

Press and Information Division

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Judgment of the Court of Justice in Case C-476/01

Felix Kapper

**A MEMBER STATE IS NOT ENTITLED TO REFUSE TO RECOGNISE A
DRIVING LICENCE ISSUED BY ANOTHER MEMBER STATE ON THE
GROUND THAT, ACCORDING TO THE INFORMATION AVAILABLE TO
THE FIRST MEMBER STATE, THE HOLDER HAD NOT, WHEN THE
LICENCE WAS ISSUED, TAKEN UP NORMAL RESIDENCE IN THE
MEMBER STATE WHICH ISSUED THE LICENCE**

A Member State may no longer refuse to recognise the validity of any driving licence subsequently issued by another Member State where, in the first Member State, the previous licence issued to the holder was withdrawn or cancelled but the ban imposed on obtaining a new licence in that Member State has already expired.

By a criminal order of 26 February 1998, the Amtsgericht Frankenthal (Frankenthal Local Court) had withdrawn the German driving licence held by Mr Kapper and instructed the administrative authorities not to issue him with a new licence before the expiry of a period of nine months, that is to say before 25 November 1998. In 2000, the same court sentenced Mr Kapper to a fine for driving a motor vehicle in Germany in 1999 without being the holder of a valid driving licence; Mr Kapper was the holder of a Netherlands driving licence issued on 11 August 1999.

In the proceedings brought by Mr Kapper to have the sentence set aside, the Amtsgericht asked the Court whether the directive on driving licences¹ precludes the application of national provisions which must be interpreted as meaning that the driving licence issued in the Netherlands was of no validity in Germany.

¹ Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1).

The Court noted, first of all, that according to settled case-law **the directive provides for mutual recognition, without any formality, of driving licences issued by Member States.** Given that the directive confers exclusive competence on the Member State which issues a licence to ensure that driving licences are issued in compliance with the residence requirement set out in the directive, **it is for that Member State alone to take appropriate measures in relation to driving licences held by persons who are subsequently shown to have failed to satisfy that requirement.**

Where a host Member State has good reason to doubt the validity of one or more licences issued by another Member State, it must so inform the latter under the rules relating to mutual assistance and the exchange of information laid down in the directive.

The Court accordingly held that the principle of mutual recognition of driving licences established in **the directive precludes a Member State (A) from refusing to recognise a driving licence issued by another Member State (B) on the ground that, according to the information available to the first State (A), the holder of the licence in question had, at the date of issue of the licence, established his normal residence in that State (A) and not in the issuing Member State (B).**

The Court next held that when a Netherlands licence was issued to Mr Kapper on 11 August 1999 he was no longer subject to a ban on applying to the competent authorities in Germany for the issue of a new licence.

The directive permits a Member State (A) **to refuse to recognise the validity of any driving licence issued by another Member State (B) if the holder is, in the first State (A), subject to a measure which restricts, suspends, withdraws or cancels the right to drive.** That provision is, by its very nature, to be strictly interpreted and may not be used by a Member State as a basis for refusing indefinitely to recognise, in relation to a person who has been the object in its territory of a measure withdrawing or cancelling a previous licence issued by that State, the validity of any licence that may subsequently be issued to him by another Member State.

Where a temporary ban on obtaining a new licence with which the measure in question was coupled has already expired in a Member State, the directive precludes that Member State from continuing to refuse to recognise the validity of any driving licence subsequently issued to the person concerned by another Member State. To allow a Member State to rely on its national provisions in order to refuse indefinitely to recognise a licence issued by another Member State would be fundamentally incompatible with the principle of the mutual recognition of driving licences which is the linchpin of the system established by the directive.

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: DE, EN, FR, IT.

The full text of the judgment can be found on the internet (www.curia.eu.int).

In principle it will be available from midday CET on the day of delivery.

For additional information please contact Christopher Fretwell.

Tel: (00352) 4303 3355

Fax: (00352) 4303 2731