

Newsletter n. 3/2021 BETKOSOL

Section 1. Latest updates

→ *Communication:*

Deliverables 1 and 2 have now been completed and submitted (26 June 2021). You will find a copy in the publications section on our BETKOSOL website:

- Click [here](#) for [D1 BETKOSOL The Protection of EU Financial Interests across Four National Legal Systems: a Comparative Perspective](#)
- Click [here](#) for [D2 BETKOSOL The Past and Future of EU Financial Interests](#)

Section 2. Recovery Fund – work in progress

The Italian reform proposal for a more efficient criminal justice system allowing the implementation of Next Generation Italy: the implications for the protection of EU and national financial interests

The “AC n. 2435” reform proposal is currently under discussion in the Italian Parliament. As already mentioned in the National Recovery and Resilience Plan (PNRR) (see [here](#)), the proposal aims to reduce the duration of criminal proceedings and strengthen the efficiency of the Italian criminal justice system. If achieved, this objective would also enhance Italy’s ability to combat frauds affecting European and national financial interests in a more time-effective manner.

Among the different tools proposed for this purpose, several measures to encourage the digitalisation of criminal proceedings are worthy of mention, along with a new procedural provision (*improcedibilità*) requiring criminal proceedings to be discontinued if their maximum duration is exceeded. This requirement concerns criminal trials, for which the maximum is two years at appeal and one year for proceedings before the Court of Cassation.

In addition, for proceedings regarding specific crimes – e.g., PIF offences such as corruption – these periods may be extended in the event of particularly complex cases (e.g., due to the large number of parties involved).

Will the European Commission “freeze” approval of the National Recovery Plan for Poland?

The European Commission is likely to postpone approval of the National Recovery Plan for Poland due to its failure to implement EU Court of Justice rulings on the disciplinary system for judges. The implementation of CJEU decisions and rulings is a flashpoint in relations between the EU and the Polish Government. The situation was exacerbated by the Constitutional Tribunal judgment of 14 July 2021, which stated that the CJEU’s decisions on standards of judicial organisation did not apply in Poland. Poland has thus paved the way for an EU “war of the tribunals” (*TK vs CJEU*). The next day, the CJEU issued a judgment on the European Commission’s October 2019

complaint, ruling that the system of disciplining judges established by the Polish Government is incompatible with EU law (see [here](#)). Above all, the Disciplinary Chamber “does not provide full guarantees of independence and impartiality” because it is entirely staffed by persons appointed by the National Council of the Judiciary (“neo-KRS”), whose independence – the EU Court of Justice recalled – “may raise reasonable doubts”. This was Poland’s third defeat before the CJEU concerning the European Commission’s rule of law complaints (see [here](#)).

Belgian reform for the Recovery plan

In June 2021, the European Commission gave the green light to Belgium’s recovery and resilience plan to come out of the COVID crisis (see [here](#)). The Commission deems Belgium’s plan to include an extensive set of mutually reinforcing reforms and investments that contribute to effectively addressing all – or a significant subset – of the economic and social challenges outlined in the country-specific recommendations addressed to Belgium by the Council in the European Semester in 2019 and 2020. On the one hand, the plan includes relevant fiscal and structural reforms expected to improve the quality and sustainability of public finances. These include the systematic integration of spending reviews in all government levels’ budgetary planning cycles to improve the quality and efficiency of public spending. Moreover, a pension reform aims to improve the financial and social sustainability of the pension system against the backdrop of increasing public pension expenditure (see [here](#)).

On the other hand, the plan also includes reforms and investments to address long-term labour market challenges. These include measures to promote more effective active labour market policies, improve labour market performance, and tackle discrimination in the labour market (see [here](#)). Furthermore, significant investments have been introduced to boost research and innovation, notably by implementing more efficient production processes based on emerging energy technologies, the development of alternative production processes in nuclear medicine for cancer treatment, and measures to strengthen the cyber capabilities of small and medium enterprises and combat cyber criminality (see [here](#)). The plan also includes measures to promote a circular economy and better resource management by setting up new recycling infrastructures to close gaps in different value chains, also seeking to develop alternatives to using harmful chemicals and create innovation partnerships (see [here](#)).

Preventing Corruption in the German Recovery Plan

To reduce corruption, the German Recovery Plan (see [here](#), p. 1089) states that the “Federal Government Guideline on the Prevention of Corruption in the Federal Administration”, issued in 2004 by the Federal Cabinet, will continue to apply. Accordingly, adequate precautionary measures must be adopted to prevent corrupt behaviour within federal administration. For example, recipients of a federal grant worth more than EUR 100,000 must apply the law on public procurement. In addition, each federal ministry will have an anti-corruption contact person with the responsibilities in the following areas: all issues relating to corruption, management advice, and employee information, in addition to participation in training courses and

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the monitoring and evaluation of signs of corruption. Lastly, in compliance with 2007 Federal Ministry of the Interior recommendations, an internal audit will be carried out in almost all federal ministries, fulfilling an independent auditing and control function on behalf of the managing authority in order to reduce the risk of corruption and increase administrative transparency (see [here](#)).

The BETKOSOL team



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