

Action brought on 23 October 2020 – Romania v European Parliament, Council of the European Union**(Case C-548/20)***Language of the case: Romanian***Parties***Applicant:* Romania (represented by: E. Gane, L. Lițu and M. Chicu, acting as Agents)*Defendants:* European Parliament, Council of the European Union**Form of order sought**

The applicant claims that the Court should:

annul Directive (EU) 2020/1057 in part, in particular Article 1(3) to (6);

in the alternative, only if the Court should find that those provisions are inextricably linked to other provisions of Directive (EU) 2020/1057 or concern the essence of that act, annul the EU legislative act in its entirety;

order the Parliament and the Council to pay the costs.

Pleas in law and main arguments

In support of its action, Romania relies on two pleas in law:

1. The first plea in law, alleging the infringement of the principle of proportionality, provided for in Article 5(4) TEU

Romania submits that the solution of referring to the criterion of the typology of transport operations, with a view to identifying the situations in which the rules for the posting of drivers in the road transport sector may be applied was not the subject of an impact assessment carried out by the Commission and is not substantiated on the basis of any report/study or scientific data.

The co-legislators had, in the present case, the obligation to conduct an impact assessment, since they amended the Commission's proposal substantially without having sufficient information enabling them to assess the proportionality of the new measure.

In addition, the criterion of the typology of transport operations creates uncertainty in identifying the host Member State and the legislation applicable. Consequently, referring to that criterion adversely affects legal certainty, being contrary, inter alia, even to the stated objectives of Directive (EU) 2020/1057.

Furthermore, applying the rules for posting drivers in the road transport sector by reference to the criterion of transport operations may affect the flexibility and rapidity specific to that sector.

2. The second plea in law, alleging the infringement of the principle of non-discrimination on the ground of nationality, provided for in Article 18 TFEU

Romania submits that, since the international transport market is objectively centralised/polarised, and the share of operators from the Member States in the European Union's peripheral areas in the international transport market is increasing, it is clear that the operators from those areas will mainly bear the administrative and financial costs relating to posting and will be deterred from carrying out operations by measures such as Article 1(3) to (6) of Directive (EU) 2020/1057.

Furthermore, the measures governed by Directive (EU) 2020/1057, Regulation (EU) 2020/1054 ¹ and Regulation (EU) 2020/1055 ² (concerning the additional restriction of cabotage operations, the return of the vehicle to the operating centre in the Member State of establishment every eight weeks, the return of the driver every four works, the prohibition on taking the regular weekly rest period in the vehicle cabin and the posting of drivers) were designed as pillars of an integrated legislative package, a context in which only an analysis of the their cumulative effects can illustrate their actual impact on the transport market.

¹ Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs (OJ 2020 L 249, p. 1).

² 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).