

Poland, Sąd Rejonowy w Białyymstoku, polish court case: VI P 6/23 CJEU C-146/23, ordinary

Member State

 Poland

Topic

Independence

Sector

Use of the Preliminary Reference Procedure

Deciding Court Original Language

Sąd Rejonowy w Białyymstoku

Deciding Court English translation

Regional Court in Białyystok

Registration N

Polish court case: VI P 6/23 CJEU C-146/23

Date Decision

March 10th, 2023

ECLI (if available)

ECLI:EU:C:2024:507

EU legal sources and CJEU jurisprudence

Treaty on European Union, Articles 2 and 19. Treaty on Functioning of EU - art. 157
Charter of Fundamental Rights of the European Union, Article 47

Wilson - C 506/04, Portuguese Judges Association C-64/16, "It follows from this case-law and, in particular, from the Portuguese judges and the Escrivano Vindel judgments, that the Court has jurisdiction to interpret EU law in cases that relate to the organisation of a Member State's judicial system, including the remuneration of judges".

Subject Matter

Judicial remuneration - decent remuneration for a judge - judicial pay rise - stopping salary indexation by government - division of power

Legal issue(s)

Preliminary question asked whether the criteria to guide the process of determining the remuneration of judges, and evaluating a possible reduction thereof, be derived from the second subparagraph of art 19(1) TEU. The AG considers that while the latter provision does not prevent legislators from adopting laws that determine/reduce remuneration, it requires the establishment of a legal framework within which the remuneration of judges can be properly determined and that protects the independence of the judiciary.

Request for expedited/PPU procedures

NO

Interim Relief

NO

National Law Sources

Polish Constitution, Law on the organisation of ordinary courts, special budget law + provisions of Lithuanian law (i.e. law on the remuneration of judges)

Facts of the case

The applicant XL was appointed as a judge at the Sąd Rejonowy w Suwałkach (District Court, Suwałki) on 4 December 2003 by order of the President of the Republic of Poland. On 3 April 2007, by decision of the Minister for Justice, he was seconded to the position of judge at the District Court, Białystok, where he has been working in a judicial function ever since.

From 5 August 2021, the applicant was assigned to basic pay grade five with a basic salary multiplier of 2.5 and a years-of-service supplement at 20% of the basic salary.

The applicant's salary for 2022 was calculated using a multiplier of 2.5 and the basic salary set at PLN 5 050.48.

The applicant's salary for 2023 was calculated using a multiplier of 2.5 and the basic salary set at PLN 5 444.42.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

In his opinion delivered on 13th June 2024, AG Collins found questions admissible and decided: "The second subparagraph of Article 19(1) TEU must be interpreted as not precluding the legislative and/or the executive of Member States from making laws to determine and/or to reduce judges' remuneration, including by way of collective agreements made in accordance with national law.

as requiring Member States to lay down a legal framework to facilitate the determination of judges' remuneration that seeks to protect judicial independence through ensuring that the level of judges' remuneration is commensurate with the importance of their functions. Laws governing judges' remuneration must operate on the basis of relevant, objective and verifiable criteria that respect the principle of proportionality.

as requiring that any assessment of the adequacy of the level of judges' remuneration take account of all relevant socio-economic factors and refer to the evolution of that remuneration over time.

as requiring that any national law aimed at reducing the level of judges' remuneration set out, in clear terms, the justification therefor. Such reductions in judicial remuneration as may result therefrom must be temporary and their amount and their duration tailored to, and evolve with, the gravity and persistence of the conditions that justified their adoption. Under no circumstances can such reductions target the judiciary for unfavourable treatment.

as requiring that rules on judges' remuneration or any reduction thereof are subject to judicial control."

Relation of the case to the EU Charter

N/A

Relation between the EU Charter and ECHR

N/A

Use of Judicial Interaction technique(s)

Preliminary reference + joined cases from Poland and Lithuania concerning remuneration of judges.

Horizontal Judicial Interaction patterns (Internal – with other national courts, and external – with foreign courts)

N/A

Vertical Judicial Interaction patterns (Internal – with other superior national courts, and external – with European supranational courts)

N/A

Strategic use of judicial interaction technique (purpose aimed by the national court)

N/A

Impact on Legislation / Policy
not applicable - pending case

Notes on the national implementation of the preliminary ruling by the referring court
not applicable - pending case

Did the national court quote case law of the CJEU/ECtHR (in particular cases not already referred to by the CJEU in its decision) or the Explanations?
not applicable - pending case

Did the national court quote soft law instruments, such as GRECO Reports, Venice Commission, CEPEJ Reports, or CCEJ Reports?
not applicable - pending case

Did the national court take into account national case law on fundamental rights?
not applicable - pending case

If the court that issued the preliminary reference is not a last instance court, and the “follow up” was appealed before a higher court, include the information
not applicable - pending case

Was there a consensus among national courts on how to implement the CJEU's preliminary ruling; and were there divergences between the judiciary and other state powers regarding the implementation of the preliminary ruling?
not applicable - pending case

Impact on national case law from the same Member State or other Member States
Joined Cases C?146/23 and C?374/23

Connected national caselaw / templates
N/A

(Link to) full text
<https://curia.europa.eu/juris/showPdf.jsf?text=&docid=273023&pageIndex=0&doclang=EN&mode=lst&dir=>

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