

Action brought on 26 October 2020 – Republic of Poland v European Parliament and Council of the European Union

(Case C-554/20)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Defendants: European Parliament and Council of the European Union

Form of order sought

The applicant claims that the Court should:

annul the following provisions of 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:

Article 1(3) in so far as it adds paragraph 1(b) and (g) to Article 5 of Regulation 1071/2009), [1](#)

Article 2(4)(a), in so far as it adds a paragraph 2a to Article 8 of Regulation 1072/2009, [2](#)

Article 2(5)(b), in so far as it adds a paragraph 7 to Article 10 of Regulation 1072/2009;

order the European Parliament and the Council of the European Union to pay the costs.

In the alternative, should the Court of Justice consider that the contested provisions of Regulation 2020/1055 cannot be separated from the rest of that Regulation without altering its substance, the Republic of Poland seeks the annulment of Regulation 2020/1055 in its entirety.

Pleas in law and main arguments

The Republic of Poland raises the following pleas in law against the contested provisions of Regulation 2020/1055, alleging:

1) with regard to Article 1(3) to the extent that it adds paragraph 1(b) to Article 5 of Regulation 1071/2009:

a) infringement of the principle of proportionality (Article 5(4) TEU), Article 91(2) TFEU and Article 94 TFEU by making it compulsory to return vehicles to their operating base every eight weeks,

b) infringement of Article 11 TFEU and Article 37 of the Charter of Fundamental Rights of the European Union by failing to take account of environmental protection requirements;

2) with regard to Article 1(3) to the extent that it adds paragraph 1(g) to Article 5 of Regulation 1071/2009:

a) infringement of the principle of proportionality (Article 5(4) TEU) by introducing arbitrary requirements concerning the number of vehicles that road hauliers should have at their disposal and concerning the location of drivers in the operating base in the country of establishment,

b) infringement of the principle of legal certainty by introducing inaccurate requirements regarding the number of vehicles that road hauliers should have at their disposal and regarding the location of drivers in the operating base in the country of establishment,

c) infringement of Article 11 TFEU and Article 37 of the Charter by failing to take account of environmental protection requirements;

3) with regard to Article 2(4)(a):

a) infringement of the principle of proportionality (Article 5(4) TEU), Article 91(2) TFEU and Article 94 TFEU by introducing a mandatory interruption of cabotage operations,

b) infringement of Article 11 TFEU and Article 37 of the Charter by failing to take account of environmental protection requirements;

4) with regard to Article 2(5)(b):

a) infringement of the principle of proportionality (Article 5(4) TEU), Article 91(2) TFEU and Article 94 TFEU by allowing Member States to impose restrictions on the performance of cabotage operations involving initial or final road sections which form part of combined transport operations between Member States;

b) infringement of Article 11 TFEU and Article 37 of the Charter by failing to take account of environmental protection requirements.

In particular, the Republic of Poland claims that the contested provisions infringe the principle of proportionality. As a result of the adoption of inappropriate criteria for restricting the possibility of carrying out cabotage and cross-trade operations, excessive burdens have been imposed on carriers which will have a negative impact not only on the situation of individual undertakings, the market for transport services, but also on the environment and the functioning of the transport infrastructure.

In particular, entrepreneurs from countries outside the centre of the European Union will be affected by the application of the contested provisions. At the same time, the solutions adopted are not objectively justified in the light of the drivers' situation. Nor do they reflect the specific nature of the regulated services.

¹ 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).

² 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).