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Admissibility of Requests for a Preliminary Ruling in the Case Law of the CJEU on Judicial Independence

Mantas Stanevičius*

Graduate of the Faculty of Law at Vilnius University
Référendaire at the Court of Justice of the European Union
Court of Justice of the European Union
L-2925 Luxembourg
E-mail: mantas.stanevicius@curia.europa.eu

Admissibility of Requests for a Preliminary Ruling in the Case Law of the CJEU on Judicial Independence

Mantas Stanevičius

(Court of Justice of the European Union (Luxembourg), Vilnius University (Lithuania))

Summary. In recent years, the CJEU has experienced a significant increase in requests for preliminary rulings on the interpretation of Article 19(1) TEU in the area of judicial independence. However, not all requests concerning this provision have been deemed admissible by the CJEU. This article examines the underlying principles of the preliminary ruling procedure under Article 267 TFEU that guide the CJEU in accepting or rejecting requests from national courts in this critically important area of EU law. It focuses on the concept of 'court or tribunal' within the meaning of Article 267 TFEU and the 'necessity' of the Court's ruling.
Keywords: Rule of law, Principle of judicial independence, Tribunal previously established by law, Article 19(1) TEU, Article 267 TFEU, Article 47 of the Charter, Inadmissibility of requests for a preliminary ruling, Concept of 'court or tribunal', Necessity of the interpretation sought, Possibility to take account of the preliminary ruling.

Prašymų priimti prejudicinį sprendimą priimtinumas Europos Sąjungos Teisingumo Teismo jurisprudencijoje dėl teisėjų nepriklausomumo

Mantas Stanevičius

(Europos Sąjungos Teisingumo Teismas (Liuksemburgas), Vilniaus universitetas (Lietuva))

Santrauka. Pastaraisiais metais ESTT labai padaugėjo prašymų priimti prejudicinį sprendimą, susijusių su ESS 19 straipsnio 1 dalies aiškinimu teismų nepriklausomumo srityje. Vis dėlto ESTT ne visus tokius prašymus pripažino priimtinais. Šiame straipsnyje nagrinėjami pagrindiniai prejudicinio sprendimo procedūros pagal SESV 267 straipsnį principai, kuriais ESTT vadovaujasi priimdamas arba atmesdamas nacionalinių teismų prašymus šioje kritiškai svarbioje ES teisės srityje. Daugiausia dėmesio straipsnyje skiriama sąvokai „teismas" pagal SESV 267 straipsnio prasmę apibūdinti ir Teismo sprendimo „būtinybei" nagrinėti.
Pagrindiniai žodžiai: teisės viršenybė, teisėjų nepriklausomumo principas, pagal įstatymą įsteigtas teismas, ESS 19 straipsnio 1 dalis, SESV 267 straipsnis, Europos Sąjungos pagrindinių teisių chartijos 47 straipsnis, prašymų priimti prejudicinį sprendimą nepriimtinumas, teismo sąvoka, būtinybė gauti prašomą išaiškinimą, galimybė atsižvelgti į prejudicinį sprendimą.

* All opinions expressed herein are personal to the author.

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Introduction

In recent years, the Court of Justice of the European Union[1] has witnessed a surge in requests for preliminary rulings related to judicial independence. Although the CJEU consistently emphasises the significance of the preliminary ruling procedure in Article 267 TFEU, which serves as a mechanism for cooperation between the Court and national courts, a number of these requests were rejected as inadmissible. Indeed, the purpose of seeking a preliminary ruling is not to obtain advisory opinions on general or hypothetical questions, but rather to obtain, *inter alia*, an interpretation of the EU law that is necessary for the effective resolution of a dispute. The dialogue and cooperation between the CJEU and national courts thus has its limits. This article discusses the evolution in recent years of the admissibility of requests for a preliminary ruling in cases related to judicial independence. It focuses on the two most relevant conditions relating to admissibility, namely, the concept of 'court or tribunal' within the meaning of Article 267 TFEU, and on the 'necessity' of the Court's ruling. As it is essential to examine the question of admissibility alongside the evolution of the Court's interpretation of Article 19(1) TEU[2] in recent case law, the case law on that provision will also be discussed. Ultimately, this article aims to identify the underlying principles currently guiding the CJEU when accepting or rejecting requests for a preliminary ruling or questions in those requests from national courts in this specific, albeit critically important, area of the EU law.

1. The Concept of 'Court or Tribunal' within the Meaning of Article 267 TFEU

In order to determine whether a referring body qualifies as a 'court or tribunal' for the purposes of Article 267 TFEU, which is a question governed by EU law alone,[3] the CJEU takes into account a number of factors. These factors are known as the *Vaassen-Göbbels* criteria after the judgment in which they were initially formulated.[4] These include, among others, whether the body is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is *inter partes*, whether it applies rules of law, and whether it is independent.[5]

When determining whether a judicial body qualifies as a 'court or tribunal', the matter has rarely been contentious. Exceptions arose only when a request was made when a body was not exercising judicial functions.[6] Non-judicial bodies, even when designated as a court or tribunal under national law, were not recognised by the CJEU as a 'court or tribunal' for the purposes of Article 267 TFEU.[7] However, even in such cases, the CJEU has demonstrated a degree of leniency.[8]

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1 In the present article, the Court of Justice of the European Union is referred to as 'the CJEU' or 'the Court'.

2 To ensure clarity and conciseness in the text, only the reference to Article 19(1) TEU will be made, although the relevant provision is contained in the second subparagraph of Article 19(1) TEU.

3 Judgment of 21 January 2020, *Banco de Santander*, C-274/14, EU:C:2020:17, para 51.

4 Judgment of 30 June 1966, *Vaassen-Göbbels*, 61/65, EU:C:1966:39. Lenaerts, K., Gutman, K. and Nowak, T. (2023), *EU Procedural Law.* Oxford University Press, p. 52.

5 *Banco de Santander*, C-274/14, EU:C:2020:17, para 51.

6 See, for example, a court referring in its capacity as authority responsible for keeping registers (Order of 10 July 2001, *HSB-Wohnbau*, C-86/00, EU:C:2001:394).

7 For example, an arbitral tribunal (Judgment of the Court of 12 June 2014, *Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta*, C-377/13, EU:C:2014:1754) or an appeal chamber of a regional finance authority (Judgment of the Court of 30 May 2002, *Schmid*, C-516/99, EU:C:2002:313).

8 Judgment of the Court of 21 March 2000, *Gabalfrisa and Others*, C-110/98 to C-147/98, EU:C:2000:145.

This changed in the *Banco de Santander* judgment[9] where the CJEU reversed its previous *Gabalfrisa and Others* judgment[10] and reinforced the requirement of independence in the light of the latest developments in its case law at that time.[11] The Court recalled in that regard that, for the proper working of the judicial cooperation system encapsulated in the preliminary ruling mechanism, it is essential that national courts and tribunals, which trigger that mechanism and are responsible for applying the EU law, are independent.[12] Concretely, the Court found, firstly, regarding the external[13] aspect of the 'independence' of the *Tribunal Económico-Administrativo Central* (Central Tax Tribunal, Spain), that the members of the referring body could be removed by a decision of the Council of Ministers, and that the removal procedure was not governed by any specific rules providing safeguards beyond those outlined in general rules of administrative law and employment law. As a result, national rules did not offer protection to the members of that body against direct or indirect external pressures, thereby casting doubt on their independence.[14] Secondly, the Court considered that, due to the organisational and functional links between that body and the Ministry of the Economy and Finance of Spain, that body failed to satisfy the internal aspect of the independence requirement characterising a court or tribunal for the purposes of Article 267 TFEU.[15]

The *Banco de Santander* judgment represents an early indication that the independence of bodies occupying the grey zone between judicial authorities and administrative entities was emerging as a key factor in the cooperation mechanism between national courts and the Court.[16] Consequently, judicial dialogue is only possible between independent actors.[17]

Following the *Banco de Santander* judgment*,* two significant developments occurred in the case law of the CJEU regarding the concept of a 'court or tribunal' within the meaning of Article 267. In the *Getin Noble Bank* judgment,[18] the CJEU established a rebuttable presumption that a national court is also a court

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[9] *Banco de Santander*, C-274/14, EU:C:2020:17.

[10] *Gabalfrisa and Others*, C-110/98 to C-147/98, EU:C:2000:145.

[11] In its assessment, the Court referred in particular to the judgments of 16 February 2017, *Margarit Panicello*, C-503/15, EU:C:2017:126; of 27 February 2018, *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117; of 24 June 2019, *Commission* v *Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531.

[12] *Banco de Santander*, C-274/14, EU:C:2020:17, para 56.

[13] *Ibid*., para 57. According to the case law of the CJEU, the principle of judicial independence has two aspects: external and internal. The first aspect, which is external in nature, "requires that the court concerned exercise its functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body and without taking orders or instructions from any source whatsoever, thus being protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions" (*A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C-585/18, C-624/18 and C-625/18, EU:C:2019:982, para 121). The second aspect, which is internal in nature, "is linked to impartiality and seeks to ensure that an equal distance is maintained from the parties to the proceedings and their respective interests with regard to the subject matter of those proceedings" (*A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C-585/18, C-624/18 and C-625/18, EU:C:2019:982, para 122).

In the case law of the ECtHR, the internal aspect of the principle of judicial independence is, however, presented a bit differently, as that individual judges must be free from undue influences within the judiciary: this "internal judicial independence requires that they be free from directives or pressures from the fellow judges or those who have administrative responsibilities in the court such as the president of the court or the president of a division in the court" (Judgment of the ECtHR of 22 December 2009, *Parlov-Tkalčić v. Croatia*, No. 24810/06, CE:ECHR:2009:1222JUD002481006, para 86).

[14] *Banco de Santander*, C-274/14, EU:C:2020:17*,* para 60.

[15] *Ibid.*, paras 72 to 77.

[16] See more in: Butler, G. (2020). Independence of non-judicial bodies and order for a preliminary reference to the Court of Justice. *European Law Review*, 45(6), p. 870.

[17] *Ibid*.

[18] Judgment of 29 March 2022, *Getin Noble Bank*, C-132/20, EU:C:2022:235.

under Article 267 TFUE, and outlined the circumstances under which that presumption can be rebutted. Moreover, in the *Krajowa Rada Sądownictwa (Continued holding of a Judicial Office)* judgment ('the *KRS* judgment'),[19] the Court, for the first time, concluded that this presumption had been successfully rebutted.

In the case giving rise to the *Getin Noble Bank* judgment, the *Rzecznik Praw Obywatelskich* (Ombudsman, Poland) expressed concerns regarding the admissibility of a request for a preliminary ruling submitted by a single judge from the *Sąd Najwyższy* (Supreme Court, Poland). The Ombudsman highlighted deficiencies in the appointment process of that judge, as well as certain legal and factual circumstances surrounding that appointment, thereby raising doubts about the judge's independence and impartiality. Consequently, the Ombudsman suggested that the referring judge did not meet essential criteria required of a 'court or tribunal' within the meaning of Article 267 TFEU.

In this regard, the Court initially held that, when a request for a preliminary ruling originates from a national court, such as the Polish Supreme Court, it should be presumed, irrespective of its specific composition, that the national court meets all the criteria to be considered a court within the meaning of Article 267 TFEU.[20] However, the Court subsequently clarified that this presumption may be rebutted if a final judicial decision handed down by a national or international court or tribunal[21] leads to the conclusion that the judge constituting the referring court is not an independent and impartial tribunal previously established by law for the purposes of Article 19(1) TEU, read in the light of the second paragraph of Article 47 of the Charter of Fundamental Rights and Freedoms ('the Charter').[22]

Although, ultimately, the request for a preliminary ruling in that case was accepted,[23] the Court added two caveats. Firstly, it specified that the aforementioned presumption is binding solely for assessing the admissibility of references for preliminary rulings, and that it cannot be inferred therefrom that the judges making up the referring body satisfy the requirements laid down in Article 19(1) TEU and Article 47 of the Charter.[24]

The exact scope of this statement, however, remains somewhat ambiguous. It may suggest that the scope of the principle of judicial independence differs under Article 267 TFEU compared to Article 19(1) TEU and Article 47 of the Charter. Alternatively, it could simply indicate variations in the standard of review exercised by the Court depending on whether the violation of the principle of judicial independence is raised in the context of the admissibility of a request for a preliminary ruling or if this principle is the subject matter of the questions referred to the Court. If one considers the judgment in conjunction with the issues raised by Advocate General Bobek in his opinion in that case, it appears that the Court intended to convey the latter.

In his opinion in the *Getin Noble Bank* case, Advocate General Bobek observed that, although there is only one principle of judicial independence in the EU law, Article 19(1) TEU, Article 267

[19] Judgment of 21 December 2023, *Krajowa Rada Sądownictwa (Continued holding of a judicial office)*, C-718/21, EU:C:2023:1015.

[20] *Getin Noble Bank*, C-132/20, EU:C:2022:235, paras 66 to 69.

[21] On 3 February 2022, the ECtHR ruled in the judgment *Advance Pharma SP Z O.O. v. Poland* (No. 1469/20, ECHR:2022:0203JUD000146920) that the referring judge in the *Getin Noble Bank* case cannot be considered as being 'established by law'. However, this judgment only became final on the 5th of May 2022, after the delivery of the judgment in *Getin Noble Bank*.

[22] *Getin Noble Bank*, C-132/20, EU:C:2022:235, para 72.

[23] It is interesting to note that the questions referred were somewhat provocative in the light of the case law relating to the judicial reform in Poland in recent years. These questions revolved around the regularity of the panel of judges, in the light of the circumstances surrounding their appointment as a judge. These circumstances were a throwback either to the former communist regime in the Polish People's Republic, or to the early years of the Republic of Poland.

[24] *Getin Noble Bank*, C-132/20, EU:C:2022:235, para 74. See, also, para 75 of AG Bobek's opinion of 8 July 2021 in this case.

TFEU and Article 47 of the Charter differ in terms of their function and objective. He suggested that the nature of the examination carried out in order to verify compliance with the principle of judicial independence may vary, as well as the intensity of the Court's scrutiny, depending on the provision pursuant to which the examination is conducted.[25] Thus, when assessing whether the referring judge is a 'court or tribunal' within the meaning of Article 267 TFUE, and particularly when assessing the criteria of being 'established by law' and 'independent', Advocate General Bobek proposed conducting a less intensive review than that which the Court undertakes under Article 47 of the Charter or Article 19(1) TEU. In his view, given that the purpose of the concept of 'court or tribunal' is to distinguish between bodies acting in a judicial capacity and bodies acting in another capacity, the CJEU should only focus on the structural and institutional framework of the body to which the referring judge belongs.[26] Drawing on the *Dorsch Consult*[27] line of case law, Advocate General Bobek opined that, in the context of assessing the admissibility of a request for a preliminary ruling, the CJEU should deem a request admissible as long as it comes from a 'judicial body'. It is not for the Court, within this context, to evaluate the independence of an individual judge. Indeed, according to the Advocate General, the criterion of being 'established by law' would otherwise no longer solely imply that the referring judicial body was established by law, but would also require an examination of whether the specific judge making the reference was legally appointed.[28]

It appears that the Court adopted a Solomon-like solution. Drawing on the Advocate General Bobek's opinion, it chose not to undertake a comprehensive examination of all the circumstances surrounding the nomination of the judge seeking a preliminary ruling. The Court thus adhered to the principle that if a request for a preliminary ruling originates from a judicial body under national law, it must be presumed that this body satisfies all requirements to be considered as a 'court or tribunal' within the meaning of Article 267 TFEU. Nevertheless, by introducing the possibility to rebut such a presumption, the Court left the door open to reject a request as inadmissible if an individual judge seeking a preliminary ruling was not appointed in accordance with the law, but only if another court, whether national or international, concluded as such.

Secondly, in the *Getin Noble Bank* judgment, the Court also specified that a different assessment may be made in circumstances where, beyond the judge's personal situation, other factors might affect the functioning of the referring court to which that referring judge belongs and could contribute to undermining the independence and impartiality of that court.[29] It appears that the Court nevertheless left the door open to consider requests for a preliminary ruling inadmissible when they come from a 'jurisdiction' that, as a whole, is tainted by deficiencies affecting its independence. In such a case, the presumption would not be applicable. One can envision such a scenario, for example, if the Court were to receive a request for a preliminary ruling from the *Izba Dyscyplinarna* (Disciplinary Chamber) of the *Sąd Najwyższy* (Supreme Court, Poland) following the judgment in *Commission v. Poland*.[30] In that judgment the Court held, *inter alia*, that Poland had not ensured the independence and impartiality of that chamber.

In summary, the *Getin Noble Bank* judgment marks a pivotal moment in the Court's case law, which may lead to the inadmissibility of requests for preliminary rulings originating from a national

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[25] AG Bobek opinion in *Getin Noble Bank*, C-132/20, EU:C:2021:557, paras 30 to 42.

[26] *Ibid*., paras 49 to 64.

[27] Judgment of 17 September 1997, *Dorsch Consult*, C-54/96, EU:C:1997:413, para 23.

[28] AG Bobek's opinion in *Getin Noble Bank*, C-132/20, EU:C:2021:557, para 58.

[29] *Getin Noble Bank*, C-132/20, EU:C:2022:235, para 75.

[30] Judgment of 22 June 2021, *Commission v. Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596.

court not solely based on the substance of those requests, but rather on how that court, despite being part of the national judicial architecture, is established and functions. Building upon its ruling in the *Banco de Santander* judgment, the Court made it very clear that the system of cooperation with the Court pursuant to Article 267 TFEU is only viable with national courts or tribunals that adhere to the principle of judicial independence.

In the *KRS* judgment,[31] the Court went further. The request in this case came from the *Izba Kontroli Nadzwyczajnej i Spraw Publicznych* (Chamber of Extraordinary Control and Public Affairs) of the *Sąd Najwyższy* (Supreme Court, Poland) ('the Chamber of Extraordinary Control and Public Affairs'). Certain parties to the proceedings questioned the admissibility of the request for a preliminary reference. They highlighted that the judges making up the referring body were the object of two final judgments, one national and the other international. Indeed, in the *Dolińska-Ficek and Ozimek v. Poland* judgment ('the *Dolińska-Ficek and Ozimek* judgment'),[32] the European Court of Human Rights ('the ECtHR') found that one of the judges of the adjudicating panel that made the request for a preliminary ruling in the *KRS* case was appointed in violation of Article 6 of the European Convention of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), and therefore could not be considered as being 'established by law'. Secondly, a judgment of the *Naczelny Sąd Administracyjny* (Supreme Administrative Court, Poland), following the judgment in *A.B. and Others (Appointment of judges to the Supreme Court – Actions)*,[33] annulled the resolution on the basis of which the judges of the Chamber of Extraordinary Control and Public Affairs were appointed.

Notwithstanding these two final judgments, the Court did not mechanically rebut the presumption. Instead, it examined whether the findings and assessments made by the ECtHR in the *Dolińska-Ficek and Ozimek* judgment, in the light of Article 6(1) ECHR, along with those made by the *Naczelny Sąd Administracyjny* (Supreme Administrative Court), were sufficient to consider, in accordance with the Court's own case law, that the panel of judges of the Chamber of Extraordinary Control and Public Affairs, which made the request for a preliminary ruling in the *KRS* case, did not have the status of an independent and impartial tribunal previously established by law and, consequently, that that panel of judges could be classified as a 'court or tribunal' within the meaning of Article 267 TFEU.[34]

In its examination, the Court considered various factors. It referred to the circumstances surrounding the appointment of judges within the Chamber of Extraordinary Control and Public Affairs. It thus examined the role of the KRS in those appointments. In addition, the Court emphasised that, despite the suspension of the KRS resolution by the *Naczelny Sąd Administracyjny* (Supreme Administrative Court), the President of Poland nonetheless proceeded to appoint judges to the Chamber of Extraordinary Control and Public Affairs. The Court also highlighted that the newly created Chamber was assigned jurisdiction over sensitive matters. Following this analysis, the Court concluded that the combination of systemic and circumstantial elements characterizing the appointment of the three judges constituting the panel within the Chamber of Extraordinary Control and Public Affairs, which made a request for

[31] *Krajowa Rada Sądownictwa (Continued holding of a Judicial Office)*, C-718/21, EU:C:2023:1015.

[32] Judgment of the ECtHR of 11 November 2021, *Dolińska-Ficek and Ozimek v. Poland*, Nos. 49868/19 and 57511/19, CE:ECHR:2021:1108JUD004986819. The ECtHR essentially relied on two circumstances: first, that the *Krajowa Rada Sądownictwa* (National Council of the Judiciary, Poland) ('the KRS') was not independent and, second, that the President of Poland issued decrees appointing the judges despite the fact that the resolution of the KRS on the basis of which these appointments were made had been suspended by the *Naczelny Sąd Administracyjny* (Supreme Administrative Court).

[33] Judgment of 21 October 2021, *A.B. and Others (Appointment of judges to the Supreme Court – Actions)*, C-824/18, EU:C:2021:153.

[34] *Krajowa Rada Sądownictwa (Continued holding of a judicial office)*, C-718/21, EU:C:2023:1015, para 46.

a preliminary ruling, ensured that that panel did not have the status of an independent and impartial tribunal previously established by law.[35]

Several observations can be made regarding the initial application of the *Getin Noble Bank* case law. Firstly, it appears that the existence of a final judgment by a national or international court concerning, at least, one of the judges sitting on the referring panel must be raised by one of the parties or interested parties to the proceeding before the Court. Indeed, in the intervening period between the handing down of the *Getin Noble Bank* and *KRS* judgments, the Court ruled on two other cases in which requests for a preliminary ruling were initiated by judges, which were the object of a final judgment of the ECtHR.[36] Secondly, the existence of a final judgment on the independence of at least one of the judges sitting on the referring panel does not automatically lead to the inadmissibility of the request for a preliminary ruling. Instead, it simply triggers a separate assessment by the Court of the referring body's independence in which the existence of that final decision is only one of the elements that the Court takes into account. Thirdly, in the *KRS* judgment, the Court relied in its assessment of admissibility on two final judgments: namely, one from the ECtHR and one from the *Naczelny Sąd Administracyjny* (Supreme Administrative Court). In the latter judgment, the *Naczelny Sąd Administracyjny* (Supreme Administrative Court) did not rule that the judges listed in the KRS resolution in question are not established by law; it simply annulled that resolution. It remains unclear, therefore, whether, in a scenario where one of the parties draws the Court's attention to a final judgment that invalidates only one of the acts leading to the nomination of a judge, without explicitly ruling on whether the judge in question can be considered as being established by law, such a final judgment alone would suffice for the Court to initiate its own assessment of whether there are sufficient elements to rebut the presumption. Fourthly, and perhaps most interestingly, while the *Dolińska-Ficek and Ozimek* judgment concerned only one of the members of the adjudicating panel initiating the request for a preliminary ruling in the *KRS* case, the Court ruled that all three judges making up the referring panel did not constitute an independent and impartial tribunal previously established by law. This element reinforces the idea that the existence of a final judgment is only a factor, albeit a key one, which may trigger the Court to conduct its own separate assessment of admissibility and which may lead to a broader ruling than that reached in the final judgment of a national or international court.

It remains unclear, however, whether and under which conditions the Court, on the basis of its own case law, could hold that the presumption was not rebutted after considering all the elements that led a national or international court to conclude that a given judge cannot be deemed to be established by law. It can be argued that such a scenario would likely be possible if a national or international court applied a test that is less strict than the one applied by the Court. For example, in the *Reczkowicz* v. *Poland* judgment,[37] the ECtHR essentially ruled that the judges appointed to the *Izba Dyscyplinarna* (Disciplinary Chamber) of the *Sąd Najwyższy* (Supreme Court) were not 'established by law', sole-

[35] *Krajowa Rada Sądownictwa (Continued holding of a judicial office)*, C-718/21, EU:C:2023:1015, paras 77 and 78. See, also, order of 9 April 2024, *T. (Audiovisual programmes for children)*, C-22/22, not published, EU:C:2024:313, paras 22 and 23.

[36] In the cases leading to the judgments of 13 October 2022, *Perfumesco.pl*, C-355/21, EU:C:2022:791, and *Gmina Wieliszew*, C-698/20, EU:C:2022:787, some parties claimed that the requests for a preliminary ruling were inadmissible. This was because either one of the members of the panel of the *Sąd Najwyższy* (Supreme Court) that referred the case to the Court was the judge who, sitting in a single judge panel, referred the case giving rise to the *Getin Noble Bank* judgment, or each of the three judges of the referring body were appointed under circumstances identical to those that led to the appointment of the judge who brought that case before the Court. However, none of the parties indicated that the judgment of the ECtHR of 3 February 2022, *Advance Pharma SP Z O.O. v. Poland* (No. 1469/20, CE:ECHR:2022:-0203JUD000146920), became final on 5 May 2022.

[37] Judgment of the ECtHR of 22 July 2021, *Reczkowicz v. Poland* (No. 43447/19, CE:ECHR:2021:-0722JUD004344719).

ly based on the involvement of the new KRS in their appointment process.[38] However, in the *KRS* judgment, the Court explicitly held that the mere fact that a 'body, such as a national council of the judiciary, which is involved in the procedure for the appointment of judges is, for the most part, made up of members chosen by the legislature cannot, in itself, give rise to any doubt as to the independence of the judges appointed at the end of that procedure'.[39]

The *KRS* judgment appears to mark the conclusion of the process of 'reshaping' the concept of a 'court or tribunal' pursuant to Article 267 TFEU by the Court. By introducing a rebuttable presumption, the *Getin Noble Bank* judgment challenged the longstanding practice in its case law that a national court incorporated into the national judicial architecture is considered a 'court or tribunal' under Article 267 TFUE. The Court opened the door to refraining from engaging in a dialogue with 'judges' whose nomination and appointment does not adhere to the principle of judicial independence.

2. The 'Necessity' of the Preliminary Rulings

The role of the Court in proceedings pursuant to Article 267 TFEU is to assist the referring court in resolving a specific dispute.[40] It is settled case law that, notwithstanding the fact that Article 267 TFEU is an indispensable instrument of cooperation between the Court and the national courts, wherein the Court provides the latter with interpretations of the EU law, the primary condition of admissibility is that the Court's ruling on interpretation is necessary for deciding the dispute at hand.[41] Since providing advisory opinions on general or hypothetical questions is not the objective of Article 267 TFEU, the Court has inevitably declined to accept some requests for a preliminary ruling on judicial independence. Indeed, in some cases, the questions addressed to the Court on the interpretation of Article 47 of the Charter and of Article 19(1) TEU had no real connection with a dispute in the main proceedings.

It is important to note that, when raising questions related to judicial independence, national courts most often seek an interpretation of both of these provisions. However, while Article 47 of the Charter, which constitutes a reaffirmation of the principle of effective judicial protection, enshrines the right to an effective remedy before a tribunal for every person whose rights and freedoms guaranteed by EU law are infringed,[42] the second subparagraph of Article 19(1) TEU seeks to ensure that the system of legal remedies established by each Member State guarantees effective judicial protection in the fields covered by the EU law.[43]

Indeed, the scope of Article 19(1) TEU is broader than that of Article 47 of the Charter.[44] For the latter article to be applicable, the dispute before the national court must concern national law that implements the EU law. Therefore, in order for a request for a preliminary ruling on the interpretation of Article 47 of the Charter to be admissible, the main proceedings must be related (at least in part) to the EU law. While national courts often refer to both provisions in their questions, the Court has systemically rejected questions on Article 47 of the Charter where there was no element of implementation of the EU law in the proceedings before the national court.[45] As regards Article 19(1) TEU, the

[38] *Reczkowicz v. Poland*, CE:ECHR:2021:0722JUD004344719, para 280.

[39] *Krajowa Rada Sądownictwa (Continued holding of a Judicial Office)*, C-718/21, EU:C:2023:1015, para 64.

[40] Judgment of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C-558/18 and C-563/18, EU:C:2020:234, para 47.

[41] *Ibid.*, para 44.

[42] Judgment of 20 April 2021, *Repubblika*, C-896/19, EU:C:2021:311, para 40.

[43] See, for example, the distinction drawn in *Repubblika*, C-896/19, EU:C:2021:311, paras 35 to 46.

[44] *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, para 29.

[45] Judgment of 17 March 2021, *A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C-585/18, C-624/18 and C-625/18, EU:C:2019:982; Order of 2 July 2020, *S.A.D. Maler und Anstreicher*, C-256/19, EU:C:2020:684, para 34; Order of 3 October 2023, *PROM-VIDIJA*, C-327/22, EU:C:2023:757, para 29.

Court clarified in the *Associação Sindical dos Juízes Portugueses* judgment ('the *Portuguese judges* judgment') that, in order for this provision to apply, it is sufficient that the referring court may rule on questions concerning the application or interpretation of the EU law.[46] Thus, the application of Article 19(1) TEU in a given case is not contingent on the implementation of the EU law. It is sufficient that the national court in question could eventually be called upon to rule in a case in the field of the EU law. In addition, Article 19(1) TEU has direct effect.[47] However, despite the remarkably broad scope of Article 19(1) TEU, it cannot alter the functioning of the preliminary reference mechanism itself.[48]

In the *Miasto Łowicz and Prokurator Generalny* judgment,[49] the Court had the first opportunity to outline the circumstances under which a request for a preliminary ruling is admissible in cases on judicial independence. In its reasoning, the Court first recalled that, unlike infringement proceedings where the Court 'must ascertain whether the national measure or practice challenged by the Commission or another Member State, contravenes the EU law in general, without there being any need for there to be a relevant dispute before the national courts', in proceedings for a preliminary ruling, the Court's function is 'to help the referring court to resolve the specific dispute pending before [that] court'.[50] Therefore, according to the Court, there must be a 'connecting factor' between the dispute and Article 19(1) TEU, by virtue of which the interpretation of that provision is objectively required for the ruling of the referring court.[51] In that regard, the Court explained that a 'connecting factor' could, in principle, be established in three different situations. Firstly, when a dispute in the main proceedings is substantively connected to the EU law.[52] Secondly, when the questions referred relate to the interpretation of procedural provisions of the EU law that the referring court is required to apply in order to deliver its judgment.[53] Thirdly, when an interpretation of the EU law is needed to enable a referring court to resolve procedural questions of national law before being able to rule on the substance of the disputes before it,[54] in a so-called *in limine litis* situation.[55]

The 'connecting factor' may thus be of a substantive or a procedural nature.[56] When it is of a substantive nature, the connection is straightforward as the interpretation of Article 19(1) TEU lies at the heart of the dispute that needs to be resolved by the national court or tribunal. This was, for example, the case in the *Portuguese judges* judgment,[57] where the dispute concerned the temporary reduction of the remuneration paid to the members of the *Tribunal de Contas* (Court of Auditors, Portugal) within

[46] *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, para 40.

[47] Judgment of 6 October 2021, *W.Ż. (Extraordinary Review Chamber and Public Affairs of the Supreme Court – Appointment)*, C-487/19, EU:C:2021:798, para 159; Judgment of 16 February 2022, *Hungary v. Parliament and Council*, C-156/21, EU:C:2022:97, para 162; Judgment of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, para 58.

[48] Lenaerts, K. (2023). On Checks and Balances: The Rule of Law within the EU. *Columbia Journal of European Law*, 29(2), p. 36. Indeed, the scope of Article 19(1) TEU is broader than that of Article 47 of the Charter (*Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, para 29).

[49] *Miasto Łowicz and Prokurator Generalny*, C-558/18 and C-563/18, EU:C:2020:234.

[50] *Miasto Łowicz and Prokurator Generalny*, C-558/18 and C-563/18, EU:C:2020:234, para 47.

[51] *Ibid.*, para 48.

[52] *Ibid.*, para 49.

[53] *Ibid.*, para 50.

[54] *Ibid.*, para 51.

[55] None of these situations were found by the Court in the *Miasto Łowicz and Prokurator Generalny* case, in which the national court referred questions in relation to disciplinary proceedings against judges in Poland. The request for a preliminary was thus declared inadmissible. See, also, order of 6 October 2020, *Prokuratura Rejonowa w Słubicach* (C-623/18, not published, EU:C:2020:800), order of 9 January 2024, *Sąd Najwyższy* (C-658/22, EU:C:2024:38) and judgment of 18 April 2024, *OT and Others (Suppression d'un Tribunal)* (C-634/22, EU:C:2024:340).

[56] Lenaerts, K. (2023). On Checks and Balances: The Rule of Law within the EU. *Columbia Journal of European Law*, 29(2), p. 36.

[57] *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117.

the framework of Portugal's budgetary policy guidelines. In the *Prokurator Generalny (Disciplinary Chamber of the Supreme Court – Appointment)* judgment,[58] the Court clarified that the questions referred to it cannot be related to a dispute other than that in the main proceedings.[59]

The distinction between the second and third situations described above is, however, often challenging in practice as both of these involve a 'connecting factor' of a procedural nature. It may nonetheless be possible to draw a distinction, as, in the second situation, the request will be admissible if the national court seeks an interpretation of Article 19(1) TEU in the light of a national procedural provision that may be incompatible therewith. In contrast, in the third '*in limine litis*' situation, the national court is faced with a preliminary issue of national procedural or substantive law that hinders the advancement of the main proceedings, thereby requiring the interpretation of Article 19(1) TEU.

An illustration of the second situation can be found in the *A. K. and Others (Independence of the Disciplinary Chambers of the Supreme Court)* judgment. The *Izba Pracy i Ubezpieczeń Społecznych* (Labour and Social Insurance Chamber) of the *Sąd Najwyższy* (Supreme Court) ('the Labour and Social Insurance Chamber') referred some questions to the Court following the creation of a new *Izba Dyscyplinarna* (Disciplinary Chamber) within the *Sąd Najwyższy* (Supreme Court). The referring chamber sought clarification on whether, despite the national rules on attribution of jurisdiction, it was obliged, under the EU law, to disregard these national rules and maintain jurisdiction for itself in the main proceedings.[60] The Court accepted this request, which essentially concerned the interpretation of Article 19(1) TEU in the context of national procedural rules on the attribution of jurisdiction. This situation may also be interpreted as an *in limine litis* scenario where the Labour and Social Insurance Chamber was simply faced with a situation in which it could not proceed with hearing the case in the main proceedings and was required to transfer it to a different chamber in the *Sąd Najwyższy* (Supreme Court).

It could, however, be argued that the least clear-cut hypothesis regarding the necessity for the Court to provide a national court with a response is the third situation. While the *in limine litis* situation may appear straightforward, an assessment of whether the interpretation of Article 19(1) TEU is necessary for a national court to advance the proceedings is not always unequivocal and often hinges on a nuanced assessment of procedural and factual circumstances surrounding the request for a preliminary ruling. For instance, in the *Prokuratura Rejonowa w Mińsku Mazowieckim and Others* judgment ('the *Prokuratura Rejonowa* judgment'),[61] the Chair of the adjudicating panels in seven criminal cases raised concerns about the composition of the panels, particularly regarding Article 19(1) TEU, due to the presence of a judge on the panels seconded by the Minister of Justice. On the question of admissibility, the Polish Government argued, *inter alia*, that the cases in the main proceedings related to criminal procedural law and that the connection with the EU law was not sufficiently substantial, thereby rendering an answer to the question referred by the national court unnecessary to resolve the disputes.[62] The Court noted, however, that the referring court sought to determine, even before addressing the substance of the cases in the main proceedings, whether the national rules allowing a seconded judge sit on the

[58] Judgment of 22 March 2022, *Prokurator Generalny (Disciplinary Chamber of the Supreme Court – Appointment)*, C-508/19, EU:C:2022:201.

[59] *Ibid.*, para 71. See, also, order of 22 December 2022, *Sąd Najwyższy*, C-491/20 REC to C-496/20 REC, C-506/20 REC, C-509/20 REC and C-511/20 REC, EU:C:2022:1046, as well as order of 8 November 2023, *Štíke,* C-232/23, not published, EU:C:2023:863.

[60] *A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C-585/18, C-624/18 and C-625/18, EU:C:2019:982, para 112.

[61] Judgment of 16 November 2021, *Prokuratura Rejonowa w Mińsku Mazowieckim and Others*, C-748/19 to C-754/19, EU:C:2021:931.

[62] *Prokuratura Rejonowa w Mińsku Mazowieckim and Others*, C-748/19 to C-754/19, EU:C:2021:931, para 46.

panels ruling in those cases are compatible with the principle of judicial independence.[63] Furthermore, the Court clarified that the first question referred related to the interpretation of the EU law and its impact on the regularity of the composition of the adjudicating panels in the main proceedings. The Court concluded that its response was necessary to address an initial issue before the panels decide on the substance of the cases.[64]

In the *G. and Others (Nomination of Common Law Judges in Poland)* judgment ('the *G. and Others* judgment'),[65] the requests for a preliminary ruling in both joined cases were declared inadmissible, despite the fact that one of the requests was made in circumstances similar to those in the cases giving rise to the *Prokuratura Rejonowa* judgment. In one of the cases before the Court, the referring judge was the reporting judge in the main proceedings within a panel of three judges. He raised doubts about whether the panel of judges, including himself, qualified as an independent and impartial tribunal previously established by law within the meaning of Article 19(1) TEU and Article 47 of the Charter. This concern stemmed from the reforms of the Polish judicial system and the manner in which one of the judges sitting on that panel was appointed.[66] The Court recalled its recent case law, affirming that 'every court is obliged to verify whether, in its composition, it constitutes an independent and impartial tribunal previously established by law', and that this verification is 'necessary for the confidence which the courts in a democratic society must inspire in those subject to their jurisdiction'.[67] The Court then clarified the term 'necessity' within the meaning of Article 267 TFEU, particularly in a scenario where the request for a preliminary ruling pertains to a question concerning the independence of another judge sitting on the panel alongside the referring judge. According to the Court, in such circumstances, the referring court 'must be able, of its own motion, to infer the consequences' of the interpretation provided by the Court by 'assessing, in the light of that interpretation, the lawfulness of the appointment of another judge to the same panel and, where appropriate, by recusal of the latter'.[68] The Court concluded that, since it was not evident from the case file before the Court that, under rules of national law, the judge who made the request for a preliminary ruling could act alone and recuse another judge from the adjudicating panel, it could not infer consequences from any potential answer from the Court. The Court thus rejected the request for a preliminary ruling as inadmissible.[69]

It can be argued that the Court revised its assessment of the requirement of 'necessity' in the *G. and Others* judgment as compared to the *Prokuratura Rejonowa* judgment. While, in the latter case, the Court concluded that the regularity of the composition of the adjudicating panel falls within the scope of Article 19(1) TEU and can thus be raised *in limine litis* when there is a doubt about the regularity of the composition of the panel, thereby rendering the request for a preliminary ruling admissible, an additional condition was added in the *G. and Others* judgment. Indeed, it follows from the latter judgment that, in order for the request for a preliminary ruling to be admissible, the referring judge/court must also be capable of drawing consequences from the interpretation of the EU law provided by the Court. It is of interest to note that both judgments were decided by the Grand Chamber of the Court,

[63] *Prokuratura Rejonowa w Mińsku Mazowieckim and Others*, C-748/19 to C-754/19, EU:C:2021:931, para 47.
[64] *Ibid*., para 49.
[65] Judgment of 9 January 2024, *G. and Others (Nomination of Common Law Judges in Poland)*, C-181/21 and C-269/21, EU:C:2024:1.
[66] *Ibid*., para 66.
[67] *Ibid*., para 68.
[68] *Ibid*., para 69.
[69] *G. and Others (Nomination of Common Law Judges in Poland)*, C-181/21 and C-269/21, EU:C:2024:1, paras 70 to 73. See, also, judgment of 11 April 2024, *KB and Others*, C-114/23, C-115/23, C-132/23 and C-160/23, EU:C:2024:290, para 36.

which may indicate a deliberate shift in approach by the Court and a tightening of the admissibility conditions in such scenarios.

Two observations could be made in this regard. Firstly, it is not clear from the *Prokuratura Rejonowa* judgment that the question of whether the Chair of the seven adjudicating panels was or was not capable of recusing the seconded judges in the corresponding panels was properly raised before the Court. The focus of the inadmissibility claim was rather on the fact that, under national procedural rules, the Chair of the panel could not make a request for a preliminary ruling. Secondly, the condition added by the Court in the *G. and Others* judgment is a matter of national law which the Court does not have jurisdiction to interpret. This suggests that the ability or inability of the referring court to draw consequences from the Court's ruling, particularly in cases concerning the recusal of judges sitting in the same chamber, must be raised and explained by the referring court itself or argued by the parties to the proceedings before the Court.

A separate situation that needs to be addressed occurred in the *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)* judgment.[70] In these joined cases, the assessment of whether the questions referred arose *in limine litis* was dependent on an interpretation of the scope of Article 19(1) TEU. In one case, the referring judge sought to ascertain whether he could continue examining the case in the main proceedings despite a resolution suspending him from his duties.[71] In the other case, the referring judge sought to ascertain whether he could, without facing any risk of a disciplinary procedure, consider that resolution (relating to another judge) as non-binding and recuse himself from a case allocated to him.[72]

The referring judges raised questions which did not concern the independence of other judges sitting in the same chamber, but rather about their own jurisdiction to hear the cases. They sought clarification on whether their assignment to their respective case was in accordance with the law and on whether they could be deemed as being established by law under Article 19(1) TEU.[73] The Court considered both cases admissible, thus explicitly extending the protection guaranteed by Article 19(1) TEU to the referring judges.[74] It may thus be argued that the scope of that provision is to protect EU judges in all kind of scenarios,[75] as long as the referring court will be able to infer the consequences of the interpretation provided by the Court.[76]

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[70] Judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C-615/20 and C-671/20, EU:C:2023:562.

[71] *Ibid.*, para 46.

[72] *Ibid.*, para 46.

[73] It may be argued that the concept of a court being 'established by law', or '*juge légal*' in French, encompasses three types of situations: (i) the legality of the nomination of a judge, (ii) the legality of the assignment of a judge to a specific case (case allocation), and (iii) the principle that only judges who are legally assigned to a case can decide it, and no one else within the court can participate in the decision-making process if they are not officially assigned to the case (internal independence). There may be a conceptual overlap between the second and the third situations.

[74] In an earlier case, *S.A.D. Maler und Anstreicher* (C-256/19, EU:C:2020:684), the questions referred for a preliminary ruling also related to the referring judge and were raised in the context of case allocation. However, the Court declared the reference inadmissible. This could perhaps be explained by the fact that the issue of a judge being 'established by law' in that case related to the potential misapplication of internal rules on case allocation, whereas, in the *YP and Others* judgment, the reallocation of cases related to an attempt to jeopardise the independence of one of the referring judges.

[75] In the *Portuguese judges* judgment, the judges were parties to the main proceedings, whereas in the *Prokuratura Rejonowa w Mińsku Mazowieckim and Others* judgment, the request concerned fellow members of the adjudicating panels, but not the referring judge *stricto sensu*.

[76] *G. and Others (Nomination of Common Law Judges in Poland)*, C-181/21 and C-269/21, EU:C:2024:1, paras 70 to 73. It is of interest to note that, in the *YP and Others* judgment, the Court held that the judicial bodies within the referring jurisdiction should also draw conclusions from this judgment; see paras 73 and 80 of that judgment.

Even if Article 19(1) TEU protects all EU judges, the Court will not, however, consider all questions pertaining to their independence admissible. There must still be a procedural or substantive connection with the case in the main proceedings and that provision. For instance, in the *IS (Illegality of the order for reference)* judgment,[77] the Court dismissed the second and the third questions referred as inadmissible, despite their relevance to issues such as the appointment procedure for the president of a court and the remuneration system of judges. Although both matters fall within the scope of Article 19(1) TEU, there was no connecting factor between that provision and the dispute in the main proceedings.[78] As the Court emphasised, the main proceedings did not concern the Hungarian judicial system as a whole, which might compromise the independence of the judiciary, including that of the referring court in implementing the EU law.[79] Therefore, although there may be a material connection between the substance of the main proceedings and Article 19(1) TEU, this alone was not enough to satisfy the criterion of necessity.[80] To satisfy this criterion, the interpretation of that provision must be objectively required for the ruling in the main proceedings.[81]

Concluding remarks

In recent years, the Court has witnessed a significant increase in cases relating to judicial independence. Even though Article 19(1) TEU is a part of the constitutional framework of the EU for some time, a substantial amount of case law has been dedicated to its interpretation in a recent and relatively short period of time. Of course, this is due to some Member States undertaking drastic judicial reforms in recent years. Amidst this influx of cases, the principle of judicial independence and the provisions thereon were not only interpreted in cases where the Court responded to requests on the substance of a case, but also in cases where the Court declared requests for preliminary rulings inadmissible. The fact that most of these cases were handled by the Grand Chamber underlines the importance of the principles at stake. Indeed, in a series of cases, the Court redefined the concept of 'court or tribunal' within the meaning of Article 267 TFUE, as illustrated by the *KRS* judgment, where it declined for the first time to answer a request for a preliminary ruling from a national court within the national judicial architecture. In evaluating the 'necessity' of its response, the Court developed a line of case law on *in limine litis* scenarios, wherein it accepted a request for a preliminary ruling when the questions referred related not to the main dispute but to procedural matters involving the referring judges themselves. This body of case law follows a consistent approach by the Court, indicating its commitment to the value of a judicial dialogue by engaging only with independent counterparts and granting them the necessary tools to safeguard their independence.

Bibliography

Legal Acts

Treaty on European Union (Consolidated version 2016). *OJ* 2016 C 202, pp. 15–45.
Treaty on the Functioning of the European Union (Consolidated version 2016). *OJ* 2016 C 202, pp. 47–199.
Charter of Fundamental Rights of the European Union (2016). *OJ*2016 C 202, pp. 391–407.

[77] Judgment of 23 November 2021, *IS (Illegality of the order for reference)*, Case C-564/19, EU:C:2021:949.
[78] *Ibid*., paras 143 to 146.
[79] *Ibid*., para 144.
[80] *Ibid*., para 144.
[81] *Ibid*., para 144.

Specialised literature

Butler, G. (2020). Independence of non-judicial bodies and order for a preliminary reference to the Court of Justice. *European Law Review*, 45(6), 870–887.

Lenaerts, K., Gutman, K., Nowak, T. (2023). EU Procedural Law. *Oxford University Press*.

Lenaerts, K. (2023). On Checks and Balances: The Rule of Law within the EU. *Columbia Journal of European Law*, 29(2), 25–63.

Jurisprudence

Judgments and Orders of the Court of Justice of the European Union

Vaassen-Göbbels [CJUE], No. 61/65 [30.06.1966]. EU:C:1966:39.

Dorsch Consult [CJUE], No. C-54/96 [17.09.1997]. EU:C:1997:413.

Gabalfrisa and Others [CJUE], No. C-110/98 to C-147/98 [21.03.2000]. EU:C:2000:145.

HSB-Wohnbau [CJUE], No. C-86/00 [10.07.2001]. EU:C:2001:394.

Schmid [CJUE], No. C-516/99 [30.05.2002]. EU:C:2002:313.

Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta [CJUE], No. C-377/13 [12.06.2014]. EU:C:2014:1754.

Margarit Panicello [CJUE], No. C-503/15 [16.02.2017]. EU:C:2017:126.

Associação Sindical dos Juízes Portugueses [CJUE], No. C-64/16 [27.02.2018]. EU:C:2018:117.

Commission v. *Poland (Independence of the Supreme Court)* [CJUE], No. C-619/18 [24.06.2019]. EU:C:2019:531.

A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court) [CJUE], No. C-585/18, C-624/18 and C-625/18 [19.11.2019]. EU:C:2019:982.

Banco de Santander [CJUE], No. C-274/14 [21.01.2020]. EU:C:2020:17.

Miasto Łowicz and Prokurator Generalny [CJUE], No. C-558/18 and C-563/18 [26.03.2020]. EU:C:2020:234.

S.A.D. Maler und Anstreicher [CJUE], No. C-256/19 [3.09.2020]. EU:C:2020:684.

Prokuratura Rejonowa w Słubicach [CJUE], No. C-623/18 [06.10.2020]. EU:C:2020:800.

A.B. and Others (Appointment of judges to the Supreme Court – Actions) [CJUE], No. C-824/18 [2.03.2021]. EU:C:2021:153.

Repubblika, [CJUE] No. C-896/19 [20.04.2021]. EU:C:2021:311.

Commission v. Poland (Disciplinary regime for judges) [CJUE] No. C-791/19 [15.07.2021]. EU:C:2021:596.

W.Ż. (Extraordinary Review Chamber and Public Affairs of the Supreme Court – Appointment) [CJUE] No. C-487/19 [6.10.2021]. EU:C:2021:798.

Prokuratura Rejonowa w Mińsku Mazowieckim and Others [CJUE] No. C-748/19 to C-754/19 [16.11.2021]. EU:C:2021:931.

IS (Illegality of the order for reference) [CJUE] No. C-564/19 [23.11.2021]. EU:C:2021:949.

Hungary v Parliament and Council [CJUE] No. C-156/21 [16.02.2022]. EU:C:2022:97.

RS (Effect of the decisions of a constitutional court) [CJUE] No. C-430/21 [22.02.2022]. EU:C:2022:99.

Prokurator Generalny (Disciplinary Chamber of the Supreme Court – Appointment) [CJUE] No. C-508/19 [22.03.2022] EU:C:2022:201.

Getin Noble Bank [CJUE] No. C-132/20 [29.03.2022]. EU:C:2022:235.

Gmina Wieliszew [CJUE] No. C-698/20 [13.10.2022]. EU:C:2022:787.

Perfumesco.pl [CJUE] No. C-355/21 [13.10.2022]. EU:C:2022:791.

Sąd Najwyższy [CJUE] No. C-491/20 REC to C-496/20 REC, C-506/20 REC, C-509/20 REC and C-511/20 REC [22.12.2022]. EU:C:2022:1046.

YP and Others (Lifting of a judge's immunity and his or her suspension from duties) [CJUE] No. C-615/20 and C-671/20 [13.07.2023]. EU:C:2023:562.

PROM-VIDIJA [CJUE] No. C-327/22 [3.10.2023]. EU:C:2023:757.

Štike [CJUE] No. C-232/23 [08.11.2023]. EU:C:2023:863.

Krajowa Rada Sądownictwa (Continued holding of a judicial office) [CJUE] No. C-718/21 [21.12.2023]. EU:C:2023:1015.

G. and Others (Nomination of common law judges in Poland) [CJUE] No. C-181/21 and C-269/21 [9.01.2024]. EU:C:2024:1.

Sąd Najwyższy [CJUE] No. C-658/22 [09.01.2024]. EU:C:2024:38.

T. (Audiovisual programmes for children) [CJUE] No. C-22/22 [09.04.2024]. EU:C:2024:313.

KB and Others [CJUE] No. C-114/23, C-115/23, C-132/23 and C-160/23 [11.04.2024]. EU:C:2024:290.
OT and Others (Suppression d'un Tribunal) [CJUE] No. C-634/22 [18.04.2024]. EU:C:2024:340.

Opinions of Advocates General of the Court of Justice of the European Union

Opinion of Advocate General Bobek, *Getin Noble Bank*, No. C-132/20 [8.07.2021]. EU:C:2021:557.

Judgments of the ECtHR

Parlov-Tkalčić v. Croatia [ECHR], No. 24810/06 [22.12.2009], CE:ECHR:2009:1222JUD002481006.
Reczkowicz v. Poland [ECHR], No. 43447/19 [22.07.2021]. CE:ECHR:2021:0722JUD004344719.
Dolińska-Ficek and Ozimek v. Poland [ECHR], Nos. 49868/19 and 57511/19 [11.11.2021]. CE:ECHR:2021:-1108JUD004986819.
Advance Pharma SP Z O.O. v. Poland [ECHR], No. 1469/20 [03.02.2022]. CE:ECHR:2022:0203JUD000146920.

Mantas Stanevičius yra Vilniaus universiteto Teisės fakulteto absolventas, du semestrus pagal *Erasmus* programą mokėsi Frankfurto prie Maino J. V. Gėtės universitete. Jis taip pat yra Liono katalikiškojo universiteto tarptautinės teisės ir žmogaus teisių magistrantas bei Lježo universiteto konkurencijos teisės ir intelektinės nuosavybės teisės magistrantas. 2004–2005 m. Europos Sąjungos Teisingumo Teismo jaunesnysis teisės referentas teisėjo K. Lenaerts kabinete. 2006 ir 2008 m. Europos Sąjungos Teisingumo Teismo teisininkas lingvistas. 2009–2014 m. Europos Komisijos Konkurencijos generalinio direktorato teisininkas. 2014–2018 m. Europos Sąjungos Bendrojo Teismo teisės referentas teisėjo E. Bieliūno kabinete. Šiuo metu autorius yra Europos Sąjungos Teisingumo Teismo teisės referentas teisėjo I. Jarukaičio kabinete.

Mantas Stanevičius is a graduate of the Faculty of Law, Vilnius University. He also completed a two-semester Erasmus programme at J.W. Goethe University in Frankfurt am Main, Germany. He holds a Master's degree in International Law and Human Rights Law from the Catholic University of Lyon, as well as an LL.M. in Competition and Intellectual Property Law from the University of Liège. From 2004 to 2005, he worked as a legal assistant at the Court of Justice of the European Union in the Chambers of K. Lenaerts. From 2006 to 2008, with interruptions, he held the position of a lawyer-linguist at the Court of Justice of the European Union. From 2009 to 2014, he worked as a case-handler at the DG Competition of the European Commission. From 2014 to 2018, he served as a Référendaire at the General Court of the European Union in the Chambers of E. Bieliūnas. Currently, he is a Référendaire at the Court of Justice of the European Union in the Chambers of I. Jarukaitis.