



EUROPEAN COMMISSION

Ursula von der Leyen
The President

Brussels, 17. 05. 2022
Ares (2022) 2266161

Dear Honourable Members,

I would like to thank you for your letter on the Polish recovery and resilience plan.

The Commission has assessed each of the Member States' Recovery and Resilience Plan against the criteria set out in the Recovery and Resilience Facility Regulation. According to that Regulation each plan must contribute to effectively address all or a significant subset of challenges identified in the relevant country-specific recommendations. In the case of Poland, the independence of the judiciary is one such challenge that has been identified in the country-specific recommendations.

Furthermore, the Regulation provides that the Commission must be satisfied that there is a robust governance and control system at national level to protect the financial interests of the Union. An independent judiciary is an essential element of such a system, contributing to prevention, detection and correction of potential irregularities such as fraud and corruption.

In view of these assessment criteria, the Commission and Poland have been discussing the addition in the plan, to be implemented and verified through respective milestones, of a reform of the judicial system focusing on the disciplinary regime applicable to judges.

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A reform of the judicial system by Poland should achieve three main goals that I outlined in the European Parliament in October 2021, and in line with the July 2021 ruling of the European Court of Justice. First, the Disciplinary Chamber should be dismantled. Second, the disciplinary regime applicable to judges must be reformed, modifying the grounds for disciplinary liability of judges, in particular ensuring that neither requests to the Court of Justice of the EU for preliminary rulings nor the content of judicial decisions can constitute a basis for disciplinary sanctions. Finally, judges affected by decisions of the Disciplinary Chamber should benefit from the possibility to be reinstated. Poland would need to demonstrate that these milestones have been fulfilled before any disbursement under the Recovery and Resilience Facility could take place.

The rule of law is one of the fundamental values of the Union, enshrined in Article 2 of the Treaty on European Union, and the Commission, as the guardian of the Treaties, is responsible to oversee that it is respected. In this context, it is important to recall that the Recovery and Resilience Facility is not the primary instrument to address the challenges linked to the rule of law in Member States. Other instruments include infringement procedures for breach of EU law provisions relating to the rule of law, the General Conditionality Regulation, and proceedings under Article 7 of the Treaty on European Union, which in the case of Poland are currently ongoing, and finally the yearly Rule of Law Report.

Let me conclude by reaffirming that the Commission is approaching the negotiations with Poland with full determination to ensure the respect of the requirements of the Recovery and Resilience Facility Regulation. The Commission will not approve any recovery and resilience plan if it is not satisfied that all assessment criteria are complied with.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Ursula v. d. L.', with a stylized flourish at the end.

Ursula von der Leyen