

Newsletter n. 4/2021 BETKOSOL

Section 1. Last updates

→ *Communication:*

Two BETKOSOL seminars aimed at students were held in October:

Seminar Open Day 1 [Responsibility of entities for the spending of EU funds](#)

Seminar Open Day 2 [Fraud under German and Belgian law and pandemic risk for the financial interests \(also\) also of the EU?](#)

The third BETKOSOL Seminar Open Day 3 The protection of the EU financial interest within the Next Generation EU will be held on November 18, 2021, check out soon the home page of our site to register.

Deliverables 1 and 2 have been completed and submitted (26 June 2021). You will find a copy in the publications section on our BETKOSOL website or click [here](#) for the [D1](#) and [D2](#).

Section 2. Recovery Fund and EU financial interest – work in progress

The Italian reform for a more efficient criminal justice system. The recent Law No. 134/2021 as a key step for the implementation of the Italian National Recovery and Resilience Plan

In the past few days, the Italian Parliament passed the Law No. 134/2021 (drafted by the Minister of Justice Cartabia) for a more efficient criminal justice system as a key step to fulfill the obligations with respect to the implementation of the Next Generation EU. With this law, the Parliament has delegated to the Government the introduction of several measures aimed at the simplification of criminal trials (e.g. with respect to appeals), as well as new provisions for a more efficient system of criminal sanctions. The same reform has approved the introduction of some immediately enforceable measures, and a new procedural provision (*improcedibilità*) requiring criminal proceedings to be discontinued if their maximum duration is exceeded, with the aim of fighting against criminal conduct in a more time-effective manner – also in the light of the protection of EU's financial interests. In fact, it is well-known that the reasonable length for trials in the Member States is a crucial element to ensure the adequate protection of EU's financial interests, as EPPO proceedings fall within the competence of national courts.

German Recovery and Resilience Plan adopted – Critical voices from politics

Following the EU Commission, the EU Council adopted the German Recovery and Resilience Plan in July this year. In August, 2.25 billion euros – 9% of the total – was disbursed to Germany as pre-financing. With the total of 25.6 billion euros approved, projects under all seven European flagship initiatives aim to achieve environmental and digital transformation and strengthen economic and social resilience and cohesion in the Single Market. In this context, 42% of the funds – and thus more than the 37% required by the EU – serve the implementation of climate goals, such as investments in green hydrogen, the promotion of electric cars and a renovation program to increase the energy efficiency of residential buildings. With the 52% earmarked for the implementation of digitalization goals, Germany is the European frontrunner. Investments are to be made, for example, in microelectronics and communication technologies, in next-generation cloud infrastructures and services and in the digitalization of public services. Finally, 6 % of the total sum flows into measures to strengthen Germany's economic and social resilience. The reconstruction and resilience plan is strongly criticized by some politicians in Germany. It is argued that the EU funds do not provide a real stimulus to the economy, as most of the investments were planned anyway. In addition, the debt restructuring costs the German taxpayer money, as Germany pays lower interest rates on the capital markets than the EU. In addition, Germany had missed the opportunity to initiate urgently needed structural reforms, among others in the areas of social security and taxation. Moreover, there is a blatant disproportion, as Germany is currently paying around 52 billion euros more to the EU than it is getting back in the reconstruction plan.

770 million euros disbursed as pre-financing to Belgium

In August, the European Commission disbursed 770 million euros in pre-financing to Belgium, representing 13% of the total funds foreseen. The investments and reforms financed by the Recovery and Resilience Facility in Belgium are expected to have a strong impact on the economy and society. For example, 400 million euros will go towards climate change adaptation, biodiversity restoration and climate resilience. 480 million euros is earmarked for investments in a more inclusive and sustainable education system for all language communities. 450 million euros will be used to strengthen economic and social resilience, improving, and expanding education provision, facilitating the integration of vulnerable groups, and improving labor market access for jobseekers. A large part of the EU funds will be used in the years 2021 to 2023 for short-term projects that the country hopes will have a quick impact on the economy.

Poland's conflict with the European Union is growing

On 7.10.2021, the Polish Constitutional Tribunal issued a judgment in case K 3/21 initiated by the motion of the Prime Minister. In the motion, the Prime Minister challenged the interpretation of selected provisions of the CJEU jurisprudence. The background of this politically controversial case is the escalating conflict between Poland and the EU concerning ensuring effective judicial protection in areas covered by EU law (Article 19 TEU). It is related to the introduction of several statutory changes

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in recent years that interfere with the independence of the courts and the independence of judges. The problem of the constitutionality of primary EU law provisions (selected provisions of TEU) presented in the Prime Minister's motion is ostensible. The competence to interpret EU law belongs to the CJEU, not to national courts. A real and actual legal problem is the compatibility with the Constitution and EU law of statutory regulations that change the system of judicial authority and interfere with the independence of judges and the independence of the courts. Due to the apparent constitutional problem formulated in the motion of the Prime Minister of the Republic of Poland, the proper course of action for the legislative and executive authorities following the judgment of the Constitutional Tribunal in case K 3/21 should be the maximum speedy removal of contradictory statutory norms that breach the consistent constitutional and EU standard of independence of the judiciary (see more [here](#)).

The BETKOSOL team