

Press and Information Division

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Judgment of the Court of Justice in Case C-246/00

Commission of the European Communities v Kingdom of the Netherlands

**THE COURT CONSIDERS THAT IT IS CONTRARY TO COMMUNITY LAW FOR
NETHERLANDS LEGISLATION TO REQUIRE MANDATORY REGISTRATION
OF A DRIVING LICENCE ISSUED BY ANOTHER MEMBER STATE AFTER THE
ESTABLISHMENT OF THE HOLDER OF SUCH A LICENCE IN THE
NETHERLANDS**

*That registration exceeds what is necessary in order to guarantee the protection of road
safety*

The Community directive on driving establishes the principle of mutual recognition of driving licences issued by the Member States. Each Member State may apply its national provisions in regard to the duration of validity of the licence, medical checks, fiscal provisions and may enter on the licence the matters essential for administrative purposes where the licence-holder takes up ordinary residence in a Member State other than that which issued the licence.

Netherlands legislation requires the driver of a vehicle to be in possession of a licence issued by the Netherlands authorities. That obligation is not applicable – during a certain period – to drivers who are holders of a licence issued by another Member State if they are resident in the Netherlands. In the case of registration that period corresponds to the duration of validity of the licence in the Netherlands. In the absence of registration, the period is one year as from the establishment of the holder in the Netherlands. Furthermore, driving without a licence, with an out-of-date licence or a licence which does not satisfy the legal requirements attracts a penal or administrative sanction.

¹ Council Directive 91/439/EEC of 29 July 1991 (OJ 1991 L 237, p. 1), amended by Council Directive 96/47/EC of 23 July 1996 (OJ 1996 L 235, p. 1).

The Commission requested the Court of Justice of the EC to declare that the Netherlands had failed to fulfil its obligation of mutual recognition of driving licences provided for by the Community directive by introducing that mandatory procedure for registration of licences issued by the other Member States and by calculating their period of validity as from the date of their issue and not as from the date of establishment in the Netherlands.

First of all, the Court points out that the mutual recognition of driving licences issued by other Member States must be effected without any formality and that the Member States have no margin of discretion in regard to the detailed rules to be adopted in order to comply with it. Once registration of a driving licence issued by another Member State becomes obligatory owing to the fact that the holder of that licence is liable to a penalty when driving a vehicle without having had his licence registered after his establishment, that registration must be regarded as constituting a formality, as mentioned above, and therefore runs counter to the directive.

According to the Court, **the application of national provisions may not frustrate or render less attractive the exercise by Community nationals of freedom of movement for persons and of freedom of establishment** and, in the event that they are none the less applied, those measures must be applied in a non-discriminatory manner, must be justified on overriding public-interest grounds, must be appropriate for securing attainment of the objective pursued and must not exceed what is necessary for attaining that objective.

The Netherlands measure, which is applicable without distinction to Netherlands nationals and to nationals of the other Member States **may be justified on overriding public-interest grounds in connection with road safety**; it also appears appropriate for securing attainment of the objective pursued. **None the less, it does not comply with the principle of proportionality.**

First, **the Netherlands authorities may properly apply, in the course of traffic checks, the national provisions relating to the duration of validity of licences by adding ten years to the date of issue mentioned on the driving licence not registered in the Netherlands.**

Secondly, in order to enable the competent authorities to verify whether the national provisions are being observed, **it is sufficient to inform the holders of driving licences issued by other Member States concerning the obligations incumbent on them under national legislation when they take the steps necessary for establishing themselves in the Netherlands and to apply the penalties provided for in the event of non-compliance with the provisions at issue.**

Concerning the **burdensome nature of the registration procedure**, that procedure requires the holder of a licence issued by another Member State to provide proof to the Netherlands authorities of compliance with the conditions for obtaining the licence provided for in the Community directive. The Court considers that the holding of a driving licence issued by a Member State must be regarded as constituting such proof and that the host Member State cannot, without infringing the principle of mutual recognition of driving licences, require the holder to provide such proof afresh.

As regards **the period of validity in the Netherlands of a driving licence issued by another Member State**, the Court concludes that the method of calculating that period for the purpose of establishing the date as from which holders must satisfy the conditions

provided for by the national provisions of the host Member State – under which that period begins to run from the date of issue of the licence in question – cannot be regarded as constituting an infringement of the principle of mutual recognition of driving licences.

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at approximately 3 pm today.

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