

Mrs Magda KOPCZYNSKA  
Director General  
DG MOVE  
Rue Jean-André de Mot 28  
1049 Brussels  
Belgium



**By email**

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Brussels, 24 October 2024

**Re: Call for support to formally clarify the practical implications of the Court of Justice's judgment on various Mobility Package 1 provisions**

Dear Mrs Kopczynska,

Since August 2020, when the EU Mobility Package 1 entered into force, DG MOVE's team has relentlessly undertaken the task of clarifying numerous Mobility Package 1 provisions. Working in close cooperation with your colleagues, our mission has been to collect the points of uncertainty from the sector and seek the European Commission's formal answers, officially published, in the interest of transparency and legal certainty, for everyone.

By this letter, I would like to bring to your attention a new area of increasing uncertainty in a matter where, paradoxically, light has been shed recently. In 2020, several EU Member States challenged various provisions of the Mobility Package 1 to the Court of Justice of the EU (Joined Cases C-541/20 to C-555/20). On 4 October 2024, the Court annulled the provision requiring vehicles to return to the operational centre of the transport undertaking every eight weeks and rejected the complaints on all other grounds.

*We kindly ask for your support to provide formal answers on the practical implications that the judgment has on the understanding of the various relevant Mobility Package 1 provisions, as presented below.*

**Clarity needed regarding the return of the truck**

While the Court clearly stated that the provision requiring transport operators to bring trucks home every eight weeks is null and void, we are receiving, from numerous members, two repetitive questions regarding the practical consequences of this annulment.

The first question seeks clarity on whether, as of the moment of the judgment's publication, enforcers should stop checking the compliance with the return of the truck. "Can truck operators still be fined for the non-return of the truck?" is a question we continue to receive frequently.

The second question is, “What happens with the fines that have been applied before the judgment? Does the Court’s interpretative judgment have an ex tunc effect and, consequently, does it invalidate the grounds for the fines imposed so far?”

While we can provide our members with our opinion on the matter and various legal advice could do the same, for the sake of a uniform understanding among transport operators, drivers and the enforcement community, it is vital that the European Commission officially clarifies these legitimate basic questions.

### **Clarity needed regarding other Mobility Package 1 provisions**

The Court’s decision invalidates the return of the truck provisions and rejects the complaints on other grounds. In reaching its conclusion on such other grounds, the Court provided its reasons. Some of these reasons shed additional light on the understanding of various Mobility Package 1 provisions.

Upon a prima facie analysis, it appears to us that the Court’s interpretation may potentially affect the understanding and practical enforcement of at least two specific areas where the European Commission has already provided clarification:

- The return of the driver
- The common understanding of the posting and non-posting situations of the driver

Given the above, we kindly ask the European Commission to reevaluate the official interpretation that it has provided so far in light of the Court’s judgment.

### **Conclusion**

Bearing in mind the above and the need to provide all stakeholders, including drivers, transport operators, enforcers and other partners, with the required level of clarity on important Mobility Package 1 provisions, we would appreciate it if the European Commission could release such official clarification as soon as possible. We could envisage a two-step approach, with a very urgent clarification on the return of the truck provisions and a longer analysis of the reasoning on the other grounds.

We count on your support for a common framework for all stakeholders to understand, apply and enforce the law.

Yours sincerely,



Raluca Marian,

Director EU Advocacy / General Delegate of the Permanent Delegation to the EU