



**The competent authority of the State of execution may not refuse to recognise and enforce a fine in respect of a road traffic offence imposed on the person in whose name the vehicle is registered, provided that such a presumption of liability may be rebutted.**

*However, the person concerned must be duly informed of the decision imposing the fine and be allowed sufficient time to bring an appeal and prepare a defence.*

On 9 November 2017, Z.P. was issued with a fine of €232 in respect of a road traffic offence in the Netherlands. That offence had been committed by the driver of a vehicle registered in Poland in his name. According to the Netherlands Highway Code, unless proven otherwise, liability rests with the person in whose name the vehicle is registered. The decision imposing the fine was notified by placing it in Z.P.'s letter box. That notification specified 21 December 2017 as the time-limit for exercising that right of appeal. That time-limit began to run as of the time when the decision was adopted. In the absence of any appeal, that decision became final on 21 December 2017.

By letter of 24 May 2018, the Netherlands Central Fine Collection Agency, which is part of the Ministry of Justice and Security and whose responsibilities include the collection of fines in respect of road traffic offences, sent a request to the Sąd Rejonowy w Chełmnie (District Court, Chełmno, Poland). That agency requested recognition and execution of the decision of 9 November 2017 on the basis of the relevant EU Framework Decision.<sup>1</sup>

Before the Polish court, Z.P. submitted that, on the date of the contested offence, he had already sold the vehicle in question and informed his insurer of that fact. However, he acknowledged that he had not informed the authority responsible for the registration of the vehicle. As it did not know the date the decision was notified, the Polish court asked the Central Fine Collection Agency to specify that date. That agency responded that it did not have that information.

It is in that context that the Polish court decided to ask the Court of Justice, first of all, whether Z.P. had the possibility to bring the case before a court and, consequently, whether there are reasons for refusing to enforce the decision of 9 November 2017. That court also asks whether the fine imposed on the basis of a vehicle registration number is compatible with the principle whereby, under Polish law, criminal liability lies with the individual.

In today's judgment, the Court notes, first of all, that **the Framework Decision is intended to establish an effective mechanism for recognition and cross-border execution of decisions imposing fines in respect of certain offences. Therefore, the grounds for refusal must be interpreted restrictively.**

As regards legal remedies available to Z.P., the Court notes that the decision was notified to him in accordance with Netherlands legislation and that that decision informed him of his right to contest the case and of the time-limit for such a legal remedy. According to the Court, a period of six weeks such as that in Z.P.'s case is sufficient to allow the person concerned to decide whether to

---

<sup>1</sup> Article 7(2)(g) and Article 20(3) of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ 2005 L 76, p. 16), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24).

contest the case. However, even though there is no indication that Z.P. did not have sufficient time, **it is for the Polish court to verify that he was in fact provided with the decision imposing the financial penalty and had sufficient time to prepare his defence.** If that is the case, the competent Polish authority is obliged to recognise the decision imposing the fine without any other formality being required, and to take forthwith all the measures necessary for its enforcement. If not, the competent authority may oppose the decision. Before doing so, that authority must request all the necessary information from the authority of the issuing Member State.

The Court further states that **the fact that the fine is an administrative penalty has no bearing** on the obligations of the competent authorities of the Member State of execution if the person concerned has had the possibility to contest the fine before a court with jurisdiction in particular in criminal matters.

Lastly, as regards the question whether recognition and enforcement of a decision imposing a fine may be refused on the ground that the fine has been imposed on the person in whose name the vehicle in question has been registered, the Court's answer is in the negative.

Under the law of the Netherlands, if the offence was committed using a motor vehicle that has been assigned a registration number, and it is not possible to identify immediately the driver of that vehicle, the administrative penalty is imposed on the person in whose name that registration number was listed in the register at the time of the offence.

The Court ruled that **since the presumption of liability laid down in the Netherlands Highway Code may be rebutted and it is established that Z.P. did in fact have a legal basis upon which to seek annulment of the decision requiring payment of the fine, the presumption of liability cannot impede recognition and execution of that decision.**

---

**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. Cette décision lie, de la même manière, les autres juridictions nationales qui seraient saisies d'un problème similaire.

---

*Unofficial document for media use, not binding on the Court of Justice.*

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

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.