

ECJ: Polish Judge Retains Jurisdiction after Unlawful Withdrawal of Cases



News

Thomas Wahl

In its [judgment](#) of 6 March 2025 in Joined Cases [C-647/21 \(D.K.\)](#) and [C-648/21 \(M.C and M.F.\)](#), the European Court of Justice (ECJ) clarified that the decision to withdraw cases from a judge is subject to objective and precise criteria and must always include a statement of reasons in order to rule out arbitrariness or disguised disciplinary penalties.

The trigger for this was the case of a Polish judge who, in 2021, had been removed from around 70 pending cases by the college of judges of a regional court without prior notice and justification. The cases were reassigned to other judges instead. The judge, who had previously questioned, among other things, the legality of the appointment of another judge, received no explanation and was unable to seek judicial review of the measure. She herself referred two of these cases, from which she was removed, to the ECJ for a preliminary ruling.

The ECJ emphasised that Art. 19(1), second subparagraph, TEU protects judicial independence not only from external influences, but also from internal influence by court administrations or collegial bodies. Rules that allow the withdrawal of cases without objective criteria and without justification compromise judicial independence. Such an interference can have the effect of a covert disciplinary measure or lead to a judge being put under pressure because of substantive rulings. Under EU law, national courts are obliged, by reason of the primacy of EU law, to disapply such measures and the reallocation of cases. The judge concerned must be able to continue to act in the proceedings submitted.

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