



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 35/20

Luxembourg, 26 March 2020

Judgment in Joined Cases Case C-558/18 and C-563/18
Miasto Łowicz and Prokurator Generalny

The Court declares that the requests for a preliminary ruling concerning Polish measures from 2017 establishing a disciplinary procedure regime for judges are inadmissible.

The fact that a national judge made a request for a preliminary ruling which turned out to be inadmissible cannot, however, lead to disciplinary proceedings being brought against that judge.

In the judgment **Miasto Łowicz and Prokurator Generalny** (Joined Cases C-558/18 and C-563/18), delivered on 26 March 2020, the Court, sitting as the Grand Chamber, declared the requests for a preliminary ruling made by the Regional Court, Łódź (Poland) and the Regional Court, Warsaw (Poland) to be inadmissible. By those two requests, **the referring courts in essence asked the Court of Justice whether the new Polish legislation relating to the disciplinary regime for judges was compatible with the right of individuals to effective judicial protection**, guaranteed in the second subparagraph of Article 19(1) TEU.

The first case (C-558/18) originates from a dispute between the town of Łowicz in Poland and the State Treasury concerning a request for payment of public funding. The referring court stated that it was likely that the decision which it was going to take in that case would be unfavourable to the State Treasury. As regards the second case (C-563/18), it concerns criminal proceedings brought against three persons for offences committed in 2002 and 2003, and the referring court has to consider granting them an exceptional reduction in their sentences given that they collaborated with the criminal authorities by admitting the charges against them. Both requests for a preliminary ruling express fears that such decisions will lead to disciplinary proceedings being brought against the single judge presiding in each of the cases. The national courts referred to the recent legislative reforms that took place in Poland, which call into question the objectivity and impartiality of disciplinary proceedings relating to judges and has an impact on the independence of the Polish courts. Highlighting in particular the considerable influence which the Minister for Justice now has in disciplinary proceedings relating to the judges of the ordinary courts, the referring judges point to the lack of adequate safeguards accompanying that influence. **For the referring courts, the disciplinary procedures thus conceived confer on the legislative and executive branches a means of ousting judges whose decisions do not suit them, thereby influencing the court judgments which they must deliver.**

After confirming that it has jurisdiction to interpret the second paragraph of Article 19(1) TEU, the Court ruled on the admissibility of both requests for a preliminary ruling. In that regard, it first of all observed that, under Article 267 TFEU, the preliminary ruling sought must be 'necessary' to enable the referring court 'to give judgment'. It also pointed out that, under that provision as interpreted by the case-law of the Court, a national court or tribunal is not empowered to bring a matter before the Court by way of a request for a preliminary ruling unless a case is pending before it in which it is called upon to give a decision which is capable of taking account of the preliminary ruling. Highlighting the specific nature of its role in references for a preliminary ruling, that is to say, helping the referring court to resolve the specific dispute pending before that court, the Court of Justice then stated that there must be a connecting factor between that dispute and the provision of EU law for which an interpretation is sought. That connecting factor must be such that that interpretation is objectively required for the decision to be taken by the referring court.

In the present case, **the Court found**, first, **that the disputes in the main proceedings are not connected with EU law**, in particular with the second subparagraph of Article 19(1) TEU to which the questions referred for a preliminary ruling relate. It therefore held that the referring courts are not called upon to apply that law in order to rule on the substance of those disputes. Secondly, noting that it had indeed already held to be admissible questions concerning the interpretation of procedural provisions of EU law which the referring court concerned was required to apply in order to deliver its judgment,¹ the Court stated that that was not the scope of the questions referred in the two cases. Thirdly, the Court stated that an answer to those questions did not appear capable of providing the referring courts with an interpretation of EU law which would allow them to resolve procedural questions of national law before being able to rule, as appropriate, on the substance of the disputes in the main proceedings.² Accordingly, **the Court held that it was not apparent from the orders for reference that there is a connecting factor between the provision of EU law to which the questions referred for a preliminary ruling relate and the disputes in the main proceedings, which makes it necessary to have the interpretation sought so that the referring courts may**, by applying the guidance provided by such an interpretation, **deliver their respective judgments. It therefore found that the questions referred are general in nature, so that the requests for a preliminary ruling must be declared inadmissible.**

Finally, the Court observed that provisions of national law which expose national judges to disciplinary proceedings as a result of the fact that they submitted a reference to the Court for a preliminary ruling cannot be permitted.³ Indeed, such a prospect of disciplinary proceedings is likely to undermine the effective exercise by the national judges concerned of the discretion to refer questions to the Court and of the functions of the court responsible for the application of EU law entrusted to them by the Treaties. In that regard, the Court made it clear that not being exposed to such disciplinary proceedings or measures for that reason also constitutes a guarantee essential to their independence.)

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 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.

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The full text of the judgments [C-558/18](#) and [C-563/18](#) are published on the CURIA website on the day of delivery.

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¹Case: [C-283/09](#) Weryński; see also Press Release No [7/11](#).

² Joined Cases [C-585/18](#), [C-624/18](#) and [C-625/18](#) A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court); see also Press Release No [145/19](#).

³Order of the President of the Court of 1 October 2018, Joined Cases [C-558/18](#) and [C-563/18](#) Miasto Łowicz and Prokuratura Okręgowa w Płocku.