



PRESS RELEASE

FOUR EUROPEAN ORGANISATIONS OF JUDGES SUE EU COUNCIL FOR DISREGARDING EU COURT'S JUDGEMENTS ON DECISION TO UNBLOCK FUNDS TO POLAND

Europe, August 28th, 2022

The four main European organisations of judges:

Association of European Administrative Judges (AEAJ)

European Association of Judges (EAJ, a regional branch of the International Association of Judges - IAJ)

Rechtters voor Rechtters (Judges for Judges)

Magistrats Européens pour la Démocratie et les Libertés (MEDEL)

represented by Carsten Zatschler SC, Emily Egan McGrath BL, Barristers, assisted by Anne Bateman and Maeve Delargy, Solicitors, of Philip Lee LLP,

have filed today before the Court of Justice of the European Union (CJEU) a lawsuit against the EU Council over its decision to unblock Recovery and Resilience funds for Poland.

The lawsuit is an action for annulment pursuant to Article 263 of the Treaty on the Functioning of the European Union (TFEU) against the Council Implementing Decision of 17 June 2022, addressed to the Republic of Poland, adopted under Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the Recovery and Resilience Facility.

Each of the four organisations of judges has the mission to defend judicial independence and impartiality of judges everywhere in the EU; three of them have (associations of) judges from Poland as members. They argue as follows:

The EU Council decided to unblock EU funds for Poland once three "milestones" are met: (1) the Disciplinary Chamber of the Supreme Court will have to be disbanded and replaced with an independent court; (2) the disciplinary regime must be reformed; (3) judges who have been affected by the decisions taken by the Disciplinary Chamber will have the right to have their cases reviewed by the new chamber.

The four European organisations of judges argue that these milestones fall short of what is required to ensure effective protection of the independence of judges and the judiciary and disregard the judgments of the CJEU on the matter.



The decision of the EU Council harms the position of the suspended judges in Poland: for example, the CJEU has ruled that the Polish judges affected by unlawful disciplinary procedures should be reinstated at once, without delay or a procedure, while the third milestone would introduce a procedure of more than a year with an uncertain outcome.

This decision also harms the European judiciary as a whole and the position of every single European judge. All judges of every single Member State are also European judges, having to apply EU Law, in a system based on mutual trust. If the judiciary of one or more Member States no longer offers guarantees of independence and respect for the basic principles of the Rule of Law, the entire European judiciary is undeniably affected (so called “spillover effect”).

The reason for asking the annulment of the EU Council’s decision is to make explicit the principle that judgments of the CJEU on the subject of the independence of judiciaries should be enforced without delay and in full, and that EU Institutions cannot even partly act incoherently with them should be made explicit by this lawsuit. The EU Council decision violates this principle, because there is no full – i.e. unconditional - enforcement of CJEU judgements.

The goal of the lawsuit is to establish the above-mentioned principle and to prevent a Commission decision to unblock EU funds for Poland until the CJEU judgements are fully and completely enforced.

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