

Joined Cases C-46/93 and C-48/93 Brasserie du Pêcheur and Factortame [1996]

Facts: The French company Brasserie du Pêcheur brought an action against Germany seeking damages for reparation of the loss suffered due to a restriction to the import of beer, restriction which had been held as incompatible with Article 30 of the Treaty by a Court judgment in a case between the Commission and Germany. Factortame and other United Kingdom companies claimed for the damages caused due to a limitation to register in the register for British fishing boats, limitation which had been held as incompatible with Article 52 of the Treaty by a Court judgment in a case between the Commission and the United Kingdom. In connection with both proceedings, the relevant Courts referred each for a preliminary ruling questions concerning the conditions under which a Member State may incur liability for damage caused to individuals by breaches of Community law attributable to that State.

Held: The principle of State liability for loss and damage caused to individuals due to breaches of Community law for which it can be held responsible is inherent in the system of the Treaty. Community law would not be uniformly applied if the obligation to make good this damage depended on domestic rules as to the division of powers between constitutional authorities. The rules applied under Article 215 of the Treaty for non-contractual liability of the Community for legislative measures take into account the complexity of the situations to be regulated, difficulties in the interpretation of the text and the margin of discretion available to the author of the act. This strict approach is justified because the legislative function must not be hindered by the prospect of actions for damages whenever the general interest of the Community requires legislative measures which may adversely affect individual interests, and in a legislative context characterized by the exercise of wide discretion the Community cannot incur liability unless the institution concerned has manifestly and gravely disregarded the limits on the exercise of its powers. Where a Member state acts in a field where it has a comparable wide discretion in implementing Community policies, the conditions under which it may incur liability must be the same. In such circumstances, Community law confers a right to reparation where three conditions are met: the rule of law infringed must be intended to confer rights on individuals; the breach must be sufficiently serious, and there must be a direct causal link between the breach of the obligations resting on the State and the damage sustained by the injured parties. The State must make reparation in accordance with the domestic rules on liability, provided that the national conditions for reparation are not less favourable than those relating to similar domestic claims and do not make impossible or excessively difficult to obtain reparation in practice.