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Judgment of the Court in Case C-167/22 | Commission v Denmark (Maximum parking time)

Failure of a Member State to fulfil obligations: the Court of Justice dismisses the Commission's action against Denmark concerning the maximum parking time on motorway lay-bys

In 2018, Denmark laid down a rule limiting the maximum parking time at public rest areas along the Danish motorway network to 25 hours. The European Commission is of the opinion that that rule constitutes a restriction on the freedom to provide transport services since it does not affect Danish road hauliers and non-resident road hauliers in the same way. It therefore initiated infringement proceedings against Denmark. Denmark submits that the 25-hour rule complies with EU law. That rule applies to both Danish hauliers and non-resident hauliers. In addition, the latter have other parking options in Denmark. Unconvinced by the Danish Government's arguments, the Commission brought an action for failure to fulfil obligations before the Court of Justice.

In its judgment, the Court dismisses the Commission's action.

It points out that the 25-hour rule is capable of having a specific effect on the exercise, by non-resident hauliers, of transport rights, in particular cabotage, conferred on them, since it prevents drivers from using motorway lay-bys for the purposes of compulsory rest periods¹ exceeding that period, and that that rule affects non-resident hauliers more than hauliers with an operating centre in Denmark and may therefore make it easier for their drivers to drive their lorries there.

The Commission has not however produced any objective data which would make it possible to establish that the alternative parking capacities provided by the private sector are, in the light of the volume of relevant traffic, inadequate to accommodate vehicles with a maximum permissible mass exceeding 3.5 tonnes for rest periods exceeding 25 hours. Without such objective data, the Court cannot establish, except on the basis of presumptions, that the 25-hour rule is in fact such as to impede cabotage activities carried out by providers established in other Member States.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under EU law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [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.