

1. Is Directive 70/156/EEC on type-approval, ⁽¹⁾ as amended by Council Directive 92/53/EEC of 18 June 1992, ⁽²⁾ implemented in German law in the EG-TypV (Verordnung über die EG-Typgenehmigung für Fahrzeuge und Fahrzeugteile (Regulation on EC type-approval of vehicles and vehicle components) 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 EC 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 also subject only to the speed requirements applicable to passenger cars?
2. May the authorities responsible for prosecuting road traffic offences declare that the vehicle authorisations in accordance with EC type-approval issued by the Kraftfahrt-Bundesamt (Federal Office for Motor Vehicles) and the registrations issued by the German registration authorities based on these EC type-approvals are not decisive when establishing the speed requirements to be complied with by the driver of such a vehicle type?

⁽¹⁾ 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 (O), English Special Edition 1970 (I), p. 96.

⁽²⁾ Council Directive 92/53/EEC of 18 June 1992 amending Directive 70/156/EEC (O) 1992 L 225, p. 1).

Action brought on 18 February 2005 by the Commission of the European Communities against the Grand Duchy of Luxembourg

(Case C-90/05)

(2005/C 82/52)

(Language of the case: French)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice of the European Communities on 18 February 2005 by the Commission of the European Communities, represented by Dimitris Triantafyllou, acting as Agent, with an address for service in Luxembourg.

The Commission of the European Communities

Having put the Grand Duchy of Luxembourg on notice to submit its observations and having issued a reasoned opinion on 7 July 2004 and regard being had to the reply of the government of the Grand Duchy of Luxembourg, registered at the Secretariat General on 13 October 2004,

Claims that the Court should:

1. declare that, by not observing the six-month period for refunds of VAT to taxable persons established within the country, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 7(4) of Eighth Council Directive 79/1072/EEC of 6 December 1979, ⁽¹⁾
2. order the defendant to pay the costs.

Pleas in law and main arguments

The Grand Duchy of Luxembourg, whilst having correctly transposed the directive into national law, is not in practice observing the six-month period provided for in Article 7(4) for the refund of VAT to taxable persons not established within the country. In fact refunds made by the Luxembourg authorities are systematically paid with considerable delays. Moreover, Luxembourg legislation does not provide for interest on late payment to offset damage suffered as a result of those delays.

⁽¹⁾ Eighth Council Directive 79/1072/EEC of 6 December 1979 on the harmonisation of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in the territory of the country.

Action brought on 21 February 2005 by the Commission of the European Communities against the French Republic

(Case C-92/05)

(2005/C 82/53)

(Language of the case: French)

An action against the French Republic was brought before the Court of Justice of the European Communities on 21 February 2005 by the Commission of the European Communities, represented by Bruno Stromsky and Bernhard Schima, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Commission Directive 2003/32/EC of 23 April 2003 introducing detailed specifications as regards the requirements laid down in Council Directive 93/42/EEC with respect to medical devices manufactured utilising tissues of animal origin, ⁽¹⁾ the French Republic has failed to fulfil its obligations under that directive;
2. in the alternative, declare that by failing to notify the Commission of those provisions, the French Republic has failed to fulfil its obligations under Directive 2003/32/EC;

3. order the French Republic to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive into national law expired on 1 January 2004.

⁽¹⁾ OJ No L 105, 26.04.2003, p. 18.