

- The General Court committed an error in law on the scope of the two concepts in criticising the allegedly contradictory nature of considering an element of an aid measure at once indissolubly linked to a measure and not inherent in its objective.
- The General Court committed an error in law on the scope of the obligation to state reasons in requesting specific reasoning as to why an element of an aid measure is, respectively, linked to that measure and not inherent in its objective.

Second plea in law alleging distortion of the contested decision and error in law as to the scope of the Commission's obligation to state reasons under Article 296 TFEU and Article 108(2) TFEU; error in law as to the application of Article 56 TFEU in the aviation sector; and error in law and distortion of the contested decision as to the relationship between Article 8(1) of the Rome I Regulation<sup>(1)</sup> and internal market rules.

- The General Court distorted the contested decision in incorrectly assuming that the Commission had examined the compatibility of the minimum remuneration requirement only in light of Article 8(1) of the Rome I Regulation.
- The General Court misinterpreted the scope of the obligation to state reasons in requiring the Commission to rule on the relevance of Article 56 TFEU to assess the compatibility of the aid measure with the internal market.
- The General Court committed an error in law in concluding that the Commission failed to justify its choice not to examine the compatibility of the minimum remuneration requirement with Article 56 TFEU, as this provision does not apply to the air transport sector.
- The General Court distorted the contested decision and committed an error in law as to the relationship between Article 8(1) of the Rome I Regulation and internal market rules in concluding that the Commission failed to provide adequate reasoning as to the minimum remuneration requirement's compliance with internal market rules.

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<sup>(1)</sup> Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ 2008, L 177, p. 6).

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**Action brought on 4 August 2023 — European Commission v Hungary**

**(Case C-499/23)**

(2023/C 329/20)

*Language of the case: Hungarian*

**Parties**

*Applicant:* European Commission (represented by: G. Gattinara and K. Talabér-Ritz, acting as Agents)

*Defendant:* Hungary

**Form of order sought by the applicant**

By its action brought on 4 August 2023, the Commission claims that the Court should:

1. Declare that, by establishing a procedure applicable to the export of raw materials and products for the construction industry, Hungary has failed to fulfil its obligations under Article 35 TFEU, Article 36 TFEU and Article 2(1) TFEU in conjunction with Article 3(1)(e) TFEU and Articles 5(1) and 6(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services ('the Single Market Transparency Directive');
2. Order Hungary to pay the costs.

### Pleas in law and main arguments

By adopting Government Decree 402/2021 of 8 July and Government Resolution 1459/2021 of 14 July 2013, Hungary established a procedure applicable to the export of raw materials and products for the construction industry, which constitutes a measure having equivalent effect to quantitative restrictions on exports, within the meaning of Article 35 TFEU, which has the effect of hindering the free movement of goods and, in particular, exports to other Member States. From the point of view of national measures impeding cross-border trade, Hungary has not demonstrated that they are justified on grounds of public security or that they are appropriate for attaining the objective pursued and do not go beyond what is necessary to attain it. Moreover, the contested Government Decree regulates foreign trade and therefore constitutes a measure falling within the scope of the common commercial policy, in which the European Union has exclusive competence. Finally, Hungary has failed to fulfil its reporting obligation under the Single Market Transparency Directive in so far as it concerns the notification of the amended draft Government Decree and ignored the standstill period during which it should have strictly refrained from adopting the contested Government Decree.

On 23 September 2021, the Commission opened an infringement procedure against Hungary in relation to Government Decree 402/2021 of 8 July and Government Resolution 1459/2021 of 14 July.

Considering the reply provided by the Hungarian Government unsatisfactory, the Commission moved to the next stage of infringement proceedings, by sending the Hungarian Government a reasoned opinion on 6 April 2022.

Since the reply to the reasoned opinion is also not satisfactory, the Commission has decided to refer the matter to the Court of Justice for a declaration that, by establishing a procedure applicable to the export of raw materials and products for the construction industry, Hungary has failed to fulfil its obligations under Article 35 TFEU, Article 36 TFEU and Article 2(1) TFEU in conjunction with Article 3(1)(e) TFEU and Articles 5(1) and 6(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

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**Order of the President of the Court of 21 July 2023 (request for a preliminary ruling from the Tribunalul Bihor — Romania) — M.I.A., P.R.-M., V.-C.I.-C, F.C.R., P (formerly T.) Ș-B., D.R., P.E.E., F.I. v Tribunalul Cluj, Tribunalul Mureș, Tribunalul Hunedoara, Tribunalul Suceava, Tribunalul Galați, in the presence of: Consiliul National pentru Combaterea Discriminării**

**(Case C-644/21, <sup>(1)</sup> Tribunalul Cluj and Others)**

(2023/C 329/21)

*Language of the case: Romanian*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 95, 28.2.2022.

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**Order of the President of the Court of 5 July 2023 (request for a preliminary ruling from the Landgericht München I — Germany) — RSD Reise Service Deutschland GmbH v QL**

**(Case C-690/21, <sup>(1)</sup> RSD Reise Service Deutschland)**

(2023/C 329/22)

*Language of the case: German*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 51, 31.1.2022.

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