

## Case C-231/96 Edis [1998]

**Facts:** In a non-related case, the Court had held that the Directive concerning indirect taxes on the raising of capital was to be interpreted as prohibiting annual charges due in respect of the registration of companies. The company, Edis, sought an injunction for the refund of the sum of Italian registration charges paid in breach of that Directive. court stated that the payments had been unduly made, but under national law the request should have been made within a period of three years reckoned from the date of payment. In connection with these proceedings, the court referred the case for a preliminary ruling, asking three questions on the interpretation of Community law concerning recovery of sums unduly paid.

**Held:** The first question referred to whether Member States could resist actions for repayment of charges levied in breach of a provision of Community law by relying on a time-limit under national law that restricts the effects in time of a preliminary ruling. The fact that the Court has given a preliminary ruling interpreting a provision of Community law without limiting the temporal effects of its judgement does not affect the right of a Member State to impose a time-limit under national law within which proceedings must be commenced. The second question referred to whether national legislation could provide for a time-limit of three years as from the time of payment to initiate legal proceedings, whereas under national rules governing actions between private individuals the period allowed is more favourable. It is compatible with Community law to lay down reasonable limitation periods for bringing proceedings in the interests of legal certainty, which are not liable to render virtually impossible or excessively difficult the exercise of rights conferred by Community law (principle of effectiveness). A time-limit of three years appears reasonable. Member States can lay down special detailed rules governing claims to challenge the imposition of charges and other levies less favourable than those applicable to actions between private individuals. The position would be different if those detailed rules applied solely to actions based on Community law (principle of equivalence), but the time-limit at issue applies to the repayment of all similar governmental charges. The third question referred to whether Community law prohibits a Member State from resisting actions for repayment of charges levied in breach of a directive by relying on a time-limit under national law which is reckoned from the date of payment of the charges in question even though, at that date, the directive concerned had not yet been properly transposed into national law. In this case, the conduct of the Italian authorities did not have the effect of depriving the plaintiff of any opportunity of enforcing its rights.