



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

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### THIRD SECTION

Application no. 60860/21  
Jordi AGUSTI JULIA  
against Spain  
lodged on 3 December 2021  
communicated on 9 May 2022

### SUBJECT MATTER OF THE CASE

The applicant was a judge of the Labour Division of the Supreme Court of Spain. On 3 June 2015, when he turned seventy years old, he was declared to be an emeritus judge until he reached the age of seventy-five.

On 1 October 2015 the Parliament amended the Judiciary Act, and the category of “emeritus judge” ceased to apply. Since that time, the retirement age for judges has been set at seventy-two years old. In accordance with the new law, the applicant could work as a judge until he turned seventy-two. He subsequently requested the General Council of the Judiciary (“the CGPJ”) to permit him to continue working until he was seventy-five, but on 19 October 2017 the CGPJ rejected that request. On 19 April 2018 an appeal by the applicant against that administrative decision was dismissed.

The applicant appealed to the Supreme Court, also requesting the court to raise a preliminary question before the Court of Justice of the European Union (CJEU). In the applicant’s opinion, his case was similar to the judgment of the CJEU of 4 June 2019, C-619/18, which found that a legal measure which lowered the retirement age of judges of the Supreme Court of Poland and granted the President of the Republic of Poland the discretion to extend the period of their judicial activity beyond the newly fixed retirement age infringed the principles of the irremovability of judges and judicial independence. By a judgment dated 16 July 2020, the Supreme Court dismissed the applicant’s appeal. That judgment neither raised the

preliminary question nor gave any direct explanation of the reasons for rejecting the applicant's request. A dissenting opinion considered that there were sufficient reasons for raising the proposed preliminary question.

The applicant lodged a plea of nullity, which was also dismissed, in a decision dated 28 September 2020.

His *amparo* appeal before the Constitutional Court was declared inadmissible on 9 June 2021, for lack of constitutional relevance.

The applicant complains of a violation of Article 6 § 1, arguing that the Supreme Court breached his right to a fair trial because it neither raised the preliminary question before the CJEU nor gave any reasons for rejecting his request. He alleges that the Supreme Court in the judgment in question denied the request only implicitly, referring to another judgment of the same court of 6 March 2018 which could not take into account the judgment of the CJEU of 4 June 2019, C-619/18.

He also complains under Article 8, arguing that the reform of law was politically motivated and *ad hominem*. It affected his right to respect for private life, as he was expecting to be allowed to work until the age of seventy-five.

### QUESTIONS TO THE PARTIES

1. Has there been a breach of the applicant's right to a fair trial under Article 6 § 1 of the Convention (see, in particular, *Avotins v. Latvia* (GC), no. 17502/07, §§ 109-12, 23 May 2016, and *Bio Farmland Bertriers SRL v. Romania* (dec), 43639/17, § 55, 13 July 2021)?

2. Has there been an interference with the applicant's right to respect for his private life, within the meaning of Article 8 § 1 of the Convention? If so, has there been a breach of Article 8 (see *Erményi v. Hungary*, no. 22254/14, §§ 30-39, 22 November 2016, and *Oleksandr Volkov v. Ukraine*, no. 21722/11, §§ 165-87, ECHR 2013)?