

**Action brought on 23 October 2020 – Republic of Lithuania v European Parliament and Council of the European Union**

**(Case C-542/20)**

*Language of the case: Lithuanian*

**Parties**

*Applicant:* Republic of Lithuania (represented by: K. Dieninis, V. Kazlauskaitė-Švenčionienė, R. Dzikovič, A. Kisieliauskaitė, G. Taluntytė and R. Petravičius, advokatas)

*Defendants:* European Parliament, Council of the European Union

**Form of order sought**

The applicant requests the Court of Justice to:

Annul Article 1(3) of Regulation 2020/1055 <sup>1</sup> in so far as it inserts an Article 5(1)(b) into Regulation (EC) No 1071/2009 <sup>2</sup> providing that ‘*in the Member State of establishment an undertaking shall ... organise its vehicle fleet’s activity in such a way as to ensure that vehicles that are at the disposal of the undertaking and are used in international carriage return to one of the operational centres in that Member State at least within eight weeks after leaving it*’;

Annul Article 2(4)(a) of Regulation 2020/1055, which amends Article 8 of Regulation (EC) No 1072/2009 <sup>3</sup> by inserting into it a paragraph 2a providing that ‘*Hauliers are not allowed to carry out cabotage operations, with the same vehicle, or, in the case of a coupled combination, the motor vehicle of that same vehicle, in the same Member State within four days following the end of its cabotage operation in that Member State*’;

Order the European Parliament and the Council to pay the costs of the proceedings.

**Pleas in law and main arguments**

The Republic of Lithuania bases its application on the following pleas in law:

**Article 1(3) of Regulation 2020/1055**, in so far as it inserts an Article 5(1)(b) into Regulation (EC) No 1071/2009 providing that ‘*in the Member State of establishment an undertaking shall ... organise its vehicle fleet’s activity in such a way as to ensure that vehicles that are at the disposal of the undertaking and are used in international carriage return to one of the operational centres in that Member State at least within eight weeks after leaving it*’, **is contrary to:**

**Article 3(3) TEU, Articles 11 and 191 TFEU and the EU policy on the environment and climate change.** The requirement to return to the operational centre will increase the number of unloaded vehicles driving on European roads, as well as the amount of CO2 emissions and environmental pollution. When the EU institutions adopted the contested provision, they failed to have regard for measures relating to the European Union’s policy on the environment and climate-change policy, particularly the requirements relating to protection of the environment and the environmental-protection objectives promoted in the European Green Deal and confirmed by the European Council;

**Article 26 TFEU and the general principle of non-discrimination.** The contested provision is a protectionist measure by which the EU transport market is partitioned, competition restricted and a discriminatory regime established in regard to hauliers in the Member States situated on the geographical fringes of the European Union (peripheral Member States). By this provision, the international road transport sector is also subjected to discrimination in comparison with other transport sectors;

**Articles 91(2) and 94 TFEU.** The EU institutions were required to have regard for the fact that the contested provision will have a particularly significant impact on the standard of living and level of employment in the peripheral Member States of the European Union and will impact in a particularly negative way on the economic situation of hauliers established on the periphery; the EU institutions, however, failed to comply with that duty;

**The principles of sound legislative procedure,** in that the contested provision was **adopted without any assessment as to its impact** and without a proper examination of its negative social and economic consequences and its effect on the environment;

**The principle of proportionality,** in that the fixed requirement for the regular return of vehicles is a manifestly disproportionate measure and inappropriate for achieving the publicly declared objective, namely that of combatting so-called letterbox companies.

**Article 2(4)(a) of Regulation 2020/1055,** which amends Article 8 of Regulation (EC) No 1072/2009 by inserting into it a paragraph 2a providing that '*Hauliers are not allowed to carry out cabotage operations, with the same vehicle, or, in the case of a coupled combination, the motor vehicle of that same vehicle, in the same Member State within four days following the end of its cabotage operation in that Member State*', **is contrary to:**

**Article 3(3) TEU and Articles 11 and 191 TFEU,** because the compulsory four-day period for refraining from activity following a cabotage operation will increase the stream of transport of the number of unloaded vehicles on roads in the European Union, and will result in increased emissions of CO<sub>2</sub> and environmental pollution. The contested provision is for that reason contrary to the requirement, confirmed in the Treaties, that, in the implementation of the European Union's transport policy, regard must be had to the requirements of environmental protection and to the objectives of the European Green Deal;

**Article 26 TFEU and the principle of non-discrimination.** The four-day period laid down for refraining from activity following a cabotage operation creates restrictions for the operation of the internal market and for the efficiency of the logistical chain. The partitioning of the road haulage market has given rise to discrimination against small Member States and against those on the periphery of the European Union, at the same time conferring an unlawful and unjustified advantage on the large central EU Member States solely because of their geographical location;

**Articles 91(2) and 94 TFEU,** in that the contested provision was adopted without any consideration being taken of the negative consequences for the economic situation of hauliers from the small Member States and from those on the periphery of the European Union and for the standard of living and level of employment in those Member States;

**The principles of sound legislative procedure,** in that the contested provision was adopted without any assessment as to its impact and without a proper examination of its negative social and economic consequences and its effect on the environment;

**The principle of proportionality,** in that the four-day period laid down for refraining from activity following a cabotage operation is an inappropriate measure that is disproportionate in relation to the intended objectives of clarifying the principles governing cabotage and extending the effectiveness of their implementation.

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<sup>1</sup> Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector (OJ 2020 L 249, p. 17).

<sup>2</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ 2009 L 300, p. 51).

<sup>3</sup> Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ 2009 L 300, p. 72).