

## European Court Judgements relevant to the social rules in road transport

*(Regulations (EEC) No 543/69, No 3820/85, No 3821/85, Regulation (EC) No 561/2006)*

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-69/74 Judgement of the Court of 18 February 1975	Regulation No 543/69 of the Council, Article 11 (2),	Jean-Pierre Cagnon, Jean-Paul Taquet	Daily rest period	A coach driver was charged with not having taken, as a crew member, the daily rest referred to in the first paragraph of Article 11 (2). The defendant challenged the validity of the proceedings on the ground that only employers had to observe the requirement for daily rest and not crew members of road vehicles. The Court was requested to rule as to the meaning which must be given to the words 'shall have had ... a ... rest period'	The phrase 'shall have had ... a ... rest period' in the first paragraph of Article 11 (2) of Regulation (EEC) No 543/69 must be interpreted as meaning that the provisions on daily rest must be observed both by crew members themselves, who are required to stop all activities referred to in Article 14 of the Regulation for the minimum period laid down, and by the employer running a road transport undertaking, who is required to take the necessary measure to permit the crew members to have the daily rest period laid down.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
<b>C-65/76</b> Judgement of the Court of 25 January 1977	Regulation No 543/69, Articles 1,2 and 4	Marcel Derycke	Scope of the regulation - interpretation of Articles 2 and 4 (2)	Is Regulation (EEC) No 543/69 applicable to any carriage of goods by a vehicle with a permissible maximum weight of 3.5 tonnes or over, irrespective of the status of the driver of that vehicle? Or only to the carriage of goods by road by an employee of an undertaking, so that those provisions should not be applicable to the carriage of goods by an independent trader on his own account?'	Articles 1, 2 and 4 of Regulation No 543/69 must be interpreted as covering any carriage coming within the scope of the regulation irrespective of the status of the driver of the vehicle so that the provisions of the regulation are applicable to carriage effected both by an independent trader and by an employed driver.
<b>C-76/77</b> Judgement of the Court of 15 December 1977	Regulation (EEC) No 543/69, Articles: 14(7) and (8)	Berbard Dufour, S.A. Creyf's interim and S.A. Creyf's Industrial	Temporary drivers	Is the duty to issue the individual control book to crew members imposed on the undertaking whose business activity is the hiring out of labour or on the undertaking using the services of the driver for its road transport operations?	In view that it is the transport undertaking, which determines the vehicle to be driven, the route to be followed and the destination as well as driving and rest periods, the transport undertaking is in a position to judge whether an individual control book must be issued to crew member. It is in consequence a duty of a transport undertaking to ensure that the provisions of Article 14(7) and (8) of Regulation (EEC) No 543/69 are observed. The position would be different only if national legislation adopted in pursuance of Article 14(9) of the Regulation in the special case of hiring a labour were to impose that duty on the undertaking providing the temporary labour.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
<b>C-47/79</b> Judgment of the Court of 6 December 1979	Regulation No 543/69 of the Council, Art. 4 (4),	Städtereinigung K. Nehlsen KG v Freie Hansestadt Bremen	Vehicles used by public authorities for public services	Do the words 'vehicles which are used by other public authorities for public services' cover only vehicles which are owned by or in the control of the public authority; or do they also cover the vehicles of private persons or undertakings which are used by them for public services on behalf of public authorities under an agreement governed by private law?	The words "vehicles which are used by other public authorities for public services" for the purposes of Article 4 (4) of Regulation No 543/69 must be understood as covering only vehicles which are owned by or under the control of the public authority.
<b>C-90/83</b> Judgment of the Court of 22 March 1984	Regulation (EEC) No 543/69, Articles 14a(2)( c )	Michael Paterson	Transport of animal carcasses or waste	Three undertakings carrying by road certain animal products intended principally for human consumption sought to rely upon the exemption in Article 14a(2)(c ) and claimed that consequently they were not obliged to fit tachographs or to equip crew members with individual control books. Questions: whether exemption applies to animal carcasses irrespective of their use, what is the definition of animal waste, does the exemption apply to the carriage of animal carcasses and waste exclusively?	The term "animal carcasses" used in Article 14 a (2)(c ) of Regulation No 543/69, as amended by Regulation No 515/72 and Regulation No 2827/77, refers solely to carcasses which are not intended for human consumption. The term "animal... waste not intended for human consumption" contained in Article 14 a (2)(c ) refers only to parts of animals not intended for oral human consumption. The term "operations...for the transport of animal carcasses or waste" use din Article 14a (2)(c ) refers solely to operations in which only animal carcasses and waste not intended for human consumption are transported.

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C-133/83 Judgment of the Court of 11 July 1984	Regulation No 543/69, Article 14a (3) (a)	Regina v Thomas Scott & Sons	Specialized vehicles and door-to-door selling	Does the term 'specialized' apply to the characteristics of the particular vehicle alone, or to the activity of door-to-door selling alone, or to a combination of both: and if the latter interpretation is correct, what degree of interrelation is meant? Whether the activity of door-to-door selling is meant to apply only to a methodical calling at one house after another for the purpose of selling to the ultimate consumer? Or whether it applies to a number of calls to potential wholesale customers, such as shops, canteens, old-people's homes, or supermarkets for the purpose of selling, and where the driver spends a significant amount of time selling or whether it may apply to a combination of both?	The term "specialized vehicle" for certain types of transport operations within the meaning of Article 14a (3) (a) of Regulation No 543/69 is intended to cover exclusively vehicles whose construction, fitments or other permanent characteristics guarantee that they are used primarily for one of those operations, such as door-to-door selling. The activity of "door-to-door selling" within the meaning of the aforementioned Article 14a (3) (a) may consist of calls on potential wholesale customers, such as shops, works canteens, old-people's homes or supermarkets provided that the activity of selling is characterized by frequent stops by the specialized vehicle.

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<b>C-91/84 and C-92/84</b> Judgment of the Court of 28 March 1985	Regulation No 543/69, Article 14a (2) (c)	Sidney Hackett Limited and Roy Thomas Weston, Raymond C. Tetlow and Perman George Dovey	Local markets	Is a 'local market' within the meaning of Article 14a of Regulation (EEC) No 543/69: (1) a market (regardless of type) reasonably close to the farm in question? or (2) a market (regardless of type) reasonably close to the farm, having regard to local geographical circumstances? or (3) a market reasonably close to the farm in question (and/or reasonably close having regard to local geographical circumstances) having regard to the class or breed of animal in question bought or sold thereat — and if so, at what point (if any) does such a market cease to be 'local'? or (4) a market reasonably close to the farm in question at which the class or breed of animal in question can be bought or sold on commercially advantageous terms having regard to the quantity of animals involved? or (5) a market within four hours' driving distance (or the maximum hours permissible without a rest by the legislation subsisting at the time) of the farm from which the animals have come?	Article 14a (2) (c) of Regulation No 543/69 must be interpreted to the effect that 'local market' must be understood as meaning the market which, having regard to geographical circumstances, is the nearest to a particular farm and at which it is possible to buy or sell, as the case may be, according to the needs of normal, average-sized farms which may be considered typical of the area in question.

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<b>C-79/86</b> Judgment of the Court of 21 May 1987	Regulation No(EEC) NO 543/69, Article 4(9) and Regulation No 1463/70, Article 3(1)	Joseph S.W. Whitelock	Special Breakdown Vehicles	Is a motor lorry, which is adapted for use as a breakdown vehicle, by virtue of being fitted with an electrically powered winch and having a demountable crane, exempted from the requirements of Article 3(1) of Council regulation No 1463/70 (as being a specialized breakdown vehicle as referred to in Article 4(9) of Council Regulation No 543/69) while being used, in the course of the owner's business as a motor repairer, for the purpose of transporting unroadworthy vehicle purchased by the owner from the place of purchase to his place of business with a view to their repair and sale?	The expression "specialized breakdown vehicle" in point 9 of Article 4 of Council Regulation No 543/69 means a vehicle whose construction, fitments or other permanent characteristics are such that it will be used mainly for removing vehicles that have recently been involved in an accident or have broken down for another reason. Such a vehicle is not subject to the requirements laid down in Article 3(1) of Council Regulation No 1463/70, whatever use is actually made of it by its owner.
<b>C-326/88</b> Judgment of the Court of 10 July 1990	Regulation (EEC) No 543/69, Articles 7(2) and 11	Hansen & Soen I/S	Penalties for Infringements	Does Regulation No 543/69, as amended, prohibit national provisions under which an employer whose drivers infringe Articles 7(2) and 11 of the regulation concerning driving and rest periods may be the subject of a criminal penalty notwithstanding the fact that the infringement cannot be imputed to an intentional act or to negligence on the employer's part?	Neither Regulation (EEC) No 543/69 nor the general principles of Community law preclude the application of national provisions under which an employer whose drivers infringe Articles 7(2) and 11 of the regulation may be subject of a criminal penalty notwithstanding the fact that the infringement cannot be imputed to an intentional wrongful act or to negligence on the employer's part, on condition that the penalty provided for is similar to those imposed in the event of infringement of provisions of national law of similar nature and importance and is proportionate to the seriousness of the infringement committed.

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<b>C-7/90</b> Judgment of the Court of 2 October 1991	EEC Treaty, Article 5; Council Regulation No 3820/85, Articles 15 and 17(1)	Paul Vandevenne m.fl.	Obligations of Employer	What is the meaning of the word 'undertaking' in Article 15? Does this Article envisage that the criminal liability of legal persons should be established or is it open to national courts? Does the Article 15 imposes on the undertaking a duty to use best endeavors or an obligation as to the result to be achieved, which gives rise to strict liability?	The term "undertaking" used in Article 15 of Regulation (EEC) No 3820/85 refers to an autonomous natural or legal person, irrespective of legal form, regularly carrying on a transport business, and empowered to organize and control the work of drivers and crew members. Neither Article 5 of the EEC Treaty nor Article 17(1) of Regulation No 3820/85 requires a Member State to introduce into its national law the principle of the criminal liability of legal persons. Infringements of Article 15 of Regulation No 3820/85 may be restrained by the application of provisions in conformity with the basic principles of national criminal law, provided that the resulting penalties are effective, proportionate and dissuasive. Regulation No 3820/85 neither requires Member States to introduce a system of strict criminal liability for ensuring compliance with the obligations imposed by the regulation nor precludes their doing so.
<b>C-8/90</b> Judgment of the Court of 2 October 1991	Council Regulation No 3820/85, Article 18	Willy Kennes m.fl.	Interpretation of Article 18(2) of Council Regulation No 3820/85	Is Article 18(2) of Regulation (EEC) No 3820/85 to be interpreted as meaning that references to Regulation (EEC) No 543/69 in national provisions laying down measures to implement that regulation are also to be construed as references within the meaning of the said Article 18(2)?	Article 18(2) of Regulation (EEC) No 3820/85, under which references to the repealed Regulation No 543/69 "shall be construed as references to this regulation", is to be interpreted as meaning that it relates to references made by other Community measures, but not to references to the repealed regulation appearing in provisions of national law for the implementation of that regulation.

<b><u>CASE REFERENCE</u></b>	<b><u>Legal act, Articles concerned</u></b>	<b><u>Parties</u></b>	<b><u>Title</u></b>	<b><u>Question</u></b>	<b><u>Summary of the Court ruling</u></b>
<b>C-158/90</b> Judgment of the Court of 13 December 1991	Council Regulation (EEC) No 3821/85, Article 15(7)	Mario Nijs	Inspections: production of record sheets	What is the meaning of 'the last day of the previous week on which he drove' in Article 15(7) of Regulation (EEC) No 3821/85? Is that day the last calendar day, the last working day or the last driving day of that week? Does the 'previous week' mean the week directly preceding the inspection or any week preceding that inspection in which the driver drove a vehicle subject to the relevant EEC regulations?"	When it provides that a driver required to use a tachograph must be able to produce the record sheet for the 'last day of the previous week on which he drove', Article 15(7) of Regulation No 3821/85 refers to the last driving day of the last week, prior to the current week, during which the driver concerned drove a vehicle subject to Regulation No 3820/85.
<b>C-116/91</b> Judgment of the Court of 25 June 1992	Council Regulations Nos 3820/85, Article 4(6) and 3821/85, Article 3(1)	British Gas Plc	Vehicle used in connection with Gas Service	British Gas vehicle, not fitted with a tachograph, was carrying gas cookers, boilers, gas supply meters, gas cylinders and boxes of rubbish. Does the exemption in Article 3 of Regulation (EEC) No 3821/85 and Article 4(6) of Regulation (EEC) No 3820/85 apply to all goods vehicles over the defined weight, irrespective of the nature of the load at the relevant time, so long as they are being used by an undertaking which deals, among other activities, with the production, transport and distribution of gas to the public? Is the exemption dependent upon the nature of the load being carried by the vehicle at the relevant time?	The derogation from the requirement to install and use a tachograph in vehicles registered in a Member State which are used for the carriage of passengers or goods by road, laid down for vehicles used in connection with the gas service under Article 3(1) of Regulation No 3821/85, in conjunction with Article 4(6) of Regulation No 3820/85, applies solely to vehicles used, at the relevant time, for carriage wholly and exclusively in connection with the production, transport or distribution of gas, or the maintenance of the necessary installations for that purpose. However, that derogation does not apply to vehicles wholly or partly used at the relevant time in connection with the carriage of domestic gas appliances.



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C-116/92 Judgment of the Court of 15 December 1993	Council Regulation No 3820/85, Articles 7(1) and (2)	Charlton, Huyton och Wilson	Driving Periods and Breaks	At what point does the calculation of four-and-a-half hours commence afresh: (a) upon completion of the aggregate of 45 minutes' rest? (b) at the end of four-and-a-half hours' aggregated driving? (c) on a rolling basis at any time when the driver has been driving for four-and-a-half hours in the aggregate and has not during that period taken at least 45 minutes' break?	Article 7(1) and (2) of Regulation (EEC) No 3820/85 is to be interpreted as prohibiting drivers to which it applies from driving continuously for more than four-and-a-half hours. But where a driver has taken 45 minutes' break, either as a single break or as several breaks of at least 15 minutes during or at the end of a four-and-a-half hour period, the calculation provided for by Article 7(1) of the Regulation should begin afresh, without taking into account the driving time and breaks previously completed by the driver. The calculation provided for by Article 7(1) of Regulation No 3820/85 begins at the moment when the driver sets in motion the recording equipment provided for by Regulation (EEC) No 3821/85.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-313/92 Judgment of the Court of 2 June 1994.	Council Regulation No 3820/85, Articles 2(1) and 8(1)	Van Swieten B.V.	Route passing through a state not a party to the ERTA – “period of 24 hours” and “day”	In regard to Article 2(1) of Regulation (EEC) No 3820/85: does it mean that the regulation is (also) applicable to carriage by road within the Community, as referred to in Article 1(1), to or from non-member countries not parties to the AETR, or in transit through such countries using vehicles registered in a Member State? In regard to Article 8(1) of Regulation (EEC) No 3820/85: does the phrase: 'each period of 24 hours' mean that such a period may begin at any time whatsoever depending on the beginning of the weekly and (complete) daily rest period and the time of the on-the-road check? Or does the first of one or more successive periods begin at the time when the last weekly rest period ends?"	Article 2(1) of Regulation (EEC) No 3820/85 must be interpreted as meaning that that regulation is also applicable to carriage by road within the Community by vehicles registered in a Member State in the course of journeys to or from third countries, which are not parties to the AETR, or in transit through such countries. The expression "each period of 24 hours" in Article 8(1) of Regulation (EEC) No 3820/85 must be interpreted as meaning any period of 24 hours commencing at the time when a driver activates the tachograph following a weekly or daily rest period. Where the daily rest is taken in two or three separate periods, the calculation must commence at the end of the period of not less than eight hours.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-394/92 Judgment of the Court of 9 June 1994	Council Regulation No 3821/85, Article 15(2)	Marc Michielsen	Definition of period of work and end of working day	<p>Is the period of work each period during which the driver of a vehicle subject to Regulations (EEC) No 3820/85 and 3821/85 cannot freely dispose of his time? Does the period of work comprise driving periods, breaks in driving and time devoted to other activities?</p> <p>Is a 'day' a period of 24 hours and when does a day commence for the purposes of interpreting Regulations (EEC) No 3820/85 and 3821/85: at 0000 hours of the calendar day or at the moment when the driver concerned first takes over a vehicle subject to those regulations? Can the day commence at a different time?</p> <p>Is the end of the working period the moment at which the driver concerned is no longer accountable for the use of his time to the management of the transport company, and at which he regains the right freely to dispose of his time?</p>	<p>The "daily working period" within the meaning of Article 15(2) of Regulation (EEC) No 3821/85 comprises the driving time, all other periods of work, the period of availability, breaks in work and, where the driver divides his daily rest into two or three separate periods, such a period, provided that it does not exceed one hour. The "daily working period" commences at the time when the driver activates the tachograph following a weekly or daily rest period, or, if the daily rest is divided into separate periods, following the rest period of at least eight hours' duration. It ends at the beginning of a daily rest period or, if the daily rest is divided into separate periods, at the beginning of a rest period extending over a minimum of eight consecutive hours.</p> <p>The term "day", within the meaning of Regulation (EEC) No 3820/85 and of Regulation No 3821/85, must be understood as equivalent to the term "period of 24 hours", which refers to any period of that duration which commences at the time when the driver activates the tachograph following a weekly or daily rest period.</p>

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-235/94 Judgment of the Court of 9 November 1995	Council Regulation No 3820/85, Articles 12 and 15(1)	Alan Jeffrey Bird	Exceptions for reasons of safety	If a driver has satisfied all the preconditions contained in Article 12 of Regulation (EEC) No 3820/85 and the road safety is not thereby jeopardized, and bearing in mind the obligation placed upon a transport undertaking by Article 15, is the driver entitled to the benefit of the flexibility provided by Article 12 if the need to depart from the provisions of Article 6, 7 or 8 was known before the journey was commenced?	Article 12 of Regulation (EEC) No 3820/85 does not authorize a driver to derogate from the provisions of Articles 6, 7 or 8 of the Regulation for reasons known before the journey was commenced. It is clear from Article 12 that a decision, taken in order to ensure the safety of persons, of the vehicle and of its load, to extend a driving period beyond that normally authorized under the regulation must be for the driver alone, must be taken when it unexpectedly becomes impossible for him to comply with the driving and rest periods laid down and must take into account the immediate requirements of road safety.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-335/94 Judgment of the Court of 21 March 1996	Council Regulation (EEC) No 3820/85, Article 4(6)	Mrozek och Jaeger	Interpretation of Article 4(6) of Council Regulation 3820/85	<p>Does the term 'refuse collection and disposal' in Article 4(6) of Regulation (EEC) No 3820/85 relate exclusively to the collection of refuse from private households or does it also include the transport of waste from commercial undertakings?</p> <p>Do special types of household waste, such as batteries, paints and solvents, also come within the exception?</p> <p>Does the exception apply only in respect of short journeys within a local authority area, in particular door-to-door transport, or are longer journeys, such as transport to a more distant waste dump, also covered?</p> <p>Is the transportation of such refuse entitled to the benefit of Article 4(6) even where the refuse is collected and disposed of by private undertakings on behalf of the local authority?</p> <p>If a journey comes within the derogating rule contained in Article 4(6) of the regulation, can a restriction on driving periods still be imposed under national rules? Are national rules, such as the German Code on Working Hours or the Regulation implementing the Code on Working Hours, also inapplicable to such journeys?</p>	<p>The concept of vehicles used in connection with ... refuse collection and disposal in Article 4(6) of Council Regulation (EEC) No 3820/85 must be interpreted as covering vehicles used for the collection of waste of all kinds which is not subject to more specific rules and for the transportation of such waste over short distances, within the context of a general service in the public interest provided directly by the public authorities or by private undertakings under their control.</p> <p>In areas not covered by Regulation No 3820/85, Member States remain competent to adopt rules on driving periods.</p>

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-29/95 Judgment of the Court of 23 January 1997	EC Treaty, Article. 6; Council Regulations No 3820/85 and 3821/85	Belgium	Difference in Treatment between resident and non-resident offenders	Should the prohibition on discrimination contained in Article 6 of the EC Treaty be interpreted as precluding the national legislation of a Member State, adopted in implementation of Regulations Nos 3820/85 and 3821/85, from providing for a system of penalties whereby natural or legal persons charged with infringements of that legislation are given the choice between (a) immediate payment of a given sum per infringement, whereupon prosecution is as a rule discontinued, or (b) continuation against them of normal criminal proceedings? subject to the proviso that, in the event of the second of those options, it is only non-resident defendants who are obliged to lodge a sum by way of deposit to cover any fines or legal costs which they may be ordered to pay, and subject to the impounding of the vehicle driven by the accused until such time as the deposit is lodged?	Article 6 of the EC Treaty precludes national legislation adopted in implementation of Regulations (EEC) No 3820/85 and No 3821/85 which, in cases of infringement, imposes only on non-residents who opt for continuation of normal criminal proceedings against them rather than for immediate payment of the prescribed fine the obligation to lodge by way of security in respect of each offence a fixed sum higher than that provided for in the case of immediate payment, in default of which their vehicle is impounded.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
<b>C-39/95</b> Judgment of the Court of 21 March 1996	Council Regulation No 3820/85, Article 4(6)	Pierre Groupil	Derogation for Refuse Vehicles	What is a definition of the phrase 'vehicles used in connection with ... refuse collection and disposal' used in Article 4(6) of the regulation?	When it refers amongst the categories of transport excluded from the scope of its provisions to transport by vehicles used in ... refuse collection and disposal, Article 4(6) of Regulation No 3820/85 must be interpreted as referring to vehicles used for the collection of waste of all kinds which is not subject to more specific rules and for the transportation of such waste over short distances, within the context of a general service in the public interest provided directly by the public authorities or by private undertakings under their control.
<b>C – 387/96</b> Judgment of the Court of 17 March 1998.	Council Regulation No 3820/85, Articles 13(1)(b) and 14(5)	Anders-Sjoberg	Exemption from use of tachograph for vehicles that are not in competition with road hauliers – obligation to carry extract from Duty Roster	Is the exception contained in Article 13(1)(b) of Regulation (EEC) No 3820/85 applicable to the services run by Stockholm Landsting using SL Buss AB? According to Article 14(5) of that regulation, each driver assigned to a service referred to in paragraph 1 must carry an extract from the duty roster and a copy of the service timetable. Is it sufficient for the extract from the duty roster to cover only the journeys made on the day in question?'	The exception in respect of vehicles used by public authorities to provide public services, which are not in competition with professional road hauliers, provided for in Article 13(1)(b) of Regulation (EEC) No 3820/85, does not apply to vehicles belonging to an undertaking, which is wholly owned by a public authority and which operates a public passenger service under a contract granting it an exclusive right for a specified period following a call for competing tenders. The requirement in Article 14(5) of Regulation No 3820/85, that each driver assigned to a service referred to in Article 14(1) must carry an extract from the duty roster and a copy of the service timetable, is not satisfied where the extract from the duty roster relates only to the day on which it is checked.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-47/97 Judgment of the Court of 30 April 1998	Council Regulations No 3820/85, Articles 1(7) and 4(3) and 684/92, Articles 2(1) and 21(2)	E. Clark & Sons och D.J. Ferne	Exemption from use of tachograph – carrying passengers on regular services where route does not exceed 50km	<p>Are groups of passengers carried on a single journey between an airport and a hotel via, on occasions, a tourist attraction regarded as "specified categories of passengers" for the purposes of the application of Article 2(1.2) of Regulation (EEC) No 684/92?</p> <p>If yes, is Article 2(1.2) to be construed so that the carriage of such passengers on that journey where:</p> <p>(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);</p> <p>(b) the same or similar journey is repeated on a number of occasions pursuant to a block reservation made by a tour operator;</p> <p>(c) the precise route to be taken is not predetermined;</p> <p>is a "special regular service" within the meaning of that Article or is it "occasional service" within the meaning of Article 2(3) of Regulation (EEC) No 684/92 ?</p>	A passenger transport service, supplied on a number of occasions pursuant to a block reservation made by a tour operator and providing for a single journey from an airport to a hotel with a stop, on occasions, at a tourist attraction, where the precise route to be taken is not predetermined, does not constitute a regular service within the meaning of Article 4(3) of Regulation No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport.



<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
<b>C- 297/99</b> Judgment of the Court of 18 January 2001	Council Regulation No 3821/85, Article 15	Skills Motor Coaches Ltd	Obligation to record periods of work, breaks in work and rest period	Are the requirements in Article 15(2) and (3) of Regulation (EEC) No 3821/85 for a driver to record "all other periods of work" and "breaks in work and daily rest periods" on the vehicle record sheet to be construed so that those terms include: (a) a period of time spent travelling to take over a vehicle, which is subject to the requirement to install and use vehicle recording equipment? (b) a period of time spent driving or performing other duties which are exempt from the requirement to install and use vehicle recording equipment?	On a proper construction of Article 15 of Regulation (EEC) No 3821/85, a driver's obligation to record all other periods of work extends to: - time which a driver necessarily spends travelling to take over a vehicle subject to the obligation to install and use a tachograph and which is not at the driver's home or the employer's operational centre, regardless of whether the employer gave instructions as to when and how to travel or whether that choice was left to the driver; - periods of driving spent by a driver whilst performing a transport service falling outside the scope of Regulation No 3821/85 before taking over a vehicle to which that regulation applies.
<b>C-193/99</b> Judgment of the Court of 28 September 2000	Council Regulation No 3820/85, Article 8(5)	Graeme Edgar Hume	Weekly rest	Where, pursuant to Article 8(5) of Regulation (EEC) No 3820/85, a driver who is entitled to do so elects to postpone his weekly rest period until the week following that in which it is due, must the driver take two weekly rest periods, consecutively and without break between them, in that following week? (2) If the answer to question (1) is in the negative, must such a driver nevertheless take two weekly rest periods in the following week, or is he permitted to postpone, in turn, the weekly rest period for that second week to the next following week?	Article 8(5) of Regulation (EEC) No 3820/85 must be interpreted as meaning that a driver who elects to postpone his weekly rest period until the week following that in which it becomes due must take two weekly rest periods, consecutively and without any break between them, in that second week.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
<b>C-439/01</b> Judgment of the Court of 16 January 2003	Regulation No 3820/85, Articles 8(1) and 8(2), AETR, Articles 8(1) and 8(2)	Libor Cipra and Vlastimil Kvasnicka	Breaks and rest periods – Crew consisting of more than one driver	Do drivers falling within the scope of Regulation (EEC) No 3820/85 have to satisfy the requirements set out in Article 8(1) and (2) of that regulation cumulatively, where there are two drivers or is Article 8(2) a <i>lex specialis</i> that prevails over Article 8(1)? Where there are two drivers falling within the scope of Council Regulation (EEC) No 3820/85, is Article 8(1) of that regulation, or possibly Article 8(1) and (2), inapplicable because of incompatibility with superior community law?	In the case of transport by more than one driver, Article 8(2) of Regulation (EEC) No 3820/85 applies as a <i>lex specialis</i> that prevails over paragraph 1 of that article. Consequently, those provisions are not to be applied cumulatively. The same interpretation applies to Article 8(1) and (2) of the AETR It is for the national court to determine, having regard to the facts of the main proceedings, whether it is appropriate to apply the provisions of Regulation No 3820/85 or those of that agreement. Examination of Article 8(1) and (2) of Regulation No 3820/85 in the light of the principle of legal certainty has failed to disclose any matters of such a kind as to affect its validity.
<b>C-128/04</b> Judgment of the Court of 17 March 2005.	Council Regulations No 3820/85, Article 13(1)(g), and No 3821/85, Article 3(2)	Annic Andréa Raemdonck and Raemdonck-Janssens BVBA	Exception for vehicles carrying material and equipment	Must the terms “material or equipment” as contained in Article 13(1)(g) of Regulation No 3820/85 be construed as covering only “tools and instruments” or do those terms, on the contrary, also cover the goods required for the performance of construction work, which may be transported together with or separate from the tools and instruments, such as building materials or cables?	The terms ‘material or equipment’ in Article 13(1)(g) of Regulation (EEC) No 3820/85 must, in the context of the exemption scheme provided for in Article 3(2) of Regulation (EEC) No 3821/85, be construed as covering not only ‘tools and instruments’, but also the goods, such as building materials or cables, which are required for the performance of the work involved in the main activity of the driver of the vehicle concerned.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
<b>C-124/09</b> Judgment of the Court of 29 April 2010	Regulation (EEC) No 3820/85, Article 1 and Regulation (EEC) No 3821/85, Article 15	Smit Reizen BV	Meaning of 'operating centre'	Against the background of Article 1(5) of Regulation No 3820/85 and Article 15 of Regulation No 3821/85, how must the term "operating centre", as referred to in paragraph 21, and elsewhere, of the judgment ... in Court Case Skills Motor Coaches be interpreted?  For the assessment as to what constitutes rest for the purposes of Article 1(5) of Regulation No 3820/85, does it make any difference whether the driver concerned drives himself to a place where he is to take over a vehicle in which a tachograph must be installed or is driven there by someone else?	The term "operating centre", in paragraph 21 et seq. of the judgment in Case C-297/99 must be defined as the place to which the driver is actually attached, namely the transport undertaking facilities from which he usually carries out his service and to which he returns at the end of that service, in the normal exercise of his functions and without complying with specific instructions from his employer.  Whether the driver concerned drives himself to the place where he must take over a vehicle fitted with recording equipment or whether he is driven to that place by someone else has no bearing on the classification of the travelling time in the light of the concept of "rest" within the meaning of Article 1(5) of Council Regulation (EEC) No 3820/85.
<b>C-554/09</b> Judgment of the Court of 28 July 2011	Regulation (EC) No 561/2006, Article 13 (1)(d)	Andreas Michael Seeger	Definition of the term "materials"	Can the term "materials" in the second indent of Article 13 (1)(d) of Regulation (EC) No 561/2006 be interpreted as also capable of including packaging materials, such as empty drinks bottles (empties), carried by a wine and drinks merchant, who runs a shop, makes deliveries to his customers once a week and, while doing so, collects the empties to take them to his wholesaler?	The expression 'materials' must be interpreted as not covering packaging materials, such as empty bottles, carried by a wine and drinks merchant who runs a shop, makes deliveries to his customers once a week and, while doing so, collects the empty bottles to take them to his wholesaler.

<u>CASE REFERENCE</u>	<u>Legal act, Articles concerned</u>	<u>Parties</u>	<u>Title</u>	<u>Question</u>	<u>Summary of the Court ruling</u>
C-210/10 Reference for a preliminary ruling	Regulation (EEC) No 3821/85, Articles 13 to 16, Regulation (EC) No 561/2006, Articles 4 and 19(1)	Márton Urbán	Proportionality of penalties	<p>Is a system of penalties, under which it is mandatory to impose identical financial penalties of up to HUF 100000 for any breach of the requirements laid down in Articles 13 to 16 of Regulation No 3821/85/EEC concerning the use of record sheets for recording equipment in road transport consistent with the requirement of proportionality laid down by Article 19(1) and (4) of Regulation (EC) No 561/2006?</p> <p>Is a system of penalties, which does not adjust the amount of the penalty according to the gravity of the breach of the rules consistent with the requirement of proportionality?</p> <p>Is a system of penalties, which does not allow of any possible defence to a breach of the rules consistent with the requirement of proportionality?</p> <p>Is a system of penalties, which makes no distinction according to the personal circumstances of the offenders consistent with the requirement of proportionality?</p>	<p>1. The requirement of proportionality laid down in Article 19(1) and (4) of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 must be interpreted as precluding a system of penalties, such as that introduced by Government Decree No 57/2007 fixing the amount of fines for breaches of certain provisions concerning the transport by road of goods and persons (a közúti árufuvarozáshoz és személyszállításhoz kapcsolódó egyes rendelkezések megsértése esetén kiszabható bírságok összegéről szóló 57/2007, Korm. Rendelet) of 31 March 2007, which provides for the imposition of a flat-rate fine for all breaches, no matter how serious, of the rules on the use of record sheets laid down in Articles 13 to 16 of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport, as amended by Regulation No 561/2006.</p> <p>2. The requirement of proportionality laid down in Article 19(1) and (4) of Regulation No 561/2006 must be interpreted as not precluding a system of penalties, such as that introduced by Government Decree No 57/2007 of 31 March 2007 fixing the amount of fines for breaches of certain provisions concerning the transport by road of goods and persons, which lays down strict liability. By contrast, that requirement must be interpreted as precluding the severity of the penalty provided for by that system.</p>