

Case C-443/10

Philippe Bonnarde

v

Agence de Services et de Paiement

(Reference for a preliminary
ruling from the tribunal administratif de Limoges)

(Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Importation, by a person resident in a Member State, of a vehicle already registered in another Member State — Ecological subsidy — Conditions — Registration certificate attesting to the nature of the demonstration vehicle)

Judgment of the Court (Fifth Chamber), 6 October 2011 I - 9329

Summary of the Judgment

Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Legislation of a Member State requiring, for the award of an ecological subsidy to an imported demonstration vehicle at the time of registration, the first registration document to bear the words 'demonstration vehicle' — Not permissible — Justification — No protection of the environment or combating of fraud

(Arts 34 TFEU and 36 TFEU)

Articles 34 TFEU and 36 TFEU preclude legislation of a Member State from requiring, for the award of the subsidy known as the ‘bonus écologique – Grenelle de l’environnement’ to imported demonstration motor vehicles at the time of registration in that Member State, the first registration document of those vehicles to bear the words ‘demonstration vehicle’.

Even if such legislation requires the registration document for all demonstration motor vehicles, irrespective of their origin, to state that it was a ‘demonstration vehicle’ in order for those vehicles to be granted the ecological subsidy, that requirement would affect vehicles imported from other Member States differently according to whether or not they come from a Member State that provides for such a requirement in respect of registration documents. It may therefore influence the behaviour of consumers and, consequently,

affect the access of those vehicles to the market of that Member State.

It is true that national measures capable of hindering intra-Community trade may be justified by the objective of protection of the environment and combating fraud provided that the measures in question are proportionate to the aim pursued. However, the requirement that the registration document for demonstration vehicles must state that it was a ‘demonstration vehicle’ is only one of many means available to the competent authorities to combat fraud and to protect the environment. Such a measure is therefore excessive and, consequently, disproportionate compared with the objectives pursued.

(see paras 29-30, 34, 37-38, 39, operative part)