

'Major anniversary comes at a turning point' from Tageblatt (5 December 2002)

Caption: During the official audience of 4 December 2002 commemorating the 50th anniversary of the Court of Justice of the European Communities (CJEC), the speakers acknowledge the influential role played by the case-law of the Court in promoting the development of the legal order of the European Union.

Source: Tageblatt. Zeitung fir Lëtzebuerg. 05.12.2002. Esch-sur-Alzette. "Ein Jubiläum im Zeichen des Umbruchs", auteur:Chillon, Brigitte , p. 5.

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Last updated: 05/07/2016



Major anniversary comes at a turning point

Brigitte Chillon

European Parliament President, Pat Cox, said in his address yesterday at the ceremony to mark the 50th anniversary of the European Court of Justice that Parliament shared the same goals as the Court, namely to respond to citizens' concerns.

The EP President went on to say that the Court had shown itself through its case-law to be very concerned with the rights of the individual. The Court had developed the principle that EU Member States might be held financially liable to individuals for breaches of Community law.

Gil Carlos Rodríguez Iglesias, President of the Court of Justice, endorsed this view in his address, in which he focused on the development of the Court. He referred to as historic the *van Gend & Loos* judgment of 5 February 1963, in which the Court held 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 the Member States but also their nationals.'

That reflected the idea of a community perceived not just as a community of states but also as one of peoples and citizens.

Apart from the President of the European Court of Justice and the EP President, speakers included Mrs Lene Espersen, the Justice Minister of Denmark, which currently holds the Presidency of the Council, and Romano Prodi, President of the European Commission. The assembly was also addressed by Ludwig Adamovich, President of the Austrian Constitutional Court, on behalf of the constitutional and supreme courts of the Member States. They all paid tribute to the work of the Court in the 50 years since its inception, during which time it had given a major impetus to the development of the European Union through its case-law. The speeches focused more on the challenges to come, however.

More competences, more Member States

Romano Prodi said that the Court's 50th anniversary came at a turning point. On the one hand, the area of competence of the EU, and therefore of the Court, was expanding as new and delicate issues arose. On the other hand, the challenges of EU enlargement had to be faced.

For the European Court of Justice, this meant, not least, that its publications would soon have to be translated into 20 instead of 11 languages.

The future status of the EU Charter of Fundamental Rights was still unclear. If this Charter were to be integrated into a kind of European Union constitution and become legally binding, the Court's area of competence would be greatly expanded. In this connection, Pat Cox emphasised that, long before the Charter of Fundamental Rights had been proclaimed, the European Court of Justice had already, through its case-law, established that the fundamental rights of individuals as laid down by the European Convention on Human Rights formed part of the general principles of Community law. Lene Espersen also recalled that in the *Stauder* case, as long ago as 1969, the European Court of Justice had acted in support of respect for fundamental rights. Nevertheless, a point that would need to be clarified was the relationship in the short term between the European Court of Justice in Luxembourg and the Court of Human Rights in Strasbourg. The relevant working group of the Convention on the Future of Europe had presented a specific proposal supporting both the incorporation of the Charter of Fundamental Rights into the EU Constitution and the European Union's accession to the European Convention on Human Rights (ECHR). This would mean that the EU institutions were bound by the ECHR in the same way as the 15 EU Member States.

Both Pat Cox and Lene Espersen took a positive view of this proposal. Mrs Espersen also drew attention to

the new challenges that enlargement would pose in terms of respect for human rights.

Contribution to the cause of European integration

The European Court of Justice has, in retrospect, made a substantial contribution to the cause of European integration. According to President Rodríguez Iglesias, the Court was sometimes criticised for this. Objective analysis showed, however, that the Court, while ensuring that the Community's powers were protected, paid the same attention to ensuring that the Community institutions did not overstep the limits of their powers to the detriment of the Member States.

The Court's President went on to say that, if the European Court of Justice nevertheless appeared to be primarily promoting the cause of European integration, this was because Community law, by definition, took precedence over national law. The fact that the Court had been able to perform its role so successfully was, however, as a result of the excellent cooperation and mutual trust that existed between the European Court of Justice and the national courts. The Court's authority had, he said, been established by the persuasive force of its arguments.