



R O M Â N I A
ÎNALTA CURTE DE CASAȚIE ȘI JUSTIȚIE
Cabinetul Președintelui

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Operator de date cu caracter personal / Autorizația nr. 17503

Nr. 293 din 18 aprilie 2019

Domnului prof. univ. dr. Valer DORNEANU
Președintele Curții Constituționale

Stimate domnule Președinte,

Cu referire la dosarul nr. 642E/2019, Înalta Curte de Casație și Justiție a adresat la data de 12 aprilie 2019 următoarea întrebare Rețelei Președinților Curților Supreme de Justiție din Uniunea Europeană:

- Dispuneți la nivelul Curții Supreme sau la nivelul altor instanțe naționale de complete specializate în cauze de corupție?

Termenul solicitat pentru răspuns a fost 17 aprilie 2019, primindu-se 19 răspunsuri.

Răspunsurile se pot grupa în trei categorii:

a) State care nu au nici la nivelul Curții Supreme, nici la nivelul altor instanțe inferioare complete specializate în cauze de corupție (13/19): Germania, Lituania, Danemarca, Ungaria, Irlanda, Suedia, Olanda, Finlanda, Polonia, Cipru, Norvegia, Spania, Marea Britanie.

b) State care nu au la nivelul Curții Supreme complete specializate în cauze de corupție, dar au la nivelul altor instanțe fie complete specializate, fie judecători specializați (5/19): Croația, Slovacia, Cehia, Grecia, Slovenia (Slovenia are secții specializate la nivelul a

4 instanțe, competente să judece mai multe categorii de infracțiuni, printre care și infracțiunile de corupție).

c) Austria are la nivelul Curții Supreme complete specializate în cauze de corupție (1/19).

Concluzie: Cu excepția Austriei, Curțile Supreme afiliate Rețelei Președinților Curților Supreme de Justiție din Uniunea Europeană nu au complete specializate în cauze de corupție.

Vă transmitem, în anexă, răspunsurile comunicate Înaltei Curți de Casație și Justiție.

Cu deosebită considerație,

Judecător Iulia Cristina TARCEA
Președinte
Înalta Curte de Casație și Justiție



ÎNALTA CURTE DE CASAȚIE ȘI DE JUSTIȚIE

*Întrebare adresată Rețelei Președinților Curților Supreme de Justiție din
Uniunea Europeană*

Înalta Curte de Casație și Justiție a adresat la data de 12.04.2019 următoarea
întrebare Rețelei Președinților CSJ din Uniunea Europeană:

- Dispuneți la nivelul Curții Supreme sau la nivelul altor instanțe naționale de complete specializate în cauze de corupție?
- Do you have at the level of the Supreme Court or other national courts specialized panels for corruption cases?

Răspunsuri primite:

1. Germania:

The German Federal Courts do not have specialized panels for corruption cases. As in criminal cases, allocation of responsibilities is primarily governed by locational criteria, each of the five criminal panels of the Federal Court of Justices has to decide about criminal offences like bribery etc.

2. Danemarca:

Neither the Supreme Court of Denmark nor any other court in Denmark has specialized panels for corruption cases. In fact, the Supreme Court of Denmark has no specialized divisions or specialized judges at all. Nevertheless, one special court of law in Denmark is the one regarding impeachment cases (the Danish Rigsret) where government ministers can be prosecuted for misleading the Danish Parliament or for running the administration *contra legem*. This court consists of up to 15 Supreme Court judges and an equivalent number of politically appointed members. In the history of this specialized court there has only been five cases (the latest in 1995). Moreover, actual corruption cases are still dealt with in the ordinary criminal justice system.

3. Lithuania:

In response to the inquiry, we inform you that there are no specialized panels for corruption in Lithuanian courts. Corruption cases fall under the jurisdiction of ordinary (general competence) courts and are heard in panels, which are formed in the usual manner.

4. Croatia:

In Croatia at level of the Supreme Court we have only two departments, penal and civil. Judges at each department are deviled in chambers, and judges of penal department are dealing with all kind of penal cases regardless the type of the crime. On the first instance level four courts have authority to hear high corruption and organized crimes cases and at that courts special dpartments are formed where judges are specialized for such type of cases.

5. Ungaria:

Following your inquiry about the existence of judicial panels specialised in corruption cases addressed to the member supreme courts of the Network of the Presidents of the Supreme Judicial Courts of the European Union, I would like to inform you that in Hungary there are no judicial panels - neither at the Curia of

Hungary nor within the Hungarian court system - that are specialised in corruption cases.

6. Irlanda:

Chief Justice Clarke would like to respond to the below query from President Tarcea by informing her that there are no specialised panels of judges at any of the five levels of court jurisdiction in Ireland (including the Supreme Court) for dealing with corruption cases. Such cases are dealt with in the same way as any other criminal law case.

All five jurisdictional instances are courts of general jurisdiction with competency to try civil and criminal law cases and judges can in general sit on any type of case, but criminal law cases are generally dealt with in separate sittings or court lists.

7. Slovakia:

Under the Slovak legal regulation, the corruption cases are heard on the first instance at the Specialized Criminal Court, which has a position of a regional court. This court has a jurisdiction (among others) over all the corruption crimes, i. e. bribery, indirect corruption, electoral fraud and corruption in sports. The Specialized Criminal Court was established in 2009 as the successor of the Special Court, which existed from 2004 to 2009. The aim was to create a specialized body for hearing corruption and organized crime cases. The special prosecutor and the prosecutor of the Special Prosecution Office are entitled to act before the Specialized Criminal Court. The panel of the Specialized Criminal Court is composed of three judges. In cases of failure to create a panel at the Specialized Criminal Court or if the Specialized Criminal Court is otherwise prevented from exercising its competence, it is exercised by the Regional Court in Banská Bystrica.

The Supreme Court of the Slovak Republic decides on ordinary and extraordinary remedies against the decisions of the Specialized Criminal Court. There are four divisions at the Supreme Court – Criminal, Civil, Commercial and Administrative. The Criminal Division has a competence to hear all the criminal cases, including the corruption cases. The judges of the Criminal Division work in panels and hear all the criminal cases regardless of the type of criminal activity and without further specialization. The provision of Section 18 (2) of the Slovak Act on Courts lays down a rule according to which the ordinary remedies against the decisions of the Specialized Criminal Court are heard by the panels of the Supreme Court consisting solely of the judges of the Criminal Division of the Supreme Court. Each judge of the Criminal Division of the Supreme Court, who does not express in writing and beforehand its dissent with being a member of such panel, must be a member of at least one panel under the previous sentence. The cases are allocated to these panels evenly.

8. Suedia:

In Sweden there are no courts that specialize in corruption cases. Corruption cases are handled just like other criminal cases. Within the Supreme Court of Sweden there are no specialized panels in any type of case. All justices are expected to be able to participate and decide on all types of cases that the court handles.

9. Norvegia:

The Supreme Court of Norway is the highest criminal court of the Kingdom of Norway. All types of cases may be brought before the Supreme Court. The Court is not divided into special divisions or panels dealing with a specific type of cases. There is no other specialization among the justices. Accordingly, the Supreme Court of Norway does not have a specialized panel for corruption cases.

The same applies for the Courts of Appeal and the District Courts. There is no such specialized panel. However, the lower courts may, if the president of the court finds it necessary in a particular case, appoint persons that possesses specialist expertise as *expert lay judges*. If such expert lay judges are appointed, the panel in the case will consist of both judges of the court, ordinary lay judges and expert lay judges. In principle, this possibility for appointing expert lay judges may also be used in corruption cases. The typical expertise needed will for instance be in the field of economics.

10. Olanda:

There is no separate panel for corruption in the Netherlands. The cases are handled by the criminal chamber of the judicial authority (court, court of appeal or Supreme Court) where the case takes place.

11. Cchia:

According to the Rules of Procedure for the **District and Regional Courts** - acting as first and second instance courts - the court presidents are obliged to ensure within the criminal division a specialization for corruption related cases.

Albeit the panels of the **Supreme Court** have a certain degree of specialisation, the Supreme Court lacks a panel specifically and solely devoted to corruption related cases. However we have a panel specialized in certain economical criminal offences listed in the Chapter VI of the Criminal Code which comprises the economical criminal offences including Criminal Acts against Mandatory Rules of Market Economy as well. The economical criminal offences listed in the Chapter VI of the Criminal Code include also some of the corruption related offences such as negotiating advantages during public procurement, tender and auction (sec. 256 Criminal Code) or machinations during public procurement and tenders (sec. 257 of the Criminal Code).

12. Spania:

Whith regard to the question asked for the President of the Supreme Court of Romania, commenting that the Spanish jurisdiction there is not a specific court in matters of corruption.

However, in accordance with Article 65 of the Organic Law on the Judiciary, most cases of corruption are investigated and judged by a special court with jurisdiction throughout the national territory, such as the High Court (Audiencia Nacional).

Indeed, by virtue of article 65.1 c), the Audiencia Nacional is aware, among other matters:

Defraudment and schemes to alter the price of items that produce or may produce serious repercussions within the national economy or detriment to the assets of a large number of people in the jurisdictions of more than one Provincial Court."

Through the aforementioned article the Audiencia Nacional decides most of the crimes of corruption, which have taken place in recent times. This highly specialized Court has a unit of interpreters and translators and it is also the court in charge of executing all the arrest warrant and surrender procedures.

13. Marea Britanie:

The UK Supreme Court does not have a specialised corruption chamber. The Court of Appeal in England and Wales comprises two Divisions, a Criminal Division and a Civil Division. It has no special corruption chamber. Special arrangements may be made for corruption/fraud trials in the Crown Court.

14. Finlanda:

Referring to the question mentioned above I would like to inform you that neither the Supreme Court nor any other Court in Finland have specialized panels for corruption cases.

15. Slovenia:

At the Supreme Court of Slovenia we do not have a specialised department or panel responsible for adjudicating corruption cases. A Criminal Law Department is dealing, among others, with corruption criminal cases. In 2011 we have established specialised departments at the four major district courts (first instance courts). Judges at the specialised departments are responsible for carrying out judicial investigations and adjudicating in more complex cases involving organised and economic crime, terrorism, corruption and other such criminal activities.

16. Polonia:

Thank you for your email. I'd like to inform, that upon Polish law there are no specialized panels for corruption cases neither in the Supreme Court nor in the lower instances of Judiciary.

17. Cipru:

In Cyprus, there are no specialised Panels or Courts for Corruption Cases.

18. Grecia:

In response to your query we would like to inform you that in Greece we don't have in the Supreme Court a special panel for corruption cases because our Code for Criminal Procedure doesn't have any special provision about it, except that they are adjudicated by the Court of Appeal, at first step. The only thing that we would stress is that, according to Law No. 4022/2011, such cases are investigated by specially delegated judges, who have the rank of President of first instance court and therefore a minimum judicial experience of eighteen years.

19: Austria:

Yes, the Austrian Supreme Court of Justice has a specialized panel for corruption cases.