

**Request for a preliminary ruling from the Gyulai Közigazgatási és Munkaügyi Bíróság (Hungary)
lodged on 4 June 2019 — OL and Others v Rapidsped Fuvarozási és Szállítmányozási Zrt.**

(Case C-428/19)

Language of the case: Hungarian

Referring court

Gyulai Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicants: OL, PM and RO

Defendant: Rapidsped Fuvarozási és Szállítmányozási Zrt.

Questions referred

Must Article 1(1) of Directive 96/71/EC, [1](#) in conjunction with Articles 3 and 5 thereof and Articles 285 and 299 of the [Hungarian] Labour Code, be interpreted as meaning that an infringement of that directive and of the French minimum wage legislation can be relied upon by Hungarian workers as against their Hungarian employers in proceedings instituted before the Hungarian courts?

Must per diems intended to cover the costs incurred during the posting of a worker abroad be regarded as forming part of the worker's wage?

Is the practice whereby, in the event of a given economy based on the distance travelled and the fuel consumed, the employer uses a formula to pay the driver of a transport vehicle an allowance which does not form part of the wage provided for in his employment contract and on which no taxes or social security contributions are payable, contrary to Article 10 of Regulation No 561/2006/EC? [2](#)

Notwithstanding that the fuel economy [allowance] encourages drivers of transport vehicles to drive in such a way as might endanger road safety (for example, by freewheeling for as long as possible when going downhill)?

Is Directive 96/71/EC applicable to the international transport of goods, account being taken in particular of the fact that the European Commission has initiated infringement proceedings against France and Germany for applying minimum wage legislation to the road transport sector?

If it has not been transposed into national law, can a directive in itself create obligations incumbent on an individual and, therefore, constitute by itself the basis for an action against an individual in a dispute brought before a national court?

¹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ 1997 L 18, p. 1).

² Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ 2006 L

102, p. 1).