Lingua del documento :

ECLI:EU:C:2025:116

Provisional text

JUDGMENT OF THE COURT (Eighth Chamber)

27 February 2025 (*)

(Reference for a preliminary ruling – Second subparagraph of Article 19(1) TEU – Effective judicial protection – National rules on how cases are allocated among the judges of a given court – Allocation of cases by the head of court management – Power of the judge assigned to verify the lawfulness of the allocation)

In Case C16/24 [Sinalov], (i)

REQUEST for a preliminary ruling under Article 267 TFEU from the sixteenth chamber of the Criminal Division of the Sofiyski gradski sad (Sofia City Court, Bulgaria), made by decision of 11 January 2024, received at the Court on 11 January 2024, in the criminal proceedings against

YR and Others,

other party:

Sofiyska gradska prokuratura,

THE COURT (Eighth Chamber),

composed of S. Rodin, President of the Chamber, O. Spineanu-Matei (Rapporteur) and N. Fenger, Judges,

Advocate General: T. Ćapeta,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

the European Commission, by K. Herrmann, E. Rousseva and P.J.O. Van Nuffel, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns 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 request has been made in criminal proceedings brought against YR and Others for participation in an organised criminal group for the purpose of committing tax offences.

Legal context

European Union law

The Treaty on European Union

3 The second subparagraph of Article 19(1) TEU states:

'Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.'

The Charter

4 Under the first and second paragraphs of Article 47 of the Charter:

'Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. …'

Bulgarian law

The Law on the Judiciary

5 Article 9(1) of the Zakon za sadebnata vlast (Law on the Judiciary) provides:

'Cases and files shall be allocated within judicial bodies on the basis of the principle of random selection by means of uniform electronic allocation according to the order of arrival in compliance with the requirements of Article 360b.'

6 Article 86 of that law provides:

'1. The President of the Regional Court shall be responsible for the overall organisation and administration of the Regional Court, …

…

(2) by organising the work of judges and jurors;

…

2. Orders of the President and the rules relating to the organisation of the work of the court that he or she has approved shall be binding on all judges and members of the court staff.'

7 Article 360b of that law is worded as follows:

'1. The judicial authorities shall use information systems approved by the plenary assembly of the Visshia sadeben savet [(Superior Council of the Judiciary, Bulgaria)] in agreement with the Minister for Justice and the Minister for Digital Governance.

…

6. The judicial authorities shall use a unique random allocation system in accordance with Articles 9 and 112(6) and it must be possible to demonstrate publicly the random nature of the allocation by cryptographic means defined by order of the Minister for Justice in agreement with the Minister for Digital Governance.'

The Uniform Methodology

8 The Superior Council of the Judiciary set up the Edinna metodika po prilozhenieto na printsipa za sluchayno razpredelenie na delata v rayonnite, okrazhnite, administrativnite, voennite, apelativnite i spetsializiranite sadilishta (Uniform methodology for the application of the principle of the random allocation of cases in the District, Regional, Administrative, Military, Appeal and Specialist courts) ('the Uniform Methodology').

9 Point 1(b) of the Uniform Methodology, which governs random allocation, is worded as follows:

'Cases shall be allocated in all courts on the basis of the principle of random selection by electronic allocation, in the order in which they are received, according to the subject matter and type of case, and in compliance with procedural deadlines requiring urgent handling.'

10 In accordance with point 3 of the Uniform Methodology, the court manager or the president of the division shall make the allocations.

11 Point 4.1.1 of the Uniform Methodology, which governs 'selection of a particular judge' in criminal cases and administrative cases of a criminal nature, provides:

'(a) Where court proceedings are terminated and the case is referred back to a public prosecutor for further investigation and then comes back before the court, the case opened under a new number shall be assigned to the Judge-Rapporteur initially appointed.

(b) Following the annulment of a judicial decision terminating the proceedings on grounds of jurisdiction, the new case shall be assigned to the Judge-Rapporteur initially appointed.

(c) Where a case is referred back to the court of first instance due to maladministration and then comes back to the same court, the case shall be assigned to the rapporteur originally appointed.'

Code of Criminal Procedure

12 Article 6(1) of the Nakazatelno-protsesualen kodeks (Code of Criminal Procedure) provides:

'The administration of justice in criminal proceedings shall be carried out solely by the courts established by the [Konstitutsia na Republika Bulgaria (Constitution of the Republic of Bulgaria)].'

13 Article 10 of that code provides:

'In the performance of their duties, judges, jurors, prosecutors and investigation bodies shall be independent and subject only to the law.'

14 Under Article 42(2) of that code:

'Where the court notes that the case falls within the jurisdiction of another court at the same level, it shall terminate the proceedings and transfer the case to that court. …'

The main proceedings and the questions referred

15 On 30 October 2014, the Spetsializirana prokuratura (Specialised Public Prosecutor's Office, Bulgaria) issued an indictment against YR and Others for participation in an organised criminal group with the aim of committing tax offences, in this case the non-payment of value added tax (VAT) due in the amount of 6 364 428 Bulgarian leva (BGN) (approximately EUR 3 254 080), from January 2008 to March 2012, and brought proceedings before the Spetsializiran nakazatelen sad (Specialised Criminal Court, Bulgaria).

16 According to information in the order for reference, YR and Others' admission of guilt means that their sentencing is subject to Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ 2004 L 335, p. 8), and Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ 2008 L 300, p. 42).

17 That case was allocated to Judge I.H.

18 The interim decision taken by the formation of the court composed of Judge I.H. and two jurors for consideration of the substance of the case was set aside on appeal, on 21 July 2022, on the ground of a procedural defect and the case was referred back to that formation of the court.

19 By order of 26 July 2022, Judge I.H. terminated the proceedings against YR and Others before the relevant chamber of the Spetsializiran nakazatelen sad (Specialised Criminal Court), the dissolution of which took effect the following day and the pending cases before it were transferred to the Sofiyski gradski sad (Sofia City Court, Bulgaria), to which that judge referred the proceedings.

20 On 28 July 2022, Judge I.H. was reinstated at the Sofiyski gradski sad (Sofia City Court).

21 On 4 August 2022, the head of court management of the criminal division of that court allocated the case concerning YR and Others to Judge H.K. using the random allocation system.

22 On 27 September 2023, the chamber presided over by that judge referred that case to Judge I.H, in the light of the latter judge's previous involvement in that case. The sixteenth chamber of the Criminal Division of the Sofiyski gradski sad (Sofia City Court) which Judge I.H. presided over and which, as is apparent from an addendum to the request for a preliminary ruling received by the Court on 17 January 2024, must be regarded as the referring court, took that referral into consideration, taking the view that the lawfulness of the allocation of a case was a legal question which had to be decided by it and not by the head of court management of the criminal division of that court, since the procedure for allocating cases comes within the scope of the principles of judicial organisation and it is for each formation of the court to scrutinise its own jurisdiction. Following a hearing in which the defendants had the opportunity to be heard, Judge I.H. agreed to hear the case concerned.

23 As a result of that referral and its acceptance, the head of court management of the Sofiyski gradski sad (Sofia City Court) brought disciplinary proceedings against Judge H.K., essentially for not having transferred the case concerned back to the head of court management for reallocation, and against Judge I.H., for having agreed to deal with that case even though it had not been properly allocated to him.

24 According to the referring court, the situation of the proceedings against YR and Others does not correspond exactly to one of the cases of selection of a particular judge mentioned in point 4.1.1 of the uniform methodology, but is similar to one of those cases, namely where, after a decision of a court of first instance has been set aside by an appeal court, that court remits the case concerned to the first court for the proceedings to be resumed.

25 It is apparent, moreover, from the order for reference that two other cases which Judge I.H. had dealt with while he was working at the Spetsializiran nakazatelen sad (Specialised Criminal Court) were also allocated by the head of court management of the Sofiyski gradski sad (Sofia City Court), initially under the

random allocation system. However, the judges thus designated, having taken the view that those cases should have been allocated to Judge I.H. referred them back to that head of court management, who reallocated them to Judge I.H., using the system for selection of a particular judge.

26 The referring court also notes that neither the Uniform Methodology nor the Vatreshni pravila za sluchayno razpredelenie na delata i za zamestvane na sadii v Nakazatelno otdelenie na Sofiyski gradski sad (Rules of Procedure on the random allocation of cases and the replacement of judges in the Criminal Division of the Sofiyski gradski sad (Sofia City Court)) govern the review of the method used by the head of court management for the allocation of a case, random allocation or selection of a particular judge.

27 The referring court considers that that review must be regarded as judicial in nature and, consequently, must be exercised independently by the judge to whom the case was allocated by the head of court management, after hearing the parties and subject to review by the higher court. It relies in that regard on Article 6(1) and Article 10 of the Code of Criminal Procedure and, by analogy, on Article 42(2) of that code, concerning the referral of a case from one court to another.

28 The referring court notes, however, that other bodies consider that, in the event of doubt on the lawfulness of the allocation of a case under the random allocation system, the judge to whom the case has been referred must inform the head of court management, who alone is competent to assess the lawfulness of the allocation and should decide whether, if necessary, he or she should use the other method of allocation, namely the selection of a particular judge.

29 In that context, the referring court establishes a link between its situation and the concept of an 'independent tribunal', within the meaning of Article 47 of the Charter, for two reasons. The issue is whether the principle that every person is entitled to have his or her case heard by such a court is observed in a situation where, first, a court cannot rule on its own jurisdiction, but must defer to the assessment of a head of court management, it being noted that that person, in that capacity, does not exercise judicial functions and is an element external to the formation of the court hearing a case or called upon to hear it, and, second, it would constitute a disciplinary offence for a judge of that court to rule in that regard.

30 The referring court also considers that it is possible to draw a parallel between its situation and the Court's case-law according to which, first, the guarantees of independence and impartiality required under EU law presuppose, inter alia, the existence of rules governing the appointment of judges and, second, it is required that, once appointed, judges should not be subject to any pressure or receive instructions in the performance of their duties. The allocation of a case to a judge by the head of court management is akin to an appointment.

31 Furthermore, the referring court notes that the disciplinary proceedings brought against Judges H.K. and I.H. relate to the content of decisions or measures adopted by them in the course of their judicial duties. However, in accordance with the Court's case-law, disciplinary proceedings may be brought in such cases only in wholly exceptional situations of serious and totally inexcusable conduct on the part of judges, consisting, for example, in deliberately disregarding, in bad faith or as a result of particularly serious and gross negligence, the rules of national and EU law with which they are supposed to ensure compliance or in engaging in arbitrary conduct or a denial of justice.

32 In addition, the disciplinary proceedings brought against Judges H.K. and I.H. concern situations in which they have exercised, allegedly incorrectly, a power which the courts have, namely to verify their own jurisdiction, situations in which, in accordance with the Court's case-law, such proceedings cannot be brought.

33 In those circumstances, the sixteenth chamber of the Criminal Division of the Sofiyski gradski sad (Sofia City Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'[(1)] Is it compatible with [the second subparagraph of Article 19(1)] TEU and Article 47 of the Charter to interpret a national law envisaging, as a principle for administration of justice, random selection among judges in order to determine which one of them is to handle and rule on a criminal case, to the effect that, in the event of doubts as to whether the principle has been breached in a case already allocated by the head of court management, these doubts are to be resolved … as a court matter and the court handling the case … after hearing the parties and in the appeal proceedings … or as an administrative matter and only the head of court management has the power to make this assessment[?]

[(2)] and furthermore to interpret such a national law to the effect that, if the judge to whom the case has been allocated is of the view that, in accordance with the … principle, another judge should handle [that] case and refers the case to this judge and [that other] judge who has received [that] case decides first to hear the parties in adversarial proceedings and then to make a decision autonomously as to the issue of his own jurisdiction, these two judges are committing a disciplinary offence in that their conduct is damaging to the reputation of the judiciary and is in breach of their official duties?'

34 By an addendum to the request for a preliminary ruling received at the Court on 29 April 2024, the referring court sent the Court a copy of an order of the President of the Sofiyski gradski sad (Sofia City Court) of 25 April 2024 made in connection with the disciplinary proceedings against Judges H.K. and I.H., according to which those judges were disciplined in respect of the facts referred to in paragraph 23 above.

Consideration of the questions referred

The first question

35 The first question concerns the interpretation of the second subparagraph of Article 19(1) TEU and Article 47 of the Charter.

36 As a preliminary point, it should be noted, first, that the second subparagraph of Article 19(1) TEU is applicable in the context of the main proceedings. That provision is intended to apply to any national body which can rule, as a court or tribunal, on questions concerning the application or interpretation of EU law and which therefore fall within the fields covered by that law (judgment of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C558/18 and C563/18, EU:C:2020:234, paragraph 34 and the case-law cited). Since the referring court is such a body, the proceedings before it must satisfy the requirements arising from the right to effective judicial protection under that provision.

37 Second, in so far as the first question concerns the interpretation of Article 47 of the Charter, it should be borne in mind that 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. It follows 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 (see, to that effect, judgment of 19 November 2019, *A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C585/18, C624/18 and C625/18, EU:C:2019:982, paragraph 78 and the case-law cited).

38 As regards the criminal proceedings against YR and Others, the referring court merely states that the defendants are being prosecuted for participation in an organised criminal group for the purpose of committing tax offences relating to non-payment of VAT due and that, if found guilty, their sentencing should be subject to Framework Decisions 2004/757 and 2008/841. However, the order for reference does not contain any information as to the factual context of that procedure which would explain those

assertions and enable the Court to verify whether that procedure actually involves the implementation of EU law.

39 Under Article 94(c) of the Rules of Procedure of the Court of Justice, a request for a preliminary ruling must contain a statement of the reasons which prompted the referring court or tribunal to inquire about the interpretation or validity of certain provisions of EU law, and the relationship between those provisions and the national legislation applicable to the main proceedings. In that regard, it must be borne in mind that that statement of reasons, like the summary of the relevant findings of fact required under Article 94(a) of those rules of procedure, must be of such a kind as to enable the Court to ascertain, not only whether the request for a preliminary ruling is admissible, but also whether it has jurisdiction to answer the question referred (order of 9 September 2014, *Parva Investitsionna Banka and Others*, C488/13, EU:C:2014:2191, paragraph 25 and the case-law cited).

40 That is not the case here.

41 That said, Article 47 of the Charter must nevertheless be taken into consideration when interpreting the second subparagraph of Article 19(1) TEU. Since that latter provision requires all Member States to provide the remedies sufficient to ensure effective judicial protection in the fields covered by Union law, for the purposes, in particular, of Article 47 of the Charter, that article, even where it is not applicable to the main proceedings, must be duly taken into consideration for the purposes of interpreting the second subparagraph of Article 19(1) TEU (see, to that effect, judgment of 20 April 2021, *Repubblika*, C896/19, EU:C:2021:311, paragraph 45 and the case-law cited).

42 Consequently, it must be held that, by its first question, the referring court asks, in essence, whether the second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter, must be interpreted as meaning that, where a Member State has established a system for allocating cases within courts which is based on the principle of the random selection of the formation of the court, with certain exceptions, and is subject to the involvement of the head of court management of each court, it precludes, where a judge to whom a case has been allocated has doubts as to the lawfulness of that allocation, that judge from being prevented from ruling himself or herself on that question and, if necessary, from referring that case to another judge in the same court on the ground that it should have been allocated to that judge, the first judge having to refer the case concerned back to the head of court management of that court, so that he or she may verify the lawfulness of the initial allocation of that case and possibly proceed to the reallocation of that case.

43 In that regard, it should be borne in mind that, EU law does not, as it currently stands, govern the organisation of justice in the Member States, in particular as regards the establishment, composition, powers and functioning of national courts, so that rules in that area are, in principle, a matter for the Member States. However, the Member States are obliged, in the exercise of that competence, to comply with their obligations deriving from EU law (see, to that effect, judgment of 21 December 2021, *Euro Box Promotion and Others*, C357/19, C379/19, C547/19, C811/19 and C840/19, EU:C:2021:1034, paragraphs 133 and 180 and the case-law cited).

44 That applies, in particular, to the obligations arising from the second subparagraph of Article 19(1) TEU (judgments of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C558/18 and C563/18, EU:C:2020:234, paragraph 36 and the case-law cited, and 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), a provision which requires Member States to provide remedies sufficient to ensure effective judicial protection in the fields covered by EU law.

45 The rules relating to the allocation of cases within a court have a link with the concept of ‘effective legal protection’ within the meaning of that provision.

46 The obligations arising from the second subparagraph of Article 19(1) TEU relate, inter alia, to the existence of a tribunal previously established by law, bearing in mind the inextricable links which exist between access to such a tribunal and the guarantees of judicial independence and judicial impartiality (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 55 and the case-law cited), guarantees also required by the second subparagraph of Article 19(1) TEU.

47 That obligation to establish by law in advance the courts coming within the system of legal remedies in the areas covered by EU law, which is also referred to in the second paragraph of Article 47 of the Charter, 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, to that effect, judgment of 29 March 2022, *Getin Noble Bank*, C132/20, EU:C:2022:235, paragraph 121 and the case-law cited).

48 Furthermore, the requirement that courts be independent which derives from EU law concerns not only undue influences which may be exerted by the legislature and the executive, but also those which may come 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).

49 Moreover, the performance of the 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 (judgment 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).

50 Infringement of the rules concerning the designation of judges called on to decide a given case is likely to have such an effect (see, to that effect, judgment of 14 November 2024, *S. (Modification of the formation of the court)*, C197/23, EU:C:2024:956, paragraph 55).

51 In the present case, as is apparent from the order for reference, national law has established a system for the allocation of cases within the courts which is based on the principle of a random selection of the formation of the court, with certain exceptions, and is subject to the involvement of the heads of court management of those courts, who are themselves members of those courts. Such a system of allocation does not, itself, appear likely to expose the formations of the court to undue influence. In particular, an error in the application of the allocation rules does not necessarily imply the existence of such an influence. Nevertheless, it cannot be ruled out, in particular, that the purpose of not allocating a case to a judge who heard it at an earlier stage of the proceedings, in a situation where national law provides for such an allocation, may be to prevent that judge from continuing to hear that case.

52 In that context, the question arises as to how to verify the correct application of such an allocation system in a given case.

53 In that regard, it should be noted that the possibility of verifying compliance with the guarantees attached to the concept of a ‘tribunal previously established by law’, within the meaning specified in paragraph 47 above, is necessary for the confidence which the courts in a democratic society must inspire in those subject to their jurisdiction. Thus, reviewing compliance with the requirement that every court, as composed, must constitute an independent and impartial tribunal previously established by law is an essential procedural requirement, compliance with which is a matter of public policy (see, to that effect, judgment of 1 July 2008, *Chronopost and La Poste* v *UFEX and Others*, C341/06 P and C342/06 P, EU:C:2008:375, paragraph 46 and of 8 May 2024, *Asociaţia 'Forumul Judecătorilor din România' (Associations of judges)*, C53/23, EU:C:2024:388, paragraph 55 and the case-law cited). The Court has held that such a review must be made in the examination of an action, where necessary of its own motion,

where a serious doubt arises on that point (see, to that effect, judgment of 26 March 2020, *Review Simpson* v *Council* and *HG* v *Commission*, C542/18 RX-II and C543/18 RX-II, EU:C:2020:232, paragraphs 57 and 58).

54 Effective judicial protection cannot be guaranteed if, at the request of a party or of the court's own motion where there is serious doubt, compliance with the rules conferring on a court the status of an 'independent and impartial tribunal previously established by law' could not be the subject of judicial review and a possible penalty in the event of non-compliance, otherwise those rules could be disregarded without that entailing any consequence (see, to that effect, judgment of 14 November 2024, *S. (Modification of the formation of the court)*, C197/23, EU:C:2024:956, paragraph 66).

55 It follows that the second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter, requires that compliance with the rules of national law relating to the allocation of cases may be subject to judicial review in order to determine whether the formation of the court or tribunal to which a given case has been allocated constitutes an independent and impartial tribunal previously established by law.

56 That said, in respect of the competence of Member States as regards the organisation of their judicial systems, as set out in paragraph 43 above, EU law does not preclude an obligation on the part of a judge to whom a case has been allocated by the head of court management of the court concerned, where he or she has doubts regarding the lawfulness of that allocation in the light of the applicable rules of national law, to refer that case back to that head of court management, having regard to his or her legal obligations, for verification of the lawfulness of that allocation and, where appropriate, to agree to hear that case in the event that the initial allocation is confirmed. However, the lawfulness of an allocation made by that head of court management must be subject to judicial review in accordance with the rules of national law.

57 In the light of all the foregoing considerations, the answer to the first question is that the second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter, must be interpreted as meaning that, where a Member State has established a system for allocating cases within courts which is based on the principle of the random selection of the formation of the court, with certain exceptions, and is subject to the involvement of the head of court management of each court, it does not preclude, where a judge to whom a case has been allocated has doubts as to the lawfulness of that allocation, that judge from being prevented from ruling himself or herself on that question and, if necessary, from referring that case to another judge in the same court on the ground that it should have been allocated to that judge, while the first judge must refer the case concerned back to the head of court management of that court, so that he or she may verify the lawfulness of the initial allocation of that case and possibly proceed to the reallocation of that case. However, the lawfulness of an allocation made by that head of court management must be subject to judicial review in accordance with the rules of national law.

The second question

58 By it second question, referred in the same national legislative framework as the first question, the referring court asks, in essence, whether the second subparagraph of Article 19(1) TEU and Article 47 of the Charter must be interpreted as precluding, where a judge to whom a case has been allocated in accordance with the random allocation system, considers that, by way of exception, that case should have been allocated, in particular, to another judge in the same court and, consequently, refers that case back to that judge, and the latter agrees to rule on his or her own jurisdiction, those two judges may be held to have committed a disciplinary offence.

59 In that regard, it should be borne in mind that, under Article 267 TFEU, the decision on the question referred for a preliminary ruling must be 'necessary' to enable the referring court to 'give judgment' in the case before it. It is clear from that wording and the scheme of that article that, first, a dispute must be pending before the court requesting a preliminary ruling, in which it is called upon to give a decision which

is capable of taking account of the preliminary ruling (see, to that effect, judgment of 22 March 2022, *Prokurator Generalny (Disciplinary Chamber of the Supreme Court – Appointment)*, C508/19, EU:C:2022:201, paragraph 62 and the case-law cited) and, second, the Court cannot rule on a question referred for a preliminary ruling where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose (judgment of 21 September 2023, *Juan*, C164/22, EU:C:2023:684, paragraph 42 and the case-law cited).

60 In the present case, the referring court is hearing criminal proceedings against YR and Others and not disciplinary proceedings involving Judges I.H. and H.K. However, in the light of the order for reference, the question whether the adoption by those two judges of certain decisions concerning the allocation of the case relating to those criminal proceedings may constitute disciplinary offences appears irrelevant to the decision to be given in the context of those proceedings, since the order for reference does not provide any substantiated information as to an actual link between the two sets of proceedings.

61 Thus, the second question was capable of being relevant only in relation to the disciplinary proceedings – which, at the date of the order for reference, were pending before a court that is not the referring court – in the context of which it could, moreover, have been raised (see, by analogy, order of 22 December 2022, *Sąd Najwyższy*, C491/20 REC to C496/20 REC, C506/20 REC to C509/20 REC and C511/20 REC, EU:C:2022:1046, paragraphs 84 and 85).

62 The second question is therefore inadmissible.

Costs

63 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 (Eighth Chamber) hereby rules:

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

must be interpreted as meaning that, where a Member State has established a system for allocating cases within courts which is based on the principle of the random selection of the formation of the court, with certain exceptions, and is subject to the involvement of the head of court management of each court, it does not preclude, where a judge to whom a case has been allocated has doubts as to the lawfulness of that allocation, that judge from being prevented from ruling himself or herself on that question and, if necessary, from referring that case to another judge in the same court on the ground that it should have been allocated to that judge, while the first judge must refer the case concerned back to the head of court management of that court, so that he or she may verify the lawfulness of the initial allocation of that case and possibly proceed to the reallocation of that case. However, the lawfulness of an allocation made by that head of court management must be subject to judicial review in accordance with the rules of national law.

[Signatures]

* Language of the case: Bulgarian.

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