

On Air Media Professionals SRL

v

Agenția pentru Întreprinderi Mici și Mijlocii

(Request for a preliminary ruling from the Curtea de Apel Bacău)

Judgment of the Court (First Chamber) of 9 October 2025

(Reference for a preliminary ruling – State aid – Regulation (EU) No 651/2014 – Exemption for certain categories of aid compatible with the internal market – Translation error in the Romanian language version of that regulation – Legal effects of the regulation correcting that error – Possibility of recovering aid that was granted before the correction in compliance with the conditions set out in the version of the regulation containing the translation error – Protection of legitimate expectations – Legal certainty)

*1. EU law – Interpretation – Texts in several languages – Uniform interpretation – Differences between the various language versions – Account to be taken of the overall scheme and purpose of the legislation in question*

*(Commission Regulation No 651/2014, Art. 2(18))*

*(see paragraphs 36-39)*

*2. EU law – Interpretation – Methods – Provision with clear and precise wording – Obligation to ensure the effectiveness of the provision*

*(see paragraph 40)*

*3. Aid granted by a Member State – Prohibition – Exceptions – Categories of aid, defined by regulation, which may be regarded as compatible with the internal market – Regulation No 651/2014 – Exemption provided for aid to small and medium-sized enterprises – Translation error in the Romanian language version of that regulation – Adoption of a correcting regulation to correct that error – Retroactive application of the correcting regulation in order to ensure that EU law is interpreted and applied uniformly*

*(Commission Regulations No 651/2014, Art. 2(18), and 2021/452, Art. 1(1))*

*(see paragraphs 45-55, operative part 1)*

*4. Aid granted by a Member State – Prohibition – Exceptions – Categories of aid, defined by regulation, which may be regarded as compatible with the internal market – Regulation No 651/2014 – Exemption provided for aid to small and medium-sized enterprises – Translation error in the Romanian language version of that regulation – Adoption of a correcting regulation to correct that error – Recovery of aid that became unlawful after adoption of the correcting regulation – Infringement of the principles of legal certainty and the protection of legitimate expectations*

*(Commission Regulations No 651/2014, Art. 2(18), and 2021/452, Art. 1(1))*

*(see paragraphs 56-67, operative part 2)*

Hearing a reference for a preliminary ruling from the Curtea de Apel Bacău (Court of Appeal, Bacău, Romania), the Court clarifies the scope of a regulation correcting a translation error in the Romanian language version of Regulation No 651/2014 ([1](#)) declaring certain categories of aid compatible with the internal market.

In August 2020, Romania notified to the Commission an aid scheme to support small and medium-sized enterprises ('SMEs') and large enterprises in the context of the economic crisis caused by the COVID-19 pandemic. That aid scheme was authorised by the Commission's decision of 27 August 2020, under which one of the general eligibility criteria to be met by beneficiaries applying for funding was that they were not in difficulty within the meaning of Article 2(18) of Commission Regulation No 651/2014 on 31 December 2019.

On Air Media Professionals and Different Media, two limited companies under Romanian law, each received a micro-grant forming part of the aid at issue. A recovery decision was issued in respect of each of those micro-grants, as the Romanian authorities had found that, on 31 December 2019, those companies were 'undertakings in difficulty' because the capital losses recorded by the applicants on that date far exceeded half of their subscribed capital.

Both those companies brought actions against those recovery decisions before a first instance national court, claiming, inter alia, that they did not possess the characteristics of undertakings in difficulty within the meaning of Article 2(18) of the GBER. In the Romanian language version of that regulation, the provision in question excluded 'SME[s] that [have] been in existence for at least three years' from that category. On Air Media Professionals and Different Media had existed for 13 and 18 years respectively on the date on which they concluded their financing contracts.

The first instance national court dismissed those actions on the ground that, after the aid at issue had been granted, the Romanian language version of the GBER had been the subject matter of a correcting regulation, ([2](#)) from which it was clear that only SMEs existing for less than three years fall outside the scope of the concept of 'undertakings in difficulty' and are therefore eligible for the aid at issue. Consequently, in accordance with the corrected version of Article 2(18) of the GBER, the applicants did not meet all the eligibility criteria on the date of their grant applications.

The applicants then lodged appeals against the first instance decisions before the referring court. That court is uncertain whether the correcting regulation correcting the language version of the GBER can appropriately be applied retroactively from the date on which the GBER entered into force. It also wishes to ascertain whether the principles of legal certainty and of the protection of legitimate expectations preclude recovery, on the basis of the correcting regulation, of aid granted in compliance with the conditions initially contained in the Romanian language version of the GBER.

## ***Findings of the Court***

As a preliminary point, the Court notes that, according to settled case-law, it is manifestly in the interests of the EU legal order that, in order to forestall future differences of interpretation, any provision of EU law should be given a uniform interpretation, which the Court's jurisdiction under Article 267 TFEU is designed to ensure. That need for a uniform interpretation requires that, in case of doubt, the text of a provision must be interpreted and applied in the light of the versions existing in the other official languages.

Nevertheless, as all the language versions of a provision of EU law must, in principle, be recognised as having the same weight, where there is divergence between those versions, the provision in question must be interpreted according to the purpose and general scheme of the rules of which it forms part. It also remains true that such an interpretation cannot have the result of depriving the clear and precise wording of that provision of all effectiveness.

In the present case, the Commission adopted the correcting regulation after becoming aware of the discrepancy between the Romanian language version of Article 2(18) of the GBER, the clear and unambiguous wording of which excluded SMEs existing for at least three years from the category of undertakings in difficulty, and the other language versions of that provision, which, no less clearly, excluded from that category SMEs existing for less than three years.

It is in that context that the Court is called upon to examine, first, whether that correcting regulation produces its effects retroactively, from the date on which the GBER entered into force.

In that regard, it notes that, unlike procedural rules, which are generally taken to apply from the date on which they enter into force, the substantive rules of EU law must be interpreted, in order to ensure observance of the principles of legal certainty and the protection of legitimate expectations, as applying to situations existing before their entry into force only in so far as it clearly follows from their terms, their objectives or their general scheme that such effect must be given to them.

Although the correcting regulation, which concerns a substantive rule, states that it is to enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union* and does not expressly provide that it is to take effect at an earlier date, its retroactive effect clearly follows from its objective, which is to restore the uniformity of interpretation that must be given to Article 2(18) of the GBER in all the language versions of that provision, by correcting *ab initio*, retroactively, the translation error that affected the Romanian language version of the GBER.

If the correcting regulation had corrected the Romanian language version of the GBER only for the future, it would have allowed incompatible versions of that regulation, all of them founded on clear and precise wording, to coexist for the period between the entry into force of the GBER and that of the correcting regulation, which would have been contrary to the requirement that EU law must be interpreted and applied uniformly.

Second, the Court answers the question as to whether the principles of legal certainty and the protection of legitimate expectations preclude recovery, on the basis of the correcting regulation, of the State aid granted by Romania before that regulation was adopted, under the aid scheme authorised by the Commission's decision of 27 August 2020.

In that regard, the Court notes that a finding that aid is unlawful must in principle give rise to its recovery by the national authorities, in order to restore the previous situation. However, when they implement EU law, those authorities must observe the fundamental principles thereof, including the principles of legal certainty and of the protection of legitimate expectations.

The principle of legal certainty means that rules must enable those concerned to know precisely the extent of the obligations which they impose on them. Although in general that principle precludes an EU measure from taking effect from a point in time before its publication or notification, it may exceptionally be otherwise where a purpose in the general interest so demands and where the legitimate expectations of those concerned are duly respected, and in so far as it follows clearly from the terms, objectives or general scheme of the rules of the law concerned that such effect must be given to them.

The right to rely on the principle of the protection of legitimate expectations, for its part, presupposes that precise, unconditional and consistent assurances originating from authorised, reliable sources have been given to the person concerned by the competent authorities of the European Union.

In the area of State aid, first, undertakings to which aid has been granted may not, in principle, entertain a legitimate expectation that the aid is lawful unless it has been granted in compliance with the procedure laid down in Article 108 TFEU and, second, an economic operator exercising due care should normally be able to determine whether that procedure has been followed. However, it has been accepted that a recipient of unlawfully granted aid may rely on exceptional circumstances on the basis of which it had legitimately assumed the aid to be lawful and may object, in consequence, to the refunding of that aid.

In the present case, the expectations which the applicants were entitled to entertain of receiving the aid in question were founded not only on the conduct of the Romanian authorities, in particular on the national aid scheme and the decisions awarding that aid made under it, but also on the clear, although incorrect, wording of the Romanian language version of the GBER published in the *Official Journal of the European Union*, to which that aid scheme referred.

In that regard, the applicants cannot be criticised for failing to check the other language versions of Article 2(18) of the GBER, since nothing in the wording of the initial Romanian language version of that article gave rise to any difficulty of interpretation.

Moreover, by its decision of 27 August 2020, the Commission had authorised the national aid scheme at issue after duly receiving notification of it, a circumstance that was likewise such as to give rise to legitimate expectations that the aid granted on the basis of that scheme was lawful.

In the light of the foregoing, the Court finds that the correcting regulation must be applied retroactively, as from the date on which the GBER entered into force. However, the principles of legal certainty and

of the protection of legitimate expectations preclude recovery, on the basis of the correcting regulation, of the aid granted by Romania before the adoption of that regulation by virtue of the aid scheme authorised by the Commission's decision of 27 August 2020.

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(<sup>1</sup>) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 [TFEU] ([OJ 2014 L 187, p. 1](#), 'the GBER').

(<sup>2</sup>) Commission Regulation (EU) 2021/452 of 15 March 2021 correcting the Romanian language version of Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 [TFEU] ([OJ 2021 L 89, p. 1](#), 'the correcting regulation').