



PRESS RELEASE No 12/25

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Judgments of the General Court in Joined Cases T-830/22 and T-156/23 | Poland v Commission and in Case T-1033/23 | Poland v Commission

The 2019 reform of the Polish judicial system: the General Court confirms that Poland must pay a total amount of approximately €320,200,000 in respect of the penalty payment decided upon by the Court of Justice during the infringement proceedings

The Commission legitimately enforced the penalty payment in respect of the period from 15 July 2022 to 4 June 2023

On 1 April 2021, the European Commission brought an action for failure to fulfil obligations before the Court of Justice against Poland, seeking a declaration that certain legislative amendments to the organisation of the judicial system in Poland, adopted in December 2019, infringed EU law. ¹

In the course of those proceedings, the Court required Poland, inter alia, to suspend the application of certain national provisions challenged by the Commission. ² Not having implemented that interim measure, Poland was ordered, on 27 October 2021, to pay the Commission a daily penalty payment of one million euro. ³ That daily penalty payment began to run as of 3 November 2021. ⁴

On 9 June 2022, with a view to complying with the interim measure imposed by the Court of Justice, Poland adopted a Law. ⁵ On 21 April 2021, the Court of Justice held that that legislative change enabled, to a significant degree, that interim measure to be implemented. Therefore, the amount of the daily penalty payment was reduced to €500,000 per day as of 21 April 2023. ⁶

Given Poland's failure to pay the daily penalty payments, the Commission recovered their amounts periodically by means of offsetting against various claims held by that Member State with regard to the European Union.

Poland brought an action before the General Court of the European Union seeking the annulment, in total, of six set-off decisions covering the period from 15 July 2022 to 4 June 2023, that is between the entry into force of the Law of 9 June 2022 and the day before the delivery of the judgment of the Court of Justice bringing that case to an end. ⁷ The sums thus recovered amount to approximately €320,200,000. ⁸

In the alternative, Poland submits that the legislative change which warranted the reduction by half of the penalty payment preceded the Court of Justice's decision of 21 April 2023. Thus, from 15 July 2022 to 20 April 2023, ⁹ the Commission could no longer require the payment of one million euro per day. Therefore, Poland claims that the Commission's decisions should be partially annulled, in so far as they concern 50% of the offset amounts receivable in respect of the abovementioned period.

The General Court dismisses Poland's actions in their entirety.

In recovering the amounts payable, the Commission did not infringe EU law. ¹⁰ The General Court notes, in

particular, that neither the case-law of the Polish Constitutional Court ¹¹ nor the entry into force of the Law of 9 June 2022 enable the existence of the debt itself to be challenged. Consequently, they were not such as to affect the lawfulness of the set-off decisions.

As regards the claim in the alternative to partially annul the set-off decisions, the General Court recalls that **the reduction of the daily penalty payment granted by the Court on 21 April 2023 took effect only with regard to the future. Accordingly, it concerned only the amounts payable from that date.**

Inasmuch as the amount of the daily penalty payment set by the order of 27 October 2021 remained unchanged until 21 April 2023, and inasmuch as Poland had not fully complied with its obligations, **the Commission was obliged to ensure recovery of that amount in full.** Moreover, to acknowledge that the Commission had the option, or even the obligation, to adjust the amount of the daily penalty payment in the event of partial compliance would have called in question the authority of the order of 27 October 2021.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU 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 and, as the case may be, the abstract of the judgments ([T-830/22 and T-156/23](#), [T-1033/23](#)) is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Case C-204/21 Commission v Poland (Independence and private life of judges), [C-204/21](#).

² Order of the Vice-President of the Court of 14 July 2021 in Case [C-204/21 R](#) (see also Press Release No [127/21](#)).

³ Order of the Vice-President of the Court of 27 October 2021 in Case [C-204/21 R](#) (see also Press Release No [192/21](#)).

⁴ The date of notification to Poland of the order of 27 October 2021. Under that order, the obligation to pay the daily penalty payment ends on the date on which Poland complies with the obligations arising from the order of 14 July 2021 or, if it should fail to do so, the date of the delivery of the final judgment in Case C-204/21. That judgment, upholding the Commission's action, was delivered on 5 June 2023 (see also Press Release No [89/23](#)).

⁵ The Law of 9 June 2022 amending the Law on the Supreme Court and certain other Laws. It entered into force on 15 July 2022.

⁶ Order of the Vice-President of the Court of 21 April 2023 in Case [C-204/21 R-RAP](#) (see also Press Release No [65/23](#)).

⁷ See footnote No 4.

⁸ That amount consists of the principal plus default interest.

⁹ That is to say, between the entry into force of the Law of 9 June 2022 and the reduction of the penalty payment by the Court of Justice.

¹⁰ [Regulation \(EU, Euratom\) 2018/1046](#) of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union.

¹¹ In its judgment in Case P 7/20, the Polish Constitutional Court declared the imposition of the daily penalty payment contrary to the constitutional order of that Member State.