

3 November 2021,

Statement of the Weimar Triangle of Lawyers on the decision of the Constitutional Tribunal of the Republic of Poland dated 7 October 2021 (case ref. K3/21)

We, the representatives of the German Bar Association, the Warsaw Bar Association and the Paris Bar Association gathered in Berlin on 22nd of October 2021 at the Weimar Triangle of Lawyers First Open Summit.

As legal professionals, we stand together and express our deepest concerns related to the decision of the Constitutional Tribunal of the Republic of Poland dated 7 October 2021, case ref. K 3/21.

The Constitutional Tribunal of Poland ruled that the provisions of the Treaty on the European Union – if interpreted in a particular way - are non-compliant with the Polish Constitution.

This decision is an attack against one of cornerstone principles of EU law in accordance with the well-established case-law of the Court of Justice of the European Union: the primacy of EU law. It undermines both the competences of the CJEU which ensure the full effectiveness of EU law, as well as the competence of Polish courts to act according to EU law and enforce its principles.

We believe that the purpose of this decision is to help the actual Polish government to further its attack on human rights, the Rule of Law and independence of the judiciary.

We consider that the decision has been issued by an illegitimate “tribunal”, comprising persons who are not judges of the Constitutional Tribunal as they have been appointed to their positions in breach of Polish law, the Polish Constitution and resulting in violation of Article 6(1) of the European Convention on Human Rights.

Furthermore, the decision exposes judges who would still follow the Polish Constitution and the principle of loyal cooperation as enshrined in the article 4(3) of the TEU, to the risk of further disciplinary or even criminal sanctions.

Considering the above, the Weimar Triangle of Lawyers:

- I. calls on the Polish government to respect the provisions of the Polish Constitution, European and EU law and to implement previous decisions of the CJEU, including the decision of 2 March 2021 (C-824/18), the decision of 14 July 2021 (C-204/21), the decision of 15 July 2021 (C-791/19) and the European Court of Human Rights judgment of 7 May 2021 Xero Flor w Polsce sp. z o.o. v. Poland (4907/18) regarding the illegal composition of the Constitutional Tribunal;
- II. encourages all legal professionals in Poland to respect the provisions of the Polish Constitution, European and EU law and take into consideration in their everyday professional activity all the conclusions stemming from the above-mentioned rulings of the CJEU and ECHR;
- III. urges the European community including media to scrutinise the actions of the Polish government with regard to changes in the judicial system and the Rule of Law and support the people of Poland in their struggle to defend the Rule of Law.



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