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**AMENDMENTS TO AND IMPLEMENTATION OF THE 1968 CONVENTIONS ON ROAD
TRAFFIC AND ON ROAD SIGNS AND SIGNALS AND THE 1971 EUROPEAN
AGREEMENTS SUPPLEMENTING THEM**

Driving permits

Note by the secretariat

At the 36th session of the Working Party, the small group on driving permits presented the results of the questionnaire on IDPs and DDPs (TRANS/WP.1/2001/5) and requested some additional information.

In particular, the small group asked for further information in relation to question 9 of the questionnaire (period during which a permit holder who is not a national of your State may operate a vehicle in international traffic and non international traffic in your country's territory).

In the context of this question, members were asked to state: (a) if they previously indicated a time limit in answer to question 9.1 (IDP in accordance with the requirements of Article 41.2 of the Vienna Convention), the reasons for this limit (i.e. in relation to the notion of residence, other reasons, etc.) or for no limit? and (b) concerning question 9.4 (DDP not in accordance with the requirements of Article 41.2 of the Vienna Convention), if they did not reply "not recognized", the reasons why these permits are recognized and under what conditions they are accepted?

The replies received appear below in the order in which they were received.

Norway

9.1. first column.

The unlimited acceptance of IDPs from EU/EEA is due to the EEA Agreement (Norway, Iceland Liechtenstein/EU) and the EU Directive on driving licences (91/439) stating that DDPs must be recognized (unlimited). It should be mentioned that there really is no need to accept these IDPs, since DDPs are recognized anyway. In the future Norway probably will ask the holder to produce the DDP together with the IDP and the IDP will be rather unnecessary in any case.

The 12 month limit for other persons is based on the 1968 Convention on Road Traffic - Art. 1 (b). Although persons staying in Norway for more than 12 months in general legally might be considered not having residence here (depending on several factors), they are considered having residence here, as far as acceptance of driving licences are concerned. It should be noted that this rule seems inconsistent with the basic rule that driving licences may only be issued to persons having (legal) residence here. It is felt that Norway needs to do something about this.

9.1 second column

For EU/EEA: the same reason as for column one. For others: In principle foreign licences are not accepted. They must be changed to Norwegian licences. However, this is not easy to do overnight, so the holder gets the benefit of a transitional period of three months (category B or A only).

9.4 Not recognized - no explanation seems called for.

Denmark

Art. 9 of the Council Directive 91/439/EEC is stated in Section 4 of the Ministry of Traffic executive order No. 196 of March 11, 1997, on driving licences. From this section it appears that:

- 1) Normal residence is the place, where a person normally resides, i.e. for at least 185 days within a calendar year because of his personal or occupational connection. If the person is without occupational connection, there has to be a personal connection showing a close connection between the person and his residence.
- 2) Normal residence is considered obtained at the time when the person has taken up residence with the purpose of fulfilling one of the conditions mentioned in No. 1.
- 3) A person, who only has his occupational connection in Denmark, is considered to have normal residence in the country where he has his personal connections, if he returns to that country on a regular basis. The last condition is not required, if the person is in Denmark for a job for a certain limited time.
- 4) Admission in an educational establishment does not automatically have the effect that the person is considered to have normal residence in Denmark.

Thus, according to the executive order about driving licences, normal residence is normally considered obtained at the place where a person stays for at least 185 days within a calendar year because of his personal or occupational connection. However, normal residence is considered to be obtained already at the time when a person has taken up residence in Denmark with the intention of staying for more than 185 days within a calendar year because of his personal or occupational connection. The rule established by the Danish authorities stresses that the person's intention rather than the objective criterion, namely the 185 days, should be met.

Furthermore, whether a person has normal residence in Denmark or not, the opinion of the Road Safety and Transport Agency is that the important point is whether the person has a personal connection to the country or not. Special importance can be attached to whether or not the person and his household are established in Denmark with a normal home, whether or not the person's personal belongings are in Denmark and whether or not the person normally stays in Denmark apart from temporary trips abroad e.g. trips related to business, studies or vacation.

This interpretation appears also contrary to the rule in the instruction on driving licences, which states that, persons who are in Denmark because of a time limited job or because of education, are normally not considered to have normal residence in Denmark. The interpretation is also supported by the rule by which persons who do not have any connection to Denmark and therefore leave the country on a regular basis, are considered to have normal residence in the country to which the person has his personal connection.

Finally, the Road Safety and Transport Agency should emphasise that, the mentioned exceptions are not absolute rules, but must be considered as guidance for the question of whether a person has normal residence in Denmark. Thus, there can be cases, where a person is included by the exception clause but still must be considered to have normal residence in Denmark. This could be the case where a person is joining an educational course and therefore is staying in Denmark for a number of years. In this situation he may be considered to have normal residence in Denmark, e.g. because he has established a normal home for himself and his family.

Bulgaria

No additional information.

Germany

Within the scope of his/her rights, the holder of a foreign permit to drive is allowed to drive a vehicle in the Federal Republic of Germany, if he/she is not normally resident here.

The holder of a permit to drive is normally resident in the Federal Republic of Germany, if he/she customarily, i.e. at least 185 days per year, lives in the country because of personal ties and professional commitments or – if there are no professional commitments – because of personal ties showing a close relationship between the person and his/her place of residence. If the person in question takes up residence in the Federal Republic of Germany, his/her rights resulting from his/her foreign permit to drive continue to be valid for six months.

The answers to column 1 of questions 9.1 to 9.3 take account of this provision in a shortened form.

In accordance with Article 41.2 of the Convention, a permit to drive according to items 9.1 to 9.3 in international traffic is recognized here, within the framework of its validity, for an unlimited period of time. However, as a stay of more than 185 days leads to the taking up of residence and is thus no longer covered by the provisions on international traffic, this case implies a time limit.

Georgia

In relation to question 9.1, the reply is “validity of IDP” since there are no international regulations limiting the use of IDPs during their term of validity.
