



STATEMENT ON THE EUROPEAN COURT OF JUSTICE DECISION OF NOVEMBER 19TH, 2019

On November 19th, 2019, the European Court of Justice delivered a significant decision in a series of “judicial independence” verdicts, initiated with the case *Associação Sindical dos Juizes Portugueses v Tribunal de Contas* (C- 64/16). The judgment was delivered on three preliminary questions (C-585/18, C-624/18 and C-625/18) referred by the Labour Law and Social Security Chamber of the Polish Supreme Court and The Supreme Administrative Court.

The European Court of Justice emphasised that:

- requirement that courts be independent, forms part of the essence of the right to effective judicial protection and the fundamental right to a fair trial, which is of cardinal importance as a guarantee that all the rights which individuals derive from EU Law will be protected and that the values common to the Member States set out in Article 2 TEU are respected;
- the independence of the judiciary must be ensured in relation to the legislature and the executive;
- it is necessary to ensure that the substantive conditions and detailed procedural rules governing the adoption of appointment decisions are such that they cannot give rise to reasonable doubts, in the minds of individuals, as to the imperviousness of the judges concerned to external factors and as to their neutrality with respect to the interests before them, once appointed as judges;
- the judicial council (empowered to deliver appointment proposals) needs to be independent from the legislature and the executive to ascertain whether the judges which it selects will be capable of meeting the requirements of independence and impartiality arising from Article 47 of the Charter
- where the court doesn't meet the requirements of independence and impartiality, the principle of the primacy of EU Law must be interpreted as requiring to disapply the provision of national law which reserves jurisdiction to hear and rule on the cases in the main proceedings to the contested court.

The importance of the judgment cannot be overestimated. The European Court of Justice for the first time underlined the role of judicial councils. As the ECJ emphasised, these bodies play a significantly positive part in the judges' appointment procedure, but only on condition that they are in line with EU standards regarding its impartiality. This decision is crucial especially now, when in some EU Member States and other countries applying to join the EU, the executive is undertaking attempts to take political control over judicial councils.



MEDEL welcomes the fact that the ECJ so clearly stressed the importance of the right to a fair trial, which can only be guaranteed by independent courts, as MEDEL has constantly reminded.

November 21st, 2019