



Press and Information

Court of Justice of the European Union

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Judgment in Case C-791/19  
Commission v Poland

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## **The disciplinary regime for judges in Poland is not compatible with EU law**

The European Commission brought an action before the Court of Justice seeking a declaration that, in adopting the new disciplinary regime applicable to judges of the Sąd Najwyższy (Supreme Court, Poland) and to judges of the ordinary courts, Poland has failed to fulfil its obligations under EU law. By its judgment, delivered today, the Court of Justice upheld all the complaints made by the Commission and found that Poland had failed to fulfil its obligations deriving from EU law.

The Court finds, *inter alia*, that:

- in light of the global context of major reforms that have recently affected the Polish judiciary, in which context the Disciplinary Chamber of the Supreme Court was created, and owing to a combination of factors that framed the process whereby that new chamber was established, that chamber does not provide all the guarantees of impartiality and independence and, in particular, is not protected from the direct or indirect influence of the Polish legislature and executive; among those factors, the Court criticises, in particular, the fact that the process for appointing judges to the Supreme Court, including the members of the Disciplinary Chamber, is essentially determined by a body (the Krajowa Rada Sądownictwa (National Council of the Judiciary), Poland) which has been significantly reorganised by the Polish executive and legislature and whose independence may give rise to reasonable doubts; the Court also emphasises the fact that the Disciplinary Chamber is to be made up exclusively of new judges who were not already sitting within the Supreme Court, as well as the fact that those new judges benefit from, *inter alia*, a very high level of remuneration and a particularly high degree of organisational, functional and financial autonomy in comparison with the conditions prevailing in the other judicial chambers of that court;
- the disciplinary regime allows the content of judicial decisions adopted by judges of the ordinary courts to be classified as a disciplinary offence; accordingly, it could be used in order to exert political control over judicial decisions or to exert pressure on judges with a view to influencing their decisions, and could undermine the independence of the courts concerned;
- Poland has failed to guarantee that disciplinary cases brought against judges of the ordinary courts will be examined within a reasonable time and has failed to guarantee respect for the rights of defence of accused judges, thereby undermining their independence;
- national judges are exposed to disciplinary proceedings as a result of the fact that they have decided to make a reference for a preliminary ruling to the Court of Justice, which undermines their right or, as the case may be, their obligation to put questions to the Court, as well as the system of judicial cooperation between the national courts and the Court of Justice established by the Treaties in order to secure uniformity in the interpretation of EU law and to ensure the full effect of that law.

Where the Court finds that there has been a failure to fulfil obligations, the Member State concerned must take the measures necessary to rectify the situation.

**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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

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