JUDGMENT OF THE COURT (Sixth Chamber)
11 June 1987 *

In Case 241/86

REFERENCE to the Court under Article 177 of the EEC Treaty by the Politierechtbank (Local Criminal Court) Harelbeke for a preliminary ruling in the proceedings pending before that court between

Openbaar Ministerie (Public Prosecutor)

and

Jacques Bodin, of Montdidier, Somme-France,

and

Établissements Minguet & Thomas, having their registered office in Montdidier,

on the interpretation of the provisions of the Treaty relating to the free movement of goods, the freedom to provide services and the common transport policy,

THE COURT (Sixth Chamber),

composed of: C. Kakouris, President of Chamber, T. Koopmans, O. Due, K. Bahlmann and J. C. Rodríguez Iglesias, Judges,

Advocate General: C. O. Lenz
Registrar: B. Pastor, Administrator

after considering the observations submitted on behalf of

J. Bodin and Éts Minguet & Thomas, liable in civil law, by L. van Dorpe, of the Bar of Kortrijk, and by P. van Herreweghe, of the Bar of Amiens,

the Government of the Kingdom of Belgium, by H. de Belder, Director of European Affairs at the Ministry of Foreign Relations, acting as Agent,

* Language of the Case: Dutch.

the Government of the Italian Republic, by L. Ferrari Bravo, Head of the Department of Contentious Diplomatic Affairs, acting as Agent, assisted by I. M. Braguglia, Avvocato dello Stato,

the Commission of the European Communities, by T. van Rijn, a member of its Legal Department, acting as Agent,

having regard to the Report for the Hearing and further to the hearing on 17 March 1987,

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

gives the following

Judgment

1 By a judgment of 4 June 1986, which was received at the Court on 11 September 1986, the Politierechtbank (Local Criminal Court) Harelbeke referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question on the interpretation of the provisions of the Treaty relating to the free movement of goods, the freedom to provide services and the common transport policy in order to ascertain whether it was compatible with those provisions to apply national measures relating to the maximum permitted height of vehicles and trailers.

2 That question was raised in criminal proceedings brought against Mr Jacques Bodin, who was charged with having driven on a public highway a vehicle whose height exceeded the maximum permitted limit, and against Etablissements Minguet & Thomas, whose registered office is in Montdidier, France, as the party civilly liable.

3 The documents before the Court show that, under Belgian legislation on the regulation of road traffic, no vehicle whose height when laden exceeds four metres may be driven on the roads. Mr Bodin brought on to the Belgian roads a lorry consisting of a towing vehicle and semi-trailer registered in France whose height, according to police findings, exceeded four metres. At the hearing before the Poli-

tierechtbank, the accused submitted that, although the height of the lorry did exceed four metres, its use on roads in France was lawful under the legislation applicable in that country and therefore Community law precluded the application in their regard of Belgian legislation on the maximum height of vehicles.

4 The Politierechtbank then stayed the proceedings in order to refer to the Court for a preliminary ruling the question whether a legislative provision of a Member State laying down a maximum permitted height of four metres for all vehicles and trailers used in the territory of a Member State is compatible with the provisions of the Treaty relating to the free movement of goods, the freedom to provide services and the provisions relating to transport where such a limit is not imposed in other Member States.

5 Reference is made to the Report for the Hearing for a summary of the Community legislation and national legislation in question and of the observations submitted to the Court.

6 Under the general scheme of the Treaty, the freedom to transport goods by road, which is at issue in the main proceedings, belongs to the sphere of the provision of services in the field of transport. Article 61 of the Treaty provides that freedom to provide services in the field of transport is to be governed by the provisions of the Treaty on the common transport policy. That common policy is the subject of Article 74 *et seq.* of the Treaty; in particular, its various stages are defined in Article 75.

7 Article 75 was the basis for the adoption of Council Directive 85/3/EEC of 19 December 1984 on the weights, dimensions and certain other technical characteristics of certain road vehicles (Official Journal 1985, L 2, p. 14). According to Article 3 (1) of the directive, a Member State may not prohibit the use on its territory in international traffic of a vehicle registered in another Member State for reasons relating to its dimensions, provided that they comply with the limit values specified in Annex I to the directive. That annex specifies a maximum height of four metres for any type of vehicle (point 1.3).

8 Article 3 (1) also provides that the rule which it lays down is to apply notwithstanding the fact that the competent authority of the Member State in which the vehicle in question is registered has authorized limits exceeding those laid down in Annex I to the directive. The situation envisaged in the question put by the national court is thus expressly covered by those provisions of the directive.

9 Consequently, those provisions do not preclude the application to vehicles registered in another Member State of national legislation which lays down, in accordance with the directive, a maximum permitted height of four metres for all vehicles or trailers allowed into circulation on national territory even though that maximum height is not laid down by the legislation of the Member State in which a vehicle is registered.

10 The Politierechtbank Harelbeke also asks whether legislation of a Member State governing the maximum permitted height of vehicles, such as that in question in the main proceedings, is compatible with the provisions of the Treaty relating to the free movement of goods.

11 In that regard it should be noted that the free movement of goods between Member States is apt to be hindered, not by the application, as such, of national provisions on the maximum permitted height of vehicles transporting goods but by the different limits laid down in the legislation of the Member States.

12 It must be observed, however, that the preamble to Directive 85/3 starts from the premise that the differences between standards in force in the Member States with regard to the dimensions of commercial road vehicles are such as to constitute an obstacle to traffic between Member States and that it is therefore necessary, in the framework of the common transport policy, to establish common standards in that regard. Later in the preamble it is stated that it seems appropriate to permit Member States which authorize greater dimensions on their territory than those provided for in the directive to apply them only to vehicles registered on their territory where they are used in domestic traffic.

13 Directive 85/3 is thus specifically designed to approximate national laws in the field of international transport whose disparities may restrict the free movement of goods within the Community. That being the case, the application of national

legislation which is in conformity with the limits laid down in the Community directive cannot be regarded as a measure having an effect equivalent to a quantitative restriction within the meaning of Article 30 of the Treaty.

14 It follows that the provisions of the Treaty relating to the free movement of goods, the freedom to provide services and the common transport policy must be interpreted as meaning that they do not preclude the application to vehicles registered in another Member State of national legislation which lays down, in accordance with Directive 85/3, a maximum permitted height of four metres for all vehicles or trailers allowed into circulation on national territory, when the same limit is not laid down by the Member State in which a vehicle is registered.

Costs

15 The costs incurred by the Belgian Government, the Italian Government 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 proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber)

in answer to the question submitted to it by the Politierechtbank Harelbeke by judgment of 4 June 1986, hereby rules:

The provisions of the Treaty relating to the free movement of goods, the freedom to provide services and the common transport policy must be interpreted as

meaning that they do not preclude the application to vehicles registered in another Member State of national legislation which lays down, in accordance with Directive 85/3, a maximum permitted height of four metres for all vehicles or trailers allowed into circulation on national territory, when the same limit is not laid down by the Member State in which a vehicle is registered.

Kakouris Koopmans

Due Bahlmann Rodríguez Iglesias

Delivered in open court in Luxembourg on 11 June 1987.

P. Heim
Registrar

C. Kakouris
President of the Sixth Chamber