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ECLI:EU:C:2025:143

JUDGMENT OF THE COURT (Fifth Chamber)

6 March 2025 (*)

(Reference for a preliminary ruling – Rule of law – Second subparagraph of Article 19(1) TEU – Principle of the irremovability of judges and judicial independence – Resolution of the college of a court withdrawing all cases from a judge – Lack of objective criteria for taking a withdrawal decision – Lack of obligation to state reasons for such a decision – Primacy of EU law – Obligation to disapply such a decision to withdraw cases)

In Joined Cases C647/21 and C648/21,

REQUESTS for a preliminary ruling under Article 267 TFEU from the Sąd Okręgowy w Słupsku (Regional Court, Słupsk, Poland), made by decision of 20 October 2021, received at the Court on 25 October 2021, in the criminal proceedings against

D.K. (C647/21),

M.C.,

M.F. (C648/21),

other parties:

Prokuratura Rejonowa w Bytowie,

Prokuratura Okręgowa w Łomży,

THE COURT (Fifth Chamber),

composed of I. Jarukaitis (Rapporteur), President of the Fourth Chamber, acting as President of the Fifth Chamber, D. Gratsias and E. Regan, Judges,

Advocate General: A.M. Collins,

Registrar: M. Siekierzyńska, Administrator,

having regard to the written procedure and further to the hearing on 24 January 2024,

after considering the observations submitted on behalf of:

- the Prokuratura Rejonowa w Bytowie, by T. Rutkowska- Szmydyńska, Prokurator Regionalny w Gdańsku,
 - the Prokuratura Okręgowa w Łomży, by A. Bałazy, Zastępca Prokuratora Okręgowego w Łomży,
 - the Polish Government, by B. Majczyna and S. Żyrek, acting as Agents,
 - the Danish Government, by D. Elkan, V. Pasternak Jørgensen and M. Søndahl Wolff, acting as Agents,
 - the Netherlands Government, by M.K. Bulterman and J. Langer, acting as Agents,
 - the Swedish Government, by A.M. Runeskjöld and H. Shev, acting as Agents,
 - the European Commission, by K. Herrmann, P. Stancanelli and P.J.O. Van Nuffel, acting as Agents,
- after hearing the Opinion of the Advocate General at the sitting on 11 April 2024,
- gives the following

Judgment

- 1 These requests for a preliminary ruling concern the interpretation of the second subparagraph of Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter').
- 2 The requests were made in the context of criminal proceedings brought against D.K. (Case C647/21) and against M.C. and M.F. (Case C648/21).

Legal context

The Constitution of the Republic of Poland

- 3 Article 178(1) of the Konstytucja Rzeczypospolitej Polskiej (Constitution of the Republic of Poland) states:

'Judges, within the exercise of their office, shall be independent and subject only to the Constitution and statutes.'

- 4 Article 179 of that Constitution provides:

'The President of the Republic shall appoint judges, on a proposal from the Krajowa Rada Sądownictwa [(National Council of the Judiciary, Poland) ('the KRS')], for an indefinite period.'

- 5 Article 180 of that Constitution states:

- '1. Judges shall be irremovable.
2. A judge may not be dismissed, suspended from office, moved to another jurisdiction or another function against his or her will except in accordance with a judicial decision and only in cases provided for by law.'

The Law on the ordinary courts

- 6 Article 11(3) of the ustawa Prawo o ustroju sądów powszechnych (Law on the organisation of the ordinary courts) of 27 July 2001 (Dz. U. No 98, item 1070), in the version applicable to the disputes in the main proceedings ('the Law on the ordinary courts'), states:

'The head of the division shall be appointed by the president of the court. ... 'Prior to the appointment of the president of a division in a sąd okręgowy [(regional court)] or a sąd rejonowy [(district court)], the president of the court shall consult the college of the sąd okręgowy [(regional court)].'

7 Under Article 21(1)(2) of that law, the bodies of a sąd okręgowy (regional court) include the president of the court, the college of the court and the director of the court.

8 Article 22a of that law provides:

‘1. ... the president of the sąd okręgowy [(regional court)] at the sąd okręgowy [(regional court)], after consulting the college of the sąd okręgowy [(regional court)], shall establish how activities are to be allocated; this will specify:

- (1) the assignment of judges ... to divisions of the court;
- (2) the scope of judges’ ... duties, as well as the manner in which they are to participate in the allocation of cases;
- (3) the schedule of duty hours and substitution schedule for judges, ...
 - taking into account the specialisation of judges ... to hear and determine different types of cases, the need to ensure judges ... are appropriately distributed among the divisions of the court and that their duties are distributed evenly, as well as the need to ensure that judicial proceedings are conducted efficiently.

...

4. The president of the court may at any time establish, in full or in part, a new way in which activities are to be allocated, where this is justified on the grounds referred to in paragraph 1. ...

4a. The transfer of a judge to another division shall require that judge’s consent.

4b. The consent of a judge to the transfer of that judge to another division shall not be required if:

- (1) the transfer is to a division which hears and determines cases in the same field;
- (2) no other judge in the division from which the transfer is to take place has consented to his or her transfer;
- (3) where the judge transferred is assigned to the [land register division or the mortgage register commercial division].

4c. The provisions of paragraph 4b(1) and (2) shall not be applicable to a judge who, over a period of three years, was transferred to another division without his or her consent. When judges are transferred to another division without their consent in the case referred to in paragraph 4b(2), particular account shall be taken of the length of service of the judges in the division from which the transfer is taking place.

5. A judge or trainee judge whose allocated activities have been changed in a manner resulting in a change in the scope of his or her duties, in particular through a transfer to another division of the court, may appeal to the [KRS] within seven days of the date of being informed of the new scope of his or her duties. There shall be no right of appeal in the event of:

- (1) a transfer to a division which hears and determines cases in the same field;
- (2) an entrusting of duties in the same division in accordance with the rules applicable to other judges, and in particular where allocation to a specialised division or to another form of specialisation is revoked.

6. The appeal referred to in paragraph 5 shall be lodged through the president of the court who carried out the allocation of activities which is the subject of the appeal. The president of the court shall forward the appeal to the [KRS] within 14 days of its receipt together with a statement of his or her position in the case. The [KRS] shall adopt a resolution upholding or dismissing the judge’s appeal, taking into account the

considerations referred to in paragraph 1. The resolution of the [KRS] regarding the appeal referred to in paragraph 5 shall not require justification. The resolution of the [KRS] is not amenable to appeal. Until the resolution is adopted, the judge or trainee judge shall continue to perform his or her existing duties.'

9 Article 24(1) of the Law on the Ordinary Courts provides:

'The President of a sąd okręgowy [(regional court)] shall be appointed by the Minister for Justice from among the judges of the sąd apelacyjny [(court of appeal)], the sąd okręgowy [(regional court)] or the sąd rejonowy [(District Court)]. After appointing the President of a sąd okręgowy (regional court), the Minister for Justice shall present him or her to the competent General Assembly of Judges of the sąd okręgowy (regional court).'

10 In accordance with Article 30(1) of that law, the college of the sąd okręgowy (regional court) is to consist of the president of the sąd okręgowy (regional court) and the presidents of the sądy rejonowe (district courts) within the jurisdiction of the sąd okręgowy (regional court).

11 Article 42a of that law provides:

'1. In the context of the activities of the courts or the organs of the courts, it shall not be permissible to call into question the legitimacy of the tribunals and courts, the constitutional organs of the State and the organs responsible for reviewing and protecting the law.

2. An ordinary court or other authority cannot establish or assess the lawfulness of the appointment of a judge or of the power to carry out tasks in relation to the administration of justice that derives from that appointment.'

12 Article 47a of the law on the ordinary courts provides:

'1. Cases shall be assigned to judges and trainee judges at random according to the specific categories of cases, with the exception of the allocation of cases to a duty judge.

2. Cases within the specific categories shall be allocated equally unless the share has been reduced because of the post held, participation in the allocation of cases of another category, or other reasons provided for by law.'

13 As set out in Article 47b of that law:

'1. A change in the composition of the court may take place only where it is impossible for the court to hear and determine the case in its current composition or where there is a lasting obstacle to the court hearing and determining the case in its current composition. The provisions of Article 47a shall apply *mutatis mutandis*.

...

3. Decisions in the cases referred to [in paragraph 1] shall be taken by the president of the court or by a judge authorised by him or her.

4. A change in the place where a judge serves, or his or her secondment to another court, as well as the end of a secondment, shall not constitute an obstacle to the performance of [procedural] acts in cases allocated at the place where he or she currently serves, or the place where he or she currently performs his or her duties, pending the closure of those cases.

5. The college of the court within whose jurisdiction the new place where the judge serves or the place of his or her secondment falls may, at the request of the judge or of its own motion, release that judge from his or her obligations with regard to hearing and determining cases in whole or in part, in particular because of the distance between that court and the new place where the judge serves or the place of his or

her secondment, depending on the state of proceedings in the cases being heard and determined. Before adopting a resolution, the college of the court shall consult the presidents of the competent courts.

6. The provisions of paragraphs 4 and 5 shall apply *mutatis mutandis* in the event of a transfer to another division of the same court.'

14 Article 17(1) of the ustawa o zmianie ustawy – Prawo o ustroju sądów powszechnych oraz niektórych innych ustaw (Law amending the law on the ordinary courts and certain other laws) of 12 July 2017 (Dz. U. 2017, item 1452) provides:

'The presidents and vice-presidents of the courts appointed on the basis of the provisions of the Law amended in Article 1, in the version in force to date, may be dismissed by the Minister for Justice within a period not exceeding six months from the date of entry into force of this Law, without complying with the requirements laid down in Article 27 of the Law amended in Article 1, as amended by this Law.'

The disputes in the main proceedings and the questions referred for a preliminary ruling

15 The requests for a preliminary ruling were made by the same judge during the examination of two separate criminal cases.

16 As regards Case C647/21, the main proceedings arise from criminal proceedings brought against D.K. By decision of a court of first instance, D.K. was sentenced to a term of imprisonment. He appealed against that decision before the Sąd Okręgowy w Słupsku (Regional Court, Słupsk, Poland), which is the referring court. In that case, sitting as a single judge, the judge who submitted the present two requests for a preliminary ruling, is both the reporting judge and President of the formation.

17 As regards Case C648/21, the case in the main proceedings arises from criminal proceedings brought against M.C. and M.F. By decision of a court of first instance, M.C. and M.F. were convicted. The court of second instance before which the latter parties brought an appeal acquitted M.C. and upheld the conviction of M.F. The Prokurator Generalny (Public Prosecutor General, Poland) appealed against the decision of the court of second instance concerning M.C. before the Sąd Najwyższy (Supreme Court, Poland). That court set aside that decision and referred the case back to the Sąd Okręgowy w Słupsku (Regional Court, Słupsk), which is the referring court. In that case, the court sits in a formation of three judges, consisting of the President of the formation, the President of the referring court and a third judge. The request for a preliminary ruling was made by the President of the formation alone, who is the same judge as in Case C647/21.

18 In September 2021, in proceedings unrelated to the cases in the main proceedings, the judge who submitted the present two requests for a preliminary ruling, adopted a decision by which she made a request to the President of the appellate division of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk) to reassign a case to another judge, or to replace the President of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk), in the formation of the court in those proceedings by another judge sitting in the formation. Her request was based on the fact that the President of the referring court had been appointed to his post on the basis of a resolution of the KRS in its new composition. Thus, the presence of such a judge in the formation assigned to hear the case infringes the right to a tribunal previously established by law, within the meaning of Article 19(1) TEU, Article 47 of the Charter and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'). The Vice-President of the referring court, who was also appointed on a proposal from the KRS in its new composition, set aside the decision containing that request by that judge.

19 In October 2021, in another case, that judge set aside a judgment of a lower court that had been delivered by a person who had been appointed a judge on the basis of a resolution of the KRS in its new

composition. She based her decision to set aside that judgment, inter alia, on the second subparagraph of Article 19(1) TEU and Article 47 of the Charter.

20 On 11 October 2021, the College of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk), consisting of the President of that court and the presidents of five sądy rejonowe (district courts) within the jurisdiction of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk), adopted a resolution seeking to withdraw from the judge who had submitted the present two requests for a preliminary ruling approximately 70 cases which had been assigned to her within the sixth appellate criminal division, including the cases in the main proceedings ('the College resolution'). According to that judge, she had not been served with that resolution nor made aware of its grounds. She submits that the President of the referring court merely informed her that those cases had been withdrawn from her. She adds that she twice refused to grant her requests for access to the content of that resolution.

21 On 13 October 2021, the President of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk) adopted an order to transfer that judge from the appellate division of that court, before which the cases in the main proceedings are pending, to the first instance division of that court ('the transfer order'). Another judge was transferred to sit in the appellate division in her place.

22 According to the referring court, the grounds of the transfer order merely refer, briefly, to the need to ensure the proper functioning of both divisions. That order also refers to unspecified correspondence between the President of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk) and the President of one of those divisions.

23 On 18 October 2021, the transfer order entered into force. That order does not contain any information concerning possible remedies.

24 In those circumstances, the referring court wishes to know, in essence, whether the judge who submitted the present two requests for a preliminary ruling may continue to sit in the case in the main proceedings corresponding to Case C647/21 as a single judge and in the case in the main proceedings corresponding to Case C648/21 as President of the formation.

25 According to that court, in the light of the circumstances, as set out in paragraphs 18 to 23 of the present judgment, which led it to withdraw the cases in which that judge was the reporting judge, including the cases in the main proceedings, it is faced with the need to resolve the question whether such acts infringe the second subparagraph of Article 19(1) TEU, read in conjunction with Article 47 of the Charter. If that were the case, the referring court wishes to know whether it is required to disregard the College resolution and other subsequent acts, such as the decision reassigning to another judge the cases withdrawn from that judge, including the cases in the main proceedings.

26 The referring court considers that the fact that the cases of the judge who submitted the present two requests for a preliminary ruling were withdrawn from her and her transfer infringe the requirements of independence and irremovability. In addition, the measures taken in respect of that judge constitute a reaction to her attempts to ascertain whether the court of first instance satisfied the requirement that it be a tribunal established by law and are intended to prevent future attempts to that effect.

27 In those circumstances, the Sąd Okręgowy w Słupsku (Regional Court, Słupsk) decided to suspend the implementation of the College resolution, to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling in each of the cases in the main proceedings:

'1. Must the second subparagraph of Article 19(1) TEU, in conjunction with Article 47 of the [Charter], be interpreted as precluding national legislation such as Article 47b(5) and (6) of the [Law on the ordinary courts], in conjunction with Articles 30(1) and 24(1) thereof, under which a body of a national court, such as

the college of a court, has the power to release a judge of that court from the obligation to hear some or all of the cases assigned to him or her, in the case where:

- (a) the composition of the college includes, by law, the presidents of courts appointed to those posts by an executive body, such as the Minister for Justice, who is also the Public Prosecutor General;
- (b) the judge is released, without his or her consent, from the obligation to hear the cases assigned to him or her;
- (c) national law does not lay down any criteria to guide the college of a court when releasing a judge from the obligation to hear the cases assigned to him or her, nor does it lay down any obligation to state reasons and to conduct a judicial review of that release;
- (d) some of the members of the college of the court were appointed to the post of judge in circumstances similar to those referred to in the judgment of the Court of Justice of 15 July 2021 in *Commission v Poland (Disciplinary regime [for] judges)* (C791/19, EU:C:2021:596)?

2. Must the provisions referred to in Question 1, and also the principle of primacy [of EU law], be interpreted as empowering (or obliging) a national court hearing a case in criminal proceedings coming within the scope of Directive [(EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1)], the judge dealing with which has been released from the obligation to hear cases in the manner described in Question 1, and all public bodies, to disregard an act of the college of a court and other acts issued subsequently, such as an order reassigning cases, including the case in the main proceedings, without the consent of the judge who has been released, so that he or she can continue to sit [in the formation] hearing that case?

3. Must the provisions referred to in Question 1, and also the principle of primacy [of EU law], be interpreted as requiring the existence in the national legal order, in criminal proceedings coming within the scope of Directive 2016/343, of remedies of the kind which ensure that the parties to the proceedings, such as the defendant in the main proceedings, can secure a review of, and appeal against, decisions such as those referred to in [Question 1], which are intended to bring about a change in the composition of the [formation] hearing the case and consequently to release the judge hitherto assigned to hear the case from the obligation to do so, in the manner described in Question 1?

Procedure before the Court

Joinder of the cases

28 By decision of the President of the Court of Justice of 29 November 2021, Cases C647/21 to C648/21 were joined for the purposes of the written and oral procedure and of the judgment.

The requests for an expedited preliminary reference procedure

29 The referring court has requested that the present references for preliminary rulings be determined pursuant to an expedited procedure pursuant to Article 105 of the Rules of Procedure of the Court of Justice. In support of those requests, it submitted, in essence, that the application of that procedure was justified in the light of the fact that the questions referred for a preliminary ruling concern fundamental questions of Polish law, in particular constitutional law, namely the principle of the irremovability of judges and the right of the parties to the proceedings to an impartial and independent tribunal established by law. It added that there were justified grounds for believing that the adoption of other acts in the main proceedings would lead to the removal of the reasons why it was necessary to refer questions to the Court and that the implementation of the answers given by the Court could be impeded, thus preventing the effectiveness of EU law and effective judicial protection from being guaranteed.

30 Article 105(1) of the Rules of Procedure provides that, at the request of the referring court or tribunal or, exceptionally, of his own motion, the President of the Court may decide, after hearing the Judge-Rapporteur and the Advocate General, that a reference for a preliminary ruling is to be determined pursuant to an expedited procedure where the nature of the case requires that it be dealt with within a short time.

31 It must be borne in mind that such an expedited procedure is a procedural instrument intended to address matters of exceptional urgency (judgment of 21 December 2021, *Randstad Italia*, C497/20, EU:C:2021:1037, paragraph 37 and the case-law cited).

32 In the present case, the President of the Court decided, on 29 November 2021, after hearing the Judge-Rapporteur and the Advocate General, that it was not appropriate to grant the requests seeking that the references for a preliminary ruling be dealt with under an expedited procedure. The arguments put forward by the referring court to justify those requests are of a general nature and do not set out specific grounds for dealing with those references for a preliminary ruling within a short time. In particular, the fact that the questions referred relate to fundamental questions of Polish constitutional law and national law does not amount to a situation of exceptional urgency, a condition which is necessary in order to justify an expedited procedure. Second, the fact that the cases in the main proceedings fall within the scope of criminal law is not, in itself, grounds for those cases being dealt with under an expedited procedure.

The suspension of the cases and the requests for clarification

33 On 18 October 2022, the Court suspended Joined Cases C647/21 and C648/21 until it delivered judgment in Joined Cases C615/20 and C671/20. On 20 July 2023, the Court notified the judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)* (C615/20 and C671/20, EU:C:2023:562), to the referring court and requested it to indicate whether it wished to maintain its requests for a preliminary ruling in Joined Cases C647/21 and C648/21.

34 On the instructions of the President of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk), the judge who sent the present two requests for a preliminary ruling replied, on 25 September 2023, that the referring court wished to maintain its requests for a preliminary ruling.

35 On account of certain ambiguities affecting that reply, the Court of Justice sent that court a second request for clarification under Article 101(1) of its Rules of Procedure. The Court asked, inter alia, whether the judge who submitted the present two requests for a preliminary ruling continued to sit in the formations hearing the cases that gave rise to the requests for a preliminary ruling in Joined Cases C647/21 and C648/21, and, if so, in what capacity. The reply of the referring court to that request was given on 17 October 2023 by the judge who made the present references for a preliminary ruling.

The jurisdiction of the Court

36 First, the Danish Government and the Commission submit, in essence, that Article 47 of the Charter does not apply to the cases in the main proceedings. In particular, the Commission asserts that, even though the requests for a preliminary ruling, in particular the wording of the questions posed by the referring court, refer to Directive 2016/343, an interpretation of that directive is not sought.

37 In that regard, it is appropriate to point out that, in the context of a reference for a preliminary ruling under Article 267 TFEU, the Court may interpret EU law only within the limits of the powers conferred on it (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 30 and the case-law cited).

38 The scope of the Charter, in so far as the action of the Member States is concerned, is defined in Article 51(1) thereof, according to which the provisions of the Charter are addressed to the Member States

when they are implementing EU law. That provision confirms settled case-law, which states that the fundamental rights guaranteed in the legal order of the European Union are applicable in all situations governed by EU law, but not outside such situations (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 31 and the case-law cited).

39 In the present case, as regards, more specifically, the request for interpretation of Article 47 of the Charter, the referring court has not provided any indication that the disputes in the main proceedings concern the interpretation or application of a rule of EU law being implemented at national level. Even though the second questions referred for a preliminary ruling refer to Directive 2016/343, those questions are not asked in the light of the provisions of that directive and the referring court does not provide any explanation as to the link that exists between that directive and those cases.

40 Therefore, in the present cases, the Court does not have jurisdiction to interpret Article 47 of the Charter per se.

41 Second, the Prokuratura Rejonowa w Bytowie (District Public Prosecutor's Office, Bytów, Poland) and the Prokuratura Okręgowa w Łomży (Regional Public Prosecutor's Office, Łomża, Poland), submit, in essence, that issues relating to the judicial organisation of the Member States, such as those raised by the questions referred, in particular concerning the withdrawal from a judge of cases assigned to her, fall within the exclusive competence of the Member States and not within the material scope of EU law. By contrast, the Polish Government stated at the hearing that, in its view, the Court has jurisdiction to answer the questions referred for a preliminary ruling.

42 In that regard, it follows from settled case-law that, although it is true that the organisation of justice in the Member States falls within the competence of those Member States, the fact remains that, when exercising that competence, the Member States are required to comply with their obligations deriving from EU law and that that may be the case, in particular, as regards national rules relating to the adoption of decisions appointing judges and, where applicable, rules relating to the judicial review that applies in the context of such appointment procedures (judgment of 9 January 2024, *G. and Others (Appointment of judges to the ordinary courts in Poland)*, C181/21 et C269/21, EU:C:2024:1, paragraph 57 and the case-law cited).

43 Moreover, it is clear from the wording of the questions referred that they concern the interpretation not of Polish law but, inter alia, of Article 19(1) TEU.

44 It follows that the Court has jurisdiction to rule on requests for a preliminary ruling, but not to interpret Article 47 of the Charter as such.

Admissibility of the request for a preliminary ruling

45 The Prokuratura Rejonowa w Bytowie (District Public Prosecutor's Office, Bytów) and the Prokuratura Okręgowa w Łomży (Regional Public Prosecutor's Office, Łomża) contest the admissibility of the present requests for a preliminary ruling. They submit, in the first place, that the referring court made those requests after the adoption of the College resolution, that is to say, on a date on which that judge, from whom the cases in the main proceedings had thus been withdrawn, was no longer empowered to adopt those decisions. Second, they observe that the questions referred for a preliminary ruling concern the individual situation of the referring judge and that those questions are therefore personal in nature. In the third place, they submit that the requests for a preliminary ruling do not satisfy the requirements of Article 94(a) and (b) of the Rules of Procedure. For its part, at the hearing, the Polish Government stated that those requests were admissible.

46 The Commission maintains, moreover, that the third questions referred for a preliminary ruling are inadmissible on the ground that the question whether there is a possible effective remedy for the accused

person in the cases in the main proceedings is neither a preliminary issue arising *in limine litis* nor an issue necessary for the resolution of those cases.

47 In that regard, it should be noted that, in accordance with the Court's settled case-law, in the context of the cooperation between the Court and the national courts provided for in Article 267 TFEU, it is solely for the national court before which the dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is in principle required to give a ruling (judgment of 24 November 2020, *Openbaar Ministerie (Forgery of documents)*, C510/19, EU:C:2020:953, paragraph 25 and the case-law cited).

48 As is apparent from the actual wording of Article 267 TFEU, the question referred for a preliminary ruling must be 'necessary' to enable the referring court to 'give judgment' in the case before it (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 40 and the case-law cited).

49 The Court has already emphasised that it may be necessary to answer questions referred in order to be able to provide referring courts with an interpretation of EU law that enables them to settle procedural questions of national law before they can rule on the substance of disputes pending before them (see, to that effect, judgment of 16 November 2021, *Prokuratura Rejonowa w Mińsku Mazowieckim and Others*, C748/19 to C754/19, EU:C:2021:931, paragraph 48 and the case-law cited).

50 As regards the first objection of inadmissibility, alleging that the judge in question made those requests for a preliminary ruling after the cases in the main proceedings were withdrawn from her, it should be noted, first, that it is apparent from the documents before the Court that, on the date on which that judge made those requests for a preliminary ruling, namely 20 October 2021, she was seised of the cases in the main proceedings and, second, that after the cases were withdrawn from her the referring court did not withdraw those requests for a preliminary ruling.

51 In its reply to the Court's second request for clarification, the referring court confirmed that the judge concerned was the reporting judge and the President of the formation of the court in the two sets of main proceedings respectively, on the date on which the orders for reference were adopted, namely 20 October 2021. It also stated that it was by an order of 21 October 2021, made after the adoption of those orders for reference, that the procedure giving rise to the reference for a preliminary ruling in Case C648/21 was reassigned to another reporting judge, who had previously sat in the formation of three judges that was to hear those proceedings, and that it was also on 21 October 2021 that the single-judge formation in the proceedings giving rise to the reference for a preliminary ruling in Case C647/21 was changed. That court also confirmed that those two sets of proceedings were stayed as a result of the present requests for a preliminary ruling and have remained suspended since then.

52 As regards the second objection of inadmissibility, alleging that the questions referred for a preliminary ruling concern, in essence, the individual situation of the judge who submitted the present two requests for a preliminary ruling and therefore have no connection with the cases in the main proceedings, it should be noted that the referring court is faced, in the context of the cases in the main proceedings, with issues of a procedural nature which it is for it to resolve *in limine litis*, the resolution of which depends on an interpretation of the provisions and principles of EU law to which those questions referred for a preliminary ruling relate. Those questions referred for a preliminary ruling seek, in essence, to determine whether, having regard to those provisions and those principles of EU law, that judge remains entitled to continue to examine the cases in the main proceedings, notwithstanding the resolution of the college by which those cases were withdrawn from her.

53 As follows from the Court's case-law, questions referred for a preliminary ruling which seek in that way to enable a referring court to settle, *in limine litis*, procedural difficulties such as those relating to its own jurisdiction to hear and determine a case pending before it, or which concern the legal effects which must or must not be conferred on a judicial decision which potentially precludes the continuation of the examination of such a case by that court, are admissible under Article 267 TFEU (judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 47 and the case-law cited).

54 As regards the third objection of inadmissibility, to the effect that the requests for a preliminary ruling do not satisfy the requirements of Article 94(a) and (b) of the Rules of Procedure, it is sufficient to note that, as is apparent from paragraphs 6 to 14 and 15 to 26 of the present judgment, respectively, those requests for a preliminary ruling, as specified by the referring court in its response to the Court's two requests for clarification, contain, as regards part of the first questions and the second questions, all the information required by Article 94(a) and (b) of the Rules of Procedure, in particular, the content of the national provisions that may apply in the present case, a statement of the reasons which prompted the referring court or tribunal to inquire about the interpretation of the second subparagraph of Article 19(1) TEU and the link established by that court between that provision and the national rules relied on, with the result that the Court is in a position to rule on the questions referred for a preliminary ruling.

55 As regards the part of the first questions which concern the composition of the college of a court, that is to say the fact that, on the one hand, the Minister for Justice, who is also the Prosecutor General, has the power to appoint the presidents of the sądy rejonowe (regional courts) which make up the college of a sąd okręgowy (district court) and, on the other hand, the fact that certain members of the college were appointed to judicial posts on a proposal from the KRS in its new composition, which does not offer sufficient guarantees of independence, it should be noted that, since the order for reference serves as the basis for the procedure laid down in Article 267 TFEU, the national court is required to explain, in that order for reference itself, the factual and legislative context of the dispute in the main proceedings and to provide the necessary explanations of the reasons for the choice of the EU law provisions which it seeks to have interpreted and of the link it establishes between those provisions and the national legislation applicable to the dispute before it (see, to that effect, judgment of 4 June 2020, *C.F. (Tax inspection)*, C430/19, EU:C:2020:429, paragraph 23 and the case-law cited).

56 In the present case, apart from some limited explanations of the composition of the college of a court, the orders for reference do not sufficiently specify the national legal framework relating to the appointment of the members of that college. Nor do they explain how it is necessary for the Court to answer the part of the first questions which concerns the composition of the college of a court. In those circumstances, the Court does not have sufficient information to enable it to give a useful answer to that part of the first questions, with the result that the requests for a preliminary ruling do not, to that extent, satisfy the conditions laid down in Article 94(a) and (b) of the Rules of Procedure.

57 As regards the third questions referred for a preliminary ruling, by which the referring court has doubts as to the existence of an effective remedy for the accused persons in the cases in the main proceedings, it should be noted that they are not preliminary issues arising *in limine litis* and are not necessary for the purposes of resolving the cases in the main proceedings. In particular, it is not apparent from the file before the Court that, in the main proceedings, the issue arises as to whether it is possible for accused persons to challenge the lawfulness of the formation of the court hearing their cases.

58 In the light of the foregoing considerations, it must be held that the requests for a preliminary ruling are admissible, with the exception of the part of the first questions which concerns the composition of the college of a court and the third questions referred for a preliminary ruling.

Consideration of the questions referred

The first questions

59 As a preliminary point, it should be noted, first of all, that, although, by its first questions referred for a preliminary ruling, the referring court is formally asking whether it is compatible with the second subparagraph of Article 19(1) TEU for a body of a national court, such as the college of that court, to withdraw from a judge of that court some or all of the cases assigned to him or her, it is apparent from the documents before the Court that those first questions essentially concern the national legislation governing the procedure under which cases may be withdrawn from a judge.

60 By contrast, even if the transfer of the judge who submitted the present two requests for a preliminary ruling from the appellate division of the referring court, before which the cases in the main proceedings are pending, to the first instance division of that court constitutes an important factor to be taken into account in order to understand the situation envisaged by the referring court in its questions, that file does not permit the inference that the first questions should be understood as also relating to the compatibility with the second subparagraph of Article 19(1) TEU of a transfer decision or, more generally, of rules governing the transfer procedure, such as those at issue in the main proceedings.

61 In the light of those findings, it must be considered that, by its first questions, the referring court asks, in essence, whether the second subparagraph of Article 19(1) TEU must be interpreted as precluding national legislation under which a body of a national court, such as the college of that court, may withdraw from a judge of that court some or all of the cases assigned to him or her, where that legislation does not lay down criteria which must guide that body when it takes such a decision to withdraw cases, impose the obligation to state reasons for that decision or provide for the possibility of judicial review of that decision.

62 In that regard, it should be recalled that, although the organisation of justice in the Member States, in particular, the establishment, composition, powers and functioning of national courts, falls within the competence of those States, the fact remains that, when exercising that competence, the Member States are required to comply with their obligations deriving from EU law and, in particular, from Article 19 TEU (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 44 and the case-law cited).

63 The principle of effective judicial protection referred to in the second subparagraph of Article 19(1) TEU is a general principle of EU law enshrined, inter alia, in Article 6(1) of the ECHR, to which the second paragraph of Article 47 of the Charter corresponds. That provision must, therefore, be duly taken into consideration for the purposes of interpreting the second subparagraph of Article 19(1) TEU (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 45 and the case-law cited).

64 Moreover, in so far as the Charter sets out rights corresponding to rights guaranteed under the ECHR, Article 52(3) of the Charter is intended to ensure the necessary consistency between the rights contained in the Charter and the corresponding rights guaranteed under the ECHR, without thereby adversely affecting the autonomy of EU law. According to the Explanations relating to the Charter of Fundamental Rights (OJ 2007 C 303, p. 17), the second paragraph of Article 47 of the Charter corresponds to Article 6(1) ECHR. The Court must, accordingly, ensure that its interpretation in the present cases ensures a level of protection which does not disregard that guaranteed by Article 6(1) ECHR, as interpreted by the European Court of Human Rights (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 46 and the case-law cited).

65 That said, it should be recalled, in the first place, that every Member State must, in accordance with the second subparagraph of Article 19(1) TEU, ensure that the bodies which are called upon, as ‘courts or tribunals’ within the meaning of EU law, to rule on questions relating to the application or interpretation of EU law and which thus come within its judicial system in the fields covered by EU law, meet the

requirements of effective judicial protection, including that of independence (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 47 and the case-law cited).

66 That requirement that courts be independent, which is inherent in the task of adjudication, forms part of the essence of the right to effective judicial protection and the fundamental right to a fair hearing, which are of cardinal importance as a guarantee that all the rights which individuals derive from EU law will be protected and that the values common to the Member States set out in Article 2 TEU, in particular the value of the rule of law, will be safeguarded (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 49 and the case-law cited).

67 The requirement that courts be independent has two aspects to it. 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. 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. That aspect requires objectivity and the absence of any interest in the outcome of the proceedings apart from the strict application of the rule of law (judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraphs 50 and 51 and the case-law cited).

68 While the ‘external’ aspect of independence is intended essentially to preserve the independence of the courts from the legislature and the executive in accordance with the principle of the separation of powers which characterises the operation of the rule of law, it also seeks to safeguard judges against undue influence from within the court concerned (see, to that effect, judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 54 and the case-law cited).

69 It should also be pointed out that the performance of their duty of adjudicating must be protected not only from any direct influence, in the form of instructions, but also from types of influence which are more indirect and which are liable to have an effect on the court decisions (see, to that effect, judgments of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 53 and the case-law cited, and of 14 November 2024, *S. (Modification of the formation of the court)*, C197/23, EU:C:2024:956, paragraph 62 and the case-law cited).

70 Those guarantees of independence and impartiality presuppose the existence of rules relating, in particular, to the composition of the body concerned that are such as to dispel any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and their neutrality with respect to the interests before it (see, to that effect, judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 52).

71 Moreover, the European Court of Human Rights has also already emphasised that the paramount importance, in particular, of judicial independence and legal certainty for the rule of law call for particular clarity of the rules applied in any one case and for clear safeguards to ensure objectivity and transparency and, above all, to avoid any appearance of arbitrariness in the assignment of particular cases to judges (ECtHR, 5 October 2010, *DMD GROUP, a.s. v. Slovakia*, CE:ECHR:2010:1005JUD001933403, § 66).

72 In the second place, the second subparagraph of Article 19(1) TEU also requires the existence of a tribunal ‘previously established by law’ bearing in mind the inextricable links that exist between access to such a tribunal and the guarantees of judicial independence and judicial impartiality (see, to that effect, judgments of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594,

paragraph 55 and the case-law cited, and of 14 November 2024, *S. (Modification of the formation of the court)*, C197/23, EU:C:2024:956, paragraph 63 and the case-law cited).

73 Furthermore, the reference to a ‘tribunal established by law’, which also appears in the second paragraph of Article 47 of the Charter, reflects, in particular, the principle of the rule of law and covers not only the legal basis for the very existence of a tribunal, but also the composition of the bench in each case and any other provision of domestic law which, if breached, would render the participation of one or more judges in the examination of a case irregular (see, by analogy, judgment of 29 March 2022, *Getin Noble Bank*, C132/20, EU:C:2022:235, paragraph 121 and the case-law cited).

74 Thus, the rules on allocation and reallocation of cases form part of the concept of a tribunal ‘established by law’, which requires not only a legal basis for the very existence of a tribunal, but also observance of the composition of the bench in each case and the existence of any other provision of domestic law which, if breached, renders the participation of one or more judges in the examination of a case irregular.

75 The second subparagraph of Article 19(1) TEU accordingly also requires that the rules governing the composition of judicial panels are such as to preclude any undue interference in the decision-making process relating to a given case by persons from outside the judicial panel responsible for that case before whom the parties have not been able to put forward their arguments (see, to that effect, judgment of 11 July 2024, *Hann-Invest and Others*, C554/21, C622/21 and C727/21, EU:C:2024:594, paragraph 59).

76 In the present case, it appears, subject to the verifications which it is for the referring court to carry out, that Article 47b(1) of the Law on the ordinary courts provides that a change in the composition of a court may take place where there is a ‘lasting obstacle to the court hearing and determining the case in its current composition’, without further clarification. Although Article 47b(4) provides, in essence, that a judge is to remain seised of cases which have been assigned to him or her despite his or her transfer to another location or secondment to another court, until those cases are closed, Article 47b(5) provides that his or her cases may be withdrawn from him or her by decision of the college of the court concerned without setting out criteria in that regard. In accordance with Article 47b(6), that college may also withdraw cases from a judge in the event of a transfer of that judge to another division, but, once again, without that possibility being accompanied by specific criteria.

77 It must therefore be held that national legislation, such as that described in the preceding paragraph of the present judgment, not only does not lay down objective criteria governing the possibility of withdrawing from a judge one or more of his or her cases, but also allows the college of the court concerned to withdraw cases from a judge without giving reasons for such a decision. The reference to the existence of a ‘lasting obstacle to the court hearing and determining the case in its current composition’ is too vague to be regarded as capable of preventing any arbitrariness in the decision to change the composition of the court. In addition, the Polish Government confirmed, at the hearing before the Court, that Polish law does not impose any obligation to state reasons for the withdrawal of cases from a judge under Article 47b(5) and (6) of the Law on the ordinary courts.

78 Moreover, as regards the withdrawal of cases at issue in the main proceedings, it is apparent from the file before the Court that the College resolution by which cases were withdrawn from the judge in the cases in the main proceedings does not contain any statement of reasons.

79 Moreover, it does not appear that that College resolution may be justified by the transfer order, by which the President of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk), on 13 October 2021, pursuant to Article 22a(4) of the Law on the ordinary courts, decided to transfer the judge who had referred the present requests to another division of the same court.

80 First, that order was briefly justified by the need to ‘ensure the proper functioning of the sixth appellate criminal division and the second criminal division’ of the Sąd Okręgowy w Słupsku (Regional Court, Słupsk).

81 Second, the College resolution was adopted two days before the transfer order.

82 Furthermore, as regards transfers of a judge to another court without consent or the transfer of a judge between two divisions of the same court without consent, the Court has already held that such transfers may constitute a way of exercising control over the content of judicial decisions because they are liable not only to affect the scope of the activities allocated to judges and the handling of cases entrusted to them, but also to have significant consequences on the life and career of those persons and, thus, to have effects similar to those of a disciplinary sanction (judgment of 6 October 2021, *W.Ż. (Chamber of Extraordinary Control and Public Affairs of the Supreme Court – Appointment)*, C487/19, EU:C:2021:798, paragraph 115).

83 Similarly, the withdrawal from a judge of cases for which he or she is responsible, where the national legislation concerned does not lay down objective criteria governing such a possibility of withdrawal and, what is more, where that legislation does not require a decision to withdraw cases to include the reasons on which it is based, does not rule out the possibility that that withdrawal was arbitrary, or constitutes a disguised disciplinary penalty. That is especially true where such withdrawal of cases is followed by the transfer of the judge concerned to another division of the same court.

84 Thus, organisational measures for withdrawal of cases such as those at issue in the main proceedings, the implementation of which is not governed by sufficiently precise criteria and is not subject to an obligation to state adequate reasons, are liable to give rise to doubts as to the possibility that the withdrawal of cases, followed by a transfer, may have taken place in response to earlier acts of the judge concerned.

85 Thus, in order to avoid leaving room for the arbitrariness which might result from a non-transparent procedure liable to undermine the principles of independence and irremovability of judges, it is important that the national rules governing the withdrawal of cases should lay down clearly stated objective criteria on the basis of which cases may be withdrawn from a judge, as well as the obligation to state the reasons for decisions to withdraw cases, in particular in the case of withdrawal of cases without the consent of the judge concerned, in order to ensure that judicial independence is not compromised by undue external influence.

86 In the light of the foregoing, the answer to the first questions referred is that the second subparagraph of Article 19(1) TEU must be interpreted as precluding national legislation under which a body of a national court, such as the college of that court, may withdraw from a judge of that court some or all of the cases assigned to him or her, where that legislation does not lay down criteria which must guide that body when it takes such a decision to withdraw cases or require that reasons for that decision be stated.

The second questions

87 By its second questions, the referring court asks, in essence, whether the second subparagraph of Article 19(1) TEU and the principle of primacy of EU law must be interpreted as requiring a national court and any other authority of the Member State concerned to disapply, first, a resolution of the college of that court withdrawing from a judge of that court cases previously assigned to him or her and, second, other subsequent acts, such as the decisions relating to the reassignment of those cases, where that resolution was adopted in breach of the second subparagraph of Article 19(1) TEU.

88 In that regard, it should be borne in mind that, by virtue of settled case-law, the principle of the primacy of EU law establishes the pre-eminence of EU law over the law of the Member States. That principle therefore requires all Member State bodies to give full effect to the various EU provisions, and the law of the Member States may not undermine the effect accorded to those provisions in the territory of those States (judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 61 and the case-law cited).

89 That principle thus, inter alia, imposes a duty on any national court called upon within the exercise of its jurisdiction to apply provisions of EU law to give full effect to the requirements of EU law in the dispute brought before it by disapplying, of its own motion, any national rule or practice that is contrary to a provision of EU law with direct effect, without it having to request or await the prior setting aside of that national rule or practice by legislative or other constitutional means (judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 62 and the case-law cited).

90 The Court has already ruled that the second subparagraph of Article 19(1) TEU, interpreted in the light of Article 47 of the Charter, which imposes on the Member States a clear and precise obligation as to the result to be achieved and which is not subject to any conditions, in particular as regards the independence and impartiality of the courts called upon to interpret and apply EU law and the requirement that those courts must be previously established by law, has direct effect which means that any national provision, case-law or practice contrary to those provisions of EU law, as interpreted by the Court, must be disapplied (judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 63 and the case-law cited).

91 It is also apparent from settled case-law that, even in the absence of national legislative measures having brought to an end a failure to fulfil obligations established by the Court, it is for the national courts to take all measures to facilitate the full application of EU law in accordance with the dicta in the judgment establishing a failure to fulfil obligations. Moreover, those courts are required, under the principle of sincere cooperation laid down in Article 4(3) TEU, to nullify the unlawful consequences of an infringement of EU law (judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 64 and the case-law cited).

92 For the purposes of meeting the obligations set out in paragraphs 88 to 91 above, a national court must, therefore, disapply an act, such as a resolution of the college of that court, which, in breach of the second subparagraph of Article 19(1) TEU, has ordered the withdrawal from a judge of that court of his or her cases, where that is essential in the light of the procedural situation at issue in order to ensure the primacy of EU law (see, by analogy, judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 65 and the case-law cited).

93 Since the final assessment of the facts and the application and interpretation of the national law falls solely to the referring court in proceedings which are the subject of Article 267 TFEU, it is for that court to assess definitively what concrete consequences stem, in the main proceedings, from the principle recalled in the previous paragraph. However, in accordance with settled case-law, the Court may, on the basis of the material presented to it, provide that court with an interpretation of EU law which may be useful to it for that purpose (judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 66 and the case-law cited).

94 In that regard, it follows from the answer to the first questions that the second subparagraph of Article 19(1) TEU precludes national legislation governing the withdrawal of cases, such as that described by the referring court.

95 In such a situation, a formation of a court must be justified in disapplying any resolution adopted on the basis of that legislation and, therefore, in continuing, with the same composition, the examination of the main proceedings, without the judicial bodies with competence to determine and modify the composition of the formations of the national court being able to prevent that continued examination (see, to that effect, judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 72 and the case-law cited).

96 In that situation, the judicial bodies responsible for determining and modifying the composition of that formation must disapply such a resolution (see, to that effect, judgment of 13 July 2023, *YP and Others (Lifting of a judge's immunity and his or her suspension from duties)*, C615/20 and C671/20, EU:C:2023:562, paragraph 80).

97 In the light of the foregoing, the answer to the second questions is that the second subparagraph of Article 19(1) TEU and the principle of primacy of EU law must be interpreted as requiring a national court to disapply a resolution of the college of that court withdrawing from a judge of that court cases previously assigned to him or her, and other subsequent acts, such as the decisions relating to the reassignment of those cases, where that resolution was adopted in breach of the second subparagraph of Article 19(1) TEU. The judicial bodies responsible for determining and modifying the composition of that formation must disapply such a resolution.

Costs

98 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. The second subparagraph of Article 19(1) TEU

must be interpreted as precluding national legislation under which a body of a national court, such as the college of that court, may withdraw from a judge of that court some or all of the cases assigned to him or her, where that legislation does not lay down criteria which must guide that body when it takes such a decision to withdraw cases or require that reasons for that decision be stated.

2. The second subparagraph of Article 19(1) TEU and the principle of the primacy of EU law

must be interpreted as requiring a national court to disapply a resolution of the college of that court withdrawing from a judge of that court cases previously assigned to him or her, and other subsequent acts, such as the decisions relating to the reassignment of those cases, where that resolution was adopted in breach of the second subparagraph of Article 19(1) TEU. The judicial bodies responsible for determining and modifying the composition of that formation must disapply such a resolution.

[Signatures]

* Language of the case: Polish.