgment of the Court of 5 February 1963. - NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration. - Reference for a preliminary ruling: Tariefcommissie - Pays-Bas. - Case 26-62.

THE **OBJECTIVE** OF THE **EEC TREATY**, WHICH IS TO **ESTABLISH A COMMON MARKET**, THE **FUNCTIONING OF WHICH IS OF DIRECT CONCERN TO INTERESTED PARTIES IN THE COMMUNITY**, **IMPLIES THAT THIS TREATY IS MORE THAN AN AGREEMENT WHICH MERELY CREATES MUTUAL OBLIGATIONS BETWEEN THE CONTRACTING STATES**. THIS VIEW IS CONFIRMED BY THE **PREAMBLE** TO THE TREATY WHICH REFERS NOT ONLY TO GOVERNMENTS BUT TO **PEOPLES**. IT IS ALSO CONFIRMED MORE SPECIFICALLY BY THE ESTABLISHMENT OF **INSTITUTIONS** ENDOWED WITH **SOVEREIGN RIGHTS**, THE EXERCISE OF WHICH **AFFECTS MEMBER STATES** AND ALSO THEIR **CITIZENS**. FURTHERMORE, IT MUST BE NOTED THAT THE **NATIONALS** OF THE STATES BROUGHT TOGETHER IN THE COMMUNITY ARE **CALLED UPON TO COOPERATE** IN THE FUNCTIONING OF THIS COMMUNITY THROUGH THE INTERMEDIARY OF THE **EUROPEAN PARLIAMENT** AND THE **ECONOMIC AND SOCIAL COMMITTEE**.

IN ADDITION THE TASK ASSIGNED TO THE COURT OF JUSTICE UNDER **ARTICLE 177**, THE OBJECT OF WHICH IS TO **SECURE UNIFORM INTERPRETATION** OF THE TREATY BY NATIONAL COURTS AND TRIBUNALS, CONFIRMS THAT THE **STATES HAVE ACKNOWLEDGED THAT COMMUNITY LAW HAS AN AUTHORITY WHICH CAN BE INVOKED BY THEIR NATIONALS BEFORE THOSE COURTS** AND TRIBUNALS. THE CONCLUSION TO BE DRAWN FROM THIS IS THAT THE **COMMUNITY CONSTITUTES A NEW LEGAL ORDER OF INTERNATIONAL LAW** FOR THE BENEFIT OF WHICH THE STATES HAVE LIMITED THEIR SOVEREIGN RIGHTS, ALBEIT WITHIN LIMITED FIELDS, AND THE SUBJECTS OF WHICH COMPRISE NOT ONLY MEMBER STATES BUT ALSO THEIR NATIONALS. INDEPENDENTLY OF THE LEGISLATION OF MEMBER STATES, **COMMUNITY LAW** THEREFORE NOT ONLY IMPOSES OBLIGATIONS ON **INDIVIDUALS** BUT IS ALSO INTENDED TO **CONFER UPON THEM RIGHTS** WHICH BECOME PART OF THEIR LEGAL HERITAGE. THESE RIGHTS ARISE NOT ONLY WHERE THEY ARE EXPRESSLY GRANTED BY THE TREATY, BUT **ALSO BY REASON OF OBLIGATIONS** WHICH THE TREATY IMPOSES IN A **CLEARLY DEFINED** WAY UPON INDIVIDUALS AS WELL AS UPON THE MEMBER STATES AND UPON THE INSTITUTIONS OF THE COMMUNITY.

Judgment of the Court of 15 July 1964. - Flaminio Costa v E.N.E.L.. - Reference for a preliminary ruling: Giudice conciliatore di Milano - Italy. - Case 6/64.

BY CONTRAST WITH ORDINARY INTERNATIONAL TREATIES, THE **EEC TREATY HAS CREATED ITS OWN LEGAL SYSTEM** WHICH, ON THE ENTRY INTO FORCE OF THE TREATY, BECAME AN INTEGRAL PART OF THE LEGAL SYSTEMS OF THE MEMBER STATES AND WHICH THEIR COURTS ARE BOUND TO APPLY.

BY CREATING A **COMMUNITY OF UNLIMITED DURATION**, HAVING ITS **OWN INSTITUTIONS**, ITS **OWN PERSONALITY**, ITS **OWN LEGAL CAPACITY** AND **CAPACITY OF REPRESENTATION ON THE INTERNATIONAL PLANE** AND, MORE PARTICULARLY, **REAL POWERS** STEMMING FROM A **LIMITATION OF SOVEREIGNTY OR A TRANSFER OF POWERS FROM THE STATES TO THE COMMUNITY**, THE MEMBER STATES HAVE LIMITED THEIR SOVEREIGN RIGHTS, ALBEIT WITHIN LIMITED FIELDS, AND HAVE THUS CREATED A BODY OF LAW WHICH BINDS BOTH THEIR NATIONALS AND THEMSELVES.

THE INTEGRATION INTO THE LAWS OF EACH MEMBER STATE OF PROVISIONS WHICH DERIVE FROM THE COMMUNITY, AND MORE GENERALLY THE **TERMS** AND THE **SPIRIT OF THE TREATY**, MAKE IT IMPOSSIBLE FOR THE STATES, AS A COROLLARY, TO ACCORD PRECEDENCE TO A UNILATERAL AND SUBSEQUENT MEASURE OVER A LEGAL SYSTEM ACCEPTED BY THEM ON A BASIS OF RECIPROCITY. SUCH A MEASURE CANNOT THEREFORE BE INCONSISTENT WITH THAT LEGAL SYSTEM. THE EXECUTIVE FORCE OF COMMUNITY LAW CANNOT VARY FROM ONE STATE TO ANOTHER IN DEFERENCE TO SUBSEQUENT DOMESTIC LAWS, WITHOUT JEOPARDIZING THE **ATTAINMENT OF THE OBJECTIVES OF THE TREATY** ...

THE **OBLIGATIONS UNDERTAKEN UNDER THE TREATY** ESTABLISHING THE COMMUNITY WOULD NOT BE UNCONDITIONAL, BUT MERELY CONTINGENT, IF THEY COULD BE CALLED IN QUESTION BY SUBSEQUENT LEGISLATIVE ACTS OF THE SIGNATORIES ...

IT FOLLOWS FROM ALL THESE OBSERVATIONS THAT THE **LAW STEMMING FROM THE TREATY**, AN INDEPENDENT SOURCE OF LAW, COULD NOT, BECAUSE OF ITS SPECIAL AND ORIGINAL NATURE, BE OVERRIDDEN BY DOMESTIC LEGAL PROVISIONS, HOWEVER FRAMED, WITHOUT BEING DEPRIVED OF ITS CHARACTER AS COMMUNITY LAW AND WITHOUT THE **LEGAL BASIS OF THE COMMUNITY ITSELF BEING CALLED INTO QUESTION**.

THE TRANSFER BY THE STATES FROM THEIR DOMESTIC LEGAL SYSTEM TO THE COMMUNITY LEGAL SYSTEM OF THE RIGHTS AND OBLIGATIONS ARISING UNDER THE TREATY CARRIES WITH IT A PERMANENT LIMITATION OF THEIR SOVEREIGN RIGHTS, AGAINST WHICH A SUBSEQUENT UNILATERAL ACT INCOMPATIBLE WITH THE CONCEPT OF THE COMMUNITY CANNOT PREVAIL