

**Question for written answer E-001207/2022  
to the Council**  
Rule 138  
**Guido Reil (ID)**

Subject: Interpretive monopoly of constitutional courts

Since the Treaty of Lisbon came into force in 2009, EU Member State national parliaments have objected 461 times to Commission legislative proposals based on the subsidiarity principle. The European Court of Justice (ECJ) has ruled in favour of the Commission in every single case.

As expected, on 16 February 2022 the ECJ dismissed the action brought by Poland and Hungary to annul the regulation introducing a conditionality regime.

The Commission accuses Poland of, inter alia, not accepting the primacy of EU law over Polish law. However, the Polish Constitutional Court considers that certain articles of the EU Treaty go beyond the competences conferred on the EU.

In the infringement proceedings against Germany, too, the Commission stressed that the Federal Constitutional Court had violated the primacy and autonomy of EU law.

1. Does the Council agree with the Commission that the constitutional courts of the Member States should no longer have an interpretive monopoly in respect of their national constitutions?
2. Does the Council find it problematic that the ECJ itself decides who has the right of final decision on *ultra vires* issues and is thus both judge and party?
3. Does not the Commission's view imply that there is a legal order which is autonomous from the will of the Member States and that the Member States are no longer 'masters of the Treaties'?