

OPINION OF MR ADVOCATE GENERAL TESAURO
delivered on 30 April 1991 *

*Mr President,
Members of the Court,*

1. In this request for a preliminary ruling, the Politie rechtbank (Petty Sessional Court) of Hasselt (Belgium) is asking the Court to interpret Article 15(7) of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport,¹ which provides that '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'.

More specifically, the national court asks whether the expression 'last day' means the last calendar day, the last working day or the last driving day, and also whether 'previous week' means the one immediately before the inspection or the previous week in which the driver drove a vehicle subject to Community rules.

2. While some language versions of the provision, such as, for example, the Dutch (the text to which the national court is

referring) and the Italian,² may at first sight give rise to some perplexity, I do not think, bearing in mind the general scheme and purpose of the rules in question, that the provision gives rise to serious problems of interpretation.³

As regards the legal context, it should be remembered that Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonization of certain social legislation relating to road transport⁴ lays down certain rules on rest and driving periods for drivers. Regulation No 3821/85, adopted the same day, provides in Article 3(1) for the use of recording equipment in all vehicles subject to Community rules. The record sheets for insertion in this equipment are designed to record, automatically or semi-automatically, data on the running of the vehicles and the working periods of the drivers, so as to allow the competent authorities to monitor compliance with the driving and rest periods prescribed by Regulation No 3820/85.

2 — These versions refer to the last day of the previous week *in which* he drove, whereas the French and English versions refer more specifically to the last day of the previous week *on which* he drove.

3 — For the principle according to which the different language versions of a Community text must be given a uniform interpretation and hence, in the case of divergence, the provision must be interpreted by reference to the general scheme and purposes of the rules of which it forms a part, see the judgments in Case 30/77 Bouchereau [1977] ECR 1999, at paragraph 14, and in Case 9/79 Koschniske v Raad van Arbeid [1979] ECR 2717, at paragraphs 5 to 8.

4 — OJ 1985 L 370, p. 1.

* Original language: Italian.

1 — OJ 1985 L 370, p. 8.

Article 14 of Regulation No 3821/85 requires the employer to issue record sheets to the driver, who must then use them every day he drives (Article 15(2)), entering certain compulsory information such as his name, the date and the registration number of the vehicle (Article 15(5)).

3. The expression 'last day' in Article 15(7) of Regulation No 3821/85 can, therefore, refer only to the last driving day, since there can be no record sheet for a day on which the driver did not drive.

Such an interpretation, moreover, is consistent with the purpose of the provision,

which is precisely to allow monitoring of compliance with the provisions on driving and rest periods.

It is clear, furthermore, that, to check whether the record sheet produced really is the sheet for the last driving day, recourse can be had if necessary to other means of inspection, such as examination of the firm's accounts.

4. The same considerations apply to the concept of the 'previous week', which must be understood as the last week before the inspection in which the driver drove a vehicle subject to Community rules.

5. I therefore suggest that the Court reply as follows to the questions referred by the national court:

Article 15(7) of Council Regulation No 3821/85 is to be interpreted as meaning that the driver must produce the record sheet for the last driving day of the week preceding the inspection in which that driver drove a vehicle subject to Community rules.