

STATEMENT ON THE CJEU DECISION IN CASE C-508/19

The Court of Justice of the European Union issued today the decision in case C-508/19 (*Prokurator Generalny (Chambre disciplinaire de la Cour suprême - Nomination)*), finding inadmissible the demand of a preliminary ruling presented by the Sąd Najwyższy (Izba Pracy i Ubezpieczeń Społecznych) (Supreme Court (Labour and Social Insurance Chamber) of Poland.

Despite this finding, this decision of the CJEU is important as it reaffirms the principles already set out in a long line of decisions regarding Rule of Law and the violation of EU Law by the Polish government when it comes to the appointment and the disciplinary regime of judges.

In effect, although concluding that the questions addressed to the Court are intrinsically related to a dispute other than the one in the main proceedings (thus leading to their irreceivability), **the CJEU clearly states that in decisions given after this case was brought before the Court, it has already found relevant norms of Polish Law contrary to the EU Law:**

- Article 110(3) and Article 114(7) of the Law on Courts of General Jurisdiction, in so far as they confer on the President of the Disciplinary Chamber of the Sąd Najwyższy (Supreme Court) the discretionary power to designate the disciplinary court with territorial jurisdiction to hear disciplinary proceedings against judges of courts of general jurisdiction (15 July 2021, *Commission v Poland (Disciplinary system for judges)*, C-791/19, EU: C:2021:596, paragraph 176];
- any changes to the national legal order which:
 - o deprive a national court of its competence to rule in the first and last instance on appeals lodged by candidates for judicial posts in a court such as the Sąd Najwyższy (Supreme Court), against decisions of a body such as the KRS not to submit their candidacy, but to submit those of other candidates to the President of the Republic for appointment to such posts;
 - o declare such actions to be inadmissible as of right where they are still pending, ruling out their further consideration or reintroduction; or
 - o in so doing, deprive such a national court of the possibility of obtaining an answer to the questions referred to the Court for a preliminary ruling; (2 March 2021, *A.B. and Others (Appointment of judges to the Supreme Court - Action)*, C-824/18, EU:C:2021:153).

The CJEU once again recalls that when such violations of EU Law are verified, the principle of primacy of EU Law must be interpreted as requiring the national court to set aside the national provisions concerned in favour of the application of the national provisions previously in force, while itself exercising the judicial review provided for by those provisions.

The reaffirmation by the CJEU of these important principles previously recognised in its jurisprudence is another important step in the defence of Rule of Law.

MEDEL urges once again the Polish authorities to come back to the path of respect for Rule of Law and the independence of the Judiciary.

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