C/2025/3260

24.6.2025

Request for a preliminary ruling from the Sąd Apelacyjny w Warszawie (Poland) lodged on 6 February 2025 – VA v BNP Paribas Bank Polska S.A.

(Case C-124/25, Jawowicz) ([1])

(C/2025/3260)

Language of the case: Polish

Referring court

Sąd Apelacyjny w Warszawie

Parties to the main proceedings

Appellant: VA

Respondent: BNP Paribas Bank Polska S.A.

Questions referred

In the light of Article 2 and the second subparagraph of Article 19(1) of the Treaty on European Union, read in conjunction with Article 47 of the Charter of Fundamental Rights, where an ordinary court of last instance in a Member State (court of appeal) is composed of a single judge assigned to hear a case on the basis of a written decision of a court administrative body, is that court an independent and impartial tribunal that is previously established by law and that ensures effective legal protection where the decision in question:

1. was issued in breach of the principle that the composition of a court must remain constant;

2. was issued in flagrant infringement of the provisions of national law on the allocation of cases, assignment of judges, and changes to the composition of a court;

3. was issued in the absence of a judge's consent to be included in the composition of the court due to the fact that the written decision of the court administrative body on the allocation of the case, assignment of judges, and change to the composition of the court was issued in flagrant infringement of the provisions of national law;

4. would result in a judge hearing the case in proceedings that are invalid due to the composition of the court being contrary to the provisions of law and due to the failure to ensure effective legal protection for the parties;

5. was issued in the absence of an effective remedy available to the judge under national law against a written decision of the court administrative body on the allocation of the case, assignment of judges, and change to the composition of the court, namely:

   (a) the absence of a judicial remedy enabling the judge to appeal such a written decision to an impartial and independent tribunal in proceedings that meet the requirements arising from Articles 47 and 48 of the Charter of Fundamental Rights;

   (b) the absence of an effective remedy with respect to external administrative supervision by the Minister Sprawiedliwości (Minister of Justice);

   (c) the absence of an effective remedy with respect to internal administrative supervision by the President of the Court;

6. involved the use of trawling activities against the judge by the President and Vice-President of the Court in order to create a chilling effect with the intention of forcing the judge selected by a random number generator to hear the case in a situation where the composition of the court is contrary to the provisions of law and the proceedings are invalid, including:

   (a) by subjecting the judge to administrative supervision measures that encroach on the domain of judicial independence;

([1]) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

(b) by subjecting the judge to internal administrative supervision measures that are not provided for by statute;

(c) by subjecting the judge to internal administrative supervision measures provided for by statute in a situation where the judge is not at fault;

(d) by discriminating against the judge in his or her employment by subjecting him or her to internal administrative supervision measures while applying no such supervision measures (either provided for or not provided for by statute) against other judges of that court who bear full responsibility for flagrant infringements of the provisions of national law on the allocation of cases, assignment of judges, and changes to the composition of a court?

If the answer to that question is in the negative:

In the light of Article 2 and the second subparagraph of Article 19(1) of the Treaty on European Union, read in conjunction with Article 47 of the Charter of Fundamental Rights, where a court of last instance in a Member State (court of appeal) is composed of a single judge assigned to hear a case on the basis of a written decision of a court administrative body in the circumstances described in points 1 to 6 above, who, guided by the principle of the rule of law, has subsequently given his or her express consent to be included in the composition of the court in the absence of objections from both parties to the case or with their consent, is that court an independent and impartial tribunal that is previously established by law and that ensures effective legal protection?