



PRESS RELEASE No 80/23

Luxembourg, 17 May 2023

Judgment of the Court in Case C-176/22 | BK and ZhP (Partial stay of the main proceedings)

A request for a preliminary ruling made to the Court of Justice does not prevent the referring court from continuing the main proceedings in part

The referring court may carry out procedural steps that it considers necessary, such as the collection of evidence, and which do not prevent it from complying with the subsequent response of the Court

The Bulgarian Public Prosecutor's Office has accused two police investigators of corruption. One of them objected to the legal classification of corruption given by the prosecution. The Bulgarian court dealing with the charges questioned its power to reclassify the offence at issue without informing the person prosecuted in advance. In that regard, it then made a (first) request for a preliminary ruling to the Court of Justice. That request is the subject of a case other than the present one that is still pending before the Court.¹

The Bulgarian court then asked whether it should stay the proceedings in its entirety until the Court's response, or whether it can continue to examine the case and, in particular continue to collect evidence, provided that it will not give a decision on the merits before having received that response. It therefore made a second request for a preliminary ruling to the Court to clarify that other question.

In its judgment of today, the Court's answer is that **EU law does not preclude a national court which has made a request for a preliminary ruling to the Court from staying the main proceedings only with regard to the aspects of those proceedings that are likely to be affected by the Court's response to that request.**

The preservation of the effectiveness of that procedure is not made impossible in practice or excessively difficult by a national rule which makes it possible, between the date on which a request for a preliminary ruling is made to the Court and that of the Court's answer, to continue the main proceedings in order to carry out procedural steps. Those are steps that the referring court considers necessary and which concern aspects unrelated to the questions referred for a preliminary ruling, namely procedural steps which are not such as to prevent the referring court from complying, in the main proceedings, with the Court's response.

Because a request for a preliminary ruling may be made to the Court even at an early stage of the main proceedings, it must be open to the referring court, pending the Court's response to that request, to continue those proceedings for such procedural steps.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European

¹ The pending case [C-175/22 BK](#) (Reclassification of the infringement). This concerns the interpretation of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ 2012 L 142, p. 1), and the fundamental right of access to an impartial trial enshrined in the Charter of Fundamental Rights of the European Union.

Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Stay Connected!

