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Judgment of the Court in Case C-119/23 | Valančius

Appointment of EU Judges: A Member State may propose, from among the candidates named on a list drawn up by a national group of independent experts, a candidate other than the best-ranked candidate on that list, provided that the candidate proposed satisfies the requirements laid down by the Treaties

A government of a Member State, which has established a group of independent experts responsible for evaluating candidates for the office of Judge of the General Court of the European Union and drawing up a list of candidates meeting the requirements of independence and professional ability laid down by the Treaties ¹, may propose, from among the candidates on that list, a candidate other than the best-ranked candidate, provided that the candidate proposed satisfies those requirements.

Mr Virgilijus Valančius was appointed Judge of the General Court of the European Union in 2016. After his term of office ended in 2019, the Lithuanian Government published a call for applications and agreed on a procedure for selection of a candidate for that office. In accordance with that procedure, a working group composed mainly of independent experts drew up a merit list of candidates, in descending order in accordance with the score obtained. Mr Valančius was ranked in first place on the list. By decision of 4 May 2022, the Lithuanian Government proposed the person in second place on the merit list as a candidate for the office of Judge of the General Court. Following an unfavourable opinion in respect of that candidate by the 255 panel ², the Lithuanian Government, by decision of 19 April 2023, proposed the person in third place on the merit list, namely Mr Saulius Lukas Kalėda, as a candidate for that office. By decision of 15 September 2023, taken following a favourable opinion by the 255 panel, the Governments of the Member States appointed Mr Kalėda to the office of Judge of the General Court.

Mr Valančius sought annulment of the two proposal decisions of the Lithuanian Government before the Regional Administrative Court, Vilnius (Lithuania). Since it had doubts as to the effect of EU law on the national procedures for proposing candidates to the office of Judge of the General Court, that court made a reference for a preliminary ruling to the Court of Justice in that regard.

In its judgment, the Court of Justice recalls that **the requirement of judicial independence** gives concrete expression to the fundamental value of the rule of law enshrined in Article 2 TEU, and **must be complied with both at EU level, inter alia by Judges of the General Court and at Member-State level**, by the national courts. The Court of Justice infers that the substantive conditions and detailed procedural rules governing the appointment of judges must be capable of **excluding any reasonable doubt**, in the minds of individuals, concerning the fact **that those judges meet the requirements of independence and professional ability** required by Articles 19 TEU and 254 TFEU in order to perform the duties of Judge of the General Court. To that end, it is necessary in particular to **safeguard the integrity of the entire procedure for the appointment of Judges of the General Court** and, consequently, the result of that procedure **at each of the three stages of which it is composed**.

As regards, first of all, the national stage of proposal of a candidate for the office of Judge of the General Court, the Court of Justice considers that, in the absence of specific provisions in EU law to that effect, it is for each Member State to lay down the detailed procedural rules governing the proposal of a candidate. Accordingly, each Member State **remains free to decide whether or not to provide for a procedure** for selecting and proposing a candidate. The detailed procedural rules must not, however, give rise to reasonable doubts in the minds of individuals as to whether the proposed candidate meets the requirements laid down by the Treaties. The fact that representatives of the legislature or the executive are involved in the judicial appointment process is not in itself such as to give rise to such reasonable doubts. The **involvement of independent advisory bodies** and the **existence, in national law, of an obligation to state reasons** may, however, contribute to greater objectivity in the appointment process. As regards the substantive conditions for proposing candidates, the **Member States** have a wide discretion in defining those conditions. Nevertheless, they **must ensure**, irrespective of the procedural rules adopted for that purpose, **that the proposed candidates meet the requirements of independence and professional ability** laid down in the Treaties.

Thus, where a Member State has established a procedure for the selection of candidates for the office of Judge of the General Court in the context of which a group composed mainly of independent experts is responsible for drawing up a merit list of those candidates that satisfy the requirements laid down in the Treaties and indicating, by way of a recommendation, the best-ranked candidate, the mere fact that the government of that Member State decided to propose a candidate on that list other than the best-ranked candidate is not, in itself, sufficient to support the conclusion that that proposal is such as to give rise to reasonable doubts as to whether the candidate proposed meets those requirements.

As regards, next, the second stage of which the procedure for the appointment of Judges of the General Court is composed, namely that concerning the **involvement of the 255 panel**, the Court states that, for the purposes of adopting its opinion, that panel **must verify that the candidate proposed for the office of Judge of the General Court meets the requirements of independence and professional ability** laid down in the Treaties. To that end, the 255 panel may ask the government making the proposal to send additional information or other material which the panel considers necessary.

Lastly, as regards the third stage of the appointment procedure, which corresponds to **the appointment decision adopted by the governments of the Member States**, the Court points out that the **task of ensuring compliance with those requirements is also collectively incumbent on those governments**, when they decide, in the light of the opinion delivered by the 255 panel, to appoint as Judge of the General Court the candidate proposed by one of those governments. Once appointed, that candidate becomes an EU Judge and does not represent the Member State which proposed him or her.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The full [text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ According to the third subparagraph of Article 19(2) TEU 'the Judges and the Advocates-General of the Court of Justice and the Judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles 253 and 254 [TFEU]. They shall be appointed by common accord of the governments of the Member States for six years.' The second paragraph of Article 254 TFEU provides that the Judges of the General Court 'shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office'.

² According to Article 255 TFEU, 'a panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments'.