

Romania and Ireland Must Pay for Not Having Implemented 4th AML Directive

Thomas Wahl

On 16 July 2020, the CJEU upheld the Commission's application that Romania and Ireland had infringed their obligation under the EU Treaties by not having transposed the fourth Anti-Money Laundering Directive (Directive 2015/849) in time. Romania and Ireland neither adopted the national measures transposing the Directive nor notified such measures to the Commission and, consequently, they failed to fulfil their obligations under that directive.

The judgments also ordered Romania and Ireland to pay a lump sum of €3 million and €2 million, respectively, for their non-compliance. The CJEU rejected counter-arguments brought forward by Romania and Ireland that they have meanwhile transposed the Directive and that the application for a lump sum is unjustified and disproportionate. The judges in Luxembourg took the cases as an opportunity to clarify certain aspects of the sanctioning mechanism in the context of infringement proceedings in Art. 260(3) TFEU. These aspects concerned the following:

- Scope of Art. 260(3) TFEU in the context of failure to fulfill obligations thus declared;
- Requirements on the part of the Commission to state reasons for its decision to seek the imposition of financial penalties, their nature, and their amount under Art. 260(3) TFEU;
- Objectives pursued by the system of lump sums in Art. 260(3) TFEU and their proportionality;
- Calculation of the lump sums.

Concluding that the failure to fulfil obligations by Romania and Ireland had persisted for somewhat more than two years and with regard to all circumstances in the present case – including the Court's discretion under Art. 260(3) TFEU – the lump sum was considered justified as ordered. The two judgments against Romania and Ireland were handed down by the CJEU's Grand Chamber and are referred to as cases C-549/18 and C-550/18.

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