

Question for written answer E-000998/2019
to the Commission
Rule 130
Dobromir Sośnierz (NI)

Subject: The case of Karol Tendera

In judgment IX ZB 10/18 of 19 July 2018, Germany's Federal Court of Justice in Karlsruhe asserted that the ZDF television station does not have to apologise to 96-year-old Karol Tendera – a former inmate of the Auschwitz concentration camp – for using the term 'Polish extermination camp'.

In its decision, the Court annulled the decisions of that country's lower courts in Mainz and Koblenz, both of which had found that the judgment of the Court of Appeal in Kraków was enforceable in Germany. The German judges considered that the current jurisprudence of the Polish courts did not conform to German standards, which do not allow a court to order a journalist to publish an apology or to force a journalist to express an opinion contrary to his convictions. This applies even if the journalist's earlier statement was untrue, as in Karol Tendera's case.

According to the CJEU, invoking the public policy clause is possible if the recognition or enforcement of a judgment handed down in another Member State would violate – and this in a flagrant manner – one of the fundamental principles. The German judges of the ordinary courts did not perceive a threat to their country's legal order.

In the opinion of the Commission, is this practice in the German courts compatible with Community agreements?

How does the Commission intend to prevent the courts of one Member State from undermining the judgments of courts in another Member State in the future?