

Romania: ECJ Rules on the Independence and Impartiality of Bodies in Disciplinary Proceedings against Judges



euclid

European Law Forum: Prevention • Investigation • Prosecution

News

Thomas Wahl

On 11 May 2023, the [ECJ ruled](#) on the compatibility of the Romanian reform of the organisation of the judiciary that rearranged the Judicial Inspectorate and led to a concentration of powers in the hands of the Chief Inspector. The case ([C-817/21, *Inspekția Judiciară*](#)) was prompted by the Bucharest Court of Appeal which has to decide on challenges against decisions by the Chief Inspector who confirmed not to take action against judges and prosecutors in disciplinary proceedings against them.

Under Romanian law, the Chief Inspector heads the Judicial Inspectorate. His decisions can be reviewed by the Deputy Chief Inspector; however, the Deputy has been appointed by the Chief Inspector, his term of office will end at the same time as that of the latter and his activities are subject to the Chief Inspector's assessment. Disciplinary action intended to punish abuses committed by the Chief Inspector can be initiated only by a member of staff whose career depends, to a large extent, on the decisions of the Chief Inspector. The referring Bucharest Court of Appeal raised the question as to whether this system is sound in terms of sufficient safeguards.

The ECJ stated that a disciplinary regime must avoid any appearance of political control of judicial activity. This was not fulfilled in the present case. The structure of the Judicial Inspectorate, in particular the fundamental dependencies of the employees, including the Deputy Chief Inspector, were such that those affected could refrain from bringing a disciplinary action against the Chief Inspector. In the end, the body in charge of disciplinary proceedings against judges must be independent and impartial, which is not given in the current Romanian system.

AUTHOR

Thomas Wahl

Senior Researcher

Max Planck Institute for the Study of Crime, Security and Law

ISSN: 1862-6947

<https://euclid.eu>



About euclid

euclid is the leading journal which regularly informs about current developments in European criminal and "criminative" law.

All news items are freely accessible at: <https://euclid.eu/news/>

Stay informed by emailing to euclid-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



Co-funded by
the European Union