

Alert | Transportation & Automotive



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ECJ Hands Down Decision on Uber in the EU

The European court of justice (ECJ) has ruled that the U.S. company Uber is a transport services company, requiring it to accept stricter regulation and licensing within the EU as a taxi operator. **This decision** in Luxembourg, after a challenge brought by taxi drivers in Barcelona, will apply across the whole of the EU, including the UK, and cannot be appealed.

EU rules on the freedom to provide services expressly exclude transport. The lawyers for Barcelona's Asociación Profesional Elite Taxi argued that Uber was directly involved in carrying passengers so Uber is a transport company. Uber denied it was a transport company, arguing it was a computer services business with operations that should be subject to an EU directive governing e-commerce and prohibiting restrictions on the establishment of such organisations.

In its ruling, the ECJ said an "intermediation service", "the purpose of which is to connect, by means of a smartphone application and for remuneration, non-professional drivers using their own vehicle with persons who wish to make urban journeys, must be regarded as being inherently linked to a transport service and, accordingly, must be classified as 'a service in the field of transport' within the meaning of EU law". Thus, the ECJ found that Uber provides an intermediation service.

The court also pointed out that Uber exercised "decisive influence" over the conditions under which drivers provided their services. Such an intermediation service, the ECJ concluded, must be regarded as forming an integral part of an overall service, the main component of which is transport.

Consequently, the ECJ concluded that Uber is a transportation firm and not a digital company, which means its services must be excluded from the scope of the freedom to provide services in general as well as the directive on services in the internal market and the directive on e-commerce. This also means member states can regulate the conditions for providing that service, according to the ECJ ruling. Therefore, Uber must now deal more closely with local governments that set transportation rules and licensing requirements.

Key Takeaways

The intermediation service of Uber is inherently linked to a transportation service, which makes Uber a transport services company, not a digital company.

As a result of the ECJ ruling, Uber now faces national regulation in up to 28 member states, and will now have to deal more closely with local governments.

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