

## **Court of Justice of the European Union (Grand Chamber), Joined Cases C?554/21, C?622/21, and C?727/21, preliminary ruling, 11 July 2024, ECLI:EU:C:2024:555.**

### Member State

 Croatia

---

### Topic

Independence, impartiality.

---

### Sector

Judicial Self-Government (Judicial Council, Court Presidents); Use of the Preliminary Reference Procedure.

---

### Deciding Court Original Language

Court of Justice of the European Union (Grand Chamber).

---

### Deciding Court English translation

Court of Justice of the European Union (Grand Chamber).

---

### Registration N

C?554/21, C?622/21, C?727/21.

---

### Date Decision

11 July 2024.

---

### ECLI (if available)

ECLI:EU:C:2024:555.

---

### National Follow Up Of (when relevant)

The case is not a direct follow-up of a previous CJEU or ECtHR decision.

---

### EU legal sources and CJEU jurisprudence

Article 19(1) TEU, which establishes the principle of effective judicial protection, and Article 47 of the Charter of Fundamental Rights of the European Union, which guarantees the right to a fair trial and effective legal protection. These provisions were central to the CJEU's analysis of the compatibility of Croatian judicial mechanisms with EU law.

CJEU jurisprudence: Article 19(1) TEU; Article 47 of the Charter; A. K. and Others (C?585/18, C?624/18, and C?625/18); Associação Sindical dos Juizes Portugueses (C?64/16); Miasto ?owicz and Prokurator Generalny (C?558/18 and C?563/18); W.?. (C?487/19); Euro Box Promotion and Others (C?357/19, C?379/19, C?547/19, C?811/19, C?840/19); Commission v Poland (C?791/19); Prokurator Generalny (C?508/19).

---

### ECtHR Jurisprudence

Parlov-Tkal?i? v. Croatia (22 December 2009, CE:ECHR:2009:1222JUD002481006); Coëme and Others v. Belgium (22 June 2000, CE:ECHR:2000:0622JUD003249296).

---

### Subject Matter

The preliminary reference concerned the compatibility of national judicial mechanisms with Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union. Specifically, it addressed whether the role of the registrations judge, who could block judicial decisions, and the binding "legal positions" adopted by section meetings undermined the principles of judicial independence, impartiality, and effective legal protection in the Croatian judicial system.

---

### Legal issue(s)

The case addresses whether national judicial mechanisms allowing a registrations judge to approve or block judicial decisions and binding "legal positions" adopted by section meetings comply with the principles of judicial independence, impartiality, and effective judicial protection under the second subparagraph of Article 19(1) TEU.

---

### Request for expedited/PPU procedures

NO

---

### Interim Relief

The national court did not ask the CJEU for interim relief. The CJEU did not grant interim relief in this case.

---

### National Law Sources

National law sources include the Law on Judicial Bodies (Zakon o sudovima), specifically Articles 14, 24, 38, 39, and 40, and the Rules of Procedure of the Courts (Sudski poslovnik), particularly Article 177(3). These provisions regulate the organization of the judiciary, the role of the registrations judge, section meetings, and the internal procedures for judicial decision-making in Croatia.

---

### Facts of the case

Three cases were brought before the Croatian High Commercial Court. In two cases, the Financial Agency sought reimbursement of costs incurred during insolvency proceedings, while in the third, an application was made to open court-supervised administration proceedings. The judicial panels of the court unanimously dismissed all three cases, but the registrations judge, who is not part of the judicial panels, refused to register the decisions, citing disagreements with their legal reasoning. This led to delays in notifying the decisions to the parties and, in one case, a section meeting adopting a binding "legal position," requiring the panel to revise its decision. The court questioned whether these mechanisms were compatible with EU law and referred the matter to

the CJEU for a preliminary ruling.

---

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

The CJEU's reasoning in the judgment thoroughly examined the compatibility of Croatian judicial mechanisms with Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union, emphasizing the principles of judicial independence and effective legal protection.

The Court began by reaffirming that while Member States retain competence over the organization of their judiciary, such competence must comply with obligations under EU law. The judgment specifically highlighted that judicial independence encompasses both external (protection from outside influence) and internal (impartiality within the judiciary itself) aspects.

The CJEU focused on two mechanisms under scrutiny:

1. The Court emphasized that the registrations judge's ability to block or delay the formal registration of judicial decisions—based solely on disagreement with the panel's reasoning—constituted an undue hierarchical influence. This practice interfered with the autonomy of judicial panels, undermining their independence and impartiality. Moreover, such interference lacked clear objective criteria and was not prescribed by national legislation, relying instead on procedural practices that conflicted with EU principles.

2. The Court criticized the quasi-legislative role of section meetings, which could adopt binding "legal positions" affecting cases already deliberated by judicial panels. This practice undermined the principle of a tribunal "previously established by law," as decisions were subjected to influences by individuals or bodies outside the deliberating panel, including persons not directly involved in the proceedings.

The CJEU further underscored that these mechanisms failed to meet the guarantees of a fair hearing under Article 47 of the Charter, as parties to the case were neither informed about nor allowed to participate in these processes.

By drawing on prior judgments such as *Associação Sindical dos Juizes Portugueses* (C-64/16) and *W.?* (C-487/19), the Court reinforced the idea that any national mechanism must ensure impartiality and inspire public confidence in the judiciary. The Court concluded that the contested practices were incompatible with the principles of judicial independence and effective judicial protection.

---

### Relation of the case to the EU Charter

The EU Charter was invoked to assess whether the national mechanisms in question were compatible with Article 47, which guarantees the right to a fair trial and effective judicial protection. The Charter was used by the CJEU as a legally binding parameter to evaluate whether the practices of the registrations judge and section meetings violated fundamental rights under EU law. Additionally, Article 47 was interpreted in conjunction with Article 19(1) TEU, reflecting its binding nature in ensuring judicial independence and effective legal remedies in fields covered by Union law.

---

### Relation between the EU Charter and ECHR

The ECHR was cited as a complementary source to align the interpretation of Article 47 of the EU

Charter with Article 6(1) of the ECHR, ensuring consistency between EU law and the European Convention on Human Rights. The CJEU referred to the ECHR not merely ornamentally but to emphasize that the protection under the EU Charter in this case meets or exceeds the standard provided by the ECHR. Specifically, the Charter's guarantees of judicial independence, impartiality, and effective judicial protection were interpreted in light of the ECHR, providing a broader and more integrated framework of fundamental rights within EU law.

---

### Use of Judicial Interaction technique(s)

Preliminary reference, consistent interpretation

---

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

The Croatian High Commercial Court did not engage directly with the judgments of other national courts or foreign constitutional courts in its reasoning. There was no explicit citation or assessment of other national or foreign judgments. Additionally, there was no constitutionality review involved in this case. The focus of the court's reasoning remained on the compatibility of Croatian judicial mechanisms with EU law, relying primarily on CJEU case law rather than jurisprudence from other national or foreign courts.

---

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

The Croatian High Commercial Court engaged in vertical judicial interaction externally by referring a preliminary question to the CJEU under Article 267 TFEU. The interaction focused on clarifying the compatibility of national judicial mechanisms with EU law. The CJEU judgment provided a detailed interpretation of Article 19(1) TEU and Article 47 of the Charter, guiding the national court in its assessment. The CJEU referred to ECtHR case law, particularly the judgment in *Parlović v. Croatia* (2009), to emphasize the importance of protecting judges from undue internal influence, which could jeopardize judicial independence.

---

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

The national court aimed to resolve conflicts of judicial interpretation involving fundamental rights enshrined in Article 19(1) TEU and Article 47 of the EU Charter. The purpose was to address institutional conflicts arising from internal judicial mechanisms, such as the registrars' role and section meetings, which appeared to undermine judicial independence and impartiality. By referring the matter to the CJEU, the court sought clarity on the compatibility of these mechanisms with EU law, to ensure effective judicial protection, fill gaps in national legislative practice, and align national judicial procedures with EU principles.

---

### Impact on Legislation / Policy

The CJEU's decision highlighted significant concerns regarding the compatibility of Croatian judicial mechanisms with EU law, particularly the roles of the registrations judge and section meetings in influencing judicial decisions. While the judgment itself does not mandate immediate legislative changes, it is likely to prompt a review of the national judicial framework in Croatia to align with the principles of judicial independence and effective legal protection established under Article 19(1) TEU and Article 47 of the Charter. This decision may lead to amendments to the Law on Judicial Bodies and the Rules of Procedure of the Courts to ensure compliance with EU standards.

---

#### Notes on the national implementation of the preliminary ruling by the referring court

As of the decision date, the implementation of the CJEU's preliminary ruling by the Croatian High Commercial Court is pending. The CJEU's judgment requires the referring court to align national practices with EU law, specifically by addressing the incompatibility of the registrations judge's role and binding "legal positions" with the principles of judicial independence and effective legal protection. If the national court follows the CJEU's guidance, it should disapply the contested mechanisms and ensure compliance with EU standards. Any divergence would likely stem from prioritizing domestic procedural norms or practical difficulties in immediate implementation.

---

#### 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?

No, the national court did not quote additional CJEU or ECtHR case law beyond what was addressed in the preliminary ruling. It relied on the CJEU's guidance and did not independently refer to other judgments or the explanations relating to the Charter of Fundamental Rights. The focus remained on implementing the CJEU's interpretation of the relevant EU law provisions.

---

#### Did the national court quote soft law instruments, such as GRECO Reports, Venice Commission, CEPEJ Reports, or CCEJ Reports?

No, the national court did not quote any soft law instruments, such as GRECO Reports, Venice Commission opinions, CEPEJ Reports, or CCJE Reports, in its reasoning or submission to the CJEU.

---

#### Did the national court take into account national case law on fundamental rights?

No, the national court did not explicitly refer to national case law on fundamental rights.

---

#### 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

The court that issued the preliminary reference, the Croatian High Commercial Court, is not the highest court in Croatia.

---

#### 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?

As of now, there is no information indicating whether there was consensus among Croatian courts on how to implement the CJEU's preliminary ruling

---

#### Impact on national case law from the same Member State or other Member States

The CJEU's decision has the potential to prompt significant changes in Croatian case law

regarding the role of registrations judges and section meetings within the judiciary. These mechanisms, previously accepted as tools for ensuring consistency in judicial decisions, may now be reconsidered to align with the principles of judicial independence and effective judicial protection established by the CJEU.

---

[Connected national caselaw / templates](#)

No data available.

---

[\(Link to\) full text](#)

---

#### Author

The template was prepared by Marcin Michalak, Assistant Professor at the Faculty of Law, University of Gdańsk, with the support and assistance of the researcher Daniel Zieliński.

---