

EDITORIAL COMMENTS

Delay and Uncertainty

In tackling its task of interpreting community law the Community Court of Justice has frequently taken into account the need for the law to be certain and readily ascertainable by those who are required to obey it or will want to place reliance upon it. (See particularly the judgments in the *Chemiefarma*, *Portelange* and *Fink-Fucht* cases—41/69, 10/69 and 27/67.) At times, of course, this factor has to be weighed and balanced against other powerful considerations—such as the achievement of one of the fundamental aims of the Treaty (see the submission of Advocate General Roemer as to the inevitability of some element of uncertainty in competition law in *Italy v. EEC Council and Commission* 32/65).

No such consideration, however, can account for the uncertainty as to some important parts of community law which has subsisted in the UK during the first months following its accession.

Article 155 of the Act of Accession provides that the texts of Acts of the institutions of the Communities adopted before accession and drawn up by the Council or the Commission in (*inter alia*) the English language shall from the date of accession be authentic under the same conditions as the texts drawn up in the original community languages. The Article goes on to provide that these English texts shall be published in the Official Journal if the texts in the original language were so published. (All Regulations are, of course, required to be so published.)

During November and December of 1972 the *Journal Officiel* carried notices announcing the publication pursuant to the Treaty of Accession of a special edition of the Journal setting out English texts of community secondary legislation.

More than two months after accession this special edition was still incomplete and even that part of it which had been published was not available for purchase by the public in London (or presumably elsewhere in the UK) until well into 1973.

It is clearly wrong that for at least two months the citizens of the UK have not had access to any authoritative text in their own language of laws which are intended to be in force in the UK and which, if so in force, have effects upon rights, duties and obligations in many fields.

Moreover it may be that the failure to publish authoritative English texts has the effect that the provisions of community law in question are not in force in the UK at all. Enquiry of H.M. Customs and Excise has elicited that this is the view which they have been instructed to take. The position is certainly well arguable. Publication in the Journal is mandatory in the case of a Regulation (Article 191 of the EEC Treaty). The multilinguality of Regulations in particular may rightly be regarded as

one of their fundamental characteristics. The whole conception of direct effect (see Jan Winter's article in the November 1972 issue of this Review), so fundamental to the community legal order as it has developed, must surely be closely linked with the requirement that provisions of community law be expressed in authoritative texts in the language of those whom they are to bind and who are to be entitled to rely upon them.