

A (periodic) penalty payment or a lump-sum payment imposed by the CJEU; interim measures pertaining to the constitutional order and the functioning of the constitutional authorities of the Republic of Poland

K 8/21

Ref. No. (<https://trybunal.gov.pl/s/k-8-21>)K 8/21 ([/s/k-8-21](https://trybunal.gov.pl/s/k-8-21))

JUDGMENT IN THE NAME OF THE REPUBLIC OF POLAND

Warsaw, 11 December 2023

The Constitutional Tribunal, composed of:

Julia Przyłębska – Presiding Judge

Zbigniew Jędrzejewski – Judge Rapporteur

Krystyna Pawłowicz

Stanisław Piotrowicz

Justyn Piskorski

Piotr Pszczółkowski

Bartłomiej Sochański

Bogdan Świączkowski

Michał Warciński

Rafał Wojciechowski

Jarosław Wyrembak,

Recording Clerk – Michał Rylski,

having considered, at the hearings on 22 February and 19 October 2022 as well as on 21 November and 11 December 2023 – in the presence of the applicant, the President of the Republic of Poland, the Sejm, and the Minister of Foreign Affairs – the application of the Public Prosecutor-General, lodged with the Constitutional Tribunal to consider the conformity of:

“(1) Article 279 of the Treaty on the Functioning of the European Union (consolidated text: *OJ C 202 7.6.2016, p. 47*) – insofar as, in cases considered by the Court of Justice of the European Union, it permits imposing, on the Republic of Poland as an EU Member State, a (periodic) penalty payment or a lump-sum payment for non-compliance with a prescribed interim measure (...) – with Article 2, Article 4 and Article 90(1) of the Constitution of the Republic of Poland;

(2) Article 39 of the Statute of the Court of Justice of the European Union (consolidated text: *OJ C 202 7.6.2016, p. 201*), which constitutes Protocol (No 3) annexed to the Treaty referred to in point 1 – insofar as it authorises the President of the Court of Justice of the European Union, or another judge of the CJEU, to prescribe, with regard to the Republic of Poland as an EU Member State, interim measures pertaining to the constitutional order and the functioning of the constitutional authorities of the Republic of Poland, (...) – with Article 2, Article 8(1), Article 90(1) of the Constitution of the Republic of Poland”.

adjudicates as follows:

1. Article 279 of the Treaty on the Functioning of the European Union (consolidated text: *OJ C 202 7.6.2016, p. 47*) – insofar as it permits imposing on the Republic of Poland a (periodic) penalty payment or a lump-sum payment – is inconsistent with Article 2 in conjunction with Article 4(1) of the Constitution of the Republic of Poland.

2. Article 39 of the Statute of the Court of Justice of the European Union, which constitutes Protocol (No 3) annexed to the Treaty referred to in point 1 – insofar as it authorises the President of the Court of Justice of the European Union, or another judge of the CJEU, to prescribe, with regard to the Republic of Poland as an EU Member State, interim measures – is inconsistent with Article 2 in conjunction with Article 8(1) of the Constitution of the Republic of Poland.

Moreover, the Tribunal decides:

to discontinue the proceedings as to the remainder.

We use
cookies.

The ruling was adopted by a majority vote.

Julia Przylębska

Zbigniew Jędrzejewski

Krystyna Pawłowicz

Stanisław Piotrowicz

Justyn Piskorski

Piotr Pszczółkowski (dissenting opinion)

Bartłomiej Sochański (dissenting opinion)

Bogdan Świączkowski

Michał Warciński (dissenting opinion)

Rafał Wojciechowski (dissenting opinion)

Jarosław Wyrembak

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Briefcase link <https://trybunal.gov.pl/en/s/k-8-21> (</en/s/k-8-21>).