

JUDGMENT OF THE COURT
25 September 1985 *

In Joined Cases 79 and 80/84

REFERENCES to the Court under Article 177 of the EEC Treaty by the Tribunal de grande instance [Regional Court], Verdun, for preliminary rulings in the criminal proceedings brought before that court by

Procureur de la République [Public Prosecutor]

against

Claude Chabaud (Case 79/84)

and

Jean-Louis Rémy (Case 80/84),

on the interpretation of Articles 3, 5 and 30 of the EEC Treaty,

THE COURT (Fourth Chamber)

composed of: G. Bosco, President of Chamber, P. Pescatore, T. Koopmans, K. Bahlmann and T. F. O'Higgins, Judges,

Advocate General: Sir Gordon Slynn

Registrar: D. Louterman, Administrator

after considering the observations on behalf of:

the French Government by J.-P. Costes and S. C. de Margerie, acting as Agents, assisted by I. Knock, Administrator,

the Commission of the European Communities by its Legal Advisers, R.-C. Béraud and G. Marengo, acting as Agents, assisted by N. Coutrelis, a member of its Legal Department,

after hearing the Opinion of the Advocate General delivered at the sitting on 14 May 1985,

gives the following

* Language of the Case: French.

JUDGMENT

(The account of the facts and issues which is contained in the complete text of the judgment is not reproduced)

Decision

- 1 By two judgments of 9 March 1984, which were received at the Court on 22 March 1984, the Tribunal de grande instance [Regional Court], Verdun-sur-Meuse, referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question, which was identical in both cases, concerning the interpretation of Articles 3, 5 and 30 of the EEC Treaty, in order to enable it to determine whether national rules imposing a minimum price on the sale of fuel to consumers are compatible with Community law.
- 2 The question was raised in the context of criminal proceedings brought against Mr Chabaud and Mr Rémy who are directors of supermarkets operated in conjunction with petrol stations and who are charged with having, in May, June and July 1983, offered fuel for sale at prices below the minimum price fixed by the rules which were in force at that time.
- 3 The accused maintained that Article 4 of Ministerial Decree No 82-13/A of 29 April 1982 concerning retail selling prices for fuel, on which the minimum price at issue is based, is contrary to Community law, in particular Articles 3 (f), 5 and 30 of the EEC Treaty.
- 4 In those circumstances the Tribunal de grande instance, Verdun, considered it necessary to refer to the Court of Justice the following question for a preliminary ruling:

'Is the decree issued on 29 April 1982 by the Minister for Economic and Financial Affairs and the Minister responsible for Energy of the Government of the French Republic prohibiting the sale in France of regular and super-grade petrol at a price

lower than that fixed periodically by ministerial decision consistent with or contrary to the provisions of Articles 3, 5 and 30 of the Treaty of Rome of 25 March 1957?’

5 In its judgment of 29 January 1985 in Case 231/83 (*Cullet v Centre Leclerc Toulouse* [1985] ECR 315) the Court has already examined the same questions which were raised in the context of proceedings relating to the same national rules. The details of the rules were given to the Court on that occasion and it was then able to give an interpretation of the relevant provisions of Community law.

6 At the end of that examination the Court came to the following conclusions:

Articles 3 (f) and 5 of the EEC Treaty do not prohibit national rules providing for a minimum price to be fixed by the national authorities for the retail sale of fuel;

Article 30 of the EEC Treaty prohibits such rules where the minimum price is fixed on the basis solely of the ex-refinery prices of the national refineries and where those ex-refinery prices are in turn linked to the ceiling price which is calculated on the basis solely of the cost prices of national refineries when the European fuel rates are more than 8% above or below those prices.

7 Since there appears to be no new factor in this case, reference should be made, with regard to the replies to be given to the Tribunal de grande instance, Verdun-sur-Meuse, and to the considerations which led to those replies, to the text of the aforementioned judgment of 29 January 1985, a copy of which is annexed hereto.

Costs

8 The costs incurred by the French Government and by the Commission, which have submitted observations to the Court, are not recoverable.

On those grounds,

THE COURT (Fourth Chamber)

in answer to the question referred to it by the Tribunal de grande instance, Verdun-sur-Meuse, by two judgments of 9 March 1984, hereby rules:

- (1) Articles 3 (f) and 5 of the EEC Treaty do not prohibit national rules providing for a minimum price to be fixed by the national authorities for the retail sale of fuel.
- (2) Article 30 of the EEC Treaty prohibits such rules where the minimum price is fixed on the basis solely of the ex-refinery prices of the national refineries and where those ex-refinery prices are in turn linked to the ceiling price which is calculated on the basis solely of the cost prices of national refineries when the European fuel rates are more than 8% above or below those prices.

Bosco

Pescatore

Koopmans

Bahlmann

O'Higgins

Delivered in open court in Luxembourg on 25 September 1985.

P. Heim

G. Bosco

Registrar

President of the Fourth Chamber