



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-870/19 and C-871/19
Prefettura Ufficio territoriale del governo di Firenze v MI and TB

Lorry, motor coach and bus drivers who, during an inspection, do not produce the record sheets for the tachograph relating to the current day and the previous 28 days are subject to a single penalty, irrespective of the number of missing record sheets

The principle that offences and penalties must be defined by law, in accordance with which citizens must be in a position to ascertain what conduct will make them criminally liable and the penalties which that conduct attracts, applies to this field

In 2013, during two roadside inspections carried out in Italy, the Italian authorities established that MI (Case C-870/19) and TB (Case C-871/19), as drivers of road transport vehicles (lorries, motor coaches and buses), were not able to produce the record sheets of the tachograph installed in their vehicles relating to the current day and several of the previous 28 days. Those authorities therefore imposed a number of administrative penalties on MI and TB for a number of infringements.

MI and TB brought actions before the Italian courts against those penalties.

The Corte suprema di cassazione (Supreme Court of Cassation, Italy), before which those cases were brought at last instance, asks the Court of Justice, in essence, whether EU law, ¹ requiring a driver to be in a position to produce the record sheets relating to the period covering the current day and the previous 28 days, must be interpreted as meaning that, in circumstances such as those of the present cases, the competent authorities must impose on that driver a single penalty, for a single infringement, or rather a number of separate penalties for a number of separate infringements, the number of which corresponds to that of the missing record sheets.

In its judgment delivered today, the Court rules that should a lorry, motor coach or bus driver subject to an inspection **fail to produce the record sheets of the recording equipment relating to several days** of activity during the period covering the day of the inspection and the previous 28 days, **the competent authorities of the Member State where the inspection was carried out must make a finding of a single infringement by that driver and impose on him or her only a single penalty for that infringement.**

The Court notes that the objectives of the legislation at issue are, firstly, the improvement of working conditions of lorry, motor coach and bus drivers and the improvement of road safety in general and, secondly, the establishment of common rules on driving times, drivers' breaks and rest periods and their monitoring. Each Member State must ensure compliance with that legislation by providing for of a system of penalties for any infringement.

The Court points out that EU law establishes a **single obligation covering the whole of the overall period of 29 days**. Thus, the breach of that obligation constitutes a **single and instantaneous infringement**, consisting in the fact that it is impossible for the driver concerned to produce, at the time of the inspection, all or some of those 29 record sheets. That infringement can give rise only to a **single penalty**.

¹ Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ 1985 L 370, p. 8), as amended by Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ 2006 L 102, p. 1).

The Court specifies, however, that such infringement is all the more serious if the number of record sheets that the driver is not able to produce is high.

The Court recalls that the Member States must provide for **sufficiently high penalties that are proportionate** to the seriousness of that infringement, in order for that penalty to have a genuine deterrent effect. In addition, those penalties must be **sufficiently adjustable according to the seriousness** of the infringement.

The Court points out that the **principle that offences and penalties must be defined by law** enshrined in Article 49 of the Charter of Fundamental Rights of the European Union **applies** to this field. That principle requires that legislation must clearly define offences and the penalties which they attract. That requirement is satisfied where the individual concerned is in a position to ascertain, from the wording of the relevant provision and, if need be, with the assistance of the courts' interpretation of it, what acts and omissions will make him criminally liable.

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 European Union 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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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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