



Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

28 February 2019*

(Reference for a preliminary ruling — Transport — Directive 2006/126/EC — Mutual recognition of driving licences — Refusal to recognise a driving licence issued in another Member State — Right to drive established on the basis of a driving licence)

In Case C-9/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Oberlandesgericht Karlsruhe (Higher Regional Court, Karlsruhe, Germany), made by decision of 20 December 2017, received at the Court on 4 January 2018, in the criminal proceedings against

Detlef Meyn,

intervener:

Generalstaatsanwaltschaft Karlsruhe,

THE COURT (Seventh Chamber),

composed of T. von Danwitz, President of the Chamber, E. Levits (Rapporteur) and P.G. Xuereb, Judges,

Advocate General: M. Bobek,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Mr Meyn, by W. Säftel, Rechtsanwalt,
- the European Commission, by G. Braun and by N. Yerrell, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

* Language of the case: German.

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 2(1) and Article 11(6) of 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).
- 2 The request has been made in criminal proceedings brought against Mr Detlef Meyn for driving a motor vehicle without an authorisation to drive.

Legal context

Directive 2006/126

- 3 Recital 8 of Directive 2006/126 is worded as follows:

‘On road safety grounds, the minimum requirements for the issue of a driving licence should be laid down. Standards for driving tests and licensing need to be harmonised. To this end the knowledge, skills and behaviour connected with driving motor vehicles should be defined, the driving test should be based on these concepts and the minimum standards of physical and mental fitness for driving such vehicles should be redefined.’

- 4 Article 1(1) of that directive provides:

‘Member States shall introduce a national driving licence based on the Community model set out in Annex I, in accordance with the provisions of this Directive. The emblem on page 1 of the Community model driving licences shall contain the distinguishing sign of the Member State issuing the licence.’

- 5 Article 2(1) of that directive, entitled ‘Mutual recognition’, provides:

‘Driving licences issued by Member States shall be mutually recognised.’

- 6 Article 7(1) of Directive 2006/126 defines the conditions of issue of a driving licence and states in subparagraph (e), inter alia, that the licence is to be issued only to those applicants who have their normal residence in the territory of the Member State issuing the licence.

- 7 Under Article 11 of that directive:

‘1. Where the holder of a valid national driving licence issued by a Member State has taken up normal residence in another Member State, he may request that his driving licence be exchanged for an equivalent licence. It shall be for the Member State effecting the exchange to check for which category the licence submitted is in fact still valid.

...

6. Where a Member State exchanges a driving licence issued by a third country for a Community model driving licence, such exchange shall be recorded on the Community model driving licence as shall any subsequent renewal or replacement.

Such an exchange may occur only if the licence issued by the third country has been surrendered to the competent authorities of the Member State making the exchange. If the holder of this licence transfers his normal residence to another Member State, the latter need not apply the principle of mutual recognition set out in Article 2.'

German law

- 8 Pursuant to Paragraph 28(1) of the Verordnung über die Zulassung von Personen zum Straßenverkehr (Regulation on granting persons permission to drive on the road), in the version applicable to the present case:

'1. Holders of a valid EU or [European Economic Area (EEA)] driving licence having their normal residence in [Germany] shall be authorised, subject to the restrictions set out in subparagraphs (2) to (4), to drive motor vehicles in Germany within the limits of their entitlement to do so. ...'

- 9 Paragraph 28(4) of that regulation provides inter alia that the authorisation referred to in paragraph 1 shall not apply to holders of an EU or EEA authorisation issued on the basis of a forged driving licence from a third country.

The dispute in the main proceedings and the question referred for a preliminary ruling

- 10 Following a road accident on 1 September 2015, it became apparent that Mr Meyn, a German national resident in the territory of Germany, had ceased, since the withdrawal of his driving licence in 2006, to have a German authorisation to drive.
- 11 Mr Meyn however had a Polish driving licence, issued on 1 August 2011 on the basis of a Hungarian driving licence dated 3 November 2010. That licence had been issued in exchange for a Russian driving licence dated 1986, which was found to be a forgery. Mr Meyn was convicted in 2012 by a German court for that forgery.
- 12 By judgment of 24 April 2017, the Amtsgericht Bad Säckingen (Local Court, Bad Säckingen, Germany) sentenced Mr Meyn for deliberately driving without authorisation to do so pursuant to Paragraph 21(1), point 1, of the Straßenverkehrsgesetz (Road Traffic Law).
- 13 The referring court, which has been seised of an appeal on a point of law against that judgment, asks whether the refusal, under Paragraph 28(4) of the Regulation on granting persons permission to drive on the road, to recognise a driving licence from a Member State which is based on the exchange of a driving licence issued by another Member State, for its part based on a forged licence from a third country is compatible with the provisions of Directive 2006/126.
- 14 In those circumstances, the Oberlandesgericht Karlsruhe (Higher Regional Court, Karlsruhe, Germany) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Does the obligation of recognition under Article 2(1) of [Directive 2006/126] also apply following the exchange of a driving licence by a Member State of the European Union without a test of fitness to drive, in the case where the previous driving licence is not subject to the obligation of recognition (in this case: the previous licence issued by another Member State of the European Union was for its part based on the exchange of a driving licence from a third country ([in accordance with the] third sentence of Article 11(6) of Directive 2006/126)?'

The question referred for a preliminary ruling

- 15 By its question, the referring court asks, in essence, whether the provisions of Directive 2006/126 preclude a Member State from refusing to recognise a driving licence — the holder of which has his normal residence in its territory — which has been issued by another Member State, without a test of fitness to drive, on the basis of a driving licence issued by another Member State, for its part based on the exchange of a driving licence issued by a third country.
- 16 It should be recalled, from the outset, that Article 2(1) of Directive 2006/126 provides for the mutual recognition, without any formality, of driving licences issued by Member States (see, to that effect, judgment of 26 October 2017, *I*, C-195/16, EU:C:2017:815, paragraph 34).
- 17 For that purpose, Article 7(1) of that directive lays down the conditions for issuing driving licences, while stating, in subparagraph (e), that an applicant must have his normal residence in the territory of the Member State issuing that licence.
- 18 Article 11(1) of Directive 2006/126 states in addition that, where the holder of a valid driving licence issued by a Member State has taken up normal residence in another Member State, he may request that his driving licence be exchanged for an equivalent licence.
- 19 As regards the issue of a driving licence based on the Community model ('Community driving licence') through the exchange of a driving licence issued by a third country, while Directive 2006/126 does not lay down the conditions under which Member States can carry out such an exchange, it does nevertheless provide that such an exchange has consequences for the application of the principle of mutual recognition enshrined in Article 2(1) of that directive.
- 20 Under the second subparagraph of Article 11(6) of that directive, if the holder of a licence, issued in exchange for a driving licence from a third country, transfers his normal residence to another Member State, the latter need not apply the principle of mutual recognition.
- 21 Furthermore, according to the first subparagraph of Article 11(6) of Directive 2006/126, where the issue of a Community driving licence stems from the exchange of a licence from a third country, such exchange is to be recorded on the Community driving licence.
- 22 Consequently, as provided in Directive 2006/126, the obligation of mutual recognition enshrined in Article 2(1), is limited to driving licences issued by the Member States and does not apply to driving licences issued by third countries.
- 23 It follows from the order for reference that, at the time of the facts in the main proceedings, Mr Meyn resided in Germany. Therefore, pursuant to the second subparagraph of Article 11(6) of Directive 2006/126, the Federal Republic of Germany was not under an obligation to recognise a driving licence issued to Mr Meyn by another Member State and which was based on the exchange of a driving licence issued by a third country.
- 24 The referring court asks, nevertheless, whether that finding is also correct in a situation, such as that at issue in the main proceedings, in which the driving licence was issued in exchange for a licence issued by another Member State, for its part based on the exchange of a driving licence issued by a third country.
- 25 In that regard, it must be noted that the wording of the second subparagraph of Article 11(6) of Directive 2006/126 does not, by itself, provide an answer to the question referred by the national court. It is apparent from that wording that that provision concerns the grant of a driving licence by a

Member State, in exchange for a driving licence issued by a third country, and does not concern the grant of a driving licence by a Member State, in exchange for a driving licence issued by another Member State, for its part based on the exchange of a driving licence issued by a third country.

- 26 It is nevertheless clear from the Court's settled case-law that, in interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives of the rules of which it forms part (judgment of 26 September 2018, *Baumgartner*, C-513/17, EU:C:2018:772, paragraph 23).
- 27 In that regard, it must be stated that, according to recital 8, Directive 2006/126 aims to lay down, on road safety grounds, the minimum requirements for the issue of a Community driving licence.
- 28 The imposition, under Directive 2006/126, of an obligation of mutual recognition of driving licences issued by the Member States is the result of the laying down, by that directive, of the minimum requirements for the issue of a Community driving licence.
- 29 Accordingly, it is for the issuing Member State to investigate whether the minimum conditions imposed by EU law, particularly those relating to residence and fitness to drive laid down in Article 7(1) of Directive 2006/126, have been satisfied and, therefore, whether the issuing of a driving licence is justified (judgment of 26 October 2017, *I*, C-195/16, EU:C:2017:815, paragraph 46).
- 30 It follows that, once the authorities of one Member State have issued a driving licence, it is no longer possible for the other Member States to investigate whether the conditions for issue laid down by that directive have been met, since the possession of a driving licence issued by one Member State has to be regarded as constituting proof that its holder satisfied those conditions on the day on which that licence was issued (judgment of 26 October 2017, *I*, C-195/16, EU:C:2017:815, paragraph 47).
- 31 Nevertheless, the aim of Directive 2006/126 is not to establish requirements for the exchange of driving licences from third countries, since such a prerogative falls solely within the powers of the Member States, and accordingly those States cannot be bound by the assessments made by other Member States in this respect.
- 32 Consequently, in order to ensure that the road safety grounds referred to in Directive 2006/126 are not undermined, a Member State cannot be subject to an obligation to recognise a driving licence — the holder of which has his normal residence in its territory — which has been issued by another Member State, without a test of fitness to drive, in exchange for a driving licence issued by another Member State on the sole ground that the latter driving licence was for its part exchanged for a driving licence issued by a third country.
- 33 It follows from all the foregoing considerations that the provisions of Directive 2006/126 must be interpreted as meaning that they do not preclude a Member State from refusing to recognise a driving licence — the holder of which has his normal residence in its territory — which has been issued by another Member State, without a test of fitness to drive, on the basis of a driving licence issued by another Member State, for its part based on the exchange of a driving licence issued by a third country.

Costs

- 34 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

The provisions of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences must be interpreted as meaning that they do not preclude a Member State from refusing to recognise a driving licence — the holder of which has his normal residence in its territory — which has been issued by another Member State, without a test of fitness to drive, on the basis of a driving licence issued by another Member State, for its part based on the exchange of a driving licence issued by a third country.

[Signatures]