



Press and Information

Court of Justice of the European Union

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Judgment in Case C-467/10

Baris Akyüz

The refusal, by a Member State, to issue a driving licence cannot justify non-recognition of a licence obtained subsequently in another Member State

A Member State may, however, refuse to recognise the licence if it is established, on the basis of indisputable information from the issuing Member State, that the holder of the licence did not satisfy the condition of normal residence

Between 2004 and 2008, Mr Akyüz was the subject of several criminal convictions in Germany for, inter alia, assault, driving without a licence, aggravated extortion with accomplices and threats and slander. On the basis of a medico-psychological report, the German authorities, by decision of 10 September 2008, rejected his application for a licence to drive vehicles in Class B (cars) on the ground that he did not meet the physical and mental requirements necessary to ensure safe driving.

However, on 24 November 2008, Mr Akyüz acquired a driving licence in Děčín (Czech Republic). Under EU legislation, a driving licence may be issued by a Member State to an applicant who has his normal residence within the territory of that State. According to information provided by the Germany embassy in Prague, however, neither the authorities responsible for foreign nationals nor the regional police were able to establish that Mr Akyüz was in fact resident in the Czech Republic on that date. The authorities had merely a declaration of residence covering the period from 1 June 2009 to 1 December 2009. However, according to the photocopy of that driving licence, ostensibly issued in Děčín on 8 June 2009, that licence had been first issued to him on 24 November 2008. In addition, the German authorities established that Mr Akyüz had been driving vehicles in Germany on 5 December 2008 and 1 March 2009 and convicted him of driving without a licence in both cases.

The Landgericht Gießen (Gießen Regional Court, Germany), before which the case has come on appeal, asks the Court of Justice, in essence, whether, in circumstances such as those in the present case, the German authorities may refuse to recognise the driving licence issued in the Czech Republic on the ground that the issue of a first driving licence was refused to the person concerned in Germany, or also on the ground that he did not satisfy the conditions as to residence in the Czech Republic at the time when the licence was issued.

The Court states, firstly, that EU law¹ provides for the mutual recognition, without any formality, of driving licences issued by Member States. It is for the issuing Member State to investigate whether all conditions – particularly those relating to residence and fitness to drive – have been satisfied and whether the issue of a driving licence is justified. Once the authorities of one Member State have thus issued a driving licence, the other Member States are not entitled to investigate whether the conditions for issue laid down by EU law have been observed. The possession of a driving licence issued by one Member State must be regarded as constituting proof that, on the day on which that licence was issued to him, its holder satisfied those conditions.

¹ Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1), the recasting of which was carried out by Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (OJ 2006 L 403, p 18).

EU law does, however, allow the Member States, in certain circumstances and, in particular, for reasons of road safety, to apply their national provisions on the restriction, suspension, withdrawal or cancellation of driving licences in relation to any licence holder who is normally resident within their territory.

The Court notes that the ability of a Member State to refuse to recognise, on one of those grounds, the validity of a driving licence obtained in another Member State constitutes a derogation from the general principle of mutual recognition of driving licences and must, for that reason, be interpreted strictly.

In the present case, the Court finds that the refusal by a Member State to issue a first driving licence is not listed among the situations which can give rise to non-recognition by that State of a driving licence issued by another Member State. While the refusal to issue a first driving licence may be based in part on the behaviour of the applicant, that refusal (which is the result of an administrative procedure) cannot – in contrast to restriction, suspension, withdrawal or cancellation – constitute punishment for an offence committed by that applicant.

The Court also takes the view that to allow a Member State not to recognise a driving licence issued in another Member State, on the ground that the latter did not check whether the grounds which had led to the refusal to issue no longer existed, would have the effect that the Member State which had the stricter conditions governing the issuing of a driving licence could determine the requirements threshold with which the other Member States would have to comply in order for driving licences issued in those States to be recognised. Acknowledgement that a Member State is entitled to rely on its national provisions in order to refuse indefinitely to recognise a licence issued in another Member State would be fundamentally incompatible with the principle of mutual recognition of driving licences.

The Court concludes that **EU law precludes legislation of a host Member State under which recognition of a driving licence issued in another Member State is refused in the case where the holder of that licence was refused, by that host State, the issue of a first driving licence on the ground that he did not meet the physical and mental requirements laid down by that State's legislation.**

With regard to the residence condition, the Court takes the view that **EU law does not preclude legislation of a host Member State which allows that State to refuse to recognise, within its territory, a driving licence issued in another Member State in the case where it is established – on the basis of indisputable information emanating from the issuing Member State – that the holder of the driving licence did not satisfy the residence condition.**

The Court states that it is a matter for the referring court to determine whether the information obtained, such as that in the present case, can be classified as information emanating from the issuing Member State. Where appropriate, it is also for the referring court to evaluate that information and, taking all the circumstances of the dispute before it into account, to assess whether it constitutes indisputable information demonstrating that the holder of the driving licence was not normally resident in the territory of that State at the time when his licence was issued.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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