



## PRESS RELEASE No 126/23

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Judgment of the Court in Joined Cases C-615/20 | YP and Others and C-671/20 | M. M. (Lifting of a judge's immunity and his or her suspension from duties)

### **National courts are required to disapply an act ordering, in breach of EU law, a judge's suspension from his or her duties**

On 18 November 2020, the Disciplinary Chamber of the Polish Supreme Court adopted a resolution authorising the initiation of criminal proceedings against Judge I.T. of the Warsaw Regional Court, suspending him from his duties and reducing his remuneration for the duration of the suspension. Following that resolution, the cases initially dealt with by Judge I.T. were reassigned to other panels, with the exception of the criminal case which gave rise to the reference for a preliminary ruling in Case C-615/20.

In Case C-615/20, the panel of the Warsaw Regional Court, in which Judge I.T. sits as a single judge, raised doubts as to the independence and impartiality of the Disciplinary Chamber, <sup>1</sup> and asked whether EU law precludes such a body from being able to waive the immunity from prosecution of judges of the ordinary courts and to suspend them from their duties. In addition, it asked the Court of Justice whether EU law, in particular the principles of primacy and sincere cooperation, preclude the resolution at issue from being regarded as binding and whether Judge I.T. is therefore entitled to continue to examine the criminal proceedings before him in the present case.

In Case C-671/20, a judge who was reassigned one of the cases initially assigned to Judge I.T. asked the Court whether EU law requires him to refrain from further examining that case, without taking into account the resolution of the Disciplinary Chamber adopted against Judge I.T., and whether the competent national judicial authorities are required to allow Judge I.T. to continue hearing that case.

In today's judgment, the Court observes that that resolution was based on national provisions that the Court recently held to be contrary to Article 19(1), second subparagraph, of the Treaty on European Union, <sup>2</sup> in so far as they conferred on the Disciplinary Chamber, whose independence and impartiality were not guaranteed, jurisdiction to hear and determine cases having a direct impact on the status of judges and the performance of their office, such as the initiation of criminal proceedings against judges. Having regard to the authority attaching to a judgment establishing a failure to fulfil obligations on the part of a Member State, to the direct effect of that provision and to the principle of primacy of EU law, **the Polish courts are thus required to ensure that that provision and that finding on the part of the Court are observed, and to draw all the appropriate conclusions**, even in the absence of national legislative measures.

To that end, **national courts must refrain from applying an act such as the Disciplinary Chamber's resolution where such a consequence is essential in view of the procedural situation at issue in order to ensure the**

<sup>1</sup> The Disciplinary Chamber of the Polish Supreme Court has in the meantime been abolished. See order of 21 April 2023, *Poland v Commission*, [C-204/21 R-RAP](#), paragraph 26 (see also Press release No [65/23](#)).

<sup>2</sup> Judgment of 5 June 2023, *Commission v Poland (Independence and private life of judges)*, [C-204/21](#) (see also Press release No [89/23](#)).

**primacy of EU law**, without **that being precluded by any consideration relating to the principle of legal certainty or the alleged finality of a decision**. As regards legal certainty, the Court notes, in particular, that both the criminal proceedings in Case C-615/20 and those in Case C-671/20 have been stayed by the national courts pending the present judgment of the Court, so that there appears to be nothing to preclude the resumption of those proceedings by Judge I.T.

Consequently, EU law requires, first, that, in Case C-615/20, **Judge I.T. must be able to continue to exercise jurisdiction in the criminal proceedings** before him and, second, that, in Case C-671/20, **the panel to which a case initially entrusted to Judge I.T. was reassigned must refrain from ruling on that case** and that **the competent judicial bodies must reassign that case to Judge I.T.**

The Court holds, lastly, that neither the national provisions prohibiting national courts, on pain of disciplinary penalties, from examining the binding nature of the resolution adopted by the Disciplinary Chamber, nor the case-law of a constitutional court which does not permit such an examination, **can preclude the disapplication of that resolution**. The primacy of EU law means that any provision or national case-law contrary to EU law must be disapplied. Similarly, the fact that a national judge disapplies those provisions or disregards that national case-law cannot trigger his or her disciplinary liability.

**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 EU law or the validity of an EU 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.

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

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