Meeting of Judges 2026

The right to effective judicial protection

Workshop I

Dear colleagues,

First of all, I would like to thank President Koen Lenaerts and President of the Fifth Chamber, Ms Maria Lourdes Arastey Sahún, for the opportunity to present a topic within this workshop and at this Forum of Judges, which is of great relevance and importance to all judges.

This year the Meeting of Judges is dedicated to the 25th anniversary of the Charter of Fundamental Rights of the European Union (hereinafter the 'Charter') – a milestone that provides a particularly meaningful framework for our discussion today. Among the rights enshrined in the Charter, the right to effective judicial protection stipulated in Article 47[1] is at utmost importance, reflecting the essential role of courts in giving concrete effect to all other fundamental rights.

Article 47 of the Charter embodies this principle by guaranteeing access to an independent and impartial tribunal, a fair hearing within a reasonable time, and effective remedies for the protection of rights derived from EU law. It is not merely a procedural provision, but a cornerstone of the rule of law and a prerequisite for ensuring that fundamental rights are practical and effective, rather than theoretical or illusory.

At a time when legal systems are already under strain from growing caseloads and backlogs, increasing procedural complexity, and rapid societal and technological change, the relevance of Article 47 of the Charter is more evident than ever. The guarantee of effective judicial protection depends not only on formal rights but also on the institutional strength, authority, and independence of courts. A deeply concerning global trend is the growing pressure placed on the judiciary and the declining respect for the judicial office and those who hold it. In several jurisdictions, courts and judges have increasingly become targets of political rhetoric and executive frustration, particularly when judicial decisions constrain governmental power.

A recent example in this context concerns U.S. President Donald Trump. Following litigation related to an executive order enabling the imposition of wide-ranging tariffs on U.S. trading partners, the U.S. Supreme Court reaffirmed the constitutional principle that the power to impose taxes, including tariffs, lies with Congress rather than the President. In response, Trump publicly attacked even Republican-appointed judges, describing them as "fools and lapdogs for the RINOs (Republicans in name only) and the radical left Democrats," and indicated his intention to continue pursuing the tariff policy. Such rhetoric is troubling because it signals an

[1] Article 47 of the Charter enshrines the fundamental right to an effective remedy and access to an impartial tribunal.

expectation of loyalty from judges based on political appointment – an expectation fundamentally incompatible with judicial independence.

At the same time, the authority and security of courts face pressure not only rhetorically but also through coercive state measures. In 2025 the United States adopted an executive order[2] authorising sanctions against the International Criminal Court (hereinafter "ICC") and later designated several ICC judges, including asset freezes and visa restrictions, in response to investigations involving U.S. allies. Similar patterns of sanctioning or threatening international judges have also been observed in the case of Russia. These developments illustrate a broader erosion of the normative shield traditionally protecting the judiciary. If judges are publicly delegitimised, politically pressured, or even sanctioned for performing their adjudicative role, the risk is systemic: effective judicial protection of rights – and ultimately the rule of law itself – is placed in jeopardy.

Against this background, reflection on the interpretation and application of Article 47 of the Charter is essential in order to assess whether judicial protection genuinely meets the standards required by EU law and how those standards can be upheld in everyday judicial practice.

The subject of effective judicial protection provides an important opportunity for substantive judicial dialogue. It invites discussion on the extent to which Article 47 leaves room for national procedural autonomy, and how this margin operates in practice. It also offers a possibility to reflect on recent developments concerning the horizontal application of Article 47, an area of growing relevance in the evolving case-law of the Court of Justice. But in particular, it allows us to explore the relationship between the Treaty on European Union (TEU) and the Charter, notably in cases concerning the principle of judicial independence, which will also serve as the focus of my presentation.

Judicial Independence

Over the last decade, the Court of Justice has delivered a significant number of judgments dealing with the independence of the judiciary as an essential element of effective judicial protection, within the meaning of the second subparagraph of Article 19(1)[3] TEU and Article 47 of the Charter. These two provisions of primary EU law are the foundations of the Court of Justice of the European Union (hereinafter "the Court of Justice") case law on the independence of the judiciary. In the light of those provisions, the Court of Justice has ruled on the requirements to be met by national courts or tribunals which may rule on the application or interpretation of EU law. It should be noted that Article 47 of the Charter closely corresponds

[2] Executive Order 14203 of February 6, 2025. Imposing Sanctions on the International Criminal Court. – https://www.federalregister.gov/documents/2025/02/12/2025-02612/imposing-sanctions-on-the-international-criminal-court (last accessed 23.02.2026).

[3] Article 19(1) subparagraph 2 stipulates that Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

to Article 6(1) of the European Convention on Human Rights (hereinafter "Convention"). Accordingly, the Court of Justice frequently refers to the case-law of the European Court of Human Rights concerning that provision. In this context, where Article 6 of the Convention is one of the most richly interpreted provisions, it is logical that the European Court of Human Rights has developed a detailed and mature body of case-law, which is highly influential to all of us.

At a general level, the Court of Justice has distinguished between two dimensions of the requirement of judicial independence. The first is in nature the external dimension, which requires that courts exercise its functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body and without taking orders or instructions from any source whatsoever, thus being protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions.[4]

The second dimension, which is internal in nature, is linked to impartiality and seeks to ensure that an equal distance is maintained from the parties to the proceedings and their respective interests with regard to the subject matter of those proceedings. That aspect requires objectivity and the absence of any interest in the outcome of the proceedings apart from the strict application of the rule of law.[5]

Those guarantees of independence and impartiality require rules, particularly concerning the court's composition and the appointment, term of office, recusal, challenge, and dismissal of its members. These rules are intended to remove any reasonable doubts individuals may have about the court's resistance to external influence and its neutrality regarding the interests before it. Moreover, in accordance with the principle of the separation of powers which characterises the operation of the rule of law, the independence of the judiciary must be ensured in relation to the legislature and the executive.[6]

Given that judicial independence is a very broad topic and, as noted, the case-law of the Court of Justice in this field has evolved rapidly, I will now turn to a more detailed examination of

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[4] Judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 63; and of 24 June 2019, *Commission v Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531, paragraph 72; and of 19 November 2019, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, in joined Cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraph 121.

[5] Judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 65; and of 24 June 2019, *Commission v Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531, paragraph 73; and of 19 November 2019, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, in joined Cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraph 122.

[6] Judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 66; and of 24 June 2019, *Commission v Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531, paragraph 74; and of 19 November 2019, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, in joined Cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraph 123; and of 10 November 2016, *Poltorak*, C-452/16 PPU, EU:C:2016:858, paragraph 35.

two specific issues in respect of which parallels may also be drawn with the Estonian judicial system.

I Remuneration

In a landmark case of *Trade Union of Portuguese Judges* (Associação Sindical dos Juízes Portugueses, hereinafter „the ASJP“)[7] the reduction of remuneration of judges was discussed. The Portuguese legislature temporarily reduced the remuneration of various public-sector office holders, including judges of the Court of Auditors, as part of austerity measures aimed at reducing the State's excessive budget deficit. The ASJP challenged these measures before the Supreme Administrative Court, arguing that they infringed the principle of judicial independence protected by both the Portuguese Constitution and EU law (second subparagraph of Article 19(1) TEU and Article 47 of the Charter). At the Grand Chamber, the Court of Justice held that Article 19 TEU, which gives concrete expression to the value of the rule of law stated in Article 2 TEU, entrusts both the Court of Justice and national courts with ensuring judicial review within the EU legal order and that Member States must guarantee the independence of courts that may apply EU law. Judicial independence requires that courts act autonomously and be protected from external pressure, and adequate remuneration is an important safeguard of that independence.[8]

However, the Court of Justice found that the Portuguese measures were general, temporary austerity measures applying broadly across the public sector and not targeted specifically at judges. Since they formed part of a wider effort to address the Portuguese State's excessive budget deficit and were later phased out, the Court of Justice concluded that Article 19(1) TEU does not preclude such measures.[9]

The Court of Justice further clarified the requirements relating to judges' remuneration in the joined cases concerning Polish and Lithuanian judges[10]. According to the Court of Justice, the involvement of a Member State's legislature and executive in setting judges' remuneration does not in itself undermine judicial independence, since Member States enjoy broad discretion in budgetary matters and are best placed to consider their socio-economic context. However, national rules on judicial pay must not create reasonable doubts about judges' independence or impartiality.[11]

To safeguard independence, the method for determining remuneration must be established by law and be objective, foreseeable, stable, and transparent, thereby preventing arbitrary

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[7] Judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses v Tribunal de Contas*, C-64/16, EU:C:2018:117.
[8] Judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses v Tribunal de Contas*, C-64/16, EU:C:2018:117, paragraph 45.
[9] Judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses v Tribunal de Contas*, C-64/16, EU:C:2018:117, paragraphs 45–52.
[10] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109.
[11] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109, paragraphs 51–52.

interference.[12] Judges must also receive remuneration that is sufficiently high and proportionate to the importance of their functions, ensuring their economic independence and protection from external pressure, as was also affirmed in the *Escribano Vindel* case[13]. What is more, the detailed rules for determining judges' remuneration must be capable of being subject to effective judicial review.[14]

As indicated by the Court of Justice, the remuneration of judges may vary according to seniority and the nature of the functions entrusted to them. In any event, it must always be commensurate with the importance of the functions they carry out. In order to assess whether judges' remuneration is adequate, account must be taken not only of the ordinary basic salary but also of the various bonuses and allowances that judges receive, in particular in respect of their seniority or the duties entrusted to them, and of any exemption from social security contributions.[15]

In addition, the assessment of whether the judges' remuneration is adequate must be made having regard to the economic, social and financial situation of the Member State concerned. The Court of Justice said that it is appropriate to compare the average remuneration of judges to the average salary in a Member State. Furthermore, to guarantee judicial independence and, more broadly, the quality of justice in a Member State governed by the rule of law, 'justice policies should also consider the salaries of other legal professions in order to make the judicial profession attractive to highly qualified legal practitioners. It cannot, however, be inferred from this that the principle of judicial independence precludes the remuneration of judges from being established at a level lower than that of the average remuneration of other legal professionals, particularly those exercising a liberal profession, such as lawyers, where they are clearly in a different situation from that of judges.[16]

Where the legislature and executive of a Member State depart from national legislation that objectively sets out the detailed rules for determining judges' remuneration – for example, by granting a smaller increase than provided for, or by freezing or reducing that remuneration – the adoption of such derogating measures must itself comply with a number of requirements:

1. It must be provided for by law, and the detailed rules for the remuneration of judges which that measure determines must be objective, foreseeable and transparent.
2. It must be justified by an objective of general interest, such as a requirement to eliminate an excessive government deficit. Those measures must not be aimed specifically at members of the national courts alone and must form part of a more general framework

[12] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109, paragraphs 54 and 56.
[13] Judgment of 7 February 2019, *Carlos Escribano Vindel v Ministerio de Justicia*, C-49/18, EU:C:2019:106, paragraph 70.
[14] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109, paragraph 64.
[15] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109, paragraphs 60–61.
[16] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109, paragraphs 62–63.

seeking to ensure that a wider set of members of the national civil service contribute to the budgetary effort which is being pursued.

3. It must be necessary and strictly proportionate to the attainment of the objective, which presupposes that the derogating measure remains exceptional and temporary.
4. If such a measure were linked to the existence of a serious economic, social and financial crisis, the level of remuneration of judges is always commensurate with the importance of the functions they carry out, so that they remain shielded from external interventions or pressure liable to jeopardise their independent judgment and to influence their decisions.
5. It must be capable of being subject to effective judicial review, in accordance with the procedural rules laid down by the law of the Member State concerned.[17]

To illustrate how these aforementioned requirements have already been put into practice, an Estonian example may be relevant. There is currently an on-going case regarding the amendments to the Salaries of Higher State Servants Act[18], which entered into force on 15 March 2024 and will remain in force until 31 March 2028. Under these amendments, adopted to reduce the state budget deficit, the growth of the salaries of the Prime Minister, the members of the Supreme Court, the Prosecutor General, ministers, the State Secretary, judges of the circuit, district and administrative courts, the National Conciliator, and the Gender Equality and Equal Treatment Commissioner is reduced to half over a four-year period compared with the increase calculated under the current methodology[19]. This methodology was not changed for members of the Parliament, the President of the Republic, the President of the Supreme Court, the Auditor General, the Chancellor of Justice nor members of the Supervisory Board of the Bank of Estonia.

Fifty-six judges argued that, given Estonia's inflation, which has been one of the highest in Europe, judicial salaries are in fact decreasing and no longer correspond to the dignity of the office or the level of responsibility involved. They also contended that insufficient consideration had been given to alternative measures for reducing the budget deficit, such as reducing the remuneration and fringe benefits of members of the Parliament and the executive. Furthermore, it was argued that the impact on judges is more severe, since, for example, ministers enjoy additional benefits and, due to the temporary nature of their office, can more easily continue earning income elsewhere – an option not available to judges because of the restrictions

[17] Judgment of 25 February 2025, *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, C-146/23 and C-374/23, EU:C:2025:109, paragraphs 66–76 and 91.

[18] Salaries of Higher State Servants Act. In force from 15 March 2024. – https://www.riigiteataja.ee/en/eli/ee/505012018002/consolide/current (last accessed 26 February 2026).

[19] Salaries of higher state servants are indexed by law on 1 April each calendar year. The value of the index depends on 20% of the annual increase in the consumer price index and 80% of the annual increase in the receipt of the pension insurance part of social tax. The amendments enforced affected also the salaries of those public officials whose pay is linked to the salary of a higher state official listed in the Act. These include chancellors, prosecutors, assistant judges and court lawyers, chairs of labour dispute committees and members of the Public Procurement Review Committee.

attached to judicial office. In conclusion, the applicants maintained that such changes to the remuneration framework are contrary both to the Constitution and to EU law. [20]

When the administrative courts examined, *inter alia*, whether there was an incompatibility with EU law in this situation, they applied the criteria developed by the Court of Justice in both the ASJP and the Polish and Lithuanian judges' cases. The courts did not find any conflict with EU law, however, it is important to emphasise that these judgments have been appealed to the circuit court.

II Disciplinary liability

The Court of Justice has consistently emphasised that the rules governing the disciplinary regime applicable to judges must comply with the requirement of independence derived from EU law, notably from the second subparagraph of Article 19(1) TEU. According to settled case-law, such a regime must provide the guarantees necessary to prevent any risk of its being used as a system of political control over the content of judicial decisions. In particular, the applicable rules must clearly define the conduct constituting disciplinary offences and the corresponding penalties, ensure the involvement of an independent body in proceedings that fully safeguard the rights enshrined in Articles 47 and 48 of the Charter – especially the rights of the defence – and provide for the possibility of judicial review of disciplinary decisions. These elements constitute essential guarantees for safeguarding judicial independence.[21]

More specifically, given the significant consequences that the disciplinary regime may have for judges' career progression and living conditions, decisions authorising the initiation of criminal proceedings against judges, their arrest or detention, the reduction of their remuneration, or decisions concerning essential aspects of their employment, social security or retirement law schemes must be adopted or subject to review by a body that itself meets the guarantees inherent in effective judicial protection, including independence.[22]

Such regimes must not be used to review the substance of judicial decisions or to penalise judges for exercising their adjudicatory functions, including the making of references for a preliminary ruling to the Court of Justice.[23] The Court of Justice has in fact made clear that

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[20] Tallinn Administrative Court, judgment of 7 April 2025 in case no 3-24-1252; Tartu Administrative Court, judgment of 26 June 2025 in case no 3-24-1218.

[21] Judgment of 24 June 2019, *Commission* v *Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531, paragraph 77; and of 5 November 2019, *Commission* v *Poland (Independence of ordinary courts)*, C-192/18, EU:C:2019:924, paragraph 114; and of 18 May 2021, *Asociaţia 'Forumul Judecătorilor din România*, joined cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393, paragraph 198; and of 15 July 2021, *Commission v Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596, paragraph 61; and of 5 June 2023, *Commission v Poland (Independence and private life of judges)*, C-204/21, EU:C:2023:442, paragraph 95.

[22] Judgment of 15 July 2021, *Commission v Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596, paragraphs 80; and of 5 June 2023, *Commission v Poland (Independence and private life of judges)*, C-204/21, EU:C:2023:442, paragraph 100.

[23] Judgment of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, joined cases C-558/18 and C-563/18, EU:C:2020:234, paragraph 58; and of 5 June 2023, *Commission v Poland (Independence and private life of judges)*, C-204/21, EU:C:2023:442, paragraph 159.

Article 2 and the second subparagraph of Article 19(1) TEU preclude national rules or practices under which a national judge may incur disciplinary liability for failing to comply with decisions of the national constitutional court, in particular where the judge has refrained from applying a decision by which that court refused to give effect to a preliminary ruling of the Court of Justice.[24] Even though EU law does not require the Member States to adopt a particular constitutional model governing the relationship between the various branches of the State, the Court noted that the Member States must nevertheless comply, *inter alia*, with the requirements of judicial independence stemming from EU law. In those circumstances, decisions of the Constitutional Court may bind the ordinary courts provided that national law guarantees the independence of the Constitutional Court in relation, in particular, to the legislative and executive. On the other hand, if national law does not guarantee that independence, EU law precludes such national rules or national practice, since such a constitutional court is not in a position to ensure the effective judicial protection required by EU law.[25]

Judicial independence does not entirely exclude the possibility of holding judges disciplinarily liable for their decisions in truly exceptional circumstances, such as deliberate bad faith, arbitrariness, denial of justice, or particularly serious and inexcusable negligence. However, to safeguard that independence and prevent disciplinary mechanisms from being used as instruments of political control or pressure, a mere error in the interpretation or application of national or EU law, or in the assessment of facts or evidence, cannot in itself justify disciplinary proceedings. It is therefore essential that the rules governing judicial discipline clearly and precisely define the forms of conduct capable of triggering liability, so as to protect judges from the risk of being disciplined solely on account of their judicial decisions. Accordingly, any such liability must remain strictly confined to exceptional cases, be based on objective and verifiable criteria, and be accompanied by safeguards that shield judges from external influence and maintain public confidence in their independence and neutrality.[26]

In the *Inspecţia Judiciară* judgment[27], the Court of Justice clarified the conditions that must be satisfied by a person vested with the power to initiate disciplinary proceedings. The authority responsible for initiating disciplinary investigations and proceedings against judges or prosecutors must operate within a framework that fully safeguards judicial independence and the rule of law. In particular, the relevant rules must be designed so that the powers of the disciplinary authority cannot give rise to reasonable doubts, in the minds of individuals, that

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[24] Judgment of 22 February 2022, *RS (Effects of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraph 93; of 21 December 2021, *Euro Box Promotion and Others*, joined cases C-357/19, C-379/19, C-547/19, C-811/19 and C-840/19, EU:C:2021:1034, paragraph 242.

[25] Judgment of 21 December 2021, *Euro Box Promotion and Others*, joined cases C-357/19, C-379/19, C-547/19, C-811/19 and C-840/19, EU:C:2021:1034, paragraph 229–230; and of 19 November 2019, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, in joined Cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraph 130.

[26] Judgment of 15 July 2021, *Commission v Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596, paragraphs 137–140, and of 21 December 2021, *Euro Box Promotion and Others*, joined cases C-357/19, C-379/19, C-547/19, C-811/19 and C-840/19, EU:C:2021:1034, paragraph 240; and of 22 February 2022, *RS (Effects of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraph 84; and of 5 June 2023, *Commission v Poland (Independence and private life of judges)*, C-204/21, EU:C:2023:442, paragraph 126–127, 137–138.

[27] Judgment of 11 May 2023, *Inspecţia Judiciară*, C-817/21, EU:C:2023:39.

those powers might be used as an instrument of pressure on judicial activity or of political control. To that end, the authority competent to initiate disciplinary proceedings must be subject to genuine and effective oversight. EU law may be infringed where, in practice, disciplinary action against the authority can be triggered only by persons whose career depends on that same official, or where review of decisions is entrusted to officials closely subordinate to or appointed by the person concerned. The system must therefore ensure institutional independence, impartial review mechanisms, and effective judicial control, so that properly substantiated complaints can be examined in an efficient and unbiased manner.[28]

Additionally, in this context the legislation must be assessed in its legal and factual context, including whether the powers of the disciplinary authority have been strengthened in a broader reform weakening judicial independence or whether that authority maintains close links with the executive or legislature. The Court of Justice found that where such factors create reasonable doubt that the disciplinary mechanism could be used to exert pressure or political control over judges, the national framework would be incompatible with EU law.[29]

Alongside the notable case-law of the Court of Justice outlined above, it is instructive to examine how the Estonian system of judicial disciplinary proceedings in Estonia aligns with the established criteria. In Estonia, disciplinary matters concerning judges are adjudicated by a Disciplinary Chamber at the Supreme Court. The Chamber is composed of five Supreme Court justices, five circuit court judges, and five first-instance judges. The Chair of the Disciplinary Chamber and the other members drawn from the Supreme Court are appointed by the plenary of the Supreme Court for a term of three years, while the members from the first and second instances are elected by the full assembly of judges. For the adjudication of a disciplinary case, a five-member panel composed of three Supreme Court justices, one circuit court judge, and one first-instance judge is formed.

The Courts Act[30] defines a disciplinary offence as a wrongful of a judge consisting in failure to perform or inappropriate performance of official duties. It also includes an indecent act of a judge as a disciplinary offence. From years 2020 to 2025, the Disciplinary Chamber has issued nine decisions, the majority of which concern excessive length of proceedings, although there are also examples involving breaches of judicial ethics and restrictions related to judicial office.

The power to initiate disciplinary proceedings is vested in the President of the Supreme Court and the Chancellor of Justice in respect of all judges; in the Chairman of a Circuit Court of Appeal with regard to judges of courts of first instance within their judicial district; and in the chairman of court with regard to judges of the same court. In my subjective assessment, such a system creates a large number of supervisory actors, which in practice generates a degree of confusion. Although the applicable framework does not formally establish such a complaint mechanism, oversight proceedings against judges are often initiated in practice following

[28] Judgment of 11 May 2023, *Inspecţia Judiciară*, C-817/21, EU:C:2023:39, paragraphs 66, 73.
[29] Judgment of 11 May 2023, *Inspecţia Judiciară*, C-817/21, EU:C:2023:39, paragraphs 68–69.
[30] Courts Act § 87(2). In force from 1 January 2025. – https://www.riigiteataja.ee/en/eli/521032025001/consolide (last accessed 26 February 2026).

complaints by parties to proceedings. At the same time, parties may submit complaints to all persons empowered to initiate supervisory proceedings, which has effectively created a quasi-multi-tier complaint mechanism. It remains unclear to what extent the authority empowered to initiate disciplinary proceedings must respond to such complaints submitted by parties, and whether, where a chairman of a court has already assessed a complaint of the same substance, the president of a higher court must nevertheless examine it anew. Moreover, it could be said that the criteria for classifying conduct as a disciplinary offence are relatively broad.

Decisions of the Disciplinary Chamber may be challenged before the plenary session (*en banc*) of the Supreme Court and in 2024 Supreme Court delivered a decision[31] of a principled nature which, beyond resolving individual case, also addressed the disciplinary framework as a whole. In that case, the applicant argued, *inter alia*, that the rules governing disciplinary proceedings against judges are unconstitutional because they are not sufficiently detailed. Referring also to the case law of judgment in *Commission v Poland*[32], according to which essential safeguards of judicial independence include legal provisions defining disciplinary offences and applicable sanctions, the involvement of an independent body in proceedings fully respecting Articles 47 and 48 of the Charter, and the availability of judicial review of disciplinary decisions, the Supreme Court found that regarding the current disciplinary regime, any imperfections in the regulation do not mean that the regulation is unconstitutional.[33]

Earlier case-law of the Supreme Court has recognised that disciplinary proceedings against a judge constitute a *sui generis* procedure that cannot be strictly classified under any single type of proceedings. It appeared that the Disciplinary Chamber relied more closely on concepts typical of criminal procedure. Nevertheless, in the judgment of 2024 the Supreme Court said that, in conducting disciplinary proceedings, the Chamber must primarily be guided by the principle of investigation characteristic of administrative court procedure. In this approach it was emphasised that judicial office entails extensive powers and that, in order to maintain public confidence in the courts, those powers must be accompanied by genuine accountability in cases of improper performance of judicial duties. Such accountability could not, however, be effectively ensured if the adversarial principle typical of criminal proceedings were applied to disciplinary proceedings.

It follows that, when examining a judge's liability, the Disciplinary Chamber is not confined solely to the factual allegations and body of evidence set out in the disciplinary charge. The Supreme Court stated that a disciplinary charge must be regarded as a reasoned application that triggers an investigative procedure before the Chamber. It further explained that the collection of additional evidence is not merely within the Chamber's discretion but, in certain circumstances, also its duty. In particular, the Supreme Court held that even where one element

[31] Supreme Court judgment of 11 November 2024. – https://www.riigikohus.ee/et/lahendid?asjaNr=3-24-2036/10 (available in Estonian, last accessed 26 February 2026).
[32] Judgment of 15 July 2021, *Commission v Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596, paragraph 61.
[33] Supreme Court judgment of 11 November 2024, paragraphs 11–12. – https://www.riigikohus.ee/et/lahendid?asjaNr=3-24-2036/10 (available in Estonian, last accessed 26 February 2026).

of the charge against a judge was sparse and general, that deficiency does not automatically require the judge's acquittal; rather, it obliges the Chamber, in accordance with the investigative principle, to gather additional evidence.[34]

III Conclusion

In conclusion, the Court of Justice has developed a remarkable body of case-law concerning the independence of courts and judges and in specific regarding remuneration and disciplinary proceedings against judges. There are several additional areas in which the Court has sought to provide clarification – such as judicial appointment, professional ethics, the secondment, transfer and promotion of judges, as well as suspension from duties and removal from judicial office – which cannot be examined in depth within the scope of this presentation due to time constraints.

Lastly, discussions on judicial independence are not merely essential. They contribute to a shared understanding of the Charter's requirements, promote coherence in its application across jurisdictions, and reinforce the judiciary's common responsibility to safeguard fundamental rights throughout the EU.

I hope this overview will facilitate a fruitful discussion. Thank you!

Villu Kõve
President of the Supreme Court of Estonia

[34] Supreme Court judgment of 11 November 2024, paragraph 13. – https://www.riigikohus.ee/et/lahendid?asjaNr=3-24-2036/10 (available in Estonian, last accessed 26 February 2026).

Case-law referred to:

Judgment of 10 November 2016, *Poltorak*, C-452/16 PPU, EU:C:2016:858.

Judgment of 27 February 2018 (Grand Chamber), *Associação Sindical dos Juízes Portugueses v Tribunal de Contas*, C-64/16, EU:C:2018:117.

Judgment of 25 July 2018 (Grand Chamber), *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586.

Judgment of 7 February 2019, *Carlos Escribano Vindel v Ministerio de Justicia*, C-49/18, EU:C:2019:106.

Judgment of 24 June 2019 (Grand Chamber), *Commission v Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531.

Judgment of 5 November 2019 (Grand Chamber), *Commission* v *Poland (Independence of ordinary courts)*, C-192/18, EU:C:2019:924.

Judgment and of 19 November 2019, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, in joined Cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982.

Judgment of 26 March 2020 (Grand Chamber), *Miasto Łowicz and Prokurator Generalny*, joined cases C-558/18 and C-563/18, EU:C:2020:234.

Judgment of 18 May 2021 (Grand Chamber), *Asociaţia 'Forumul Judecătorilor din România*, joined cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393.

Judgment of 15 July 2021, *Commission v Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596.

Judgment of 21 December 2021 (Grand Chamber), *Euro Box Promotion and Others*, joined cases C-357/19, C-379/19, C-547/19, C-811/19 and C-840/19, EU:C:2021:1034.

Judgment of 22 February 2022 (Grand Chamber), *RS (Effects of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99.

Judgment of 11 May 2023, *Inspecţia Judiciară*, C-817/21, EU:C:2023:39.

Judgment of 5 June 2023 (Grand Chamber), *Commission v Poland (Independence and private life of judges)*, C-204/21, EU:C:2023:442.

Judgment of 25 February 2025 (Grand Chamber), *XL v Sąd Rejonowy w Białymstoku) and SR, RB v Lietuvos Respublika*, joined cases C-146/23 and C-374/23, EU:C:2025:109.