



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 28<sup>th</sup>, 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)*

*Rechtens voor Rechtens (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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**The Association of European Administrative Judges (AEAJ)** was founded in 2000 as a European-wide apex association of national associations of administrative judges and is open to membership of associations (as well as individual members) of all countries which are member of the Council of Europe. For the time being, it encompasses members of 34 European countries and represents approximately 6000 administrative judges. Among others, its objectives are not only to broaden the knowledge and exchange on matters of joint legal interest among administrative judges in Europe but also to strengthen and promote the professional interests of administrative judges, which includes the defence of judicial independence in all its various aspects.

Website: <http://www.aeaj.org>

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The **International Association of Judges** was founded in Salzburg (Austria) in 1953. It is a professional, non-political, international organisation, bringing together national associations of judges, not individual judges, approved by the Central Council for admission to the Association. The main aim of the Association is to safeguard the independence of the judiciary, which is an essential requirement of the judicial function, guaranteeing human rights and freedom. The organization currently encompasses 94 such national associations or representative groups, from five Continents. The IAJ has four Regional Groups: the European Association of Judges, the Ibero-American Group, the African Group, the Asian, North American and Oceanian Group. Purpose of the Regional Groups is to discuss local problems concerning the Judiciary. They usually meet twice a year and may pass resolutions either on general issues affecting the Judiciary of the whole concerned area, or specifically regarding one or more given countries. Ad hoc missions and reports can also be organized in particular cases.

**European Association of Judges** is the biggest part of IAJ uniting together 48 judges' associations one from each European State.

#### **International Association of Judges (IAJ)**

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#### **European Association of Judges (EAJ)**

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**Reichters voor Reichters (Judges for Judges)** was established in 1999 as an independent and non-political foundation set up by judges to support fellow judges abroad who have run into problems or risk problems on account of their professional practice. These problems are mostly related to (presumed) violation of their



professional independence. J4J also concerns itself with judges, who have been discharged for disturbing reasons, have been arrested and imprisoned, put under pressure, are threatened or even assassinated.

Website: <http://www.rechtersvoorrechters.nl>

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**Magistrats Européens pour la Démocratie et les Libertés (MEDEL)**, is an association that was founded in 1985 in Strasbourg, France, and gathers 24 associations of judges and prosecutors, coming from 16 European countries, all members of the Council of Europe, representing a total of around 18.000 magistrates. Its goals are, among others, the establishment of a common debate among magistrates from different Countries to support European community integration, in view of the creation of a European political union, the defense of the independence of the judiciary in the face of every other power as well as of specific interests, the democratization of the judiciary, in its recruitment and in the conditions for the exercise of the profession, in particular in face of the hierarchical organization, and the respect, in all circumstances, of the legal values specific to the democratic state based on the rule of law.

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