

# The obligation of an EU Member State to implement interim measures pertaining to the organisational structure and functioning of constitutional authorities within the judicial branch of government of that Member State

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Ref. No. (<https://trybunal.gov.pl/s/p-7-20>)P 7/20 (/s/p-7-20).

## JUDGMENT IN THE NAME OF THE REPUBLIC OF POLAND

Warsaw, 14 July 2021

The Constitutional Tribunal, composed of:

Stanisław Piotrowicz – Presiding Judge

Zbigniew Jędrzejewski

Justyn Piskorski

Bartłomiej Sochański – Judge Rapporteur

Jakub Stelina,

Recording Clerk – Krzysztof Zalecki, Grażyna Szalygo,

having considered, at the hearings on 28 April and 14 July 2021 – in the presence of the court referring the question, the President of the Republic, the Sejm, the Minister of Foreign Affairs, the Public Prosecutor-General, and the Polish Ombudsman – the question of law referred by the Supreme Court as to:

whether Article 4(3), second sentence, of the Treaty on European Union (consolidated version: *OJ C 202 7.6.2016*, p. 13) in conjunction with Article 279 of the Treaty on the Functioning of the European Union (consolidated version: *OJ C 202 7.6.2016*, p. 47) – insofar as it entails the obligation of an EU Member State to implement interim measures pertaining to the organisational structure and functioning of constitutional authorities within the judicial branch of government of that Member State – is consistent with Article 2, Article 7, Article 8(1) and Article 90(1) in conjunction with Article 4(1) of the Constitution of the Republic of Poland,

adjudicates as follows:

**Article 4(3), second sentence, of the Treaty on European Union** (consolidated version: *OJ C 202 7.6.2016*, p. 13) **in conjunction with Article 279 of the Treaty on the Functioning of the European Union** (consolidated version: *OJ C 202 7.6.2016*, p. 47) – **insofar as the Court of Justice of the European Union *ultra vires* imposes obligations on the Republic of Poland as an EU Member State, by prescribing interim measures pertaining to the organisational structure and functioning of Polish courts and to the mode of proceedings before those courts – is inconsistent with Article 2, Article 7, Article 8(1) and Article 90(1) in conjunction with Article 4(1) of the Constitution of the Republic of Poland, and within this scope it is not covered by the principles of precedence and direct application set in Article 91(1)-(3) of the Constitution.**

The ruling was adopted by a majority vote.

*Stanisław Piotrowicz*

*Zbigniew Jędrzejewski*

*Justyn Piskorski*

*Bartłomiej Sochański*

*Jakub Stelina*

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