

**Question for written answer E-001143/2021
to the Commission**
Rule 138
Loránt Vincze (EPP)

Subject: Request for clarification to Answer No E-004016/2020 regarding application of general principles of EU law

In its Answer No E-004016/2020, the Commission explained that Article 17 of the Charter of Fundamental Rights is applicable to compensation for the deprivation of property in the general interest. Modifications to the legislation on the calculation of compensation does not, in the Commission's view, in itself constitute a breach of EU law, and, on the basis of the Planatol ruling, whereby the Member States have a wide margin of discretion, the principle of protection of legitimate expectations cannot be applied. Furthermore, the economic situation of those concerned must be investigated in concreto by the Member State court.

1. In the Commission's view, does the Member State court's obligation to conduct an investigation in concreto apply in the example given, or – if Article 17 of the Charter must be applied, thereby reducing the Member State's margin of discretion – can the principle of protection of legitimate expectations be applied¹?
2. When a party concerned referred, before a court of last instance², to the compatibility of the matter with EU law, the court – in our view in violation of the Cilfit and Köbler formulae – did not take the arguments of EU law into account, stating that the reference should have been made in 2019, when the action was brought. The legislation alleged to be in violation of EU law was unknown at the time, since it was adopted only in 2020. Is this court ruling³ compatible with the principle of effectiveness⁴?
3. A revision of the ruling is under way in the light of national law. In this case, must this be accepted on the basis of EU law⁵, or should a preliminary ruling be requested⁶?

¹ Curtea de Apel București, dossier No 4153/2/2020

² According to the criteria of EU law, in a Member State court of last instance

³ Such an interpretation renders enforcement of the entitlements guaranteed by the EU legal order impossible

⁴ Court of Justice of the European Union, C-676/17

⁵ Court of Justice of the European Union, C-676/17

⁶ Court of Justice of the European Union, 283/81