If so, must Articles 6(1) and 3(10) and 3(11) of the REACH Regulation be construed as meaning that, in that circumstance, the registration obligation rests on the person who has directly purchased the substance outside the Union and who calls for it (without having previously physically introduced the substance into the customs territory of the Union), even if the substance has already been registered by the third undertaking which previously physically introduced it into the customs territory of the Union?

(1) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1).

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 19 October 2022

(Case C-658/22)

(2023/C 35/36)

Language of the case: Polish

Referring court

Sąd Najwyższy

Questions referred

(1) Must Article 2, Article 6(1) and (3), and the second subparagraph of Article 19(1) of the Treaty on European Union ('TEU'), read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter') and Article 267 of the Treaty on the Functioning of the European Union ('TFEU'), be interpreted as meaning that a court of last instance of a Member State (Sąd Najwyższy (Supreme Court, Poland)) whose composition includes persons appointed to the post of judge in breach of the fundamental rules of law of the Member State applicable to judicial appointments to the Supreme Court is not an independent, impartial tribunal previously established by law and providing effective legal protection to individuals in areas covered by EU law, where the aforementioned breach consists in:

(a) the Prezydent Rzeczypospolitej Polskiej (President of the Republic of Poland) announcing judicial vacancies in the Supreme Court without the prior countersignature of the Prezes Rady Ministrów (Prime Minister);

(b) pre-appointment proceedings being conducted without regard to the principles of transparency and fairness by a national body (Krajowa Rada Sądownictwa — the National Council of the Judiciary, Poland) which, given the circumstances surrounding its establishment (the selection of judges), and the manner in which it operates, does not meet the requirements of a constitutional body upholding the independence of the courts and of judges;

(c) the President of the Republic of Poland handing out letters of appointment to the post of judge of the Supreme Court despite the fact that the resolution of the National Council of the Judiciary, which includes the motion for appointment to the post of judge, was previously challenged before the competent national court (Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland)), that the Supreme Administrative Court suspended the implementation of that resolution in accordance with national law, and that the appeal proceedings were not concluded, after which proceedings the Supreme Administrative Court validly set aside the challenged resolution of the National Council of the Judiciary due to its unlawfulness, permanently removing it from the legal order, thereby depriving the appointment to the post of judge of the Supreme Court of the basis required by Article 179 of the Konstytucja Rzeczypospolitej Polskiej (Constitution of the Republic of Poland), which basis consists of a motion by the National Council of the Judiciary for appointment to the post of judge?

(2) Must Article 2, Article 6(1) and (3), and the second subparagraph of Article 19(1) TEU, read in conjunction with Article 47 of the Charter and Article 267 TFEU, be interpreted as precluding the application of national laws such as Article 29(2) and (3), Article 26(3), and Article 72(1), (2) and (3) of the Ustawa z dnia 8 grudnia 2017 r. o Sądzie Najwyższym (Law of 8 December 2017 on the Supreme Court, consolidated text: Dz. U. of 2021, item 154) ['the Law on the Supreme Court'], in so far as those laws prohibit judges of the Supreme Court, on pain of the disciplinary penalty of dismissal, from determining or assessing the lawfulness of a judge's appointment or his or her resulting authority to perform judicial tasks as well as from assessing in substantive terms motions to exclude a judge based on those grounds, assuming that that prohibition were to be justified by the need for the Union to respect the constitutional identity of the Member States?

(3) Must Article 2 and Article 4(2) and (3) TEU, read in conjunction with Article 19 TEU and Article 267 TFEU, be interpreted as meaning that a judgment of the constitutional court of a Member State (Trybunał Konstytucyjny (Constitutional Court, Poland) declaring a ruling of the national court of last instance (the Supreme Court) to be incompatible with the Constitution of the Republic of Poland cannot constitute an obstacle to assessing the independence of a court and determining whether a court is a tribunal established by law within the meaning of European Union law, given that, in addition, the ruling of the Supreme Court aimed to implement the judgment of the Court of Justice of the European Union to the effect that the provisions of the Constitution of the Republic of Poland and applicable laws (national laws) do not confer upon the Constitutional Court the competence to review judicial rulings, including resolutions resolving discrepancies in the interpretation of laws adopted pursuant to Article 83 of the [Law on the Supreme Court] and, furthermore, the Constitutional Court, due to the manner in which it is currently constituted, is not a tribunal established by law within the meaning of Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (Dz. U. of 1993, No 61, item 284, as amended)?

Request for a preliminary ruling from the Landgericht Berlin (Germany) lodged on 24 October 2022 — Criminal proceedings against M.N.

(Case C-670/22)

(2023/C 35/37)

Language of the case: German

Referring court

Landgericht Berlin

Party to the main proceedings

M.N.

Questions referred

1. Interpretation of the concept of 'issuing authority' under Article 6(1) of Directive 2014/41, [1] in conjunction with Article 2(c) thereof:

(a) Must a European Investigation Order ('EIO') for obtaining evidence already located in the executing State (*in casu*: France) be issued by a judge where, under the law of the issuing State (*in casu*: Germany), the underlying gathering of evidence would have had to be ordered by a judge in a similar domestic case?

(b) In the alternative, is that the case at least where the executing State carried out the underlying measure on the territory of the issuing State with the aim of subsequently making the data gathered available to the investigating authorities in the issuing State, which are interested in the data for the purposes of criminal prosecution?