

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on le 18 December 2019 — Criminal proceedings against BR, CS, DT, EU, FV, GW

(Case C-926/19)

(2020/C 201/09)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

BR, CS, DT, EU, FV, GW

Other parties to the proceedings

Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția Națională Anticorupție, Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism — Structura centrală, Parchetul de pe lângă Înalta Curte de Casație și Justiție — Secția pentru investigarea infracțiunilor din justiție, Agenția Națională de Administrare Fiscală, HX, IY, SC Uranus Junior 2003 Srl

Questions referred

1. Must Article 19(1) of the Treaty on European Union, Article 325(1) of the Treaty on the Functioning of the European Union, Article 58 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, ⁽¹⁾ [and] Article 4 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law ⁽²⁾, drawn up on the basis of Article 83(2) of the Treaty on the Functioning of the European Union, be interpreted as *precluding the adoption of a decision by a body outside the judicial system, the Curtea Constituțională a României (Constitutional Court of Romania), which adjudicates on a procedural objection alleging that the composition of the panel seized of the case is unlawful, in the light of the principle that the judges of the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania) must be specialised (not provided for in the Romanian Constitution), and which obliges a judicial body to refer cases which are at the (full-merits) appeal stage for re-examination within the first procedural cycle before the same court?*
2. Must Article 2 of the Treaty on European Union and Article 47[(2)] of the Charter of Fundamental Rights of the European Union be interpreted as *precluding a body outside the judicial system from declaring unlawful the composition of the panel seized of the case of a chamber of the supreme court (panel composed of judges in office who, at the time of their promotion, satisfied, inter alia, the specialisation requirement laid down for promotion to the Criminal chamber of the supreme court)?*
3. Must the principle of the primacy of EU law be interpreted as *permitting a national court to disapply a decision of the constitutional court which interprets a rule of lower ranking than the Constitution, concerning the organisation of the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice), contained in domestic legislation on the prevention, detection and punishment of offences of corruption, a rule which has been consistently interpreted in the same way, for 16 years, by a court?*
4. On a proper interpretation of Article 47 of the Charter of Fundamental Rights of the European Union[,] *[d]oes the principle of unfettered access to justice encompass the specialisation of judges and the establishment of specialist panels in a supreme court?*

⁽¹⁾ OJ 2015 L 141, p. 73.

⁽²⁾ OJ 2017 L 198, p. 29.