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Judgment of the Court in Joined Cases C-422/23, C-455/23, C-459/23, C-486/23 and C-493/23 | [Daka] and Others ¹

Independence of judges: the double appointment of judges to the Polish Supreme Court is compatible with EU law

The Civil Chamber of the Polish Supreme Court has doubts about the independence and impartiality of the panels of three judges called upon to rule on five different appeals in cassation.

In addition to a judge from the Civil Chamber, those judicial panels include two judges from the Labour and Social Insurance Chamber. The latter have been appointed to sit on the Civil Chamber for a period of three months.

The unjustified and unconsented appointments of the latter judges, as well as the appointments of the panels called upon to rule on the five appeals, were decided by the First President and the President of the Civil Chamber of the Polish Supreme Court, who were allegedly appointed judges to that court under conditions incompatible with EU law. ²

The judges concerned have no effective means of challenging their appointment. Furthermore, they have not been exempted from jurisdictional activities in their chamber of origin, which would lead to a doubling of their workload. They also feel that, given the judges' specialisation, their appointment to sit in another chamber could compromise the quality of justice dispensed.

A reference for a preliminary ruling was made to the Court of Justice on the question whether the judicial panels of the Civil Chamber, composed in such circumstances, comply with the requirements of an independent, impartial and legally established court, as laid down by EU law. ³

The Court answers in the affirmative.

It is legitimate for the president of a court to be able, under certain conditions and on a temporary basis, to require judges to work both in their chamber of origin and in another chamber of that court. Such a measure, which is purely organisational, may be necessary to ensure the proper administration of justice and the observance of reasonable time limits.

The designation of a judge to sit in a chamber other than his or her chamber of origin is compatible with EU law where it is based on legitimate grounds, is made on the basis of the national rules governing the court concerned, is strictly limited in time, does not call into question the assignment of the judge concerned to his or her chamber of origin, and where that judge is neither relieved of the cases for which he or she was responsible nor demoted. In addition, **the designation must not target specific judges** because of positions they may have taken in the past.

The temporary increase in workload or the need to deal with matters outside the specialisation of the designated judges is not relevant in this context.

The fact that this measure is taken by persons whose appointment to the court concerned is irregular is not in itself sufficient to call into question the compatibility of the panels thus constituted with EU law. **Decisions on appointments cannot be assimilated to judicial decisions putting an end to proceedings.**

Finally, neither the lack of consent of the designated judges nor the absence of a right of appeal in itself undermines the principles of independence and impartiality.

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 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 and, where appropriate, a summary of the judgment](#) is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

² According to the judges-designate, the irregularities vitiating the appointments of the President of the Civil Chamber and the First President of the Polish Supreme Court correspond to the circumstances already examined by the Court in its judgment of 6 October 2021 in Case *W.Ż. (Extraordinary Chamber of Control and Public Affairs of the Supreme Court - Appointment)*, [C-487/19](#) (see also Press Release [No 173/21](#)).

³ The second subparagraph of Article 19(1) TEU, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union.