

2. Article 2(1) of Directive 2006/126 and Articles 21, 45, 49 and 56 TFEU must be interpreted as not precluding a Member State from imposing a penalty on a person who, despite having satisfied the conditions for the issuing of a driving licence as provided for in that directive, drives a motor vehicle in that Member State without a driving licence conforming to the model driving licence provided for in that directive and who, pending the issuing of such a driving licence by another Member State, can prove only that he has been granted the right to drive in another Member State by means of a temporary certificate issued by that Member State, provided that that penalty is not disproportionate to the seriousness of the facts at issue. It is thus for the referring court to take into account, in its assessment of the seriousness of the offence committed by the person in question and of the severity of the penalty to be imposed on him, as a potentially mitigating circumstance, the fact that that person had been granted the right to drive in another Member State, evidenced by a certificate issued by that other Member State which will, in principle, be exchanged before its expiry, at that person's request, for a driving licence conforming to the requirements of the model driving licence provided for in Directive 2006/126. That court must also consider, in the context of its assessment, what actual risk that person posed for road safety in its territory.

⁽¹⁾ OJ C 260, 18.7.2016.

Judgment of the Court (Grand Chamber) of 25 October 2017 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Majid Shiri, also known as Madzhdi Shiri

(Case C-201/16) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EU) No 604/2013 — Determination of the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national — Article 27 — Remedy — Scope of the judicial review — Article 29 — Time limit for carrying out the transfer — No transfer within the time limit laid down — Obligations of the Member State responsible — Transfer of responsibility — Requirement for a decision of the Member State responsible)

(2017/C 437/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Majid Shiri, also known as Madzhdi Shiri

Joined party: Bundesamt für Fremdenwesen und Asyl

Operative part of the judgment

1. Article 29(2) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person must be interpreted as meaning that, where the transfer does not take place within the six-month time limit as defined in Article 29(1) and (2) of that regulation, responsibility is transferred automatically to the requesting Member State, without it being necessary for the Member State responsible to refuse to take charge of or take back the person concerned.

2. Article 27(1) of Regulation No 604/2013, read in the light of recital 19 thereof, and Article 47 of the Charter of Fundamental Rights of the European Union must be interpreted as meaning that an applicant for international protection must have an effective and rapid remedy available to him which enables him to rely on the expiry of the six-month period as defined in Article 29(1) and (2) of that regulation that occurred after the transfer decision was adopted. The right which national legislation such as that at issue in the main proceedings accords to such an applicant to plead circumstances subsequent to the adoption of that decision, in an action brought against it, meets that obligation to provide for an effective and rapid remedy.

⁽¹⁾ OJ C 260, 18.7.2016.

Judgment of the Court (Fifth Chamber) of 26 October 2017 (request for a preliminary ruling from the Administrativen sad Sofia-grad — Bulgaria) — Balgarska energiyna borsa AD (BEB) v Komisia za energiyno i vodno regulirane (KEVR)

(Case C-347/16) ⁽¹⁾

(Reference for a preliminary ruling — Articles 101 and 102 TFEU — Directive 2009/72/EC — Articles 9, 10, 13 and 14 — Regulation (EC) No 714/2009 — Article 3 — Regulation (EU) No 1227/2011 — Article 2(3) — Regulation (EU) 2015/1222 — Article 1(3) — Certification and designation of an independent transmission system operator — Limitation of the number of holders of electricity transmission licences in national territory)

(2017/C 437/13)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Balgarska energiyna borsa AD (BEB)

Defendant: Komisia za energiyno i vodno regulirane (KEVR)

Operative part of the judgment

Articles 9, 10, 13 and 14 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, Article 3 of Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003, Article 2(3) in conjunction with recital 3 of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, and Article 1(3) of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management do not preclude, in circumstances such as those of the main proceedings, national legislation limiting the number of holders of electricity transmission licences for a particular territory.

⁽¹⁾ OJ C 326, 5.9.2016.