



Press and Information

Court of Justice of the European Union
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Judgment in Case C-260/13
Sevda Aykul v Land Baden-Württemberg

The holder of a driving licence may be refused the right to drive in the territory of another Member State after committing a road traffic offence in that State which results in his being unfit to drive

However, that right must not be refused indefinitely and the conditions for recovery of the right to drive must comply with the principle of proportionality

Ms Sevda Aykul is an Austrian national who lives in Austria, not far from the German border. Following a police check in Germany, analysis of a blood sample showed that Ms Aykul had driven while under the influence of cannabis and that she consumed cannabis at least occasionally. The German authorities went on to find that Ms Aykul was not able to dissociate driving from the use of narcotic substances and that she was therefore unfit to drive motor vehicles. Ms Aykul was thus denied the right to drive in Germany using her Austrian driving licence. She was informed that she could recover her right to drive in Germany by producing a medical-psychological expert's report, which is generally conditional on proof of one year's abstinence from any consumption of narcotic substances.

In Austria, however, Ms Aykul continued to be deemed fit to drive motor vehicles and therefore retained her driving licence. The Austrian authorities take action only if it is medically certified that the person concerned is incapable of driving motor vehicles owing to the consumption of narcotic substances or if there are indications of drug addiction. However, according to the report of the German doctor who took the blood sample, Ms Aykul did not give any noticeable indication of being under the influence of narcotic substances.

Ms Aykul brought proceedings before the Verwaltungsgericht Sigmaringen (Administrative Court, Sigmaringen, Germany) to contest the German administrative decision refusing her the right to use her Austrian driving licence in Germany. In her view, the Austrian authorities alone were competent to determine whether she was still fit to drive motor vehicles. In that context, the Verwaltungsgericht asked the Court of Justice whether the obligation concerning the mutual recognition of driving licences under Directive 2006/126 on driving licences¹ precluded the contested decision.

By today's judgment, the Court replies that the Directive on driving licences does not preclude a Member State in whose territory the holder of a driving licence issued by another Member State is staying temporarily from refusing to recognise the validity of that licence on account of unlawful conduct on the part of its holder in the territory of the first Member State after that driving licence has been issued that results, under the national law of the first Member State, in unfitness to drive motor vehicles.

Admittedly, according to the Directive, only the Member State of normal residence of the holder of the driving licence is entitled to take measures restricting, suspending, withdrawing or cancelling the licence that take effect in all the Member States.

¹ 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)

However, the Directive permits any Member State (not just the Member State of normal residence) to take – in accordance with its national legislation and as a result of unlawful conduct in its territory by the holder of a driving licence previously obtained in another Member State – measures the scope of which is limited to that territory and the effect limited to the refusal to recognise the validity of the licence within that territory.

To compel a Member State to recognise unconditionally the validity of a driving licence in a situation such as that at issue would be contrary to the objective of general interest that is the improvement of road safety and which is precisely what the Directive seeks to achieve. It is true that the option whereby a Member State can withdraw the authorisation to drive in its territory from the holder of a driving licence because of an offence committed in that territory constitutes a limitation of the principle of mutual recognition of driving licences. However, that limitation, which allows the risk of traffic accidents to be reduced, reinforces road safety, which is in the interests of all citizens.

In addition, the Court holds that **a Member State which refuses to recognise the validity of a driving licence in a situation such as that at issue is competent to lay down the conditions with which the licence holder must comply in order to recover the right to drive in its territory.**

In so far as the refusal to recognise the validity of a driving licence issued by another Member State is based on national rules which may not necessarily exist in the legislation of the issuing Member State, it seems unlikely that the legislation of the latter State would lay down the conditions with which the licence holder would have to comply in order to recover the right to drive in the territory of another Member State. The Court, however, recalls its case-law according to which a Member State cannot refuse indefinitely to recognise a driving licence issued by another Member State where the holder of that licence has been subject to a restrictive measure in the territory of the first Member State.

It will be for the Verwaltungsgericht Sigmaringen to examine whether, in applying its own rules, Germany is not in fact refusing indefinitely to recognise Ms Aykul's Austrian driving licence. To that end, it will **also** be for that court to **ascertain** whether the conditions laid down by German legislation for the recovery of the right to drive in Germany comply with **the principle of proportionality** and, in particular, do not exceed the limits of what is appropriate and necessary in order to attain the objective of the Directive (which is to improve road safety).

In that respect, the Court notes that, according to the information provided by the German Government, even in the absence of a medical-psychological expert's report, the right to use a driving licence in Germany that has been issued by another Member State is recovered automatically when, at the end of a specified period (five years in Ms Aykul's case), the entry recording unfitness to drive is removed from the German driving fitness register. Thus, at the end of that period, Ms Aykul will again be able to use her driving licence in Germany, without having to produce a medical-psychological expert's report.

In the light of that information, which it is for the Verwaltungsgericht Sigmaringen to investigate, the Court holds that **the German provisions do not appear to constitute an indefinite refusal to recognise Ms Aykul's driving licence.** Furthermore, **the fact that Ms Aykul's recovery of her right to drive a motor vehicle in Germany is subject either to submission of a medical-psychological expert's report** (the production of which presupposes proof of one year's abstinence from any consumption of narcotic substances), **or to a period of five years elapsing, appears to the Court to be an effective means of prevention that is proportionate to the objective of improving road safety.**

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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