



Press and Information

Court of Justice of the European Union

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Judgments in Cases C-639/11 Commission v Poland
and C-61/12 Commission v Lithuania

The obligation imposed by Poland and Lithuania to reposition the steering-wheel of right-hand drive passenger vehicles to the left-hand side infringes EU law

Such a measure goes beyond what is necessary in order to ensure road safety

Member States may not prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles, components or separate technical units, on grounds related to either aspects of their construction and functioning or to their steering-equipment, where those aspects satisfy the requirements of Framework Directive 2007/46¹ and Directive 70/311².

In Poland and Lithuania, countries which drive on the right-hand side of the road, for the purpose of registration of a motor vehicle, the steering system must be placed on the left-hand side of the vehicle or be repositioned to that side if it was previously located on the right-hand side.

Since it considered that that condition infringes Directives 2007/46 and 70/311 with regard to new vehicles and EU rules concerning the free movement of goods with regard to vehicles previously registered in another Member State, the Commission brought actions before the Court of Justice against those two Member States.

In its judgments pronounced today, the Court of Justice holds first that, **with regard to new vehicles**, the aim of the harmonised framework established by those directives is the establishment and functioning of the internal market, while seeking to ensure a high level of road safety by means of the total harmonisation of technical requirements concerning, inter alia, the construction of vehicles.

Although those directives do not determine the position of the driver's seat of a vehicle, by providing, for example, that it must always be placed on the side opposite the direction of the traffic, it does not follow, according to the Court, that that element does not come within the scope of the directives. It must be considered, in that regard, that the EU legislature granted a freedom to motor vehicle manufacturers that may not be cancelled or impeded by national legislation.

The Court notes next that the prohibition of the refusal to register provided for by Directive 70/311 is categorical and general, since the terms 'steering equipment' covers also the driver's seat, that is to say, the position of the steering-wheel of vehicles, an integral part of the steering equipment.

Since that prohibition was, in particular, inserted by the Act of Accession of Ireland and the United Kingdom to the European Communities – the only Member States at that time which drove on the left - it cannot reasonably be considered that the EU legislature was unaware of the fact that the accession of those Member States (one of which was a manufacturer of vehicles with their driver's seat on the right-hand side) was liable, in an internal market involving the right to free movement, to have an effect on driving habits, even to involve a certain risk connected with road traffic.

¹ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ 2007 L 263, p. 1).

² Council Directive 70/311/EEC of 8 June 1970 on the approximation of the laws of the Member States relating to the steering equipment for motor vehicles and their trailers (OJ 1970 L 133, p. 10).

The Court considers that adaptations that may be required may not relate to the repositioning of the driver's seat, but solely to procedures having a minimal impact. Such an extensive requirement would amount to a procedure having a significant impact on the design of the vehicle, contrary to the wording and purpose of Directive 70/311.

Consequently, the Court holds that the position of the driver's seat, an integral part of the steering equipment of a vehicle, comes within the harmonisation established by Directives 2007/46 and 70/311, so that, in the context of the registration of a new vehicle in their territory, the Member States may not require, for reasons of safety, that the driver's seat of that vehicle be moved to the side opposite the direction of the traffic.

Next, **with regard to passenger vehicles previously registered in another Member State** with the driver's seat on the right-hand side, the Court considers that the contested legislation constitutes measures having equivalent effect to quantitative restrictions on imports, such measures being prohibited by the Treaty. Those measures have the effect of hindering access to the Polish and Lithuanian markets for vehicles with steering equipment on the right, which are lawfully constructed and registered in other Member States.

The Court examines the argument of Poland and Lithuania that the legislation of those States is justified by the need to ensure road safety, the latter constituting an imperative requirement relating to the public interest capable of justifying a hindrance to the free movement of goods.

It notes in that regard that the legislation at issue provides for exceptions with regard to the use of vehicles equipped with a steering-wheel on the right by people who reside in other Member States, and travel to Poland and Lithuania for a limited period (for example, tourists). That fact shows, according to the Court, that the contested legislation tolerates the risk involved in such use.

In addition, the statistical data relied on by the Polish and Lithuanian Governments do not prove to the requisite legal standard the relationship between the number of accidents and the involvement of vehicles with the driver's seat situated on the right.

The Court holds that there exist means and measures that, while less restrictive of the free movement of goods, are capable of significantly reducing the risk which could be created by the use of vehicles with the steering-wheel placed on the same side as the direction of the traffic. It points out that the Member States enjoy in that regard discretion allowing them to impose measures capable, according to the state of technology, of ensuring sufficient rear and forward visibility for the driver of the vehicle with the steering-wheel positioned on the same side as the direction of the traffic (examples: fixing additional external rear-view mirrors or the adaptation of lighting and windscreen-wiping devices).

According to the Court, it does not appear that the measures at issue may be considered to be necessary in order to attain the road safety objective pursued by Poland and Lithuania. The Court considers therefore that those measures are not compatible with the principle of proportionality.

The Court concludes therefore that Poland and Lithuania have infringed EU law.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The full texts of the judgments ([C-639/11](#) and [C-61/12](#)) are published on the CURIA website on the day of delivery.

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