



Reports of Cases

Case T-391/17

Romania

v

European Commission

Judgment of the General Court (Second Chamber), 24 September 2019

(Law governing the institutions – European citizens’ initiative – Protection of national and linguistic minorities – Strengthening of cultural and linguistic diversity – Registration in part – Principle of conferral – Commission not manifestly lacking legislative powers – Obligation to state reasons – Article 5(2) TEU – Article 4(2)(b) of Regulation (EU) No 211/2011 – Article 296 TFEU)

1. *Citizenship of the Union – Rights of the citizen – Presentation of a citizens’ initiative – Regulation No 211/2011 – Conditions for registration – Proposal to be within the Commission’s competence – Examination by the Commission – Citizens’ initiative seeking the adoption of legal acts aiming to improve the protection of national and linguistic minorities and to strengthen the cultural and linguistic diversity of the European Union – Proposals suitable to achieve such objectives established for EU action in the relevant area of competence – Included – Registration in part of the proposed citizens’ initiative (Arts 2, 3(3), 5(2) and 13(2) TEU; European Parliament and Council Regulation No 211/2011, recitals 1 and 2 and Art. 4(2)(b) and Annex II)*

(see paragraphs 35, 36, 39, 41, 42, 44-47, 49, 50, 53, 56, 59, 72, 85)

2. *Acts of the institutions – Statement of reasons – Obligation – Scope – Commission’s decision to register a proposed citizens’ initiative – Generic nature of the statement of reasons as to the Commission’s legislative powers in respect of the proposed measures – Whether permissible (Art. 296 TFEU; European Parliament and Council Regulation No 211/2011, Art. 4(3), second subpara.)*

(see paragraphs 88, 91, 92)

Résumé

In the case which gave rise to the judgment of 24 September 2019, *Romania v Commission* (T-391/17), the General Court dismissed the action for annulment brought by Romania against the Commission decision¹ registering in part a proposed citizens’ initiative (ECI) entitled

¹ Commission Decision (EU) 2017/652 of 29 March 2017 on the proposed citizens’ initiative entitled ‘Minority SafePack – one million signatures for diversity in Europe’ (OJ 2017 L 92, p. 100).

‘Minority SafePack – one million signatures for diversity in Europe’. The purpose of that ECI was to call upon the European Union to improve the protection of persons belonging to national and linguistic minorities and to promote cultural and linguistic diversity in the European Union.

On 15 July 2013, the ECI concerned was submitted to the Commission by a citizens’ committee. By decision of 13 September 2013, the Commission refused the application for registration of the proposed ECI on the ground that it manifestly fell outside the framework of its powers to submit a proposal for a legal act of the European Union for the purpose of implementing the Treaties. The committee brought proceedings before the General Court, which annulled² that decision on the ground that the Commission had failed to comply with its obligation to state reasons. On 29 March 2017, the Commission adopted the contested decision, registering in part the ECI at issue, since, according to the Commission, two proposals referred to in the ECI manifestly fell outside the framework of its powers for the purpose of implementing the Treaties.

On 28 June 2017, Romania brought an action for annulment against that decision, relying on (i) a breach by the Commission of the principle of conferral³ and (ii) a failure to fulfil the obligation to state reasons, as laid down by the Treaty.⁴

In the first place, the General Court rejected the plea based on the alleged breach by the Commission of the principle of conferral. In that regard, the General Court recalled that, in accordance with the objectives pursued by the ECI, which aim to encourage participation by citizens and to make the European Union more accessible, the Commission’s interpretation of a condition for registration of a proposed ECI must facilitate citizens’ access to such an initiative.

Thus, under the wording of Article 4(2)(b) of Regulation No 211/2011,⁵ before any registration, the Commission must carry out an initial examination of the purpose and objectives of the proposed ECI on the basis of the information in its possession in order to check that the measures envisaged by the proposed ECI do not manifestly fall outside the framework of its powers, while provision is made for a more comprehensive examination to be carried out if the proposal is registered. In that respect, the General Court recalled that the Commission’s decision to register a proposed ECI, which involves an initial legal assessment thereof, is without prejudice to the content of the communication to be adopted by the Commission on the basis of Article 10(1)(c) of Regulation No 211/2011, which establishes its final position on whether or not to submit a proposal for a legal act in response to the ECI.

In the present case, the General Court found that the legal acts listed in the annex to the proposed ECI manifestly seek, first, to achieve the European Union’s general objective of ensuring respect for the rights of persons belonging to minorities and, second, to achieve, in a direct fashion, the general objective of respecting and promoting cultural and linguistic diversity in the European Union.

In that regard, the General Court added that it is not apparent from the Commission’s decision that the Commission recognised that the European Union has general competence to legislate in the field of the protection of the rights of persons belonging to national minorities, but only that

² Judgment of the General Court of 3 February 2017, *Minority SafePack – one million signatures for diversity in Europe v Commission* (T-646/13, EU:T:2017:59).

³ Article 5(2) TEU and Article 4(2)(b) of Regulation No 211/2011.

⁴ Second paragraph of Article 296 TFEU.

⁵ Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens’ initiative (OJ 2011 L 65, p. 1).

respect for the rights of minorities and the strengthening of cultural and linguistic diversity, as values and objectives of the European Union, must be taken into account in EU actions in the areas covered by the proposed ECI. In that respect, the General Court pointed out that nothing must prevent the Commission from being able to submit proposals for specific acts which, as in the present case, are intended to supplement EU action in the areas in which it is competent in order to ensure respect for the values set out in Article 2 TEU and its rich cultural and linguistic diversity as provided for in the fourth subparagraph of Article 3(3) TEU.

Following a detailed examination, the General Court then rejected the argument advanced by Romania that the various proposals for legal acts contained in the proposed ECI are not capable of contributing to the achievement of the objectives established for EU action in the relevant area of competence.

In the second place, with regard to the statement of reasons for the contested decision, the General Court observed, *inter alia*, that, even though the statement of reasons required by Article 296 TFEU does not imply that, as a rule, the author of a decision must set out the reasons which led it to rely on a specific interpretation of the relevant legal rule, and even though it suffices for that institution to set out the facts and legal considerations of fundamental importance in the scheme of the decision, the contested decision sets out, in any event, to the requisite legal standard, the reasons underlying the registration in part of the proposed ECI.