

## EU Strategic Litigation Project (LADRE)

### POLAND

Training: Making a preliminary reference before the CJEU

15 December 2021 (14:00 – 15:45 CET)

Online (ZOOM)

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*In this training, we intend to bring together local lawyers from Poland in order to provide an insight into the process of making a preliminary reference to the CJEU and to highlight the benefits of applying EU criminal procedural law and the EU Charter of Fundamental Rights.*

### AGENDA

- 14.00 – 14.15 Welcome and introduction
- 14.15 – 14.35 Litigating fundamental rights in the CJEU or ECHR?  
*Fair Trials*
  - Fair Trials' presentation on whether there are benefits of using EU law over ECHR
- 14.35 – 15.00 Seeking a preliminary reference to the CJEU  
*Fair Trials*
  - Fair Trials' presentation on the CJEU preliminary reference procedure and how to make such a request in domestic proceedings
- 15.00 – 15.40 Discussion and experience sharing on requesting CJEU references in national courts
  - *[National lawyer], all participants*
- 15.40 – 15.45 Wrap-up



## About the EU Strategic Litigation project

Fair Trials is coordinating the LADRE project which is funded by the European Union Justice Program. The aim of the project is to engage lawyers across seven EU Member States (Belgium, Bulgaria, Estonia, Ireland, Italy, Poland and Portugal) to use EU law on defence rights in domestic criminal proceedings and as a tool to challenge abuses and systemic failures, thus, promoting the effective implementation of EU law.

When it comes to domestic criminal proceedings, EU law on defence rights is arguably the strongest set of standards reinforcing procedural rights of suspects and accused persons. However, resorting to EU law to advance defence rights in domestic proceedings is not commonplace. Criminal defence lawyers have enormous potential to drive the use of European Union ("EU") law to challenge fundamental rights violations. They operate on the front-line of the justice system, deciding which legal arguments to make and whether to apply EU law. In particular, the procedural rights of defendants are a relatively new area of EU law in which there is great potential for impact, but relatively little strategic litigation to date. Therefore, the success of EU law and benefits it can bring to suspects and accused person's defence is largely dependent on defence lawyers and their efforts to mainstream EU law in the reasoning of national courts.

Fair Trials is offering support to groups of engaged defence lawyers who are keen to use EU law in domestic criminal proceedings and to seek preliminary references to the Court of Justice of the EU ("CJEU") in different EU Member States (Belgium, Bulgaria, Estonia, France, Ireland, Italy, Poland and Portugal).

## Objectives

Our objective with this project is to work closely with local lawyers to help address the following issues:

- **Coordinate and support strategic litigation using EU law.** The project intends to build an active and engaged cohort of defence lawyers who are using EU law in their cases in different EU Member States to challenge violations of rule of law and human rights and are eager to share their insights and experience.
- **Understand barriers to using EU law in domestic criminal cases and how to overcome them.** This project seeks to generate and publicise documented examples of the impact EU law can have in criminal cases.
- **Educate and train on the relevance of EU law to criminal defence practice.** The project seeks to increase awareness amongst a wider community of defence lawyers and judges on the relevance of EU law in criminal justice, how to use EU law, and, crucially, where to turn for guidance.
- **Create practical tools for lawyers to use EU law in domestic criminal cases.** The project will provide updated practical tools on the application of EU criminal law highlighting practical examples of effective strategic litigation.

