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Court of Justice of the European Union
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Judgment in Case C-102/16
Vaditrans BVBA v Belgische Staat

In the road transport sector, drivers may not take the regular weekly rest period to which they are entitled in their vehicle

On the other hand, the reduced weekly rest period may be taken in the vehicle subject to certain conditions

In August 2014, Vaditrans, a transport company established in Belgium, brought an action before the Raad van State (Council of State, Belgium) seeking the annulment of a Belgian royal decree under which a fine of €1 800 may be imposed when a lorry driver takes his regular weekly rest period in his vehicle. According to Vaditrans, the royal decree in question is incompatible with the principle that penalties must have a proper legal basis as it prohibits and penalises taking the regular weekly rest period in the vehicle, whereas a relevant EU regulation¹ does not contain any such prohibition. The Belgian State, on the other hand, takes the view that it clearly follows from the regulation concerned that a driver may not take his regular weekly rest period in his vehicle and that the fine imposed by the Belgian legislation merely gives effect to the prohibition contained in that regulation.

The EU Regulation concerned, which harmonises social legislation in the road transport sector, requires drivers to take a regular daily rest period of at least 11 hours (which may, subject to certain conditions, be reduced to 9 hours) and a regular weekly rest period of 45 hours (which may, subject to certain conditions, be reduced to 24 hours). The regulation adds that, if a driver chooses to do so, daily rest periods and reduced weekly rest periods away from base may be taken in the vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary.²

The Raad van State has asked the Court of Justice to clarify the requirements under the regulation. In particular, it asks whether the regulation must be regarded as containing an implied prohibition on taking the regular weekly rest period in the vehicle. Should that be the case, the Raad van State asks whether the regulation, by not imposing that prohibition clearly and expressly, infringes the principle that offences and penalties must have a proper legal basis.

In today's judgment, the Court observes, first of all, that each time the regulation refers to the terms 'regular weekly rest period' and 'reduced weekly rest period' together it uses the general expression 'weekly rest period'. However, as regards the possibility of taking rest periods in the vehicle, the regulation uses the general expression 'daily rest period' — which covers regular and reduced daily rest periods — and the specific expression 'reduced weekly rest period'. **According to the Court, as the EU legislature did not use the general expression 'weekly rest period' to encompass the two types of weekly rest period, it clearly follows that it intended to allow the driver to take reduced weekly rest periods in the vehicle but to prohibit him from doing so in respect of regular weekly rest periods.**

Next, the Court adds that **the main objective of the regulation is to improve working conditions for employees in the road transport sector and road safety in general.** The legislature, therefore, intended that drivers should be able to spend their regular weekly rest

¹ Regulation (EC) No 561/2006 of the European Parliament and Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport (OJ 2006 L 102, P,1).

² Article 8(8) of Regulation No 561/2006.

periods in a place which offered adequate and suitable accommodation. A lorry's cabin does not appear to constitute a suitable resting place for rest periods longer than the daily and reduced weekly rest periods. The Court finds, therefore, that, if it were to consider that regular weekly rest periods may be taken in the vehicle, that would mean that a driver could take all of his rest periods in a vehicle cabin, **which would clearly be contrary to the objective of improving drivers' working conditions pursued by the regulation.**

Lastly, the Court observes that, in the procedure leading to the adoption of the regulation, the Commission proposed that drivers should be permitted to take all rest periods (that is, both reduced and regular daily rest periods and the reduced and regular weekly rest periods) in the vehicle. However, that proposal was subsequently modified, so that only a reduced weekly rest period away from base may be taken in the vehicle, not the regular weekly rest period, with the aim of protecting drivers' hygiene and well-being. **That modification, in the Court's view, clearly shows the legislature's intention to exclude the possibility of taking regular weekly rest periods in the vehicle.**

The Court concludes that the EU regulation harmonising social legislation in the road transport sector clearly prohibits drivers from taking their regular weekly rest periods in a vehicle.

As to the Raad van State's second question, the Court notes that, under the principle that penalties must have a proper legal basis, EU legislation must clearly define infringements and the penalties for those infringements. Since the prohibition on taking the regular weekly rest period in a vehicle is clearly laid down in the regulation and the regulation imposes a requirement for Member States to penalise infringements, the principle that penalties must have a proper legal basis is not infringed. Therefore, it is for the Member States to determine which penalties are appropriate for the purpose of guaranteeing the application and effectiveness of the regulation, whilst ensuring that those penalties are imposed under substantive and procedural conditions which are analogous to those applicable to infringements of national law of a similar nature and importance.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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