JUDGMENT OF THE COURT (Sixth Chamber)

13 July 2006 *

In Case C-83/05,

REFERENCE for a preliminary ruling under Article 234 EC from the Amtsgericht Freiburg (Germany), made by decision of 14 January 2005, received at the Court on 18 February 2005, in proceedings brought by

Bernd Voigt,

THE COURT (Sixth Chamber),

composed of J. Malenovský, President of the Chamber, J.-P. Puissochet and A. Borg Barthet (Rapporteur), Judges,

Advocate General: A. Tizzano,
Registrar: R. Grass,

having regard to the written procedure,

* Language of the case: German.

after considering the observations submitted on behalf of:

— the German Government, by U. Forsthoff, acting as Agent,

— the Commission of the European Communities, by X. Lewis and M. Heller, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 The reference for a preliminary ruling concerns the interpretation of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (OJ, English Special Edition 1970 (I), p. 96), as amended by Council Directive 92/53/EEC of 18 June 1992 (OJ 1992 L 225, p. 1) ('Directive 70/156').

2 That question was raised in proceedings brought by Mr Voigt concerning an administrative fine imposed on him by the Regierungspräsidium Karlsruhe-Bretten (Karlsruhe Regional Administration).

Legal framework

Community legislation

3 The reasons which led the Community legislature to adopt Directive 70/156 are set out in the recitals in its preamble, where it is stated:

'... in each Member State motor vehicles intended for the carriage of goods or passengers must comply with certain mandatory technical requirements; ... such requirements differ from one Member State to another and consequently hinder trade within the European Economic Community ;

... such hindrances to the establishment and proper functioning of the common market can be reduced and even eliminated if all Member States adopt the same requirements, either in addition to or in place of their existing laws;

... it is the established practice of the Member States to check that vehicles comply with the relevant technical requirements before they are placed on the market;

...

... at Community level it is necessary to introduce a Community type-approval procedure for each vehicle type in order that compliance with the above requirements can be checked and that each Member State may recognise checks carried out by other Member States;

... that procedure must enable each Member State to ascertain whether a vehicle type has been submitted to the checks laid down by separate Directive and listed in a type-approval certificate; ... that procedure must enable manufacturers to complete a certificate of conformity for all vehicles which conform to an approved type; ... a vehicle accompanied by such a certificate must be considered by all Member States as conforming to their own laws; ... each Member State should inform the other Member States of its findings by sending a copy of the type approval certificate completed for each vehicle type which has been approved.

...'

4 The first paragraph of Article 1 of Directive 70/156 states:

'This Directive applies to the type-approval of motor vehicles and their trailers built in one or more stages, of systems, components and separate technical units intended for use on such vehicles and trailers.'

5 Under Article 2 of the directive:

— 'type-approval' is defined as 'the procedure whereby a Member State certifies that a type of vehicle, system, component or separate technical unit satisfies the relevant technical requirements of this Directive or a separate Directive contained in the exhaustive list set out in Annex IV or XI';

— 'vehicle' is defined as 'any motor vehicle intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails and of agricultural and forestry tractors and all mobile machinery', and

— 'type' means 'vehicles of one category which do not differ in at least the essential respects specified in Annex II.B. A type of vehicle may contain variants and versions (see Annex II.B)'.

6 Annex II to Directive 70/156 provides that category 'M 1' covers vehicles used for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat.

National legislation

7 The German rules relating to road traffic are contained in various enactments and regulations. The legislation that is relevant to the main proceedings is: the Road

Traffic Law (Strassenverkehrsgesetz) ('the StVG'), the highway code (Strassenverkehrsordnung) ('the StVO') and the Law on the Carriage of Persons (Personenbeförderungsgesetz) ('the PBefG'). Directive 70/156 was implemented in German law by the Regulation on Community Type-approval of Vehicles and Vehicle Components (Verordnung über die EG-Typgenehmigung für Fahrzeuge und Fahrzeugteile of 9 December 1994, most recently amended on 7 February 2004). The rules concerning the procedure for registration and compulsory insurance are now set out exclusively in the Regulation on the Entry into Service of Motor Vehicles (Strassenverkehrszulassungsordnung) ('the StVZO'), which also contains rules applicable to the construction and use of motor vehicles.

8 The rules governing the driving of motor vehicles are set out in the StVO. As regards speed, it lays down different rules for passenger cars to those which apply to other motor vehicles. That distinction arises from Paragraph 18(1), second sentence, sub-item 1, of the StVO, which is the relevant provision in the main proceedings and which limits the maximum speed on motorways of vehicles other than passenger cars to 80 km/h. The latter are not subject to any general speed limit.

9 The StVO contains no definition of 'passenger car'. Paragraph 4(4) of the PBefG defines passenger cars as motor vehicles which 'by their design and equipment, are suitable and intended for carrying no more than nine persons (including the driver)'.

The main proceedings and the questions referred for a preliminary ruling

10 On 21 October 2003, while driving on a federal motorway, outside a built-up area, a motor vehicle of the 'Sprinter' type manufactured by DaimlerChrysler AG, with a

maximum permitted weight of 4.6 tonnes, Mr Voigt was subject to a speed check. As the speed of the car, minus the permitted margin of tolerance, was 134 km/h, the Regierungspräsidium Karlsruhe-Bretten, by decision of 18 November 2003, imposed on Mr Voigt an administrative fine of EUR 275 for exceeding the maximum permitted speed of 80 km/h applicable inter alia to goods vehicles by 54 km/h. An order was also made suspending Mr Voigt's driving licence for two months and imposing four penalty points in the central traffic register. The registration documents record that the vehicle driven by Mr Voigt, which was granted Community type-approval in category 'M 1' is registered as a passenger car.

11 mr Mr Voigt brought an appeal against those measures on 27 November 2003. Under reference to the registration certificate of the vehicle in question, which states that it is classified as a passenger car, he contended that the speed limit of 80 km/h on motorways, outside a built-up area, which concerns inter alia goods vehicles did not apply to such a vehicle, which is subject to the limits relating to passenger cars.

12 By decision of 10 March 2004, the Freiburg Public Prosecutor's Office referred Mr Voigt's case to the Amstgericht Freiburg (Freiburg Local Court) in order for the appropriate fine to be set. On 29 April 2004, that court gave a decision of acquittal. The Freiburg Public Prosecutor's Office appealed against that decision before the Oberlandsgericht Karlsruhe (Karlsruhe Higher Regional Court). On 26 August 2004, the Oberlandsgericht Karlsruhe annulled the decision of acquittal. It essentially held that it was necessary for additional findings of fact to be made in the main proceedings as regards the specific version of the 'Sprinter' type driven by Mr Voigt, having regard to the differences between the various versions of that vehicle, as determined in a decision issued the previous day which related to a similar case, where the court held that a reference to 'passenger car' in the registration documents was not relevant.

13 In those circumstances, the Amstgericht Freiburg decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Is Directive 70/156 ..., implemented in German Law in the EG-TypV (Verordnung über die EG-Typgenehmigung für Fahrzeuge und Fahrzeugteile of 9 December 1994, most recently amended on 7 February 2004), to be interpreted as meaning that the driver of a motor vehicle whose vehicle has been registered as a passenger car in accordance with a vehicle authorisation based on Community type-approval is also entitled to use that vehicle, as an authorised vehicle type, on the public highway, and, in particular, is the driver of such a motor vehicle subject only to the speed limits applicable to passenger cars?

2. May the authorities responsible for prosecuting road traffic offences declare that vehicle authorisations in accordance with Community type-approval issued by the Federal Office for Motor Vehicles and registrations issued by the German registration authorities based on those Community type-approvals are not decisive as regards the classification of the vehicle for the purposes of the speed limits to be observed by the driver of such a vehicle type?'

The questions referred

14 By its two questions, which fall to be considered together, the national court essentially asks whether Directive 70/156 is to be interpreted as meaning that it

precludes national rules which provide that a vehicle such as the one in question in the main proceedings is not subject to the national speed limits for passenger cars, but to those applying to goods vehicles, even where that vehicle has been registered as a passenger car on the basis of a Community type-approval granted pursuant to that directive.

15 It should be observed at the outset, first, that Directive 70/156, which refers expressly only to the international classification of motor vehicles in categories M, N and O set out in Annex II, contains no provision regarding the classification of motor vehicles as 'passenger cars'. Secondly, it was found by the national court that, while the manufacturer of the vehicle in question in the main proceedings possessed a Community type-approval as type 'M 1' for that vehicle, it was only on registration by the German authorities that the vehicle was classified as a passenger car.

16 Directive 70/156 contains provisions the purpose of which, according to the recitals in its preamble, is to establish and implement a Community type-approval procedure for each type of vehicle, to replace the type-approval procedures previously applying in the Member States. The scope of that Community type-approval can be determined only by reference to the precise field of application of Directive 70/156.

17 That directive sets out chronologically the procedure for type-approval, the subsequent procedure for issuing a type-approval certificate, the completion by the manufacturer of a certificate of conformity and the duty of Member States to monitor, for registration purposes, the conformity of production with the type for

which approval was granted. The object of the directive is to remove obstacles to the free movement of goods. The harmonisation of the requirements and technical characteristics constitutes the means of achieving that object. By contrast, Directive 70/156 contains nothing which goes beyond that harmonisation. In particular, it contains no provision giving guidance to the Member States in relation to the speed limits which should apply to the different categories of motor vehicles for which a Community type-approval has been granted.

18 It must therefore be held that Directive 70/156 thus applies to the technical characteristics of a type of vehicle and contains no other provision relating to the road traffic rules which are to be complied with by the drivers of motor vehicles.

19 It must also be pointed out that Directive 70/156 is based on Article 100 of the EEC Treaty (which became Article 100 of the EC Treaty, now Article 94 EC) and Article 100a of the EEC Treaty (which became Article 100a of the EC Treaty, now, after amendment, Article 95 EC), which relate to powers in the field of the approximation of laws with a view to the completion of the common market or the internal market.

20 In those circumstances, neither the wording of Directive 70/156 nor its object or its purpose show that the Community legislature intended to attach to Community type-approval by vehicle types, introduced by that directive in order to eliminate obstacles to the completion of the internal market, consequences in relation to the application of national road traffic rules governing the speed limits applying to different categories of motor vehicles.

21 In the light of the above, the answer to the questions referred by the Amtsgericht Freiburg must be that Directive 70/156 is to be interpreted as meaning that it does

not preclude national rules which provide that a vehicle such as the one in question in the main proceedings is not subject to the national speed limits for passenger cars, even where that vehicle has been registered as a passenger car on the basis of a Community type-approval granted pursuant to that directive.

Costs

22 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Sixth Chamber) hereby rules:

Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers, as amended by Council Directive 92/53/EEC of 18 June 1992, is to be interpreted as meaning that it does not preclude national rules which provide that a vehicle such as the one in question in the main proceedings is not subject to the national speed limits for passenger cars, even where that vehicle has been registered as a passenger car on the basis of a Community type-approval granted pursuant to that directive.

[Signatures]