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Judgments of the Court in Cases C-808/21 | Commission v Czech Republic and C-814/21 | Commission v Poland (Ability to stand for election and membership of a political party)

### **Citizenship of the Union: denying EU citizens residing in a Member State of which they are not nationals the right to become a member of a political party infringes EU law**

*By imposing such a nationality requirement, the Czech Republic and Poland do not ensure equal treatment with their nationals as regards the effective exercise of the right to stand as a candidate in municipal and European elections*

EU law confers on EU citizens residing in a Member State of which they are not nationals the right to vote and to stand as a candidate in local and European elections. If that right is to be exercised effectively, those citizens must be afforded equal access to the means available to nationals of that Member State for the purpose of exercising that right. Given that membership of a political party contributes significantly to the exercise of the electoral rights conferred by EU law, the Court of Justice finds that the Czech Republic and Poland infringed EU law by denying EU citizens who reside in those Member States but are not nationals thereof the right to become members of a political party. Their membership of a political party is not such as to undermine the national identity of the Czech Republic or Poland.

Czech and Polish legislation confer the right to become a member of a political party only on nationals of those Member States. Consequently, according to the European Commission, EU citizens who reside in those Member States but are not nationals thereof cannot exercise their right to stand as a candidate in municipal and European elections, enshrined in EU law, under the same conditions as Czech and Polish nationals.

Taking the view that that situation constitutes a difference in treatment on grounds of nationality of the kind prohibited by EU law,<sup>1</sup> the Commission brought two actions for failure to fulfil obligations before the Court of Justice against the Czech Republic and Poland, respectively.<sup>2</sup>

**The Court upholds those actions and finds that both Member States have failed to fulfil their obligations under the Treaties.**

It points out that, **if EU citizens residing in a Member State of which they are not nationals are to be able to exercise effectively their electoral rights in municipal and European elections**, rights guaranteed by EU law, **they must have equal access to the means available to nationals of that Member State for the purpose of exercising those rights effectively.**

Political parties play a crucial role in the system of representative democracy, which gives concrete expression to democracy as one of the values on which the European Union is founded. Consequently, **the prohibition on being a member of a political party places those EU citizens in a less favourable position than Czech and Polish nationals as regards the ability to stand as a candidate in municipal and European elections.** Indeed, the

latter's election chances are in particular enhanced by the fact that they are able to be members of a political party with organisational apparatus and human, administrative and financial resources to support their candidacy. Moreover, membership of a political party is one of the factors steering voters in their choice.

**That difference in treatment, which is prohibited by EU law, cannot be justified on grounds relating to respect for national identity.** EU law does not require Member States to grant the EU citizens concerned the right to vote and to stand as a candidate in national elections, nor does it prohibit them from limiting the role played by those citizens in a political party in the context of those elections.

**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under EU law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay. Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The full text and, as the case may be, an abstract of the judgments ([C-808/21](#), [C-814/21](#)) are published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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<sup>1</sup> Namely Article 22 TFEU, which provides that every citizen of the Union residing in a Member State of which he or she is not a national is to have the right to vote and to stand as a candidate in municipal and European Parliament elections in the Member State in which he or she resides, under the same conditions as nationals of that State.

<sup>2</sup> The action brought against the Czech Republic also covers the prohibition preventing EU citizens who reside in that Member State but are not nationals thereof from becoming members of a political movement.