

Right to information Directive 2012/13/EU

C-615/18 UY

Case Facts

This case involves a Polish lorry driver residing in Poland, facing criminal liability in Germany for driving without a valid license. Following a roadside check in December 2017, it was revealed that the driver had previously received a fine and a three-month driving ban from the Local Court of Garmisch-Partenkirchen for failing to stop after a road accident.

Despite appointing a representative in Germany to receive judicial documents, it remained uncertain if the driver was notified of the penalty. The penalty order attained *res iudicata* status in September 2017. The current legal proceedings in Kehl focus on a new penal order for the recent offense of negligently driving without a valid license, proposing a fine and an additional three-month driving ban.



Questions referred



Can the driver be held
criminally liable...

given that the timeframe to
contest the penal order
initiated not upon its
delivery to the accused
abroad but rather when it
was served to the
authorized person in
Germany?

even though he was not
aware of the first penal
order and its *res
iudicata* effect

Conclusion on Article 6 of Directive 2012/13/EU

"Article 6 [...] does not preclude national legislation according to which a penalty order issued against a person not resident in that Member State acquires the force of *res judicata* after service on a person authorised to accept service, even where the accused person has not been made aware of the order, provided that the accused person...

I

- is properly served with the order once he or she becomes aware of it, and has his or her position fully restored to the status quo ante

II

- may not be held criminally liable for not complying with the measures imposed in the order, based on the fact that he or she did not make attempts to learn about the outcome of the prior proceedings from the person authorised to accept service.



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