Reports of Cases

ORDER OF THE VICE-PRESIDENT OF THE COURT

3 June 2022 *

(Interim measures – Article 263 TFEU – Action for annulment of an EU act – Article 278 TFEU – Application to suspend operation of that act – Transport – Regulation (EU) 2020/1055 – Obligation for an undertaking to return its vehicles to its Member State of establishment – Urgency – Deterioration of the economic and social situation of a Member State – Damage to the environment)

In Case C-545/20 R,

APPLICATION for suspension of operation under Article 278 TFEU, lodged on 13 December 2021,

Republic of Bulgaria, represented by M. Georgieva and L. Zaharieva, acting as Agents,

applicant,

supported by:

Republic of Estonia, represented by N. Grünberg and M. Kriisa, acting as Agents,

Republic of Latvia, represented by J. Davidoviča, K. Pommere and I. Romanovska, acting as Agents,

Republic of Lithuania, represented by K. Dieninis, R. Dzikovič and V. Kazlauskaitė-Švenčionienė, acting as Agents,

Republic of Malta, represented by A. Buhagiar, acting as Agent, and by D. Sarmiento Ramírez-Escudero, abogado,

Republic of Poland, represented by B. Majczyna, acting as Agent,

Romania, represented by L.-E. Baţagoi, E. Gane, L. Liţu and A. Rotăreanu, acting as Agents,

interveners,

v

European Parliament, represented by I. Anagnostopoulou, O. Denkov and R. van de Westelaken, acting as Agents,

* Language of the case: Bulgarian.

Council of the European Union, represented by I. Gurov, A. Norberg and L. Vétillard, acting as Agents,

defendants,

supported by:

Kingdom of Denmark, represented by M. Søndahl Wolff, acting as Agent,

Federal Republic of Germany, represented by J. Möller and D. Klebs, acting as Agents,

Hellenic Republic, represented by S. Chala, acting as Agent,

French Republic, represented by A.-L. Desjonquères, A. Ferrand and N. Vincent, acting as Agents,

Italian Republic, represented by G. Palmieri, acting as Agent, and by A. Lipari, procuratore dello Stato, and G. Santini, avvocato dello Stato,

Grand Duchy of Luxembourg, represented by A. Germeaux, acting as Agent,

Kingdom of the Netherlands, represented by M.K. Bultermann and J. Langer, acting as Agents,

Republic of Austria, represented by A. Posch and J. Schmoll, acting as Agents,

Kingdom of Sweden, represented by H. Eklinder, C. Meyer-Seitz, A. Runeskjöld, M. Salborn Hodgson, R. Shahsavan Eriksson, H. Shev and O. Simonsson, acting as Agents,

interveners,

THE VICE-PRESIDENT OF THE COURT,

after hearing the Advocate General, M. Szpunar,

makes the following

Order

1 By its application for interim measures, the Republic of Bulgaria requests the Court to order the suspension of operation, (i) principally, of Article 1(3) of 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), in so far as it provides for point (b) of Article 5(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ 2009 L 300, p. 51), (ii) in the alternative, of Article 1(3) in its entirety or, (iii) in the further alternative, of Regulation 2020/1055 in its entirety.

2 The application has been made after that Member State brought, on 23 October 2020, an action under Article 263 TFEU seeking that Regulation 2020/1055 be annulled in part or, if appropriate, in its entirety.

Legal context

3 Article 1(3) of Regulation 2020/1055 provides:

‘Article 5 [of Regulation No 1071/2009] is replaced by the following:

…

1. In order to satisfy the requirement laid down in point (a) of Article 3(1), in the Member State of establishment an undertaking shall:

…

(b) organise its vehicle fleet’s activity in such a way as to ensure that vehicles that are at the disposal of the undertaking and are used in international carriage return to one of the operational centres in that Member State at least within eight weeks after leaving it;

…’

The procedure before the Court and the forms of order sought

4 By decisions of the Vice-President of the Court of 11 January and 3 February 2022, the Republic of Malta and the Republic of Poland were granted leave to intervene in support of the form of order sought by the Republic of Bulgaria.

5 The Republic of Bulgaria claims that the Court should:

– order the suspension of operation of Article 1(3) of Regulation 2020/1055, in so far as it provides for point (b) of Article 5(1) of Regulation No 1071/2009, until delivery of the final judgment in Case C-545/20;

– in the alternative, order the suspension of operation of Article 1(3) of Regulation 2020/1055 in its entirety until delivery of the final judgment in Case C-545/20;

– in the further alternative, order the suspension of operation of that regulation in its entirety until delivery of the final judgment in Case C-545/20, and

– order the European Parliament and the Council of the European Union to pay the costs.

6 The Parliament and the Council contend that the Court should dismiss the application for interim measures and order the Republic of Bulgaria to pay the costs.

The application for interim measures

7 Article 160(3) of the Rules of Procedure of the Court provides that applications for interim measures must state 'the subject matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for'.

8 Accordingly, the court hearing an application for interim measures may order interim relief only if it is established that such an order is justified, prime facie, in fact and in law (*fumus boni juris*) and that it is urgent in so far as, in order to avoid serious and irreparable harm to the applicant's interests, it must be made and produce its effects before judgment is given on the merits. The court hearing the application for interim relief must, where appropriate, also weigh up the interests involved. Those conditions are cumulative, so that an application for interim measures must be dismissed if one of them is not met (order of 8 April 2020, *Commission* v *Poland*, C-791/19 R, EU:C:2020:277, paragraph 51 and the case-law cited).

9 In the context of the examination of those conditions, the judge hearing the application for interim measures has a wide discretion and is free to determine, having regard to the particular circumstances of the case, the manner and order in which those various conditions are to be examined, there being no rule of EU law imposing a pre-established scheme of analysis within which the need to order interim measures must be assessed (order of the Vice-President of the Court of 16 July 2021, *ACER* v *Aquind*, C-46/21 P-R, not published, EU:C:2021:633, paragraph 16).

10 In the present case, it is appropriate to begin by examining the condition relating to urgency.

Arguments

11 The Republic of Bulgaria submits that applying the obligation for an undertaking to return its vehicles to its Member State of establishment, laid down in Article 5(1)(b) of Regulation No 1071/2009, as amended by Regulation 2020/1055 ('the measure at issue'), will result in serious and irreparable damage to drivers from both Bulgaria and other Eastern European Member States.

12 That Member State claims that the fact that that damage is foreseeable is demonstrated by a report commissioned by a Bulgarian professional road haulage organisation, delivered in October 2019 and updated in February 2020 ('the first report') and by a report commissioned by the European Commission and delivered in February 2021 ('the second report').

13 According to the Republic of Bulgaria, in general, the application of the measure at issue will result, on account of the allocation of supply and demand on the market for road haulage services, in additional journeys made by lorries without a load ('empty runs'). More specifically, the Republic of Bulgaria submits that 46% of vehicles that will have to return to that Member State in order to comply with the measure at issue will make their journey without a load.

14 In the first place, that Member State claims that that situation is likely to harm the environment, thereby causing damage which is, by its very nature, irreparable.

15 That situation is liable to lead to the emission of an additional 2.9 million tonnes of carbon dioxide (CO_2), that is to say, an increase of 4.6% in emissions from international road haulage. The additional emissions of Bulgarian transport operators are estimated at 71 162 tonnes of CO_2, that

is to say, an increase of 2% in total emissions from Bulgarian vehicles used for international road haulage. Those additional CO_2 emissions are likely to undermine the Member States' compliance with their obligations to limit such emissions.

16 Furthermore, the application of the measure at issue could result in an increase of between 107 and 619 tonnes of additional nitrogen oxide (NO_x) emissions, that is to say, an increase of 1.35% to 7.81% in such emissions, and between 38 and 221 tonnes of additional fine particulate matter ($PM_{2.5}$) emissions, that is to say, an increase of 0.86% to 4.98% in such emissions. The costs of that air pollution are estimated at between EUR 4.5 million and EUR 25.9 million throughout the European Union.

17 In the second place, the Republic of Bulgaria submits that the increase in the number of journeys made by Bulgarian transport operators due to the application of the measure at issue will result in increased congestion at border-crossing points outside the Schengen area. Consequently, compliance by those transport operators with delivery schedules and the management of their vehicle fleet could deteriorate, meaning that their customers would be dissatisfied and that the logistics distribution networks would deteriorate.

18 In the third place, the Republic of Bulgaria claims that the application of the measure at issue will have harmful economic and social consequences.

19 The operating costs of transport operators established in Eastern European Member States should thus increase by EUR 3 thousand million, that is to say, EUR 11 000 on average per vehicle. In addition, those transport operators will suffer a loss of revenue as a result of the number of empty runs increasing. In order to avoid those effects of the application of the measure at issue, some transport operators might choose to transfer their activities to other Member States, which would itself generate recurrent and one-off costs.

20 The Republic of Bulgaria states that over 80% of heavy goods vehicles regularly crossing European borders belong to small and medium-sized enterprises, which are especially vulnerable. Consequently, according to the Republic of Bulgaria, in that Member State, 36% of vehicles used for international road haulage will cease operations, which will have consequences for that Member State's gross domestic product and could lead to 14 000 employees in the Bulgarian international road haulage sector losing their jobs.

21 Some of the economic consequences referred to could potentially be the subject of compensation. However, it is not certain that the undertakings that will be forced to cease operations, transfer their activities to a Member State other than Bulgaria or direct them to other sectors of activity will subsequently be able to resume their activities in the transport sector in Bulgaria. Similarly, the deterioration in the standard of living of employees who have lost their jobs and the social consequences of the deterioration in the economic situation could not be compensated *ex post facto*.

22 In the fourth place, the Republic of Bulgaria claims that the fact that some transport undertakings will cease operations will reduce the capacity of logistics chains and undermine the proper functioning of the internal market.

23 The Republic of Estonia, the Republic of Malta and the Republic of Poland support the Republic of Bulgaria's line of argument relating to the risk of environmental, economic and social damage occurring. The Republic of Malta refers, in that regard, to a report concerning that Member State's situation, delivered in November 2020.

24 The Parliament and the Council contend that the Republic of Bulgaria has not demonstrated that there is a risk of serious and irreparable damage occurring prior to the delivery of the final judgment in Case C-545/20, should the measure at issue be applied.

25 First, the Parliament and the Council criticise the methodology followed in the preparation of the first and second reports relied on by the Republic of Bulgaria, arguing, inter alia, that those reports are based on unrealistic assumptions, in particular as regards the number of empty runs, and make extrapolations on the basis of data from unrepresentative samples.

26 Second, the Parliament and the Council submit that the estimates relating to the alleged damage to the environment are unreliable and in part contradictory, whereas the costs put forward are insignificant. In addition, according to them, the Republic of Bulgaria failed to take account of the fact that Member States are subject to obligations in respect of CO_2 emissions under Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ 2018 L 156, p. 26), and NO_x and $PM_{2.5}$ concentrations in the air, in accordance with Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1).

27 Third, the Parliament and the Council claim that the estimates submitted concerning congestion at border-crossing points are manifestly incorrect.

28 Fourth, according to the Parliament and the Council, the costs generated by the application of the measure at issue are not irreparable and are overestimated, owing to the failure to take account of the existence, in the EU legislation in force, of an obligation for the operational centre to be located in the Member State of establishment.

29 In addition, the Republic of Bulgaria failed to demonstrate that any losses of market shares by Bulgarian undertakings would be permanent, having regard to the characteristics of the transport sector which are apparent from the second report. It is, moreover, unlikely that drivers of heavy goods vehicles would face unemployment, since there is a significant shortage of such drivers in the European Union.

30 The Parliament adds that, since Regulation 2020/1055 was adopted almost two years ago, the undertakings concerned have already started to adapt and the present application for interim measures has therefore been submitted too late to prevent the measure at issue from producing its effects.

Findings

31 According to the settled case-law of the Court, the purpose of interlocutory proceedings is to guarantee the full effectiveness of the future final decision, in order to ensure that there is no lacuna in the legal protection afforded by the Court. For the purpose of attaining that objective, urgency must be assessed in the light of the need for an interlocutory order in order to avoid

serious and irreparable damage to the party seeking the interim protection. It is for that party to prove that it cannot wait for the outcome of the main proceedings without suffering damage of that nature. In order to establish the existence of serious and irreparable damage, it is not necessary for the occurrence of the damage to be demonstrated with absolute certainty. It is sufficient to show that damage is foreseeable with a sufficient degree of probability (order of 17 December 2018, *Commission* v *Poland*, C-619/18 R, EU:C:2018:1021, paragraph 60 and the case-law cited).

32 In accordance with that case-law, it remains for the party seeking an interim measure to set forth and establish the likelihood of serious and irreparable damage occurring. In that regard, the judge hearing the application for interim measures must have specific and precise information, supported by detailed documents which make it possible to examine the actual consequences which would be likely to result if the measures sought were not granted (see, to that effect, order of the Vice-President of the Court of 13 April 2021, *Lithuania* v *Parliament and Council*, C-541/20 R, not published, EU:C:2021:264, paragraphs 19 and 20).

33 It is therefore for the Republic of Bulgaria, in the present case, to establish that the application of the measure at issue during the period between the signature of this order and the delivery of the final judgment in Case C-545/20 is likely to result in serious and irreparable damage that is foreseeable with a sufficient degree of probability.

34 It is apparent from the application for interim measures that that Member State invokes damage arising from the effects of the measure at issue on congestion at border-crossing points, on the economic and social situation of certain Member States, on the functioning of the internal market and on the environment.

35 Those various forms of damage may legitimately be relied on by the Republic of Bulgaria with a view to obtaining interim measures, since the Member States are responsible for the interests which are regarded as general interests at national level and may defend them in proceedings for interim measures (order of the Vice-President of the Court of 13 April 2021, *Lithuania* v *Parliament and Council*, C-541/20 R, not published, EU:C:2021:264, paragraph 21).

36 Accordingly, it is necessary to determine whether the evidence adduced by the Republic of Bulgaria makes it possible to establish, first, that the occurrence of one or more of those forms of damage is foreseeable with a sufficient degree of probability and, second, that those forms of damage are serious and irreparable.

37 In that regard, it should be borne in mind that the procedure for interim relief is not designed to establish the truth of complex facts that are very much in dispute. The court hearing an application for interim measures does not have the means necessary in order to carry out such examinations and in numerous instances it would be difficult for it to manage to do so in good time (order of 20 November 2017, *Commission* v *Poland*, C-441/17 R, EU:C:2017:877, paragraph 54).

The effects of the measure at issue on congestion at border-crossing points

38 It is apparent from the second report that passing through border-crossing points involves significant waiting times, irrespective of the application of the measure at issue. The consequent extension of journey times is thus one of the aspects that must generally be taken into account by road transport operators in the organisation of their operations.

39 Admittedly, it cannot be ruled out that, in the absence of measures adopted by the Member States concerned with the aim of reducing the waiting time at border-crossing points, the application of the measure at issue might result in an increase in that waiting time and therefore require the road haulage operators concerned to deploy additional means in order to ensure compliance with delivery schedules and the proper management of their vehicle fleet.

40 The costs thus generated would constitute damage of a pecuniary nature which cannot, save in exceptional circumstances, be regarded as irreparable, since, as a general rule, pecuniary compensation is capable of restoring the aggrieved person to the situation that obtained before he or she suffered the damage (order of the Vice-President of the Court of 13 April 2021, *Lithuania* v *Parliament and Council*, C-541/20 R, not published, EU:C:2021:264, paragraph 29).

41 Accordingly, since the Republic of Bulgaria has not referred to any exceptional circumstances linked to the risk of congestion at border-crossing points, the argument alleging that that risk exists cannot establish that the condition relating to urgency is satisfied.

The economic and social effects of the measure at issue

42 As a preliminary point, it must be stated that the economic and social effects of the measure at issue in Member States other than the Republic of Bulgaria, relied on both by that Member State and by the Member States which have intervened in support of the form of order sought by it, cannot, in the present case, suffice to establish that it is foreseeable that serious and irreparable damage will occur.

43 First of all, although the Republic of Bulgaria refers, in general terms, to the damage suffered by other Member States, the more precise data on which it bases its arguments refer, in general terms, solely to the situation of Bulgarian undertakings.

44 It is true that the Republic of Bulgaria refers to the additional costs which the application of the measure at issue is liable to generate for transport operators from other Member States. However, those additional costs cannot, as such, be regarded, in the light of the case-law set out in paragraph 40 of this order, as constituting serious and irreparable damage.

45 Next, while the Republic of Estonia and the Republic of Poland refer to the economic and social effects of the measure at issue in their respective territories, they have not adduced any evidence to demonstrate that those effects actually exist.

46 Lastly, as regards the Republic of Malta, the report submitted by that Member State indicates that the application of the measures referred to in that report is liable to have effects on the transport sector ranging from the creation of 51 new jobs to the elimination of 96 jobs. In addition, that application would, at most, mean that 43 lorries would cease operations.

47 Such effects, even if they were established, would not be sufficiently extensive to be regarded as constituting serious and irreparable damage.

48 As regards the economic and social situation of the Republic of Bulgaria, it follows from the considerations set out in paragraph 44 of this order that the increase in costs which transport operators of that Member State would face on account of the application of the measure at issue does not, as such, constitute serious and irreparable damage, as the Republic of Bulgaria, moreover, acknowledges.

49 By contrast, those costs would be relevant, for the purposes of the present proceedings, if it were established that they were so high that they would necessarily involve a restructuring of the transport sector in Bulgaria such as to result in a marked decline in gross domestic product or a significant increase in the unemployment rate.

50 In that regard, in the first place, it is true that, without there being any need to rule on the reliability of the estimates submitted by the Republic of Bulgaria concerning the potential increase in costs incurred by Bulgarian transport operators, it cannot be ruled out that the application of the measure at issue will generate some additional costs for those operators, in so far as it necessarily entails their vehicles regularly returning to that Member State.

51 Nonetheless, the mere fact that many undertakings in the Bulgarian transport sector are small cannot suffice to show, in the absence of more precise information concerning those undertakings' financial situation, that they would not be capable of sustaining the costs arising from the application of the measure at issue and that they would therefore be forced to cease operations, to redirect their activities to other sectors of activity or to establish themselves in other Member States.

52 In the second place, it appears that the Republic of Bulgaria's arguments relating to the economic and social effects of the measure at issue are based, in essence, on the forecasts put forward in the first report as regards the revenues of undertakings in the Bulgarian transport sector, the cessation of operations on the part of those undertakings and the elimination of jobs in that sector.

53 It must be stated, however, first of all, that that report is expressly presented as seeking to evaluate the effects of the combined application of a series of rules relating, in particular, to the regular return of drivers to the Member State of establishment, the working and rest conditions of drivers, and cabotage. As a result, that report does not make it possible to determine to what extent the economic and social developments it describes are supposed to result from the application of the measure at issue and could be prevented in the event of suspension of that measure alone.

54 Next, while it is true that the first report indicates that the application of the measures to which it refers will result in a far-reaching restructuring of the Bulgarian transport sector, it does not state the period within which that restructuring would take place.

55 Lastly, the assessment carried out in that report of the number of vehicles that will cease operations and the number of jobs that will be eliminated in Bulgaria, from which the economic and social consequences relied on by the Republic of Bulgaria are alleged to ensue, is based on an extrapolation from survey responses of 57 Bulgarian undertakings, whereas it is apparent from that report that the road haulage sector in that Member State includes 12 700 undertakings and that that report makes no statement at all to the effect that the undertakings that took part in the survey constitute a representative sample of that sector.

56 In the light of the foregoing, the information in the first report cannot be considered to be such as to establish that it is foreseeable, with a sufficient degree of probability, that the economic and social damage relied on by the Republic of Bulgaria will occur prior to the delivery of the final judgment in Case C-545/20, in the event that the measure at issue is applied.

57 In the third place, the second report does not provide any information supporting the Republic of Bulgaria's arguments relating to the economic and social effects of the measure at issue.

58 On the contrary, that report concludes that, even considering the additional costs that the application of the measure at issue would entail, undertakings in Eastern European Member States will retain a competitive advantage in the road haulage sector, and infers from that that it is likely that there will be no restructuring of that sector in the European Union.

59 In addition, that report states that the foreseeable consequences of applying the measure at issue for drivers' access to employment will necessarily be limited, owing to the insufficient number of drivers available in the European Union.

60 It follows from the foregoing that the evidence adduced by the Republic of Bulgaria is not sufficient to establish that the economic and social effects of the application of the measure at issue are such as to result in serious and irreparable damage that is foreseeable.

The effects of the measure at issue on the functioning of the internal market

61 It is important to point out that the effects of the measure at issue on the functioning of the internal market on which the Republic of Bulgaria relies arise, according to that Member State, from a reduction in the supply of road haulage within the European Union. The Republic of Bulgaria submits that that reduction in the supply of road haulage would in turn result from the fact that numerous undertakings in that sector of activity would cease operations as a result of the application of that measure.

62 It is apparent from paragraphs 42 to 60 of this order that the Republic of Bulgaria has failed to establish that such cessation of activities occurring prior to the delivery of the final judgment in Case C-545/20 is foreseeable.

63 It follows that that Member State has also failed to establish that the alleged effects of the measure at issue on the functioning of the internal market are foreseeable.

The environmental effects of the measure at issue

64 It appears that, in order to establish that there is a risk of environmental damage occurring, the Republic of Bulgaria refers to a risk of emissions of certain gases increasing which, in its submission, is demonstrated, in that Member State, by the information contained in the first report and, throughout the European Union, by the data set out in the second report.

65 As regards the figures put forward in the first report in order to establish the risk of damage to the environment by Bulgarian transport operators, it must be noted that those figures relate only to CO_2 emissions.

66 Furthermore, the methodological limitations of that report referred to in paragraphs 53 and 55 of this order do not permit its use in the assessment of the potential effects of the measure at issue on those emissions.

67 First, that report does not contain any details as regards the foreseeable contribution of each of the measures that it concerns to the increase in CO_2 emissions to which it refers. Second, as regards the effects of the measure at issue, that increase is supposed to result from a large number of

empty runs. The foreseeable frequency of empty runs on which the estimate set out in that report is based was determined on the basis of the statements of sampled undertakings that took part in the survey in question, whose lack of representativeness has been established above.

68 In addition, the calculation of the increase in CO_2 emissions is carried out, in the first report, by attributing empty runs to all lorries used by the Bulgarian international road haulage sector, whereas it is apparent from that report that 53% of vehicles in that sector are used for activities involving transport cycles of less than eight weeks and are consequently not required to change their current practices with a view to complying with the measure at issue.

69 As regards the figures relied on by the Republic of Bulgaria in order to establish the risk of damage to the environment by transport operators throughout the European Union, it must be stated that that Member State relies heavily on one of the scenarios envisaged by the second report, in which undertakings in the transport sector will comply with the measure at issue without that sector undergoing any restructuring.

70 Several of the factors put forward by the Republic of Bulgaria preclude that scenario, which, moreover, the Parliament and the Council consider to be purely theoretical. Thus, with a view to establishing the economic and social damage on which it relies, that Member State submits that the transport sector has to undergo a major restructuring in the event that the measure at issue is applied. Similarly, while that Member State argues that 46% of journeys made by Bulgarian transport operators in order to comply with that measure will be empty runs, the calculations set out in the second report in connection with the non-restructuring scenario are based on the premiss that 100% of the journeys necessary to comply with that measure will be empty runs.

71 It must also be noted that the assessment of the number of vehicles used in transport cycles in excess of eight weeks, which is decisive for calculating the additional emissions that could result from the application of the measure at issue, is based on an extrapolation from statements that were gathered in the context of a survey and made by a sample of transport operators described in the second report as insufficient having regard to the size of the international road haulage market.

72 In those circumstances, while it cannot be ruled out that the application of the measure at issue is liable to increase the emissions of certain gases, the documents submitted by the Republic of Bulgaria do not enable a precise evaluation of the size of that increase.

73 As regards the serious and irreparable nature of that increase, it should be noted that, as the Parliament and the Council submit, CO_2, NO_x and $PM_{2.5}$ emissions are the subject of specific rules of EU law.

74 Thus, Regulation 2018/842 establishes obligations for each Member State in relation to limiting greenhouse gas emissions, including CO_2, whereas Directive 2008/50 lays down national objectives as regards reduction of exposure to $PM_{2.5}$ and limit values for NO_x and $PM_{2.5}$.

75 It follows that, even relying on the highest figures put forward by the Republic of Bulgaria, the application of the measure at issue would entail only a moderate increase in CO_2, NO_x and $PM_{2.5}$ emissions, in respect of which it is not established that it would be such as to undermine, in the medium term, the protection of air quality and the fight against global warming (see, by analogy, order of the President of the Court of 2 October 2003, *Commission* v *Austria*, C-320/03 R, EU:C:2003:543, paragraph 98).

76 As to the remainder, the costs arising from the increase in NO_x and $PM_{2.5}$ emissions referred to by the Republic of Bulgaria cannot, having regard to their amount for the entirety of the European Union, demonstrate that the damage alleged by the Republic of Bulgaria is serious.

77 Accordingly, it must be stated that the evidence adduced by the Republic of Bulgaria is not sufficient to establish that the environmental effects of the application of the measure at issue are such as to result in serious and irreparable damage that is foreseeable.

78 In the light of all the foregoing, it appears that the Republic of Bulgaria has failed to establish that the application of the measure at issue during the period between the signature of this order and the delivery of the final judgment in Case C-545/20 is such as to result in serious and irreparable damage that is foreseeable with a sufficient degree of probability and, accordingly, that the condition relating to urgency is satisfied.

79 Having regard to the fact that the conditions for the grant of interim measures are cumulative, the application for interim measures must therefore be dismissed, without it being necessary to examine the conditions relating to a prima facie case and the weighing up of the interests.

80 In accordance with Article 137 of the Rules of Procedure, a decision as to costs is to be given in the judgment or order which closes the proceedings.

On those grounds, the Vice-President of the Court hereby orders:

1. The application for interim measures is dismissed.

2. The costs are reserved.

[Signatures]