



DIDIER REYNDERS
MEMBER OF THE EUROPEAN COMMISSION
JUSTICE

Rue de la Loi, 200 B-1049 Brussels
Phone: +32-2 295 09 00
Didier.Reynders@ec.europa.eu

Brussels, 29 July, 2022
Ares S(2022)4290433

Dear Presidents of associations of Judges, Honourable judges,

I would like to thank you for your letter in which you provided the Commission with an assessment of a number of draft laws submitted to the Polish parliament. The President of the Commission asked me to reply on her behalf.

Allow me to express my gratitude for the efforts of your associations in promoting and defending the fundamental values of the European Union. In October 2021, speaking before the European Parliament, the President of the Commission underlined that the rule of law is the glue that binds the Union together. This is the foundation of our unity. It is essential to the protection of the values on which the Union is founded: freedom, democracy, equality and respect for human rights.

As you will be aware, in relation to the rulings of the Court of Justice of the European Union of 14 and 15 July 2021 (cases C-204/21 R and C-791/19, Commission v Poland), the Commission considered that Poland failed to take the necessary measures to fully comply with them. On 7 September 2021, the Commission therefore took two separate decisions. Firstly, as regards the interim measures order of 14 July 2021, the Commission decided to request the Court of Justice that daily financial penalties be imposed on Poland. On 27 October 2021, the Vice-President of the

Krystian Markiewicz
President of the National Board of the Polish Judges Association IUSTITIA

Beata Morawiec
President of the Main Board of the Themis Judges Association

Ewa Ważany
President of the Association of Family Judges in Poland

Aleksandra Wrzeńska-Nowacka
President of the Pro Familia - Family Judges Association

Karolina Sosinska
President of the Polish Association of Administrative Court Judges

biuro@iustitia.pl



Court of Justice imposed EUR 1.000.000 as a daily penalty payment on Poland for as long as the interim measures order of 14 July 2021 has not been fully complied with. Secondly, as regards the judgment of the Court of Justice of 15 July 2021, the Commission decided to send a letter of formal notice to Poland. The procedure remains ongoing.

As regards the Recovery and Resilience Plan submitted by Poland, as for all other Member States, the Commission assessed the plan against all the criteria set out in the Recovery and Resilience Facility Regulation. Under the Regulation, each plan must contribute to effectively address all or a significant subset of challenges identified in the relevant country-specific recommendations and the Commission must be satisfied that there is a robust governance and control system at national level to protect the financial interests of the Union. In the case of Poland, the independence of the judiciary is a challenge that was identified in the country specific recommendations. Therefore, taking into account these assessment criteria, the Commission and Poland have agreed on the addition in the plan of a reform of the judicial system, to be implemented and verified through respective milestones. This reform should achieve the three main goals that the President of the Commission outlined during the plenary session of the European Parliament in October 2021. Poland will need to demonstrate that these milestones have been fulfilled before any disbursement under the Recovery and Resilience Facility can take place.

The Commission's assessment of the Polish Recovery and Resilience Plan was made independently from the legislative proposals being discussed in Poland. The fulfilment of the respective milestones will be assessed on the basis of the legislation in force when Poland submits its first request for a disbursement under the Recovery and Resilience Facility. It remains imperative that the new legislation complies with EU law and solves the issues raised by the Court of Justice of the European Union. On 9 June 2022, the Polish Parliament adopted the Law on the Supreme Court and certain other acts¹, which notably dismantles the Disciplinary Chamber of the Supreme Court and creates a new Chamber of Professional Liability in its stead. The new Law entered into force on 14 July 2022. The new Law's effects and its implementation are currently being assessed by the Commission.

Finally, let me note that on 15 July 2022, the Commission decided to take the next step in the infringement procedure on the Polish Constitutional Tribunal by sending a reasoned opinion to Poland. The Commission considers that the Tribunal's rulings, which considered the provisions of the EU Treaties incompatible with the Polish Constitution, breached Article 19(1) of the Treaty on European Union ('TEU') and the general principles of autonomy, primacy, effectiveness, uniform application of Union law and the binding effect of rulings of the Court of Justice. Poland also failed to fulfil its obligations under Article 19(1) of the TEU as the Constitutional Tribunal no longer meets the requirement of an independent and impartial tribunal previously established by law. The reply of Poland to the letter of formal notice did not address the Commission's concerns. Poland has now two months to reply.

¹ Published in the Official Journal of 2022 item 1259.

The Commission will continue to follow closely the developments in Poland, including in the context of its annual Rule of Law Report², and remains strongly committed to upholding EU law and values in the interest of the citizens of Poland and of the rest of the European Union.

Yours sincerely,

(e-signed)

Didier REYNDERS

² https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf