



## PRESS RELEASE No 91/24

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Order of the General Court in Joined Cases T-530/22 to T-533/22 | Medel and Others v Council

### **Rule of law: the actions brought by organisations of European judges against the Council decision approving the recovery and resilience plan for Poland are dismissed as inadmissible**

In order to mitigate the economic and social consequences of the Covid-19 pandemic, the European Union established, in the context of the NextGenerationEU project, the Recovery and Resilience Facility<sup>1</sup>. In order to receive funding under the Facility, Member States are to draw up national plans for reforms and investments. The assessment of those plans is carried out by the Commission and is subsequently approved by the Council.

On 17 June 2022, the Council approved<sup>2</sup> the assessment of the plan presented by Poland. The Council decision establishes certain milestones and targets which that Member State must achieve in order to be granted funds. Those milestones and targets include those relating to the reform of the Polish judicial system. More specifically, Poland should take a number of measures to strengthen the independence and impartiality of judges. Poland is required to allow a review of decisions of the Disciplinary Chamber of the Supreme Court<sup>3</sup>, for the benefit of the judges affected by those decisions, and to complete those review proceedings within a set period of time.

Three associations and a foundation representing European judges consider that the milestones in question are incompatible with EU law. They argue that those milestones are in fact defined too flexibly, allowing Poland not to comply with the case-law of the Court of Justice regarding the rule of law and effective judicial protection. Those associations and that foundation therefore request the General Court to annul the Council decision.

In its order, **the General Court, sitting as the Grand Chamber, dismisses those actions as inadmissible.**

**The applicant organisations are not entitled to bring proceedings either in their own name or on behalf of the judges whose interests they defend.** The General Court finds that there is no legal provision relating to the Facility that grants them that procedural right. Similarly, the fact that those organisations are involved as regular interlocutors with the EU institutions on the issue of judicial independence does not provide them with standing to bring proceedings.

Nor does the defence of the judges' interests render the actions in question admissible. The General Court observes, in that respect, that, even though, when the contested decision was adopted, the Council was bound by EU rules on matters concerning the rule of law, neither the Polish judges – whether or not they are affected by a decision of the Disciplinary Chamber – nor judges of other Member States or of the European Economic Area (EEA) are directly concerned by the Council decision. The organisations that brought proceedings before the General Court therefore cannot rely on the situation of those judges in order to establish that their actions are admissible.

The General Court finds that the milestones are of a budgetary conditionality nature in that the achievement of those milestones is a condition for obtaining funding under the Facility. The adoption of those milestones was not aimed at replacing the rules on the value of the rule of law or on effective judicial protection.

In particular, as regards the judges affected by decisions of the Disciplinary Chamber, the contested decision did not have the effect of making those judges subject to the conditions laid down in that decision, nor did it render a specific rule directly applicable to those judges. Even after the adoption of the contested decision, the judges' situation remained governed by the relevant provisions of Polish law and by the provisions of EU law and the judgments of the Court of Justice of the European Union.

The General Court also states that the interpretation of the conditions for the admissibility of actions for annulment in the light of the fundamental right to effective judicial protection must not lead to the removal of the conditions expressly laid down by the Treaties.

The General Court states that **its decision does not affect Poland's obligation to remedy, as soon as possible, the infringements found by the Court of Justice as regards the rule of law crisis<sup>4</sup>, nor does it affect the possibility for the Member States and EU institutions to bring an action** against any provisions adopted by the institutions, bodies, offices and agencies of the European Union which are intended to have binding legal effects, without having to demonstrate an interest in bringing proceedings. It is also for the Commission to act in order to contribute to ensuring that Poland respects the value of the rule of law.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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

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<sup>1</sup> [Regulation \(EU\) 2021/241](#) of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

<sup>2</sup> See Council [Press Release](#) of 17 June 2022. The Council Decision of 17 June 2022 was subsequently amended on 8 December 2023.

<sup>3</sup> For further details on the allegations regarding the lack of independence and impartiality of the Disciplinary Chamber of the Polish Supreme Court, see judgment of the Court of Justice of 15 July 2021 in Case [C-791/19](#), Commission v Poland (Disciplinary regime applicable to judges) (see also Press Release No [130/21](#)).

<sup>4</sup> See, inter alia, judgment of the Court of Justice of 5 June 2023 in Case [C-204/21](#), Commission v Poland (Independence and private life of judges) (see also Press Release No [89/23](#)).