



## PRESS RELEASE No 92/25

Luxembourg, 10 July 2025

Advocate General's Opinion in Case C-554/24 P | Poland v Commission (Retroactive cancellation of interim measures)

### **Advocate General Kokott: No penalty payment for Poland due to lignite mining in Turów**

*Due to the amicable agreement between the Czech Republic and Poland, the penalty payment ordered in the proceedings for interim relief was cancelled retroactively*

As the Czech Republic was of the opinion that the continuation of lignite mining in the Polish opencast mine in Turów near the borders with the Czech Republic and Germany was in breach of EU law, <sup>1</sup> it brought an infringement action against Poland before the Court of Justice at the end of February 2021. <sup>2</sup>

In May 2021, at the request of the Czech Republic, the Vice-President of the Court ordered Poland to cease mining operations immediately and until the proceedings before the Court had been concluded. <sup>3</sup> Continuation, according to the Vice-President, could cause serious and irreparable damage to the environment and human health by affecting groundwater.

As Poland did not comply with that interim measure, the Vice-President, at the request of the Czech Republic, imposed a penalty payment of € 500 000 per day on Poland by interim measure of 20 September 2021. <sup>4</sup> This is the first time that a periodic penalty payment has been imposed to enforce an interim measure in the context of interim relief proceedings. <sup>5</sup>

On 3 February 2022, the Czech Republic and Poland reached an amicable agreement. The Court then removed the case from the register. <sup>6</sup> By that time, penalty payments totalling € 68.5 million had already been incurred.

Poland is of the opinion that the settlement of the dispute has retroactively eliminated the imposition of the penalty payment.

The Commission did not share that view. As Poland did not comply with its request to pay the accrued penalty payment, it informed Poland that it would offset the amount against Poland's claims against the EU budget.

Poland brought an action against before the General Court of the EU, but was unsuccessful: the General Court dismissed the action in a ruling on 29 May 2024. <sup>7</sup>

According to the court, although the settlement of the dispute had an effect on the duration of the periodic penalty payment, it did not lead to the expiry of the obligation to pay the penalty payment already incurred. The penalty payment was ultimately intended to ensure the effective application of EU law.

Poland then lodged an appeal with the Court of Justice.

**In her Opinion delivered today, Advocate General Juliane Kokott proposes that the Court of Justice uphold Poland's appeal, set aside the judgment of the General Court and annul the Commission's offsetting**

decisions.

**According to the Advocate General, the amicable agreement between the Czech Republic and Poland meant that the interim measures were cancelled retroactively. Therefore, the Commission wrongly offset the penalty payment against Poland's claims against the EU budget.**

The primary purpose of interim relief is to ensure the effectiveness of the future final judgement. It is therefore ancillary to the main proceedings and, like the latter, is subject to party control. That ancillary nature argues in favour of all measures of interim relief ceasing to apply retroactively if the main proceedings are terminated by way of amicable settlement. The interim relief should not result in a sanction for the violation of the interim injunction, as this is accessory to the main proceedings.

**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**NOTE:** An appeal limited to points of law may be lodged with the Court of Justice against a judgement or order of the General Court. In principle, the appeal has no suspensive effect. If the appeal is admissible and well-founded, the Court of Justice shall set aside the decision of the General Court. If the case is ready for judgement, the Court of Justice can decide the case itself. Otherwise, it refers the case back to the General Court, which is bound by its decision on the appeal.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the Opinion are available from ["Europe by Satellite"](#) ☎ (+32) 2 2964106.

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<sup>1</sup> Namely against the [EIA Directive 2011/92](#), the [Water Framework Directive 2000/60](#), the [Environmental Information Directive 2003/4](#) and the [principle of sincere cooperation](#).

<sup>2</sup> Case *Czech Republic v Poland (Turów mine)*, [C-121/21](#); see also press release [No 23/22](#) on the Opinion of Advocate General Pikamäe of 3 February 2022.

<sup>3</sup> Order of the Vice-President of the Court of 21 May 2021, *Czech Republic v Poland (Turów mine)*, [C-121/21 R](#); see also Press Release [No 89/21](#).

<sup>4</sup> Order of the Vice-President of the Court of 20 September 2021, *Czech Republic v Poland (Turów mine)*, [C-121/21 R](#); see also Press Release [No 159/21](#).

<sup>5</sup> The possibility of imposing such a penalty payment was first affirmed by the Court of Justice in the dispute over the protection of the Białowieża Forest, see order of 20 November 2017, *Commission v Poland (Białowieża Forest)*, [C-441/17 R](#); see also Press Release [No 122/17](#).

<sup>6</sup> In addition, by order of 19 May 2022, *Czech Republic v Poland (Turów Mine)*, [C-121/21 R](#), the Vice-President of the Court declared that there was no need to adjudicate on Poland's application to set aside the order of the Vice-President of the Court of 21 May 2021 in so far as it related to the effects of that order after 4 February 2022. Otherwise, it dismissed the application. For the rest, it dismissed Poland's application for annulment of the periodic penalty payment order of 20 September 2021.

<sup>7</sup> Judgment of 29 May 2024, *Poland v Commission*, [T-200/22 and T-314/22](#); see also Press Release [No 87/24](#).