

administrative decision to withdraw his national driving licence in his State of residence on grounds of the use of drugs — Abuse of rights

Operative part of the judgment

- 1) On a proper construction of Articles 1(2), 7(1) and 8(2) and (4) of Council Directive 91/439/EEC of 29 July 1991 on driving licences, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003, it is contrary to those provisions for a Member State, in circumstances such as those of the cases in the main proceedings, to refuse to recognise in its territory the right to drive stemming from a driving licence subsequently issued by another Member State beyond any period in which the person concerned is forbidden to apply for a new licence and, therefore, to recognise the validity of that licence, so long as the licence-holder has not satisfied the necessary conditions in that first Member State for the issue of a new licence following the withdrawal of a previous licence, including the examination of fitness to drive certifying that the grounds justifying the withdrawal are no longer in existence.

In the same circumstances, it is not contrary to those provisions for a Member State to refuse to recognise in its territory the right to drive stemming from a driving licence subsequently issued by another Member State, if it is established, on the basis of entries appearing in the driving licence itself or of other incontestable information supplied by the Member State of issue, that when that licence was issued its holder, who had been the object, in the territory of the first Member State, of a measure withdrawing an earlier licence, was not normally resident in the territory of the Member State of issue.

- 2) It is contrary to Articles 1(2) and 8(2) and (4) of Directive 91/439, as amended by Regulation No 1882/2003, for a Member State bound, in accordance with that directive, to recognise the right to drive stemming from a driving licence issued by another Member State, to suspend that right temporarily while the latter Member State investigates the procedure followed in the issuing of that licence. In contrast, in that same context, it is not contrary to those provisions for a Member State to decide to suspend that right if it is clear from entries in that licence or from other incontestable information supplied by that other Member State that the condition of residence imposed in Article 7(1)(b) of that directive was not satisfied at the moment when that licence was issued.

(¹) OJ C 249, 14.10.2006.
OJ C 281, 18.11.2006.

Judgment of the Court (Third Chamber) of 26 June 2008 (reference for a preliminary ruling from the Verwaltungsgericht Chemnitz (Germany)) — Matthias Zerche (C-334/06) and Manfred Seuke (C-336/06) v Landkreis Mittweida and Steffen Schubert (C-335/06) v Landkreis Mittlerer Erzgebirgskreis

(Joint Cases C-334/06 to C-336/06) (¹)

(Directive 91/439/EEC — Mutual recognition of driving licences — Withdrawal of a licence in one Member State for use of narcotic drugs or alcohol — New licence issued in another Member State — Refusal to recognise right to drive in the first Member State — Residence not in accordance with Directive 91/439/EEC)

(2008/C 209/08)

Language of the case: German

Referring court

Verwaltungsgericht Chemnitz

Parties to the main proceedings

Applicants: Matthias Zerche (C-334/06), Manfred Seuke (C-336/06), Steffen Schubert (C-335/06)

Defendants: Landkreis Mittweida, Landkreis Mittlerer Erzgebirgskreis

Re:

Reference for a preliminary ruling — Verwaltungsgericht Chemnitz (Germany) — Interpretation of Arts. 1(2) and 8(2) and (4) of Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1) — Refusal to recognise the validity of a driving licence issued by another Member State after the expiry of a ban imposed on the holder who has had his national licence withdrawn for drunk driving, and who has been unable to produce the medical/psychological report which is required in order to obtain a new licence in his State of residence — Abuse of law

Operative part of the judgment

On a proper construction of Articles 1(2), 7(1) and 8(2) and (4) of Council Directive 91/439/EEC of 29 July 1991 on driving licences, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003, it is contrary to those provisions for a Member State, in circumstances such as those of the cases in the main proceedings, to refuse to recognise in its territory the right to drive stemming from a driving licence subsequently

issued by another Member State beyond any period in which the person concerned is forbidden to apply for a new licence and, therefore, to recognise the validity of that licence, so long as the licence-holder has not satisfied the necessary conditions in that first Member State for the issue of a new licence following the withdrawal of a previous licence, including the examination of fitness to drive certifying that the grounds justifying the withdrawal are no longer in existence.

In the same circumstances, it is not contrary to those provisions for a Member State to refuse to recognise in its territory the right to drive stemming from a driving licence subsequently issued by another Member State, if it is established, on the basis of entries appearing in the driving licence itself or of other incontestable information supplied by the Member State of issue, that when that licence was issued its holder, who had been the object, in the territory of the first Member State, of a measure withdrawing an earlier licence, was not normally resident in the territory of the Member State of issue.

(¹) OJ C 261, 28.10.2006.

Judgment of the Court (Grand Chamber) of 1 July 2008 — Chronopost SA (C-341/06 P), La Poste (C-342/06 P) v Union française de l'express (UFEX), DHL Express (France) SAS, Federal express international (France) SNC, CRIE SA, Commission of the European Communities, French Republic

(Joined Cases C-341/06 P and C-342/06 P) (¹)

(Appeal — Proper conduct of the proceedings before the Court of First Instance — Judgment of the Court of First Instance — Quashed — Referral back to the Court of First Instance — Second judgment of the Court of First Instance — Composition of the Chamber hearing the case — State aid — Postal sector — Public undertaking entrusted with a service of general economic interest — Logistical and commercial assistance to a subsidiary — Subsidiary not operating in a reserved sector — Transfer of the express delivery business to that subsidiary — Concept of 'State aid' — Commission decision — Assistance and transfer not constituting State aid — Statement of reasons)

(2008/C 209/09)

Language of the case: French

Parties

Appellants: Chronopost SA (represented by: D. Berlin, avocat) (C-341/06 P), La Poste (represented by H. Lehman, avocat) (C-342/06 P)

Other parties to the proceedings: Union française de l'express (UFEX), DHL Express (France) SAS, Federal express international (France) SNC, CRIE SA (represented by E. Morgan de Rivery and J. Derenne, avocats), Commission of the European Communities (represented by C. Giolito, Agent), French Republic (represented by G. de Bergues and F. Million, Agents)

Re:

Appeal against the judgment of the Court of First Instance (Third Chamber, Extended Composition) of 7 June 2006 in Case T-613/97 *Ufex and Others v Commission*, by which the latter annulled Commission Decision 98/365/EC of 1 October 1997 concerning alleged State aid granted by France to SFMI-Chronopost, in that it finds that neither the logistical and commercial assistance provided by La Poste to its subsidiary, SFMI-Chronopost, nor the transfer of Postadex constitute State aid to SFMI-Chronopost — Infringement of the right to a fair hearing due to lack of impartiality of the Court (Chamber partially identical to that which adopted a previous judgment, quashed by the Court) — Misuse of powers and infringement of Articles 230 EC and 253 EC — Failure to apply the concept of State aid and, therefore, infringement of Article 87 EC

Operative part of the judgment

The Court:

- 1) Sets aside the judgment of the Court of First Instance of the European Communities of 7 June 2006 in Case T-613/97 *Ufex and Others v Commission* in so far as it (i) annuls Commission Decision 98/365/EC of 1 October 1997 concerning alleged State aid granted by France to SFMI-Chronopost inasmuch as that decision finds that neither the logistical and commercial assistance provided by La Poste to its subsidiary, SFMI-Chronopost, nor the transfer of Postadex constitute State aid to SFMI-Chronopost and (ii) allocates the burden of costs accordingly;
- 2) Dismisses the action brought before the Court of First Instance of the European Communities in Case T-613/97;
- 3) Orders each of the parties and the French Republic to bear their own costs.

(¹) OJ C 249, 14.10.2006.