

JUDGMENT OF THE COURT (First Chamber)
13 December 1991 *

In Case C-158/90,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Politie-rechtbank (Petty Sessional Court) of Hasselt (Belgium) for a preliminary ruling in the criminal proceedings before that court against

1. **Mario Nijs,**

2. **Transport Vanschoonbeek-Matterne NV,**

on the interpretation of Article 15(7) of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (Official Journal 1985 L 370, p. 8),

THE COURT (First Chamber),

composed of: Sir Gordon Slynn, President of the Chamber, R. Joliet and G. C. Rodríguez Iglesias, Judges,

Advocate General: G. Tesauro,
Registrar: J. A. Pompe, Deputy Registrar,

after considering the written observations submitted on behalf of:

— the United Kingdom, by H. Kaya, of the Treasury Solicitor's Department, acting as Agent;

* Language of the case: Dutch.

— the Commission of the European Communities, by Thomas van Rijn, a member of its Legal Service, acting as Agent,

having regard to the Report for the Hearing,

after hearing the oral observations of the Commission of the European Communities at the hearing on 30 April 1991,

after hearing the Opinion of the Advocate General at the sitting on the same day,

gives the following

Judgment

1 By an order of 16 May 1990, which was received at the Court on 22 May 1990, the Politierechtbank, Hasselt (Belgium), referred for a preliminary ruling under Article 177 of the EEC Treaty two questions on the interpretation of Article 15(7) of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (Official Journal 1985 L 370, p. 8).

2 Those questions arose in the course of criminal proceedings against, in particular, one Mr Nijs, a driver employed by the firm of Transport Vanschoonbeek-Matterne NV. Mr Nijs was charged, *inter alia*, as the driver of a vehicle subject to recording equipment regulations, with having been unable to produce, when requested by an authorized inspecting officer, all the record sheets used during the current week and, in any case, the record sheet for the last day of the previous week on which he drove, as required under Article 15(7) of Regulation No 3821/85 and Article 2 of the Belgian Law of 18 February 1969.

- 3 Article 15(7) of Regulation No 3821/85 provides as follows: 'Whenever requested by an authorized inspecting officer to do so, the driver must be able to produce record sheets for the current week, and in any case for the last day of the previous week on which he drove'.

- 4 Article 1(4) of Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonization of certain social legislation relating to road transport (Official Journal 1985 L 370, p. 1), to which Article 2 of Regulation No 3821/85 refers for definition of the terms used in this latter regulation, defines the word 'week' as being 'the period between 00.00 hours on Monday and 24.00 hours on Sunday'.

- 5 It appears from the order making the reference that Mr Nijs was on holiday from Thursday 27 July to Sunday 6 August 1989, returning to work on Monday 7 August, and that on Thursday 10 August, the day on which he was subjected to a roadside check, he had not entered his name on the current record sheet and did not have any record sheets with him for previous driving periods.

- 6 The Politierechtbank, Hasselt, took the view that the Dutch version of the words in Article 15(7) of Regulation No 3821/85 'the last day of the previous week on which he drove' ('de laatste dag van de voorafgaande week waarin hij heeft gereden') could be subject to differing interpretations and that there was a divergence in this respect between the French and Dutch versions of the provision. It therefore decided to stay the proceedings and refer the following questions to the Court for a preliminary ruling:
 - '(a) What is the meaning of the words "the last day of the previous week on which he drove" in Article 15(7) of Regulation (EEC) No 3821/85? Is that day the last calendar day, the last working day or the last driving day of that week?

- (b) Does the “previous week” mean the week directly preceding the inspection or any week preceding that inspection in which the driver drove a vehicle subject to the relevant EEC regulations?’

7 Reference is made to the Report for the Hearing for a fuller account of the legal background and the facts of the dispute before the national court, the course of the procedure and the written observations submitted to the Court, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

8 It would appear from the order making the reference that the national court takes the view that the French version of Article 15(7) clearly shows the relevant day to be the last one on which the driver drove, while the Dutch version allows other interpretations, such as the last calendar day of the last week in which the driver drove, or the last working day of that same week, or the last calendar day or the last working day of the week immediately prior to the inspection.

9 Among the other language versions, it should be noted that some, such as the Italian and the Spanish, suggest that the relevant day is the last day of the previous week in which he drove, whereas the English version refers to the last day of driving and not to the last day of a week in which he drove.

10 The Court has consistently held that, in the case of divergence between the different language versions of a Community text, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms a part (see, in particular, the judgment in Case 30/77 *Regina v Bouchereau* [1977] ECR 1999).

- 11 It should be pointed out that, in order to improve working conditions and safety in road transport, Regulation No 3820/85 lays down precise rules concerning, in particular, driving and rest periods for drivers. To ensure effective monitoring of those rules, Regulation No 3821/85 requires, with certain exceptions, that approved recording equipment be installed and used in all vehicles subject to Regulation No 3820/85. Known as a 'tachograph' or 'tachometer', this device is designed to record, automatically or semi-automatically, on approved record sheets, data relating, in particular, to driving and other working periods of drivers, and their daily and weekly periods of availability and rest.
- 12 Under Article 15(2) of Regulation No 3821/85, drivers must use the record sheets every day on which they drive, starting from the moment they take over the vehicle. The rules in question therefore do not require such a sheet to be used on a day without driving.
- 13 It therefore follows from the context of the provision in question and from the purpose of the rules of which it forms a part that effective monitoring requires the driver to produce such a sheet for the last driving day of the last week in which he drove prior to the inspection, particularly in order that compliance with the compulsory weekly rest period can be checked. If the driver was not driving in the week prior to that in which the inspection took place, or if he was not driving on the last calendar day or the last working day of the last week in which he was driving, the objectives of the rules in question do not require him to produce the record sheet for those respective periods.
- 14 It follows from the foregoing that, in answer to the questions referred by the national court, the phrase 'the last day of the previous week on which he drove' used in Article 15(7) of Council Regulation No 3821/85 refers to the last driving day of the last week, prior to the current week, during which the driver concerned drove a vehicle subject to Council Regulation No 3820/85.

Costs

The costs incurred by the United Kingdom and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. As these proceedings are, in so far as the parties to the main proceedings are concerned, in the nature of a step in the action before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (First Chamber),

in answer to the questions referred to it by the Politierechtbank, Hasselt, by order of 16 May 1990, hereby rules:

The phrase 'the last day of the previous week on which he drove' used in Article 15(7) of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport refers to the last driving day of the last week, prior to the current week, during which the driver concerned drove a vehicle subject to Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonization of certain social legislation relating to road transport.

Slynn

Joliet

Rodríguez Iglesias

Delivered in open court in Luxembourg on 13 December 1991.

J.-G. Giraud

Registrar

Gordon Slynn

President