OPINION OF ADVOCATE GENERAL ALBER

delivered on 29 January 1998 *

A — Introduction

1. This reference for a preliminary ruling concerns the interpretation of the terms 'special regular services' and 'occasional services' in Article 2 of Regulation (EEC) No 684/92 [1] and of the term 'the route covered by the service in question' in Article 4(3) of Regulation No 3820/85. [2]

2. Richmond Magistrates Court, United Kingdom, has requested the Court of Justice for a preliminary ruling based on the facts set out below. The defendants in the national criminal proceedings are E. Clarke & Sons (Coaches) Ltd, a coach operator based in Sydenham, London, and D. J. Ferne, a coach driver employed by that company.

3. Tour operators may make group bookings with the company for the transport of tourists from airports and railway stations to hotels and tourist attractions.

4. On 9 July 1995 Mr Ferne was driving a coach belonging to E. Clarke & Sons (Coaches) Ltd to pick up a group of tourists from a hotel in London and transport them to the airport. At the airport another group was to be picked up and driven via tourist attractions to a hotel in South-West London. On the occasion of a vehicle inspection during the course of the second journey the defendant, according to the order for reference, was unable to produce tachograph record sheets pursuant to Articles 13 to 15 of Regulation No 3821/85. [3] The company and the driver relied on the exemption contained in Article 4(3) of Regulation No 3820/85 under which it is not mandatory to operate a tachograph on regular services. The prosecuting authority in the main proceedings (Vehicle Inspectorate) disputes that the defendants operate regular services and on that ground considers the exemption to be inapplicable.

* Original language: German.

1 — Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by bus and coach (OJ 1992 L 74, p. 1).

2 — Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport (OJ 1985 L 370, p. 1).

3 — Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ 1985 L 370, p. 8).

5. In so far as they are relevant for present purposes, the provisions of Community law are as follows:

On the obligation to operate a tachograph:

— Article 3(1) of Regulation No 3821/85 provides:

'Recording equipment shall be installed and used in vehicles registered in a Member State which are used for the carriage of passengers or goods by road, except the vehicles referred to in Articles 4 and 14(1) of Regulation (EEC) No 3820/85.'

On the exemption from this obligation (regular services and special regular services):

— Article 4 of Regulation No 3820/85 provides:

'This Regulation shall not apply to carriage by:

...

3. vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres; ...'

— Article 14(1) of Regulation No 3820/85 provides:

'In the case of

— regular national passenger services

...

which are subject to this Regulation, a service timetable and a duty roster shall be drawn up by the undertaking.'

— Article 1 of Regulation No 3820/85 provides:

'In this Regulation:

...

7. "regular passenger services" means national and international services as defined in Article 1 of Council Regulation No 117/66/EEC of 28 July 1966 on the introduction of common rules for the international carriage of passengers by coach and bus.'

Regulation No 117/66/EEC [4] was repealed by Article 21(1) of Regulation No 684/92. Article 21(2) of Regulation No 684/92 provides: 'References to the Regulations repealed shall be taken as references to this Regulation.'

4 — Council Regulation No 117/66/EEC of 28 July 1966 on the introduction on common rules on the international carriage of passengers by coach and bus (OJ, English Special Edition 1965-1966, p. 177), repealed by Regulation No 684/92 (see footnote 1)).

Accordingly, the definitions of regular services and special forms thereof laid down in Regulation No 684/92 are conclusive.

— Article 2 of Regulation No 684/92 provides:

'1. Regular services

1.1. Regular services are services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services shall be open to all, subject, where appropriate, to compulsory reservation.

1.2. Services, by whomsoever organised, which provide for the carriage of specified categories of passengers to the exclusion of other passengers, in so far as such services are operated under the conditions specified in 1.1., shall be deemed to be regular services. Such services are hereinafter called "special regular services".

Special regular services shall include:

(a) the carriage of workers between home and work,

(b) carriage to and from the educational institution for school pupils and students,

(c) the carriage of soldiers and their families between their state of origin and the area of their barracks,

(d) ...

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

...'

Occasional services, as defined in Article 2(3) of Regulation No 684/92, are not exempt from the obligation to operate a tachograph.

'3.1. Occasional services are services falling neither within the definition of a regular service nor within the definition of a shuttle service.

They include:

(a) ...

(b) services:

— which are carried out for groups of passengers previously assembled, where passengers are not brought back to their points of departure in the course of the same journey;

and

— which also cover, in those cases where there is a stay at the place of destination, accommodation or other tourist services not ancillary to carriage or accommodation;

(c) ...

(d) services mentioned in the Annex to this regulation,

(e) services which do not meet the criteria in (a), (b), (c) and (d), i. e residual services.

...

3.3 The services referred to in point 3 shall not cease to be occasional services solely because they are provided at certain intervals.'

6. It follows from the foregoing provisions that the exemption provided for in Article 4(3) of Regulation No 3820/85 may be relied on only by a person engaged in regular services or in one of its special forms but not by a person offering only occasional services.

7. The national court therefore referred the following questions to the Court for a preliminary ruling:

'1. Are groups of passengers carried on a single journey between an airport and a hotel via, on occasions, a tourist attraction "specified categories of passengers" for the purposes of the application of Article 2(1.2) of Council Regulation (EEC) No 684/92?

2. If the answer to Question 1 is yes, is Article 2(1.2) to be construed so that the carriage of such passengers on that journey where:

(a) each group is picked up at one point of departure and set down at one point of destination (including, on occasions, a visit to a tourist attraction as part of that journey);

(b) the same or a similar journey is repeated on a number of occasions pursuant to a block reservation made by a tour operator;

(c) the precise route to be taken is not predetermined;

is a "special regular service" within the meaning of that Article?

3. If the answer to Question 2 is yes, is Article 4(3) of Council Regulation (EEC) No 3820/85 to be construed so that the distance of "the route covered by the service in question" is to be calculated by reference to:

(a) each component part of the driver's journey during the day;

(b) the aggregate of such component parts?

4. If the answer to Question 2 is no, is Article 2(3) of Council Regulation (EEC) No 684/92 to be construed so that the carriage of such passengers in such circumstances is an "occasional service" within the meaning of that Article?'

8. The defendant undertaking, the United Kingdom Government and the Commission took part in the written and oral procedures. I shall revert to the parties' submissions in the course of the legal appraisal.

B — Opinion

9. The first, second and fourth questions of the national court essentially concern the interpretation of the terms 'special regular services' within the meaning of Article 2(1.2) and 'occasional services' within the meaning of Article 3(3.1) of Regulation No 684/92. It would therefore seem appropriate to examine these questions together.

10. In accordance with the recitals in the preamble to Regulation No 3821/85, the obligation to operate a tachograph serves, *inter alia*, to contribute considerably to road safety and to ensure supervision of work and

rest periods. Exemptions from this obligation must therefore be permitted only in exceptional circumstances. Unlike for occasional services, such an exemption is expressly provided for in the case of regular services.

I. *First, second and fourth questions*

11. The defendants in the main proceedings rely on the exception contained in Article 4(3) of Regulation No 3820/85 in order to claim exemption from the obligation to operate a tachograph. They are engaged, they submit, in operating regular services and the regular routes covered do not exceed 50 kilometres. Consequently, the individual journeys do not fall within the scope of the Regulation but are governed solely by national law. The tour operators and customers are able to agree on the extent of the service to be provided. By means of such agreements specific provision may be made for regular and repeated carriage of travellers. In that way it is possible to provide for regular services, the route to be covered, points of departure and destination and any stopping points. Groups of passengers may also in that way be specifically defined. In the defendants' view, the persons carried by them are 'specified categories of passengers' within the meaning of Article 2(1.2) of Regulation No 684/92. They differ from normal passengers by virtue of the fact that they have booked an overall package with a tour operator, and that the route to be covered includes the journey from the hotel to the airport, and in the other direction, with interim stops to visit tourist attractions. The examples given in Article 2(1.2) of Regulation No 684/92 do not constitute an exhaustive list. It would also be conceivable for tourists from a particular club or prepaid group to come within the scope of this provision. There is no requirement, either explicit or implicit, that the same passengers should make the same journey repeatedly. In the case of the examples given in the Regulation it is entirely possible for different passengers to be conveyed on different journeys. Moreover, the route to be taken could be laid down by the driver's identifying the roads by name or classification. Journey departure and arrival times are clear in advance both for the operator and for passengers. There is no requirement for intermediate stopping points, as is borne out by the example of regular inter-city coach services.

12. The United Kingdom Government and the Commission state at the outset that the provisions of the relevant regulations are to be construed in accordance with their objective and purpose. In regard to special regular services under Article 2(1.2) of Regulation No 684/92 both submit that the criteria of a regular service must first be satisfied, whereupon it would then be necessary to examine whether the regular service was provided for a 'specified category of passengers'.

13. Thus, the criteria to be fulfilled by a special regular service are regular carriage of passengers, a specified route, predetermined stopping points and a specified category of passengers.

14. As regards regularity of carriage of passengers, the United Kingdom Government and the Commission take the view that this condition is met only if there are clearly defined and definitively laid down travel times. There must be a timetable giving precise indications of journeys. According to the facts of the main proceedings, there are no precise journey times. Journeys are dependent on the arrival of an airplane or train; in some cases the driver may have to wait for the passengers to arrive. In the case of a block reservation, as in the present case, departure and arrival times are governed by criteria which cannot be determined in advance. There is thus no possibility of predetermining the regularity of the transport service.

15. As regards the requirement of a specific route, it is submitted on behalf of the United Kingdom Government and the Commission that clear and precise predetermination is necessary. It is true that the route to be taken may be varied according to the needs of the users (final subparagraph of Article 2(1.2) of Regulation No 684/92). However, it must be clear in advance to users which route is to be taken. There must also be predetermined stopping points. At least the points of departure and destination of journeys must be clearly specified and should not be altered for each journey.

16. With regard to the criterion of a 'specified category of passengers', the United Kingdom Government and the Commission submit that the examples given in Article 2(1.2) of Regulation No 684/92 indeed do not constitute an exhaustive list. However, the services provided do not fall within the terms of this provision. The United Kingdom Government submits on this point that the examples given in the provision are of journeys repeatedly carried out. The defendant undertaking, however, provides services for a given set of passengers only once. The Commission also points to the fact that passengers are carried only on a single journey. The factor bringing the defendants' passengers together as a category, namely the existence of a single booking, does not confer permanent status, as in the examples given in Article 2(1.2) of Regulation no 684/92. Those concern workers, school pupils and students and soldiers who retain this status over a considerable period of time. It follows from all these points, it is submitted, that the defendants cannot claim to be providing a special regular service within the meaning of Article 2(1.2) of Regulation No 684/92.

1. Regular Services and Special Regular Services

17. Under Article 3 of Regulation No 3821/85 recording equipment must be installed and used in vehicles used for the carriage of passengers by road. Vehicles

mentioned in Article 4 and Article 14(1) of Regulation No 3820/85 are stated to be exempt from that obligation. In accordance with Article 4(3) of Regulation No 3820/85, the exemption applies to vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres. Under Article 14(1) of Regulation No 3820/85 vehicles used on regular services for the carriage of passengers are exempted in the case of regular national services. Regular passenger services are to be understood as the national carriage of persons as mentioned in Regulation No 117/66. That Regulation was repealed by Regulation 684/92. References to the repealed Regulation are, under Article 21(2) of Regulation 684/92, to be taken as references to the latter Regulation. Article 2(1.1) defines regular services as services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services are to be open to all, subject, where appropriate, to compulsory reservation.

18. Article 2(1.2) defines special regular services. As opposed to regular services, in this case specified categories of passengers are carried to the exclusion of other passengers. The following examples may again be mentioned in that connection:

(a) the carriage of workers between home and work;

(b) the carriage of school pupils and students between home and educational institution;

(c) the carriage of soldiers and their families between their state of origin and the area of their barracks.

Such special regular services may be varied according to the needs of users.

19. The criteria for services to be deemed to be special regular services are therefore as follows:

— carriage of passengers at specified intervals

— specified routes

— predetermined stopping points

— specified categories of passengers.

These criteria must be examined one by one.

(a) Carriage of passengers at specified intervals

20. Carriage of passengers at specified intervals can only mean that, on the basis of a more or less binding plan, services are provided at repeated intervals. It is apparent from the wording itself that the times of the services must be governed by specific rules. Likewise it is apparent that the services must be repeated. The meaning and purpose of regular service is precisely that various points are served at specified intervals. Regularity also presupposes that a timetable is established in advance and made available to the persons concerned. A further characteristic enabling it to be assumed that services are regular is the fact that the timetable must also be adhered to. Regular bus services in town are a typical example of this. The bus drivers must keep to the mandatory travel plans. It is true that slight delays may occur; none the less the attempt is made to keep to this travel plan. In accordance with the explanations of the national court, this is not the situation in the present case. A kind of timetable is indeed produced by the coach company but it is subject to alteration in a given situation. As the Commission has already contended in its observations, the bus driver may under certain circumstances have to wait a considerable period of time for the arrival of the passengers.

21. The driver may then, depending on the situation, alter at short notice the predetermined timetable. In that way the driver enters into a kind of 'dependent' relationship with the passengers which runs counter to the meaning of the concept of 'carriage of passengers at specified intervals'. In the case of carriage of passengers at specified intervals passengers are guided by the predetermined timetable. Such a timetable then retains validity for a considerable period of time. In the present case, however, timings may alter from journey to journey since the trips are made from different points of departure to different destinations. Also the stopping points may alter according to the reservation. Thus, the timings cannot be determined nor the frequency of the repetition of the journeys undertaken by E. Clarke & Sons (Coaches) Ltd.

(b) Specified routes

22. There may be said to be a specified route only if the route to be covered is clear to all passengers before the journey. That is necessitated by the fact that there can be carriage of passengers at specified intervals only if the routes are also specified. In the case of regular services it must be clear to the passenger before the start of the journey which route the bus is to take. In that connection it is not sufficient only to determine the points of departure and destination and possible stopping points. Nor is it sufficient for the driver, prior to the journey, to define the principal route by naming the more important roads. As the defendants themselves have said, it is entirely possible for the driver to use a completely new route where traffic jams or other similar problems occur. It is true that regular services in the ordinary sense may also be forced to alter specified routes on account of road works or road closures; however such

problems are known about some time before. It is then possible to announce to passengers in advance that a specified route will be altered. In the case of traffic jams, however, regular services continue to use a predetermined route. It is above all in the rush hour that delays must be reckoned with. However, should a major delay occur, in the context of the present case, it is entirely open to the driver, as has indeed been submitted on his behalf, to take a short cut at short notice in order to make up for lost time. That means, however, that the route cannot clearly be specified.

(c) Predetermined stopping points

23. Nor in regard to the requirement of predetermined stopping points may the submissions on behalf of E. Clarke & Sons be upheld. Whilst it is true that Article 2(1.1) merely requires that there be predetermined stopping points at which passengers may be picked up or set down, that cannot mean that those stopping points can be airports, hotels or railway stations, depending on which tour party has made a reservation. The concept of predetermined stopping points must also be seen in conjunction with carriage of passengers at specified intervals on specified routes. The stopping points must be determined in advance and must be stopped at regularly. This is also clear from the examples in Article 2(1.2) which assume the same points of departure and destination over a considerable period of time.

24. The provision in Article 2(2) of Regulation No 684/92 also militates in favour of the requirement that several stopping points must be stopped at during a journey. This governs shuttle services where passengers are carried by means of repeated outward and return journeys from a single area of departure to a single area of destination. In that connection there is in fact no requirement for intermediate stopping points. The defendant coach undertaking points to the interim stops in order to visit tourist attractions. It may be true that certain tourist attractions are frequently stopped at and that passengers are also aware of this programme but they probably do not know precisely where the stopping places are since they are not specifically indicated. Since, in the defendants' submission, the route may also be altered on account of delays, it is entirely possible for the notified stops to be effected elsewhere than originally planned. But it is a requirement of regular services that specific stopping points are regularly stopped at. If, however, the passenger transport companies determine their stopping points on the basis of agreements made with the tour operators and they have the possibility of altering those stopping points, the service which they provide cannot be said to be a regular service.

(d) Specified categories of passengers

25. As regards 'specified categories of passengers' within the meaning of Article 2(1.2) of Regulation No 684/92, that term cannot be construed as referring to tourists who are conveyed in a single journey between an airport and a hotel with occasional intermediate stops to visit tourist attractions.

26. As is already demonstrated by the wording of Article 2(1.2) ('special regular services shall include ...'), the examples given do not constitute an exhaustive list. On closer examination, however, of the list of examples, it appears, as the Commission has rightly stated, that a characteristic is attributed to the categories mentioned, (workers, students and soldiers) which distinguishes them from other passengers over a considerable period of time. In the case of tourists who in a single journey are brought from an airport to a hotel that characteristic is only fleetingly present. The categories listed by way of example in that article are driven by the coach undertakings between the predetermined points repeatedly and regularly owing to the characteristic inherent in them. It is true that under this provision regular services may be varied according to the needs of users. But that cannot mean that a different pattern is fixed for each journey in the case of a regular service. The rule governing carriage of passengers would be nonexistent if each journey comprised different journey times, a different route and different passengers.

27. In the light of all the foregoing it must be held that the services offered by E. Clarke & Sons (Coaches) Ltd may not be subsumed under the terms 'regular services' or 'special regular services' as contained in Article 2(1.1) and (1.2) of Regulation 684/92.

2. Occasional services

28. The defendant coach undertaking is of the view that this point does not need to be examined. Since the transport services provided by it are to be regarded as a special regular service, those services cannot at the same time be regarded also as occasional.

29. Both the United Kingdom Government and the Commission come to the conclusion in their submissions that the services provided amount to occasional services within the meaning of Regulation No 684/92. The United Kingdom Government considers that a service is being provided as defined under Article 2(3.1(b)) of Regulation No 684/92 and refers, in regard to the notion of a group assembled in advance, to the definition contained at paragraph 3.2 of that Article. In the Commission's submission, it could possibly be such a service but it might also be a service coming within Article 2(3.1(d) or (e)). In any event these are occasional services for the purposes of the Regulation. Both the United Kingdom Government and the Commission go on to point out that a certain frequency with which those journeys are

carried out cannot alter their classification as occasional services. This, they say, is clear from Article 2(3.3) of Regulation No 684/92.

30. In the end result the views of the United Kingdom Government and the Commission must be upheld. Under Article 2(3.1(b)) a transport service comes under the concept of occasional service where groups of passengers assembled in advance are not brought back to their points of departure in the course of the same journey and where, in the event of a stay at the place of destination, accommodation or other tourist services not ancillary to carriage or accommodation are offered.

31. It is stated in the findings of the national court that block bookings are made with the defendant undertaking. These block bookings include picking up the tour parties either from the hotel and bringing them to the airport or picking them up from airports and railway stations in order to bring them to their hotels. The tourists are to be set down at the place of destination and are not to be brought back to the point of departure in the context of the same journey. However, it may be inferred from the findings of the national court that the defendant coach undertaking provided tourist services in the form of visits to tourist attractions, entirely within the context of such journeys. In such a case the application of Article 2(3.1(b)) would be precluded. In that case it would then be conceivable to apply Article 2(3.1(d)) in conjunction with the annex to that Regulation. There would then be provision of a transport service comprising a journey with passengers with a specific point of departure to a specific point of destination and subsequently an empty journey to the point of departure of the vehicle. If there were, however, not to be such an empty journey, then the criterion for the application of Article 2(3.1(e)) would be satisfied. Under that subparagraph other services not meeting the criteria of (a) to (d) are to be construed as occasional services. It is, however, for the national court to make these findings since these are questions of fact. Since, however, this is a case of occasional services, it is clear that in the present case the defendants have not engaged in the carriage of passengers on regular services.

32. The replies to Questions 1, 2 and 4 raised by the national court should then be as follows:

Question 1.

Groups of passengers who are conveyed on a single journey between an airport and, occasionally via a tourist attraction, to a hotel, do not constitute 'specified categories of passengers' within the meaning of Article 2(1.2) of Regulation No 684/92.

Question 2.

Article 2(1.2) of Regulation No 684/92 is to be construed as meaning that the carriage of passengers on such a journey whereby

(a) each individual group is taken up at a specified point of departure and set down at a point of destination (occasionally also including the visit to a tourist attraction as part of the journey),

(b) the same or similar journey is repeated on a series of occasions in accordance with a block reservation by a tour operator,

(c) the exact route to be covered is not determined in advance,

does not constitute a 'special regular service'.

Question 4.

Article 2(3) of Regulation (EEC) No 684/92 is to be interpreted as meaning that under those circumstances the carriage of such passengers can constitute an 'occasional service' within the meaning of that Article.

However, it remains a matter for the national court to determine whether these matters of fact subsist.

II. *Third question*

33. In its third question the national court seeks to ascertain by what method the length of the 'route covered by the service in question' within the meaning of Article 4(3) of Regulation No 3820/85 is to be calculated. That may involve a calculation of each individual component part of the route which has been covered during a day or the aggregate of those component parts of the route. It is apparent from the findings of the national court that the individual component parts of the route on the day on which the defendants were inspected amounted to less than 50 km. The aggregate of those component parts of the route was, however, in excess of 50 km.

34. Under Article 4(3) of Regulation No 3820/85 the Regulation does not apply to vehicles used for the carriage of passengers on regular services where the route covered by the service may not exceed 50 km.

35. E. Clarke & Sons submit that, for the purpose of correctly calculating the 'route covered by the service', regard must be had to each individual component part of the journeys on the relevant day.

36. The Commission and the United Kingdom Government first point out that this question from the national court need not be answered. Since this exemption provision applies only to carriage on regular services and the journeys undertaken by the defendants may not be subsumed under that concept, this provision is not applicable in this connection. Therefore, the reply to this question is not relevant to the outcome of the dispute in the main proceedings.

37. In the United Kingdom's submission, it is moreover undisputed that there is no obligation to operate a tachograph in the case of a 'special regular service', irrespective of whether the route covered is more or less than 50 km. Therefore, in the present case no question on the interpretation of Article 4(3) arises.

The United Kingdom's view must be upheld, with the result that the third question is here examined only in the alternative.

38. The Commission states that the exemption provision contained in Article 4(3) of Regulation No 3820/85 is not relevant to the present case. The list of exemptions contained in Article 4 is exhaustive, in the Commission's view, with the result that the facts of this case do not come within the scope of this provision. The exemptions are to be seen in the overall context of the Regulation and were provided for because the safety aspects associated with the Regulation in the examples listed were achievable by other means. Since exemptions are to be construed restrictively, they could not be applied in the present case.

39. In its settled case-law, the Court of Justice has reiterated that, in interpreting a provision of Community law, it is necessary to consider not only its wording but also the context in which it occurs and the objects of the rules of which it is part. [5]

40. On Article 4 of Regulation 3820/85, the Court held in the *Goupil* case that, as an exception to the general rules, Article 4 may not be interpreted in such a way as to extend its effects beyond what is necessary to safeguard the interests which it seeks to secure. Furthermore, the scope of the derogations which it lays down must be determined in the light of the aims pursued by the regulation. [6]

5 — Case 337/82 *St Nikolaus Brennerei* [1984] ECR 1051; Case C-83/94 *Leifer and Others* [1995] ECR I-3231, and Case C-84/95 *Bosphorus* [1996] ECR I-3953.

6 — Case C-39/95 *Goupil* [1996] ECR I-1601.

41. The objective pursued by Regulation No 3820/85, according to the first recital in the preamble thereto, is, in addition to harmonising the conditions of competition, especially improvement of working conditions and road safety. To this end the Regulation provides for driving and rest periods (Sections IV and V) for drivers who have attained the requisite minimum age (Section III) who are engaged in the carriage of goods by road coming within the scope of the Regulation (Section II). The Regulation prohibits payment related to distance travelled and/or the amount of goods carried where such payments endanger road safety (Section VI). Exceptions are allowed only to a limited extent (Section VII) and, for the purposes of implementation, the Regulation contains provisions on control procedures and penalties (Section VIII).

42. The exemption provision provided for in Article 4(3) in favour of vehicles used for the carriage of passengers on regular services where the route covered does not exceed 50 km may be accounted for by the objectives of the Regulation. The protective provision laid down in the Regulation cannot be infringed, or only with difficulty, by the carriage of passengers on regular services. Since, owing to the regularity, the working periods of staff are laid down by the timetable, it is not necessary for a tachograph to be used in addition. It can be precisely determined which driver was used on which route and for how long.

43. Article 4 of Regulation No 3820/85 contains an exhaustive list with exemptions. An extension to situations which appear to be analogous is therefore not possible. Since it is the declared objective of the Regulation to ensure road safety and to improve working conditions, an exceptional circumstance may be presumed to exist only when the preconditions of Article 4 are satisfied.

44. Since, however, as has been shown, the carriage of passengers by the defendant coach undertaking does not take place in the framework of a regular service, the undertaking cannot rely on the exemption provided for in Article 4 of Regulation No 3820/85.

45. It follows from the interrelationship between this exemption provision and the overall scheme of rules laid down in the Regulation that the route covered by the service is to be calculated by reference to each individual component part of the journey made by the driver during the course of a day. It is a typical characteristic of a regular service that there is a rest period at the end of a journey. Nor does it conflict with the protective concerns of the Regulation if on one day several short trips are made by a driver.

46. The reply to the third question raised by the national court must therefore be that Article 4(3) of Regulation (EEC) No 3820/85 is to be interpreted as meaning that the length of the 'route covered by the service in question' is to be calculated by reference to each individual component part of the driver's journey in the course of the day.

C — Conclusion

47. I therefore propose that the questions referred for a preliminary ruling should be answered as follows:

(1) Groups of passengers who are conveyed on a single journey between an airport and, occasionally via a tourist attraction, to a hotel, do not constitute 'specified categories of passengers' within the meaning of Article 2(1.2) of Regulation (EEC) No 684/92.

(2) Article 2(1.2) of Regulation No 684/92 is to be construed as meaning that the carriage of passengers on such a journey whereby

(a) each individual group is taken up at a specified point of departure and set down at a point of destination (occasionally also including the visit to a tourist attraction as part of the journey),

(b) the same or similar journey is repeated on a series of occasions in accordance with a block reservation by a tour operator,

(c) the exact route to be covered is not determined in advance,

does not constitute a 'special regular service'.

(3) Article 4(3) of Regulation (EEC) No 3820/85 is to be interpreted as meaning that the length of the 'route covered by the service in question' is to be calculated by reference to each individual component part of the driver's journey in the course of the day.

(4) Article 2(3) of Regulation No 684/92 is to be interpreted as meaning that under those circumstances the carriage of such passengers can constitute an 'occasional service' within the meaning of that Article.