

Parties to the main proceedings

POLBUD — WYKONAWSTWO sp. z o.o., in liquidation

Operative part of the judgment

1. Articles 49 and 54 TFEU must be interpreted as meaning that freedom of establishment is applicable to the transfer of the registered office of a company formed in accordance with the law of one Member State to the territory of another Member State, for the purposes of its conversion, in accordance with the conditions imposed by the legislation of the other Member State, into a company incorporated under the law of the latter Member State, when there is no change in the location of the real head office of that company.
2. Articles 49 and 54 TFEU must be interpreted as precluding legislation of a Member State which provides that the transfer of the registered office of a company incorporated under the law of one Member State to the territory of another Member State, for the purposes of its conversion into a company incorporated under the law of the latter Member State, in accordance with the conditions imposed by the legislation of that Member State, is subject to the liquidation of the first company.

⁽¹⁾ OJ C 211, 13.6.2016.

Judgment of the Court (Second Chamber) of 26 October 2017 (reference for a preliminary ruling from the Amtsgericht Kehl) — I v Staatsanwaltschaft Offenburg

(Case C-195/16) ⁽¹⁾

(Reference for a preliminary ruling — Transport — Driving licences — Directive 2006/126/EC — Article 2(1) — Mutual recognition of driving licences — Definition of ‘driving licence’ — Driving licence pass certificate authorising its holder to drive in the Member State having awarded it before the issue of the definitive driving licence — Situation in which the holder of a test pass certificate drives a vehicle in another Member State — Obligation to recognise the test pass certificate — Penalties imposed on the holder of the test pass certificate for driving a vehicle outside of the Member State in which it was awarded — Proportionality)

(2017/C 437/11)

Language of the case: German

Referring court

Amtsgericht Kehl

Parties to the main proceedings

Applicant: I

Defendant: Staatsanwaltschaft Offenburg

Operative part of the judgment

1. Article 2(1) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences and Articles 18, 21, 45, 49 and 56 TFEU must be interpreted as not precluding legislation of a Member State under which that Member State may refuse to recognise a certificate issued in another Member State evidencing its holder’s right to drive, where that certificate does not fulfil the requirements of the model driving licence provided for in that directive, even if the conditions set by that directive for issuing a driving licence have been satisfied by the holder of that certificate.

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.