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## **NEWGOV** **New Modes of Governance**

Integrated Project  
Priority 7 – Citizens and Governance in the Knowledge-based Society

**The European Court and National Courts: Data Set on Preliminary Refer-  
ences in EC Law (Art. 234), 1961-2006**  
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<b>PP</b>	Restricted to other programme participants (including the Commission Services)	
<b>RE</b>	Restricted to a group specified by the consortium (including the Commission Services)	
<b>CO</b>	Confidential, only for members of the consortium (including the Commission Services)	

## Summary

The data set, which is made accessible here, contains information on all of the Art. 234 preliminary references filed with the European Court since the first reference in 1961. The most recently collected data are complete through 2006. The data set, which we make accessible here, contains the first 5,424 references filed, which invoke 8,638 separate claims of EC law. The data set includes information on, among others, date, member state, court of referral, legal domain or subject matter (e.g., competition, environmental protection, free movement of goods), and the official *European Court Reports* citation.

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## Codebook: Introduction and Overview

With the help of the Research and Documentation Division of the European Court of Justice, we compiled information on all of the Art. 234<sup>1</sup> preliminary references filed with the European Court since the first reference in 1961. The most recently collected data are complete through 2006. The data set, which we make accessible here, contains the first 5,424 references filed, which invoke 8,638 separate claims of EC law (see the discussion of legal domains [subject matters] in Appendix C below).

At this website, you will be able to download the data set in Excel format ([http://www.eu-newgov.org/database/DELIV/LTFIID4b\\_Data\\_Set\\_Preliminary\\_References\\_Art234\\_1961-2006.xls](http://www.eu-newgov.org/database/DELIV/LTFIID4b_Data_Set_Preliminary_References_Art234_1961-2006.xls)). You can then translate the file into a statistics program, such as STATA or SPSS, in order to search and sort references along any one dimension, or combination of dimensions, including the following: date, member state, court of referral, legal domain or subject matter (e.g., competition, environmental protection, free movement of goods), and the official *European Court Reports* citation. Thus, if you were doing research in the area of free movement of workers, you could instantly call up a list of all references made, and be in the position to compare litigation patterns across time, member-state, and across jurisdictions within any given member-state; you would also obtain information on whether the reference has led to a judgement of the Court, or whether it is still pending or has been disposed of in some other way.

To take an example, if you were to call up the *Dassonville* case (European Court of Justice Case 8/1974, European Court Reports 1974, p. 837) using the STATA command – “list if filedate= =1974 & case= =8” - you would be presented with this information:

country:	2
filedate:	1974
case:	8
decision:	1
matter1:	370
matter2:	347
matter3:	.
matter4:	.
matter5:	.
freemove:	1
agri:	0

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<sup>1</sup> Article 234 TEC reads as follows:

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of this Treaty;
- (b) the validity and interpretation of acts of the institutions of the Community and of the ECB;
- (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

compet:	1
external:	0
socsec:	0
socprov:	0
environ:	0
estab:	0
movework:	0
tax:	0
transprt:	0
commpolc:	0
apprxlaw:	0

This entry is to be read as follows:

- Line 1 ("country") provides a code for the member-state of origin, in this case "2," which is Belgium. Codes for member-states are listed in Appendix A.
- Line 2 ("filedate") gives the year of the preliminary reference, in this case "1974," and line 3 ("case") gives the number assigned to the reference, that year, by the European Court of Justice, in this case, "8."
- Line 4 ("decision") tells you that the case was disposed of by a judgement of the Court, which is coded "1," as opposed to pending (coded "3") or having been withdrawn (coded "4"). Codes for "decision" are listed in Appendix B.
- Lines 6-10, marked "matter1," "matter2," etc., concern the substantive area of EC law invoked by the referring court, in this case free movement of goods/measures having equivalent effect, which is coded "370," and competition/exclusive contracts, which is coded "347." Codes for legal subject matters are listed in Appendix D. All references invoke between 1 and 5 different substantive areas (with the exception of certain "joined references," which may have 0; see discussion for Appendix B). In the *Dassonville* case, the referring judge raised questions in two such areas, but not more than two, which is why the entries for "matter3," "matter4," and "matter5" are filled only with a period, "." (i.e., the data are missing). Codes for legal subject matters are listed in Appendix D.
- Lines 10-22: as described in the introduction to Appendix D, we (Alec Stone Sweet and Thomas L. Brunell) commonly aggregate subject matters into larger *meta-categories* for purposes of counting and analysis. For each reference, you will find the thirteen most important such meta-categories listed. In this case, the referring judge raised one question falling within the free movement of goods (counting variable labeled "freemove"), and another within competition (counting variable labeled "compet").

## Errors in the Data Set and Coding

Errors in the Data Set and Coding: Please signal errors by emailing us at: [alec.sweet@yale.edu](mailto:alec.sweet@yale.edu) or [tbrunell@utdallas.edu](mailto:tbrunell@utdallas.edu).

## Appendices

### A: Member-States

References were coded in terms of their member-state of origin, as follows:

COUNTRY	CODE
Austria	1
Belgium	2
Denmark	3
Finland	4
France	5
Germany	6
Greece	7
Ireland	8
Italy	9
Luxembourg	10
Netherlands	11
Portugal	12
Spain	13
Sweden	14
United Kingdom	15
Cyprus	16
Estonia	17
Hungary	18
Lativa	19
Lithuania	20
Malta	21
Poland	22
Czech Republic	23
Slovakia	24
Slovenia	25

**B: Current Status of Proceedings**

References were coded in terms of their current judicial status, as follows:

STATUS	CODE
Cases ended by a judgement of the Court	1
Cases ended by an order of the Court	2
Cases whose resolution is pending	3
Cases removed from the register	4
Cases joined to another case	5

Some of these data will always be out of date, and more data will go out of date over time. Thus, a reference from 1994 and coded as pending may well have been decided. For references filed since mid-1995, the data set indicates the situation current as of mid-1998, although we have update when we could do so.

Typically, the Court “joins” references cases that are filed by the same national judge, on the same day, involving the same legal dispute (although each reference involves a separate litigating party). Information concerning legal subject matters (Appendix D) does not always appear. In our analyses of the data, we did not exempt joined cases. We treat each complex of joined cases as a single reference, by dropping those coded “5.”

## C: Substantive Areas of EC Law

We coded information on the substantive area of EC law being litigated using a reference system developed by the European Court. The Court classifies each reference in terms of one or more legal domains, or legal subject matters, as delimited by the EC treaties, using a system of abbreviations. We have given each of these classifications a number. Although there are a handful of exceptions, references falling within the purview of the ECSC comprise a 100-series; those falling within the purview of the EAEC make up a 200-series; and references on EEC law constitute a 300-series. In the 100-series (ECSC), you will find two 300-series (EEC) codes (for "industrial policy" and "state aids") cross referenced with 100-series codes; and, in one case (transportation), a 300-series code substitutes for a 100-series code. This occurs because the Court itself has coded some references with the same abbreviation, without regard to treaty. One can determine the treaty-basis of the reference only by reading the case, if it has been decided.

In our analyses of the data, we commonly aggregated references that fell with the same legal domain, by constructing a system of ordinal variables that would, for example, sort all references falling within the 302-335 code range into a meta, *agriculture* category (variable labeled "agri"), and those falling within the 367-375 range into a meta, *free movement of goods* category (variable labeled "freemove"). These meta-categories are marked with the variable label on the first line of any sub-grouping of subject matters, and continue until that group is set off by a blank space. We combined same or similar categories across treaties: thus, references falling within the meta category for competition in the ECSC (coded 103-109) were combined with those falling within the meta category for competition in the EC (coded 343-350).

Taken together, the meta-categories contain roughly 90% of total subject matters invoked in references. For each reference, coded entries consist of a number between 0 and 5, with 0 indicated that none of the claims fall within the subject matter denoted by that metacategory, and 1 through 5 indicating how many different claims fall within a single metacategory of EC law. Thus, if a reference invoked both UNDERTAKINGS (coded as 346) and DOMINANT POSITION (coded as 348) with the competition domain, you would find a "2" entered after the metacategory "compet." In other words, a metacategory is a counting variable.

These counting variables are as follows:

- Agriculture (labelled "agri")
- Free Movement of Goods (labelled "freemove")
- Competition and Dumping (labelled "compet")
- External Relations (labelled "external")
- Social Security (labelled "socsec")
- Social Provisions (labelled "socprov")
- Environment (labelled "environ")
- Establishment (labelled "estab")
- Free Movement of Workers and Persons (labelled "movework")
- Taxation (labelled "tax")
- Transportation (labelled "transprt")
- Commerical Policy (labelled "compolc")
- Approximation of Laws (labelled "apprxlaw")

**ECSC Treaty**

<u>ABBREVIATION</u>	<u>SUBJECT MATTER (TREATY ARTICLE)</u>	<u>CODE</u>
CECA	THE EUROPEAN COAL AND STEEL COMMUNITY	101
COMB	FUEL - COAL	102
CONC ENCO	COMPETITION (65-66)	<b>COMPET</b> 103
CONC ENCO EXL	EXCLUSIVE CONTRACTS	104
CONC ENCO POSI	DOMINANT POSITION	105
CONC ENCO PRAT	CONCERTED PRACTICES	106
CONC PROP	INDUSTRIAL AND COMMERCIAL POLICY	107 (350)
CONC AIDE	STATE AIDS (67)	108 (344)
CONC SOCI	SOCIAL PROVISIONS (68)	109
DGEN	GENERAL PROVISIONS (80--94, 96-100)	110
FINC	FINANCIAL PROVISIONS (78-78H)	111
FINC PREL	LEVIES AND LOANS (49-53)	112
FINC PERE	PRICE ADJUSTMENTS OF SCRAP (53)	113
FINC PRET	LOANS AND SUBSIDIES (54-56)	114
IMPK	PROVISIONS APPLYING ART. 95 ECSC	115
INF	INFORMATION GATHERING (47-48)	116
INST	INSTITUTIONAL PROVISIONS (7-45)	364
LCT	FREE MOVEMENT OF PERSONS (69)	<b>MOVEWORK</b> 376
PCOM	COMMERCIAL POLICY (71-75)	<b>COMMPOLC</b> 119 (356)
PCOM	PROTECTIVE MEASURES	120
PCOM	DUMPING	121 (357)
PENU	TIMES OF SHORTAGE	122
PRIN	PRINCIPLES, AIMS, AND MISSION (1-6)	123
PRIX	PRICES (60-64)	124
QUOT	PRODUCTION QUOTAS (58)	125
SIDE	IRON AND STEEL INDUSTRY	126
TRAN	TRANSPORT (70)	<b>TRANSPRT</b> 397
TUC	STANDARD COMMON TARIFF	128

**EAEC Treaty**

<u>ABBREVIATION</u>	<u>SUBJECT MATTER (TREATY ARTICLE)</u>	<u>CODE</u>
CEEA	EUROPEAN ATOMIC ENERGY COMMUNITY	201
APPR	SUPPLY AGENCY (52-76)	202
DIFF	DISSEMINATION OF KNOWLEDGE (12-23)	203
ENTC	JOINT UNDERTAKINGS (45-51)	204
EXT	EXTERNAL RELATIONS (101-106)	<b>EXTERNAL</b> 412
FIN	FINANCIAL PROVISIONS (171-183)	206
INST	PROVISIONS ON INSTITUTIONS (107-170)	207
INV	INVESTMENT (40-44)	208
NUCL	NUCLEAR COMMON MARKET (92-100)	209
PROP	INDUSTRIAL AND COMMERCIAL PROPERTY (86-91)	210
RECH	RESEARCH AND TRAINING (4-11)	211
SANI	HEALTH AND SAFETY (30-39)	212
SECR	SECURITY SYSTEM (24-27)	213
SECU	SAFEGUARD OF WORKERS AND THE PUBLIC (77-85)	214

**EEC and Union Treaty**

<u>ABBREVIATION</u>	<u>SUBJECT MATTER (TREATY ARTICLE)</u>	<u>CODE</u>
ADH	ACCESSION (237)	301
AGRI	AGRICULTURE (38-47)	<b>AGRI</b> 302
AGRI AL-A	ANIMAL FEED	303
AGRI ALCO	ALCOHOL	304
AGRI BOV	BEEF AND VEAL	305
AGRI CERE	CEREALS	306
AGRI COMP	COMPENSATORY AMOUNTS	307
AGRI D-AL	FOODSTUFFS	308
AGRI F-L	FRUIT AND VEGETABLES	309
AGRI FDES	DEHYDRATED FOOD GRAIN	310
AGRI FEOG	EUR. AGR. GUIDANCE AND GUAR. FUND	311
AGRI FLT	PROCESSED FRUIT AND VEGETABLES	312
AGRI HORS	PRODUCTS OUTSIDE ANNEX II OF TREATY	313
AGRI HOUB	HOPS	314
AGRI L-CH	FLAX AND HEMP	315
AGRI LAIT	MILK PRODUCTS	316
AGRI MGRA	OILS AND FATS	317
AGRI MONA	MONETARY MEASURES	318
AGRI O-V	EGGS AND POULTRY	319
AGRI OVIN	SHEEPMEAT AND GOATMEAT	320
AGRI P-F	PLANTS, FLOWERS, AND FOLIAGE	321
AGRI PDET	POTATOES	322
AGRI PECH	FISHERIES	323
AGRI PHYT	PLANT-HEALTH	324
AGRI POIS	PEAS AND FIELD BEANS	325
AGRI PORC	PIGMEAT	326
AGRI RIZ	RICE	327
AGRI SEME	SEED AND PLANTS	328
AGRI SILV	FORESTRY PRODUCTS	329
AGRI STRA	AGRICULTURAL STRUCTURES	330
AGRI SUCR	SUGAR	331
AGRI TABA	TOBACCO	332
AGRI VETE	VETERINARY LEGISLATION	333
AGRI VIN	WINE	334
AGRI VSOI	SILKWORMS	335
BEI	EUROPEAN INVESTMENT BANK (198D-E [129-130])	336
BPAI	BALANCE OF PAYMENTS (104-109)	337
CDEV	DEVELOPMENT COOPERATION (130U-Y)	338
CIT	EUROPEAN CITIZENSHIP (8-8E)	339
COES	ECONOMIC AND SOCIAL COHESION (130A-E)	340
FEDE	EUROPEAN REGIONAL DEVELOPMENT FUND (130C)	341
COHE	STRUCTURAL FUNDS (130D)	342
CONC	COMPETITION (85-94)	<b>COMPET</b> 343
CONC AIDE	STATE AIDS (92-94)	344

CONC	DUMP	DUMPING (91)		345
CONC	ENTR	UNDERTAKINGS (85-90)		346
CONC	ENTR EXCL	EXCLUSIVE CONTRACTS		347
CONC	ENTR POSI	DOMINANT POSITION		348
CONC	ENTR PRAT	CONCERTED PRACTICES		349
CONC	PROP	INDUSTRIAL AND COMMERCIAL PROPERTY		350
CONJ		CONJUNCTURAL POLICY (103)		351
CULT		CULTURE (128)		352
DOM		FRENCH OVERSEAS DEPARTMENTS (227)		353
EFPJ		EDUCATION, VOCATIONAL, YOUTH (126-127)		354
ENV		ENVIRONMENT (130R-T)	<b>ENVIRON</b>	355
EXT	PCOM	COMMERCIAL POLICY (110-116)	<b>COMMPOLC</b>	356
EXT	PCOM DUMP	DUMPING (113)		357
FIN		FINANCIAL (199-209)		358
FIN	BUDG	BUDGET		359
FIN	RPRO	EC'S OWN RESOURCES		360
FISC		TAX PROVISIONS (95-99)	<b>TAX</b>	361
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FSE		EUROPEAN SOCIAL FUND (123-125 [123-128 EEC])		363
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J-AI		JUSTICE AND HOME AFFAIRS (K)		365
LCC		FREE MOVEMENT OF CAPITAL (67-73H)		366
LCM		FREE MOVEMENT OF GOODS (9-37)	<b>FREEMOVE</b>	367
LCM	PROP	INDUSTRIAL AND COMMERCIAL PROPERTY		368
LCM	RSTR	QUANTITATIVE RESTRICTIONS (30-37)		369
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PEM	SEBC	EUROPEAN SYSTEM OF CENTRAL BANKS		383
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