



# European Association of Judges

## Resolution

adopted on 29 April 2022 in Porto

*Considering* that the independence of the judiciary is an indispensable element of the rule of law and democracy;

*Further considering* that the rule of law is an agreed fundamental value common to all member states of the European Union (Art 2 TEU) which provides for no deviating national interpretation;

*And considering* that the primacy of European Law over national law and the binding character of decisions of the Court of Justice of the EU on national courts and institutions is fundamental to the structure of the European Union;

*Stressing* that the procedure under Article 267 TFEU is provided to safeguard the aforementioned objectives;

*Being in no doubt* that the processes for the appointment of judges should be such as to ensure that all necessary requirements for the independence of the judiciary have been observed;

*Noting* with concern that in their current state Polish disciplinary procedures do not guarantee that the independence of judges is not impaired;

*Reaffirming* that the European Association of Judges fully endorses the position of IUSTITIA and is wholly committed to supporting Polish judges in their efforts to re-establish fully the rule of law in Poland in the interest of the Polish society; and

*Deploring* the continuing and unacceptable delay by the authorities of the Republic of Poland to give effect to the obligations incumbent upon them in terms of the judgments of the Court of Justice of the EU of 14 July 2021 in Case C-204/21 *Commission v Poland* and of 15 July 2021 in Case C-791/19 *Commission v Poland*

### **The European Association of Judges calls upon the Polish authorities:**

**To take immediate steps to adopt or enact all measures necessary to implement those rulings of the Court of Justice of the EU**

and in particular-

- **to end the operation of the Disciplinary Chamber of the Supreme Court;**
- **to reinstate all judges who have been suspended or transferred on the basis of decisions of that disciplinary chamber;**

- to repeal recently introduced provisions whereby a judge may be subject to disciplinary proceedings based on the content of a judgment issued by the judge or for questioning the legitimacy of the provisions for the appointment of judges; and
- to alter the legal framework for the composition of the National Judicial Council so as to realign it with European standards, whereby the majority of members are judges elected by their peers.