

# ECJ: No Right for Judicial Associations to Challenge Prosecutor Appointments



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News

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In the case of *Asociația "Forumul Judecătorilor din România" (Associations of Judges) v. Romania (Case C-53/23)*, the Court of Justice of the European Union (ECJ) ruled that EU law does not require professional associations of judges to be granted the right to challenge decisions related to the appointment of prosecutors.

The case originated with a contestation by a Romanian association of judges of the appointment of specific prosecutors tasked with investigating instances of corruption in Romania. The basis for the contestation was the assertion that the national legislation governing these appointments was incompatible with EU law.

The Court of Appeal of Pitești, Romania, sought clarification from the ECJ on the question of whether Romanian procedural rules, which essentially prevent judges' associations from challenging prosecutor appointments due to the requirement of demonstrating a legitimate private interest, were in compliance with EU law (Art. 2 and Art. 19(1) TEU, read in combination with Arts. 12 and 47 of the Charter of Fundamental Rights of the European Union).

In its [judgment of 8 May 2024](#), the ECJ ruled that EU law does not preclude national legislation that effectively prevents professional associations of judges from challenging such appointments. It emphasised that while Member States have the discretion to decide who may bring actions before the courts, this discretion must not be exercised in a way that undermines the right to effective judicial protection. While EU law does on occasion require Member States to permit representative associations to initiate legal proceedings in specific domains, such as environmental protection or anti-discrimination, it does not require that professional associations of judges be granted the right to contest national measures pertaining to the status of judges.

Furthermore, the Court held that the mere fact that national legislation does not permit these associations to contest appointments does not, in and of itself, give rise to legitimate concerns among the public regarding the independence of Romanian judges.

In the light of the answer given to the judicial review, the ECJ did not answer the second question whether EU law precluded Romanian legislation which limits the competence of the national anti-corruption directorate by conferring exclusive competence to investigate corruption offences (in a broad sense) committed by judges and prosecutors upon specific prosecutors who are appointed for that purpose by the Prosecutor

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General, acting on a proposal of the general assembly of the Supreme Council of the Judiciary and the Public Prosecutor's Office attached to Romanian High Court of Cassation and Justice ("the PICCJ").

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