

Provisional text

JUDGMENT OF THE COURT (First Chamber)

29 April 2021 (*)

(Reference for a preliminary ruling – Transport – Driving licences – Withdrawal of the licence in the territory of a Member State other than the issuing Member State – Renewal of the licence by the issuing Member State after the withdrawal decision – No automaticity of mutual recognition)

In Case C-47/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Germany), made by decision of 10 October 2019, received at the Court on 28 January 2020, in the proceedings

F.

v

Stadt Karlsruhe,

THE COURT (First Chamber),

composed of J.-C. Bonichot, President of the Chamber, L. Bay Larsen, C. Toader, M. Safjan and N. Jääskinen (Rapporteur), Judges,

Advocate General: P. Pikamäe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- F., by W. Säftel, Rechtsanwalt,
- the Spanish Government, by S. Jiménez García, acting as Agent,
- the European Commission, by W. Mölls and N. Yerrell, acting as Agents,

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

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 2(1), the second subparagraph of Article 7(3) and Article 11(4) 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 proceedings between F., a German national who holds a driving licence issued in Spain, and the Stadt Karlsruhe (City of Karlsruhe, Germany), concerning a decision of the competent German authorities refusing him the right to use his driving licence in Germany.

Legal context

European Union law

- 3 Recital 2 of Directive 2006/126 states:

‘The rules on driving licences are essential elements of the common transport policy, contribute to improving road safety, and facilitate the free movement of persons taking up residence in a Member State other than the one issuing the licence. Given the importance of individual means of transport, possession of a driving licence duly recognised by a host Member State promotes free movement and freedom of establishment of persons. ...’

- 4 Under Article 2(1) of that directive, ‘driving licences issued by Member States shall be mutually recognised’.

- 5 Article 7 of the directive provides:

‘1. Driving licences shall be issued only to those applicants:

- (a) who have passed a test of skills and behaviour and a theoretical test and who meet medical standards, in accordance with the provisions of Annexes II and III;

...

- (e) who have their normal residence in the territory of the Member State issuing the licence, or can produce evidence that they have been studying there for at least six months.

2. (a) As from 19 January 2013, licences issued by Member States for categories AM, A1, A2, A, B, B1 and BE shall have an administrative validity of 10 years.

A Member State may choose to issue such licences with an administrative validity of up to 15 years;

...

3. The renewal of driving licences when their administrative validity expires shall be subject to:

- (a) continuing compliance with the minimum standards of physical and mental fitness for driving set out in Annex III for driving licences in categories C, CE, C1, C1E, D, DE, D1, D1E; and

- (b) normal residence in the territory of the Member State issuing the licence, or evidence that applicants have been studying there for at least six months.

Member States may, when renewing driving licences in categories AM, A, A1, A2, B, B1 and BE, require an examination applying the minimum standards of physical and mental fitness for driving set out in Annex III.

...

5. ...

Without prejudice to Article 2, a Member State issuing a licence shall apply due diligence to ensure that a person fulfils the requirements set out in paragraph 1 of this Article and shall apply its national provisions on the cancellation or withdrawal of the right to drive if it is established that a licence has been issued without the requirements having been met.’

6 Article 11 of Directive 2006/126 is worded as follows:

‘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.

...

4. A Member State shall refuse to issue a driving licence to an applicant whose driving licence is restricted, suspended or withdrawn in another Member State.

A Member State shall refuse to recognise the validity of any driving licence issued by another Member State to a person whose driving licence is restricted, suspended or withdrawn in the former State’s territory.

A Member State may also refuse to issue a driving licence to an applicant whose licence is cancelled in another Member State.

5. A replacement for a driving licence which has, for example, been lost or stolen may only be obtained from the competent authorities of the Member State in which the holder has his normal residence; those authorities shall provide the replacement on the basis of the information in their possession or, where appropriate, proof from the competent authorities of the Member State which issued the original licence.

...’

7 According to the first paragraph of Article 12 of that directive:

‘For the purpose of this Directive, “normal residence” means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.’

German law

8 Paragraph 13 of the Verordnung über die Zulassung von Personen zum Straßenverkehr – Fahrerlaubnis-Verordnung (Regulation on granting persons permission to drive on the road) of 13 December 2010 (BGBl. 2010 I, p. 1980), in the version applicable to the dispute in the main proceedings (‘the FeV’), is worded as follows:

‘For the purposes of investigating decisions on the issue or extension of a driving licence or on the imposition of restrictions or conditions, the authority responsible for issuing driving licences shall order

...

2. the production of a medical-psychological expert’s report, where

...

(c) the driver of a vehicle in circulation on public roads has a blood alcohol level of greater than or equal to 1.6 g per mille or a breath alcohol concentration of greater than or equal to 0.8 mg/l,

...’

9 Paragraph 29 of the FeV provides:

‘(1) Holders of a foreign driving licence may, to the extent permitted by their licence, drive motor vehicles in the national territory when they are not normally resident there within the meaning of Paragraph 7. ...

...

(3) The right referred to in subparagraph 1 shall not apply to foreign driving-licence holders,

...

3. whose authorisation to drive in the national territory has been withdrawn, either provisionally or definitively by a court, or with immediate effect or definitively by an administrative authority, whose authorisation to drive has been permanently refused or whose authorisation to drive has not been withdrawn solely because they had surrendered it in the meantime.

...

... Points 3 and 4 of the first sentence [of subparagraph 3] shall apply to [European Union] or [European Economic Area] driving licences only if the measures referred to therein are entered in the driving fitness register and have not been withdrawn pursuant to Paragraph 29 [of the Straßenverkehrsgesetz (Law on road traffic; ‘the StVG’)].

(4) The right to use in the national territory a foreign driving licence granted after one of the decisions referred to in points 3 and 4 of subparagraph 3 shall be granted on application where the grounds for withdrawal have ceased to exist.’

10 Paragraph 3(6) of the StVG provides:

‘The rules on the issue of a new driving licence, following a withdrawal or a surrender, shall apply by analogy to the grant of the right, following a withdrawal or a surrender, to use a foreign driving licence again in the national territory, to persons having their normal residence abroad.’

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

11 F. is a German national. Since 1992, he has had a residence in Spain and another residence in Karlsruhe (Germany). It is apparent from the order for reference that the latter residence does not, however, constitute a normal residence within the meaning of Paragraph 7 of the FeV and the first paragraph of Article 12 of Directive 2006/126.

12 F. was convicted in Germany in 1987, in 1990, in 1995 and in 2000 for drink-driving. In 1990, his German driving licence was withdrawn as a result. On 21 October 1992, he was issued with a driving licence in Spain for, inter alia, categories A and B.

13 After having driven a vehicle while intoxicated in Germany on 12 December 2008, F. was made to pay a fine by an enforceable penalty order of 20 January 2009. By the same order, he also had his right to drive motor vehicles in Germany using his Spanish driving licence withdrawn, on the ground of unfitness to drive, and was prohibited from applying for a new driving licence for a 14-month period. Last, the driving licence that had been issued to him in Spain on 22 October 2007 was confiscated from him and sent to the competent Spanish authorities. Those authorities then promptly returned that document to F.

- 14 Moreover, on 23 November 2009, that is to say, during that 14-month prohibition period, the Spanish authorities issued F. with a new driving licence, the period of validity of which corresponded to that of the original Spanish driving licence. That licence, renewed in 2012, in 2014 and in 2016, is currently valid until 22 October 2021. The validity start date indicated on all the documents issued is 21 October 1992, namely the date on which the original Spanish driving licence was issued.
- 15 On 20 January 2014, F. lodged an application with the City of Karlsruhe for recognition of the validity of his Spanish driving licence in German territory. That application was refused on the ground that his Spanish driving licence had been withdrawn in Germany for drink-driving, a measure depriving him definitively of the possibility of driving in German territory until his fitness to drive had been checked again. The German authorities, however, noted that, upon the expiry of the period of prohibition on applying for a new driving licence that had been imposed on him, he had not obtained any new driving licence in Spain the validity of which had to be recognised by the German authorities, but had been issued only with documents for renewing his original driving licence. The City of Karlsruhe took the view that F. was obliged, under point 2(c) of the first sentence of Paragraph 13 of the FeV, to present a medical-psychological expert's report in order to dispel the doubts as to his fitness to drive. Such an expert's report having failed to be produced, the City of Karlsruhe found that F. could be considered, under Paragraph 11(8) of the FeV, unfit to drive. The complaint lodged by F. against that decision was rejected on the same grounds.
- 16 F. then brought an action for annulment against that decision, which was dismissed both at first instance and on appeal.
- 17 According to the appellate court, the exclusion ground provided for in point 3 of the first sentence of Paragraph 29(3) of the FeV, read in conjunction with the third sentence of Paragraph 29(3) thereof, precludes the grant of a right to drive at national level under Paragraph 29 of the FeV.
- 18 That court found that F.'s authorisation to drive had been definitively withdrawn by the German authorities following his drink-driving in December 2008. That withdrawal measure, which was not deleted and which also applies to F.'s current Spanish driving licence, is therefore still entered in the Register of Unfit Drivers. In accordance with Paragraph 29(4) of the FeV, read in conjunction with Paragraph 3(6) of the StVG, in order that F. may again use his Spanish driving licence in Germany, he must lodge an application for recognition of the validity of that licence with the German authority responsible for issuing driving licences.
- 19 The appellate court found that Article 2(1) of Directive 2006/126 did not confer on F. the right to drive motor vehicles in Germany on the basis of his Spanish driving licence, either. The fact that the Spanish authorities, first, returned F.'s original driving licence to him shortly after it had been withdrawn by the German authorities and, second, replaced that driving licence on 23 November 2009 did not constitute measures giving rise to an obligation, on the part of the authorities of a Member State, to recognise the validity of a driving licence issued by the authorities of another Member State. Those measures were taken by the Spanish authorities during the period in which F. was prohibited from applying for a new driving licence, laid down by the German penalty order of 20 January 2009, without it being clear whether they were preceded by a check on his fitness for driving. That court also specified that the Spanish authorities had not issued a new driving licence to F., but had merely renewed the original driving licence, in accordance with Article 7(2) and (3) of Directive 2006/126, after the expiry of the period of validity of the latter.
- 20 Such a renewal is subject only to the condition of residence of the holder, as is apparent from point (b) of the first subparagraph of Article 7(3) of Directive 2006/126. Thus, renewing a driving licence is of the same nature as replacing driving licences as is referred to in Article 11(5) of that directive, both measures being limited to the issue of a new supporting document for an existing driving licence. A Member State which, like the Kingdom of Spain, has decided to make the periodic renewal of a driving licence subject to a health test is not required to carry out, without specific indications, a health examination of each driving licence holder in order to determine whether all the minimum health standards laid down in Annex III to

Directive 2006/126 are still met. Age-related health examinations should, as a general rule, be limited to sight, hearing and reaction capability tests and to obvious health problems. The unconditional recognition by other Member States of the validity of a driving licence in such a situation would be contrary to the objective of improving road safety.

21 The appellate court also dismissed F.'s application for an order requiring the driving-licence authority to adopt, pursuant to Paragraph 29(4) of the FeV, a decision recognising the validity of his Spanish driving licence. It took the view that the grounds for withdrawing that authorisation had not ceased to exist since F. had not produced the required medical-psychological expert's report in relation to the blood alcohol level of 2.12 g per mille he presented when he was stopped. It adds that the principle of proportionality applicable in EU law does not preclude the requirement of such an expert's report, provided for where the blood alcohol level of a driver on public roads exceeds a certain level, account being had of the risks to road safety posed by alcohol consumption.

22 F. brought an appeal on a point of law ('*Revision*') before the Bundesverwaltungsgericht (Federal Administrative Court, Germany), claiming that Paragraph 29(3) and (4) of the FeV, in so far as it entails the adoption of a decision by the German authorities of the validity of licences issued by the authorities of other Member States, infringes EU law. He considers that it is assumed, arbitrarily and without any legal basis, that the three administrative acts by which the Spanish authorities renewed his driving licence constitute not acts issuing a driving licence for the purposes of Article 2(1) of Directive 2006/126, but extensions of the original driving licence issued on 21 October 1992. According to the applicant, the assumption that, when a driving licence is renewed, existing irregularities are transferred to the current driving licence has no legal basis, either. He states that there moreover has not been any ruling from the Court of Justice to that effect. He is of the view that only the Spanish authorities are competent to determine whether he is fit to drive again. The German authorities do not, in his view, have the power to review the decisions of the Spanish authorities in that regard.

23 The referring court has doubts concerning the extent to which the principle of mutual recognition of driving licences provided for in Article 2(1) of Directive 2006/126 applies also to cases of renewal of a driving licence, under the second subparagraph of Article 7(3) of Directive 2006/126, effected by the Member State of normal residence, after the Member State of temporary stay has deprived the person concerned, on account of drink-driving and of the resulting lack of fitness to drive, of the right to use his driving licence in its territory.

24 In those circumstances, the Bundesverwaltungsgericht (Federal Administrative Court) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

'Do Article 2(1) and Article 11(4), second subparagraph, of Directive [2006/126] preclude a Member State, within the sovereign territory of which the holder of an EU driving licence for vehicles in categories A and B issued by another Member State had his right to drive vehicles in the first Member State under that driving licence withdrawn because of drink-driving, from refusing to recognise a driving licence for those categories which was issued to the person concerned in the second Member State, after that right had been withdrawn, through renewal of the licence pursuant to Article 7(3), second subparagraph, of Directive [2006/126]?'

Consideration of the question referred

25 By its question, the referring court asks, in essence, whether Article 2(1) and the second subparagraph of Article 11(4) of Directive 2006/126 must be interpreted as precluding a Member State, in the territory of which the holder of a driving licence in categories A and B issued by another Member State has been deprived of the right to drive on account of unlawful conduct, which occurred during a temporary stay in that territory after the issue of the licence, and of the resulting lack of fitness to drive under the legislation of the first Member State, from subsequently refusing to recognise the validity of that driving licence, after that licence has been renewed, pursuant to Article 7(3) of that directive, by the Member State where the

holder of that licence normally resides, within the meaning of the first paragraph of Article 12 of that directive.

- 26 In that regard, it must be noted that, according to settled case-law, Article 2(1) of Directive 2006/126 provides for the mutual recognition, without any formality, of driving licences issued by Member States. That provision imposes on those Member States a clear and precise obligation which leaves them no room for discretion as to the measures to be adopted in order to comply with it (judgments of 23 April 2015, *Aykul*, C-260/13, EU:C:2015:257, paragraph 45 and the case-law cited, and of 28 October 2020, *Kreis Heinsberg*, C-112/19, EU:C:2020:864, paragraph 25 and the case-law cited).
- 27 Moreover, it is apparent from the case-law of the Court that 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 23 April 2015, *Aykul*, C-260/13, EU:C:2015:257, paragraphs 46 and 47 and the case-law cited).
- 28 Once the authorities of one Member State have issued a driving licence in accordance with Article 1(1) of Directive 2006/126, the other Member States are not entitled to investigate whether the conditions for issue laid down by that directive have been met. 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 (see, to that effect, judgment of 23 April 2015, *Aykul*, C-260/13, EU:C:2015:257, paragraph 47 and the case-law cited).
- 29 Furthermore, since Article 2(1) of Directive 2006/126 does not make any distinction between the means by which the driving licence is issued, namely following success in the tests laid down in Article 7 of Directive 2006/126, following an exchange pursuant to Article 11(1) of that directive or following a renewal pursuant to Article 7(3) of that directive, the principle of mutual recognition applies equally as regards the driving licence issued from such a renewal, subject to the exceptions laid down by that directive (see, to that effect, judgment of 28 October 2020, *Kreis Heinsberg*, C-112/19, EU:C:2020:864, paragraph 26).
- 30 The Court however held, in paragraph 71 of the judgment of 23 April 2015, *Aykul* (C-260/13, EU:C:2015:257), that Article 2(1) and the second subparagraph of Article 11(4) of Directive 2006/126 must be interpreted as meaning that a Member State in whose territory the holder of a driving licence issued by another Member State is staying temporarily is not precluded from refusing to recognise the validity of that driving licence on account of unlawful conduct on the part of its holder in the territory of the first Member State after that driving licence has been issued that results, under the national law of the first Member State, in unfitness to drive motor vehicles.
- 31 The Court *inter alia* considered, in that regard, in paragraph 60 of that judgment, that the second subparagraph of Article 11(4) of Directive 2006/126 allows a Member State that is not the Member State of residence to take measures, in accordance with its national legislation and as a result of unlawful conduct in its territory by the holder of a driving licence obtained in another Member State, the scope of those measures being limited to that territory and their effect limited to the refusal to recognise the validity of that licence within that territory.
- 32 It also took the view that, in such a situation, in which fitness to drive is challenged not at the stage at which the driving licence was issued but following an offence committed by the holder of that licence after it had been issued, the penalty for which took effect only in the territory of the Member State in which that offence had been committed, that Member State is competent to lay down the conditions with which the holder of that driving licence must comply in order to recover the right to drive in that Member State's territory (see, to that effect, judgment of 23 April 2015, *Aykul*, C-260/13, EU:C:2015:257, paragraphs 73 and 84).

- 33 The Court however made it clear that it was for the referring court to examine whether, by applying its own rules, the Member State in question did not in fact refuse indefinitely to recognise a driving licence issued by another Member State and that, in that context, it was the referring court's responsibility to ascertain whether the conditions laid down by the legislation of the first Member State, in accordance with the principle of proportionality, did not exceed the limits of what was appropriate and necessary in order to attain the objective of Directive 2006/126, which is to improve road safety (judgment of 23 April 2015, *Aykul*, C-260/13, EU:C:2015:257, paragraph 84).
- 34 Admittedly, as the European Commission notes in its written observations, it is also apparent from the case-law of the Court that a Member State cannot make the recognition of the validity of a driving licence issued in another Member State subject to a condition set by the legislation of the first Member State for the issue of licences, such as the production of a medical-psychological expert's report, where that licence has been issued after the withdrawal by the first Member State of an earlier driving licence, after the expiry of any period of prohibition from applying for a new licence (see, to that effect, as regards Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1) – which was replaced by Directive 2006/126 – judgment of 19 February 2009, *Schwarz*, C-321/07, EU:C:2009:104, paragraph 91 and the case-law cited, and, as regards Directive 2006/126, judgment of 26 April 2012, *Hofmann*, C-419/10, EU:C:2012:240, paragraph 84).
- 35 In such a situation, after all, the unfitness to drive, punished by withdrawal of the driving licence in the first Member State, was lifted by the test of fitness carried out by another Member State when a driving licence was subsequently issued. On that occasion, the issuing Member State, as is recalled in paragraph 27 of the present judgment, must, in particular, verify, in accordance with Article 7(1) of Directive 2006/126, that the candidate satisfies the minimum standards of physical and mental fitness for driving (see, to that effect, as regards Article 7(1) of Directive 91/439, which corresponds to Article 7(1) of Directive 2006/126, judgment of 19 February 2009, *Schwarz*, C-321/07, EU:C:2009:104, paragraphs 92 and 93).
- 36 In the case in the main proceedings, the driving licence at issue, after having been withdrawn by the Member State in which its holder was temporarily staying, was not, however, subsequently issued by the Member State where the holder was normally resident, within the meaning of the first paragraph of Article 12 of Directive 2006/126, but was merely renewed by that State. It is apparent from the order for reference that F. was initially issued with his driving licence in 1992, then, after it was withdrawn by the German authorities, it was simply renewed, on several occasions, by the Spanish authorities, and that it is currently valid until 22 October 2021.
- 37 In such a situation, the mere renewal of a driving licence in categories A and B, pursuant to Article 7(3) of Directive 2006/126, by the Member State in which its holder is normally resident cannot be equated with the issue of a new driving licence, within the meaning of Article 7(1) of that directive, since the conditions for renewal and issue are not identical. As the Commission has submitted in its written observations, for such an equation to be possible, it would be necessary for the unfitness to drive motor vehicles established in the Member State of temporary stay to be erased as a result of the renewal in the Member State of normal residence.
- 38 In that regard, so far as concerns driving licences in categories AM, A, A1, A2, B, B1 and BE, the first subparagraph of Article 7(3) of Directive 2006/126 provides, as a harmonised minimum requirement for the renewal of a driving licence when its administrative validity expires, for the existence of a normal residence in the territory of the Member State issuing the driving licence, or evidence that the applicant has been studying there for at least six months. Although, admittedly, Member States may, as is apparent from the second subparagraph of that provision, make also the renewal of such licences subject to a check of the minimum standards of physical and mental fitness for driving as set out in Annex III to that directive, it must be pointed out that this is merely an option available to Member States.
- 39 However, as regards the issuing of driving licences, Article 7(1) of Directive 2006/126 provides that driving licences may be issued only to those applicants who not only satisfy the condition of normal

residence in the territory of the issuing Member State or can prove that they have been studying there for at least six months, but have also passed a test of skills and behaviour and a theoretical test and who meet medical standards, in accordance with the provisions of Annexes II and III to that directive. Thus, the issue of a driving licence is subject to a test of fitness for driving in accordance with the provisions of Annex III to that directive.

- 40 It should be recalled that 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 an EU driving licence (judgment of 28 February 2019, *Meyn*, C-9/18, EU:C:2019:148, paragraph 28).
- 41 In that regard, as is apparent in particular from the case-law cited in paragraphs 27 and 28 of the present judgment and as the referring court noted in the request for a preliminary ruling, the Court has on several occasions emphasised the link between the minimum conditions for the issue of a driving licence, harmonised in EU law, the verification of those conditions by the issuing Member State and the obligation of the other Member States to recognise the validity of that licence.
- 42 Since, pursuant to the second subparagraph of Article 7(3) of Directive 2006/126, Member States are not required, when renewing a driving licence in categories AM, A, A1, A2, B, B1 and BE, to carry out an examination of the minimum standards of physical and mental fitness for driving as set out in Annex III to that directive, the Member State in whose territory the holder of a licence for those categories that has only been renewed wishes to drive, after having been deprived, following the commission of a road-traffic offence in that territory, of the right to drive in that territory, may refuse, under the exception provided for in the second subparagraph of Article 11(4) of Directive 2006/126 and, therefore, by derogation from the principle of mutual recognition of licences referred to in paragraph 29 of this judgment, to recognise the validity of that licence where, after the expiry of any period of prohibition from applying for a new licence, the conditions laid down by national law for the restoration of the right to drive in that territory are not satisfied.
- 43 In such circumstances, the obligation, laid down by Directive 2006/126, of mutual recognition by Member States of the validity of driving licences in categories AM, A, A1, A2, B, B1 and BE issued by other Member States cannot apply of its own motion to renewals of those driving licences, since the conditions for renewal may differ between Member States.
- 44 While such an obligation of mutual recognition cannot depend on the verification, by the Member State in whose territory the holder of a driving licence issued and renewed in another Member State is temporarily staying, of the conditions under which that driving licence has been renewed, it must however be open to the licence holder who, after the expiry of any period of prohibition from applying for a new licence, wishes to have the right to drive in the first Member State again to provide evidence to the authorities of that Member State that his or her fitness to drive in accordance with the provisions of Annex III to Directive 2006/126 was checked when his or her licence was renewed in the second Member State and that, therefore, in accordance with the case-law cited in paragraph 35 of this judgment, the unfitness to drive established by the first Member State was lifted by the effect of that renewal, provided however that the purpose of the check corresponds with that of the check ordered by the legislation of that same Member State.
- 45 It follows from the foregoing considerations that Article 2(1) and the second subparagraph of Article 11(4) of Directive 2006/126 do not, in principle, preclude the authorities of a Member State from refusing, in a situation such as that at issue in the main proceedings, to recognise the validity of a driving licence in categories A and B merely renewed in another Member State, pursuant to Article 7(3) of Directive 2006/126, the first Member State thus being competent to lay down the conditions with which the holder of the driving licence must comply in order to recover the right to drive in its territory.
- 46 It is clear, in that regard, that allowing, in such a situation, the authorities of a Member State to make the recognition of the validity of a driving licence issued and renewed in another Member State subject to

certain conditions, on account of the commission of a road-traffic offence in their territory, is liable to reduce the risk of road-traffic accidents occurring and thus meets the objective consisting in improving road safety pursued by Directive 2006/126, as recital 2 thereof recalls.

47 It is however for the referring court to examine whether, in accordance with the principle of proportionality, the rules, provided for by the legislation of the first Member State, laying down the conditions with which the holder of a driving licence deprived as a result of unlawful conduct of the right to drive in its territory in which he or she was staying temporarily must comply in order to recover the right to drive in that territory, do not exceed the limits of what is appropriate and necessary to attain the objective pursued by Directive 2006/126, consisting in improving road safety (see, to that effect, judgment of 23 April 2015, *Aykul*, C-260/13, EU:C:2015:257, paragraph 78), which would be the case in particular if they precluded that licence holder from being able to provide evidence that his or her fitness to drive, after the expiry of any period of prohibition from applying for a new licence, was checked in accordance with the provisions of Annex III to Directive 2006/126 when his or her licence was renewed in his or her Member State of normal residence and that the purpose of that check corresponds with that of the check ordered by the legislation of the first Member State.

48 In the light of all the foregoing considerations, the answer to the question referred is that Article 2(1) and the second subparagraph of Article 11(4) of Directive 2006/126 must be interpreted as not precluding a Member State, in the territory of which the holder of a driving licence in categories A and B issued by another Member State has been deprived of the right to drive on account of unlawful conduct, which occurred during a temporary stay in that territory after the issue of the licence, from subsequently refusing to recognise the validity of that driving licence, after that licence has been renewed, pursuant to Article 7(3) of that directive, by the Member State where the holder of that licence normally resides, within the meaning of the first paragraph of Article 12 of that directive. It is, however, for the referring court to examine whether, in accordance with the principle of proportionality, the rules, provided for by the legislation of the first Member State, laying down the conditions with which the holder of the driving licence must comply in order to recover the right to drive in its territory, do not exceed the limits of what is appropriate and necessary to attain the objective pursued by Directive 2006/126, consisting in improving road safety.

Costs

49 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 (First Chamber) hereby rules:

Article 2(1) and the second subparagraph of Article 11(4) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences must be interpreted as not precluding a Member State, in the territory of which the holder of a driving licence in categories A and B issued by another Member State has been deprived of the right to drive on account of unlawful conduct, which occurred during a temporary stay in that territory after the issue of the licence, from subsequently refusing to recognise the validity of that driving licence, after that licence has been renewed, pursuant to Article 7(3) of that directive, by the Member State where the holder of that licence normally resides, within the meaning of the first paragraph of Article 12 of that directive. It is, however, for the referring court to examine whether, in accordance with the principle of proportionality, the rules, provided for by the legislation of the first Member State, laying down the conditions with which the holder of the driving licence must comply in order to recover the right to drive in its territory, do not exceed the limits of what is appropriate and necessary to attain the objective pursued by Directive 2006/126, consisting in improving road safety.

[Signatures]

* Language of the case: German.